

capacity building good governance improvement

Promoting Better Practice Program

REVIEW REPORT

MIDCOAST COUNTY COUNCIL

FEBRUARY 2011



Division of Local Government
Department of Premier and Cabinet

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EXECUTIVE SUMMARY

OVERVIEW

MidCoast County Council has a strong community service focus and runs a number of community programs and activities to meet the needs of its customers and the wider community. Council has also developed a number of successful community partnerships to assist in the management and conservation of water resources.

However, Council appears to be having difficulty in operating successfully at a strategic level. While Council has a Strategic Plan, it has no overarching long term financial plan, asset management strategy or workforce management strategy. This lack of strategic focus will require an injection of significant time and resources to enable Council to successfully comply with the requirements under the recently introduced integrated planning and reporting regime.

While the content of Council's Management Plan and Annual Report are generally sound, there was no evidence of significant ownership by the organisation of the plan or the vision it describes.

There are a number of areas requiring improvement and these have been outlined in this report. Council has some noteworthy practices that have also been identified. A complete list of recommendations is contained in the Action Plan section of this report.

SUMMARY OF KEY FINDINGS

Examples of noteworthy practice and areas requiring further improvement are summarised below.

COUNCIL'S STRATEGIC POSITION

- MidCoast County Council will be required to comply with the new planning and reporting requirements from 1 July 2012.

GOVERNANCE

Noteworthy practice

- Council has adopted a Statement of Business Ethics informing contractors of its ethical standards.

Areas for improvement

- Council should review and make relevant amendments to its plain English version of the code of conduct to ensure consistency with the Act and the Model Code of Conduct.
- Council should review its Gifts, Benefits and Hospitality policy to ensure consistency with the Model Code of Conduct.
- Council should develop an induction and professional development program for all councillors.
- Council should review its policy register and policies taking into account the comments made in this report.
- Council should review and update its Complaints Management policy to ensure it is consistent with *Practice Note No 9 - Complaints Management in Councils*.
- Council should provide follow-up complaints management training to its employees.
- Council should amend its code of meeting practice to ensure it is consistent with the provisions of the *Local Government Act 1993* and Council's code of conduct.
- Council should review its meeting practices taking into account the comments made in this report.
- Council should undertake a systematic fraud risk assessment to assist in the identification and management of fraud risks.
- Council should formalise an internal audit function and develop an internal audit program.
- Council should develop an overarching risk management plan.

DEVELOPMENT ASSESSMENT AND OTHER REGULATORY PRACTICES

Areas for improvement

- Council should develop a comprehensive procedure manual for processing development applications.
- Council should undertake a comprehensive needs analysis of its information systems to assist its planning and regulatory areas in undertaking their operations.
- Council should use the NSW Ombudsman's *Enforcement Guidelines* to develop a Compliance and Enforcement policy.
- Council should provide compliance and enforcement training to its employees.

ASSET AND FINANCIAL MANAGEMENT

Noteworthy practice

- Staff are encouraged to show initiative in developing new ideas that save costs and improve productivity.

Areas for improvement

- Council should, as a priority, review its Investment policy.
- Council should develop a Borrowing policy which includes a long term strategy to reduce its reliance on debt.
- Council should ensure the completion of an Asset Management Strategy and Plan/s for a minimum timeframe of 10 years.
- Council should prepare a long term financial plan for a minimum 10 years, which is updated and reviewed on an annual basis.
- Council should set benchmarks which relate to debt, capital expenditure and other expenses to monitor and control future costs.

COMMUNITY, COMMUNICATION AND CONSULTATION

Noteworthy practice

- Council has effective community and consultation practices.

Areas for improvement

- Council should review the format and content of its Community Involvement Strategy.
- Council should adopt an organisation-wide Customer Service Standards policy that identifies standards for Council services.

WORKFORCE RELATIONS

Noteworthy practice

- Council's Education Assistance Policy is commendable.

Areas for improvement

- Council should give priority to the preparation of a Workforce Strategy in accordance with the project plan for implementing the Integrated Planning and Reporting framework.
- Council should allocate sufficient ongoing resources to implementing and reviewing its Workforce Strategy.
- Council should act on its employee attitude surveys.
- Council should work with other councils to make use of common questions and thereby facilitate benchmarking.
- Council should review its performance system for employees and ensure that performance measures are linked to its strategic plans.

1. ABOUT THE REVIEW

Review objectives

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

Review process

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

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

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

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. Reviews seek to identify better and noteworthy practices and areas requiring improvement and further development.

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

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

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

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

MidCoast County Council Review

MidCoast County Council was asked to complete a comprehensive checklist/questionnaire about key Council practices. The review team comprised Ms Katrina Annis-Brown, Senior Investigations Officer, Investigations and Review Branch, and Mr Chris Duff, Senior Finance Officer, Finance Management Branch. The reviewers examined the checklists and a range of other source documents prior to visiting Council in order to gain a preliminary understanding of the circumstances of Council and how the Council is responding.

The on-site component of the review took place from 19 to 23 April 2010. It involved an initial interview with the General Manager, interviews with a cross-section of staff, observation of a Council meeting, a meeting with two councillors, two site visits, a review of Council policies and other documents and an exit interview with the Chairperson and General Manager.

Implementation and monitoring of recommendations of final report

The review has identified a number of improvement opportunities that the Council needs to address. Council has identified its intended actions in implementing the recommendations in this report in the action plan contained at the back of the report. It is recognised that Council has already implemented a number of these recommendations. Council is asked to report to the Division in six months time on its progress towards implementing the remaining recommendations.

2. ABOUT THE COUNCIL AND THE AREA

Role

MidCoast County Council was formed in 1997 following a review into the water functions of electricity distributors. The review recommended the formation of a County Council to deliver the water supply functions of NorthPower Energy and Great Lakes Council and the sewerage functions of Greater Taree and Great Lakes Councils. The Council is responsible for reticulated water supply and sewerage systems in the Greater Taree and Great Lakes local government areas. The area administered by MidCoast covers an area of approximately 7,000 kilometres, from North Karuah to Johns River taking in the communities of Taree, Wingham, Harrington, Forster, Tuncurry, Bulahdelah, Stroud and Tea Gardens, including surrounding villages.

Local issues

MidCoast is one of the largest country water utilities in NSW with an extensive infrastructure network. In terms of its water supply system, it serves a population of 76,600 (36,270 connected properties). Water is drawn from 15 bores and two river intakes on the Manning River and transferred to Bootawa Dam.

Residential growth for 2008-09 was 0.8%, which is similar to the statewide median.

The main challenges facing MidCoast are population growth. In meeting these challenges, Council has determined that its main focus should be improving and extending the coverage of its traditional water and sewerage responsibilities, providing for sustainable water cycle management, and providing business and community leadership.

The Council

The *Local Government Act 1993* requires that a county council's governing body is elected by its constituent councils. MidCoast County Council has six councillors, including the Chairperson. Three councillors are nominated by Greater Taree City Council and three by Great Lakes Council. The Council meets on the third Tuesday

of each month. The meetings are held alternately at the Taree Customer Service Centre and Forster Customer Service Centre.

The elections in 2008 saw the election of two new councillors who had not previously served on MidCoast and four previously serving councillors. The Chairperson is elected annually by the councillors.

Staffing

MidCoast County Council has one senior staff position as defined by the *Local Government Act 1993*, being the position of General Manager.

Council maintains two administration centres, located in Taree and Forster. Council is split into three divisions: Operations; Corporate Services; and Construction and Design.

The management of Council's workforce is a challenge confronting the Council. As expanded on elsewhere in this report, Council's philosophy of running a lean organisation in terms of its human resources has resulted in a lack of staffing in certain areas, lack of depth of staffing and a lack of clarity of positions. Council has yet to develop a workforce management strategy or undertake any long term workforce planning to assist it to meet and better manage this challenge.

OUTCOMES OF THE REVIEW

3. COUNCIL'S STRATEGIC POSITION

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

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

The Integrated Planning and Reporting 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 resourcing strategy, which includes a long term financial strategy, asset management plan and workforce strategy. The framework is set out in the following diagram.

Diagram 1: Proposed planning and reporting framework



Areas for improvement

Strategic planning

The Local Government (General) Amendment (Planning and Reporting) Regulation 2010 commenced operation on 1 March 2010.

In accordance with clause 95, Part 31 of Schedule 8 of the *Local Government Act 1993*, a Ministerial Order placing the 38 councils that nominated to be included in Group 1 for the commencement of the new strategic planning provisions was published in the NSW Government Gazette on 26 February 2010.

MidCoast was one of those councils that nominated to be in Group 1 for the purpose of phasing in the new strategic planning provisions. The requirements in the Planning and Reporting Guidelines for local government in NSW, released on 21 January 2010 (Circular to Councils 10-01 refers) apply to Group 1 councils from 1 July 2010. A supporting Manual is also available to assist councils to implement the new requirements. The Guidelines and Manual are available on the 'Integrated Planning and Reporting' page of the Division's website at www.dlg.nsw.gov.au.

The new planning and reporting reforms replace the former Management Plan and Social Plan with an integrated framework. It also includes a new requirement to prepare a long-term Community Strategic Plan and Resourcing Strategy. The purpose of the Community Strategic Plan is to identify the community's main priorities and aspirations for the future and to plan strategies for achieving these goals. The Resourcing Strategy focuses in detail on matters that are the responsibility of the council and consists of a Long Term Financial Plan, Workforce Management Plan and Asset Management Plan.

Falling under the Strategic Plan and Resourcing Strategy is a Delivery Program. This is a statement of commitment to the community from each newly elected council. The program replaces the former Management Plan requirements and is designed as a single point of reference for all principal activities undertaken by Council during its term. Supporting the Delivery Program is an annual Operational Plan spelling out the details of the Program.

The requirement to prepare a Community Strategic Plan will not apply to county councils, because this work will be undertaken by their constituent councils. However, county councils will be required to prepare a Business Activity Strategic Plan. The plan will identify the main business activity priorities of the council covering a period of at least 10 years and establish strategic objectives together with strategies for achieving those objectives. In addition, the plan must give due regard to the Community Strategic Plan/s of the constituent councils and be developed in consultation with the constituent councils. Community engagement will also be required on the issues specific to the county council's plan.

MidCoast currently has a strategic plan, *Future Directions in Water Management 2006 – 2030*. This document was adopted by Council in August 2006. Council advised that this will inform the development of Council's Strategic Plan as part of the implementation of the Integrated Planning and Reporting framework. Council has established a Strategic Management Steering Group to review Council's strategic plan. However, the review team was advised that this group has not met in over 12 months.

Council's Draft Management Plan 2010-13 was placed on public exhibition on 23 April 2010 incorporating Council's Strategic Delivery plan 2010 - 2013 and Operational plan 2010 - 2011. Council's Draft Management Plan does not meet the requirements of the Planning and Reporting Guidelines for the following reasons:

- The Management Plan has been replaced by a Business Activity Strategic Plan (for county councils), Resourcing Strategy and Delivery Program.
- The Business Activity Strategic Plan must cover a period of at least ten years.
- The Business Activity Strategic Plan must give due regard to the Community Strategic Plans of MidCoast's constituent councils and be developed in consultation with the constituent councils. While Greater Taree City Council nominated to be in Group 1 for the purpose of the new planning and reporting framework, Great Lakes Council nominated for Group 2 and so will not be required to comply with the new planning requirements until 1 July 2011. This places MidCoast in a difficult position in terms of preparing its Strategic Plan.

- The Resourcing Strategy requires preparation of long term financial, workforce and asset management plans. As will be discussed in more detail later in the report, MidCoast has yet to develop such plans.
- The Delivery Plan goals must be for a four year duration, must inform and be informed by the Resourcing Strategy, must address the full range of Council's operations and must include financial estimates for a four year period.

During the writing of this report Council advised the Division that it would not be in a position to meet the requirements of the planning and reporting guidelines on 1 July 2010. Council requested that it be reallocated to Group 3. Accordingly, MidCoast will be required to comply with the new planning requirements from 1 July 2012.

In this regard, no recommendation will be made regarding the current reporting requirements.

Council response

Since the retirement of the previous asset manager, MCW has had difficulty recruiting an appropriate person to fill the position. MCW has now appointed an asset manager and the development of an asset management strategy is now underway with completion expected in mid 2011.

MCW has been working on updating its strategic management plan, adopted in 2006 and approved by the NSW office of water. The finalisation of this plan depends upon the impending transfer of the Gloucester Shire Council's water and sewerage assets and liabilities to MCW. Our ability to meet future timeframes will be dependant on the Minister for Local Government signing of on the asset and liability transfer. Both MCW and Gloucester Shire Council have agreed on the principles of the transfer, which will include the extending of MCW's operational boundaries to include Gloucester Shire.

The development of asset management, workforce management and financial resourcing strategies is underway. MCW have been reallocated to group 3 for compliance with integrated planning and reporting requirements. The plans will be complete according to the group 3 schedule.

4. DELIVERING AND ACHIEVING

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

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

4.1 GOVERNANCE

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

4.1.1 Scope of review

- *Ethics and values*
- *Management planning*
- *Procurement, disposal and tendering*
- *Privacy management*
- *Code of conduct*
- *Communication devices*
- *Disclosure of pecuniary interests*
- *Risk management, legislative compliance and internal control*

- *Council's decision-making processes, including delegations and conduct of meetings*
- *Records management*
- *Access to information*
- *Support for councillors*
- *Complaints handling*
- *Information technology*

4.1.2 MidCoast County Council's governance practices

The review has identified a number of weaknesses in the Council's governance practices. These are commented on in greater detail below and recommendations are made to address them.

Noteworthy practice

4.1.3 Statement of Business Ethics

Council has adopted a statement of business ethics which informs contractors of its ethical standards. The statement clearly identifies what private sector parties can expect from Council and what Council expects of them. The statement deals with matters such as gifts and benefits, conflicts of interests, communication, records management, safety and reporting unethical behaviour. Council requires contractors to abide by the Statement of Business Ethics and has identified the consequences to contractors of not complying with Council's ethical requirements.

However, the review team noted an error which appears in the section titled "What to expect from us". Reference is made to the ways in which Council manages the appointment of contractors and states that "*larger contract works (over \$150,000) are managed via tender, in accordance with the Local Government (Tendering) Regulation 1999*". The tendering provisions are prescribed by section 55 of the *Local Government Act 1993*, the *Local Government (General) Regulation 2005* and the recently promulgated *Local Government (General) Amendment (Tendering) Regulation 2010*. This section should be amended accordingly.

Areas for improvement

4.1.4 Management planning

Council complies with its obligation to exhibit its Management Plan. Council monitors the implementation of the Management Plan through quarterly reports. Prior to adopting the Management Plan, Council conducted internal workshops, but did not hold any public meetings. Council receives very few or no submissions on the Management Plan each year. In addition, the review team did not find evidence of significant ownership by the organisation of the plan or the vision it describes. Nor

does it appear to have been used as a management tool to drive and monitor performance. Elements of the plan are lacking in detail.

As previously discussed in this report, the format of planning and reporting for councils has changed. The Management Plan requirements have been replaced by a Delivery Program.

Council's current Management Plan is a minimum three year rolling program. However, in moving towards the new planning requirements, Council will be required to develop a fixed-term four year Delivery Program to align with the local government electoral cycle. The Delivery Program must embrace all aspects of Council's operations and should be regarded as a central reference point for decision making and performance monitoring.

While it is acknowledged that the new planning and reporting requirements will take some time to implement, Council should use this as an opportunity to better integrate Council's planning processes to make them more efficient and reflective of community needs. It will also provide Council with an opportunity to develop a shared and realistic vision and ensure clarity of its strategic direction. In doing so, Council should review its relationship with its constituent councils and ensure greater community engagement on the issues specific to its Management and Strategic Plans.

4.1.5 Code of conduct

Council's code of conduct was adopted in August 2008. The Code consists of two parts, a plain English version and the Model Code of Conduct for Local Councils in NSW issued by the DLG in June 2008. The plain English version has a number of positive features, including the provision of examples and scenarios, references to the relevant Council policies and documents, the inclusion of cartoons depicting various scenarios and inclusion of guidelines and suggested responses to assist staff to manage various situations.

However, it appears that some areas of the code have not been amended to ensure consistency with the Act and the Model Code, including:

- The reference to Council as a corporation - the Act now provides that the legal status of a county council is a body politic of the State with perpetual succession and the legal capacity and powers of an individual, both in and outside the State.
- Declaring and dealing with non-pecuniary conflicts of interests – the Model Code now distinguishes between significant and less than significant conflicts of interests and political donations.
- Gifts and benefits – the Model Code refers to “token gifts and benefits” and “gifts and benefits of value”. Gifts and benefits of more than token value must not be accepted and where such a gift or benefit is received that cannot reasonably be refused or returned, it must be disclosed and surrendered, unless this is impractical. Council’s code refers to “token gifts” and “larger gifts”. The code states that *“As a general rule, you should refuse any large gifts...”* and *“All offers of larger gifts must be reported, whether you accept or refuse the gift”*.
- Reporting misconduct and referring complaints about the General Manager or councillors to a conduct committee – the Model Code of Conduct set out how complaints about staff, councillors and the General Manager are to be managed. In particular, complaints about councillors are to be referred to the General Manager and complaints about the General Manager are to be referred to the Chairperson, in writing, in the first instance. The General Manager and the Chairperson are responsible for assessing complaints in accordance with the assessment criteria outlined in the Model Code in order to determine whether to refer the matter to a conduct review committee or sole reviewer. Council must resolve to appoint persons independent of Council to comprise the members of a conduct review committee and/or act as sole conduct reviewers. At the time of adoption of the current code, Council resolved to appoint an interim sole reviewer engaged by Great Lakes Council pending the establishment of a conduct review committee. To ensure compliance with the Model Code, Council should resolve to appoint at least 3 persons who are independent, qualified persons of high standing in the community to act as conduct reviewers and determine the term of appointment of such reviewers.

In addition, there are some typographical errors in the code, including references to the Independent Commission Against Corruption (should read Corruption) and Council's Code of Meeting Conduct (should read Practice) which should be amended. It is also suggested that the reference to "rights of the accused" in the reporting misconduct section be amended to read "rights of the person the subject of a complaint" or something similar.

Recommendation 1

Council should review and make relevant amendments to its plain English version of the code of conduct to ensure consistency with the Act and the Model Code of Conduct.

Council response

Code of conduct – plain English version will be reviewed and revised in line with the DLG model code. It was always MCW's intention to update the plain English version, however it has been made clear that in all cases where there is any discrepancy the model code prevails,

There is a reference to Great Lakes Council establishing a code of conduct review committee – this should refer to Greater Taree City Council, Greater Taree has recently appointed a conduct review panel – negotiations are proceeding to extend this panel to MCW.

Statement of Business Ethics – MCW will adjust the wording of this document to reference Local Government (General) Regulation 2005

Public meetings – Extensive community engagement, including public meetings has been conducted in accordance with our policy and guidelines where there has been a substantial change to revenue raising, such as change of pricing structure, service levels, new water/sewerage services to villages, or major reuse projects. The results of these consultations are fed into future years' management plans. For example, the consultation process for the transfer of Gloucester water and sewerage responsibilities, public meetings were held, and each one of our potential customers received an information leaflet (copy attached).

The draft plan of management is circulated throughout our service area using the library networks of our constituent councils, as well as public advertisements. Our major customer receives their own copy of the management plan.

Reviewer comment

Council's comment in relation to the establishment of a conduct review committee in conjunction with Greater Taree City Council is noted. The report noted Council's current appointment of an interim sole conduct reviewer from Great Lakes Council. This is a different matter to the appointment of persons to act in the capacity as conduct reviewers and therefore form a conduct review committee.

4.1.6 Gifts and benefits

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

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

Council adopted a Gifts, Benefits and Hospitality policy in February 2004. The policy was last reviewed in March 2008. The following documents are attached to the policy:

- Gifts, Benefits and Hospitality Procedure
- Gifts, Benefits and Hospitality Declaration Procedure
- Declaration Form for Gifts and Benefits received by employee or councillor

Council also maintains a gifts and benefits register.

The policy provides examples of what would be regarded as a token gift. This section complies with the Model Code of Conduct.

However, the policy states that *“Councillors and employees who know in advance that they will receive a benefit or hospitality, such as attendance at a major sporting event, must receive written permission before attending”*. This clause is inconsistent

with the Model Code and earlier clauses in Council's policy which state that *"employees and councillors must not accept any gift or benefit of more than token value"*. Clause 8.2 of the Model Code identifies tickets to major sporting events as gifts and benefits that have more than a token value.

The policy provides a list detailing the information contained within the gifts and benefits register and states that the register will be *"audited every six months and a written report provided to the General Manager. Any issues identified will be acted upon"*.

It is worth noting that the gifts and benefits register does not contain any entries. This suggests that no gifts or benefits of more than token value have been received and/or that staff or councillors are not declaring such gifts or benefits. In the interests of transparency and to enable Council to analyse trends relating to the types of gifts and benefits being offered, in what circumstances and by whom, Council should encourage staff and councillors to declare all gifts and benefits received, rather than just those considered as being more than token value. Council should ensure that all staff and councillors are aware of what constitutes a gift and of the associated requirements.

The Policy states that where an offer of a substantial gift, benefit or hospitality is made it must be reported according to Council's internal reporting policy under the *Protected Disclosures Act 1994*. The word substantial is not defined in Council's Policy and is inconsistent with the Model Code. Further, the purpose of the *Protected Disclosures Act 1994* is to ensure that persons reporting alleged corruption, maladministration or serious and substantial waste are protected from reprisals by making such reports and ensure that such matters are properly investigated. Where an offer of a gift or benefit amounts to corrupt conduct as defined in the *Independent Commission Against Corruption Act 1988*, this should be reported to the Independent Commission Against Corruption.

Recommendation 2

Council should review its Gifts, Benefits and Hospitality policy to ensure consistency with the Model Code of Conduct.

Council response

MCW has conducted an internal review of the policy and there will be some minor word changes to the policy to ensure consistency with the model code of conduct. Extensive training of all staff in the code of conduct, which included gifts and benefits was conducted during September/October 2010.

Reviewer comment

Council has advised that Code of Conduct training, including gifts and benefits, was conducted in October 2010. Therefore, the recommendation relating to this has been removed from the final report and action plan.

4.1.7 Disclosure of interests returns

The *Local Government Act 1993* requires that councillors and designated staff complete and lodge disclosure of interests returns. The review team inspected the disclosure of interests returns for councillors and the General Manager. The returns require greater attention in the following areas:

- the nature of interest in real property in some returns has been noted as “home” or “marital home”, rather than as owner, lessee or beneficiary. The nature may also be in whole or part of the property and this must be specified.
- ensuring that all sources of income from occupations, eg, councillor fees, are included.
- including the full name and business address of an employer.
- where there are no interests to be disclosed, the word “Nil” is to be placed in the space under the appropriate heading, rather than placing a line through the section or leaving it blank.

In November 2008 the Division issued Circular to Councils 08-71 *Self Help Guide to Complete Section 449 Returns of Interests* to assist council officials to comply with their obligations relating to the disclosure of interests. The guide complements previous circulars to councils on the subject of returns of interests and the *Pecuniary Interest Guidelines*.

Council response

Since the implementation of the GIPA Act, all returns of interests by councillors and designated staff have been checked by the records and administration manager to ensure compliance. Where there have been some errors and omissions, the councillors and designated staff have been advised on the correct entering of disclosures within the return.

Reviewer comment

Council has advised that disclosure register requirements have been reviewed in line with the Government Information (Public Access) Act 2009 and that staff and councillors have been advised as to how to fill in disclosure statements. Therefore, this recommendation has been removed from the final report and action plan.

4.1.8 Councillor induction and ongoing training

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

MidCoast does not have a councillor induction program and has not developed a structured ongoing training and development program. Instead, it relies on its constituent councils to support the councillors with relevant training and development opportunities to assist them to keep up-to-date with the changes in local government and in undertaking their role.

An induction program specifically designed for MidCoast councillors would provide an opportunity to receive essential information as it relates to the business of MidCoast in a structured and consistent way from the start of their term in office. Such a program could include information about how Council's business operates, Council's management structure, meeting times and procedures and where to go to get more assistance or information.

Recommendation 3

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

Council response

MCW will investigate what extra training is needed for our councillors that is over and above the existing training that they receive from our constituent councils.

4.1.9 Policy register

Council has a number of policies which are held in its policy register. While the policies appear to have a consistent format, the review team noted the following inconsistencies:

- several policies are noted as being in draft form notwithstanding that there is an issue date (referred to as ‘council approval date’ in the policy register) and revision date (referred to as ‘next recommended review date’ in the policy register) displayed on the policy
- some policies appear to have two different document numbers, eg, the Code of Meeting Practice available on Council’s website is described as ‘Version: 3 final document, Issued: July 2005, Review date: July 2006, Doc No: 88300’, whereas the policy register contains the following details ‘Version No: Draft, Last Reviewed & Registers Updated: May-05, Next Recommended Review Date: May-08, Doc No: 115493’
- some policies do not appear to have an approval date or recommended date noted in the policy register
- a number of policies have long since passed their next recommended review dates and several review dates appear to precede the Council approval date
- the policy register indicates that only one policy has been placed on Council’s intranet and that no policies have been placed on Council’s internet. A review of Council’s website indicates that a number of policies can be accessed via the internet.

Given the above observations, Council should review all of its policies and update its policy register accordingly. In doing so, Council should give consideration to:

- how each policy relates to Council's strategic plan
- differentiating between policies of a strategic nature and those of an operational nature
- formalising the procedure for updating the register and communicating changes to responsible staff.

Recommendation 4

Council should review its policy register and policies taking into account the comments made in this report.

Council response

MCW has been aware for some time that there are shortcomings with our documents management system and has been investigating various replacement systems and has decided to install the new "Objective" document management system after visiting several organisations that are using the system. The system is being progressively installed from the beginning of October. The policy register will be redeveloped to complement the new system.

4.1.10 Complaints handling

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

Council's Complaints Management policy was issued in April 2001 and the next review is noted as being "*as required*". During their visit, the review team raised with Council the apparent lack of review, at which time it became evident that a number of staff, including senior staff, were unaware that the policy existed. Following the on-site visit, Council advised that it had recently reviewed the policy and determined that no changes were necessary. Council should ensure that all staff are provided with training in Council's Complaints Management Policy to enable them to be in a position to recognise complaints and understand their roles and responsibilities

under the policy. Council should also ensure that its review dates are clearly shown on its documents.

A review of the policy has revealed a number of areas requiring improvement. For example, the policy does not provide for a three-tiered approach for managing complaints, nor does it identify that complaints relating to alleged breaches of the code of conduct by a councillor, member of staff or delegate of Council must be dealt with in accordance with the procedures prescribed under the Model Code of Conduct, rather than Council's normal complaint handling procedures. In addition, the policy does not provide direction to staff as to the manner in which unreasonable complainant conduct may be appropriately managed.

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

Recommendation 5

- a Council should review and update its Complaints Management policy to ensure it is consistent with Practice Note No 9 - Complaints Management in Councils.**
- b Council should provide follow-up complaints management training to its employees.**

Council response

MCW's past practice has been to record every contact by our customers as a complaint, which has probably distorted our customer complaints figures. Our reasoning was that it provided excellent data when we were putting our case forward for the upgrade our water treatment facilities. We have now changed our method of recording complaints to reflect the guidelines. Every two years, we carry out a customer service survey to ascertain how we deal with all the complaints that we receive, and our overall customer service, which includes delivering on what we promise and the speed with which we attend to incidents in the field.

In 2007, MCW surveyed customers who had lodged a complaint or reported a fault. The results of this survey indicated that 80% of customers scored our response to their contact as 10 out of 10, with 98% of respondents scoring 5 out of 10 or better.

Reviewer comment

Council provided a copy of its revised Complaints Management Policy indicating that the Policy was reviewed on 8 June 2010.

A review of the updated policy has revealed that the policy requires further attention and continues to be inconsistent with Practice Note 9 – Complaints Management in Councils. For example, the policy still does not address the original areas requiring improvement identified by the reviewers in this report. Further, a number of sections have been amended or deleted, without ensuring that the remaining sections are consistent with such changes.

4.1.11 Council meetings and minutes

The review team inspected a sample of Council's minutes and attended Council's ordinary meeting on 20 April 2010. From the review team's observation, the meeting was chaired in an ad-hoc manner and did not adhere to the formal meeting procedures adopted by Council for its meetings. There was a lot of general discussion allowed on matters where councillors sought clarification, which held up the Council business. It is suggested that councillors should take time before the Council meeting to clarify matters in staff reports with the General Manager. If the reports are not providing sufficient information for councillors to make decisions, then the content and format should be reviewed to ensure that the reports meet the councillors' needs. In addition, there was a lot of cross-table talk allowed at the meeting and some councillors spoke to motions more than once.

It is considered that the following items require particular attention.

Recording of disclosures of interest

A record of disclosures of conflicts of interests should be made at the beginning of Council's meeting and recorded in the minutes. This should include the type of interest (pecuniary or non-pecuniary; and if non-pecuniary, whether or not the

interest is significant or less than significant), the nature of the interest and the action proposed to be taken by the councillor to manage the conflict.

The minutes of Council's meeting in May 2010 record the following disclosure:

“Councillor M Richardson declared a non-significant, non-pecuniary interest.....and will participate in the debate and will vote.”

This disclosure fails to comply with the requirements of the Model Code of Conduct for the following reasons: non-pecuniary conflicts of interests are either significant or less than significant, rather than ‘non-significant’; the nature of the interest must be disclosed; and where the interest is less than significant and the councillor determines that no further action is required, an explanation must be provided of why the conflict does not require further action in the circumstances (section 7.18 Model Code of Conduct).

Closed meetings

As a general rule, meetings of the Council and its committees are required to be open to the public. Where Council determines that a matter should be dealt with in confidential session, section 10 of the *Local Government Act 1993* outlines the requirements for this determination.

The review team reviewed a number of Council's minutes as well as attending a meeting of Council. The process for Council to close part of its April 2010 meeting to the public was confusing to say the least. There appeared to be confusion on the part of the Chairperson and staff as to the procedures for going into a closed session. Further, the item of business to be dealt with in confidential session was not included in the agenda, but had been presented to councillors in a confidential section of the business paper titled “Confidential Report” containing a number of items. The front cover of the report states *“That the Council move into confidential session to consider business which is commercially sensitive, or of a personal nature relating to acceptance of tenders, property considerations, staff matter of individual customers. Accordingly the public will be excluded from the Council meeting during consideration of these issues”*.

This is insufficient. Where Council determines that a matter should be dealt with in closed session, sections 10A to 10D of the Act outline the requirements for this determination. This includes identifying the relevant provision of section 10A(2) relied upon in closing the meeting and identifying the matter that is to be discussed during the closed part of the meeting. Further, where the matter is not a personnel matter, a personal hardship matter or a trade secret, an explanation should be provided on the way in which discussion of the matter in open council would, on balance, be contrary to the public interest.

This is important because under section 10A(4) of the Act and clause 252 of the Regulation, the public may make representations as to whether the part of the meeting should be closed. In order to do this, the public need to know what the item of business is about. Council should ensure that its closed meeting agenda specifically indicates the relevant item of business to be discussed and the relevant part of section 10A(2) of the Act on which it is relying to close the meeting.

Additionally, there is a requirement that Council make available to the public the resolutions made in its closed meetings as soon as practical after the closed part of the meetings has ended, but without revealing confidential information. Council currently does this by way of a separate document attached to the minutes of the meeting titled *“Minutes of the Confidential meeting of the MidCoast County Council”*. This should be part of the one set of minutes.

The review team noted during the Council meeting that there were a number of issues raised and questions without notice which were not included on the agenda. Council's code of meeting practice provides that *“During the meeting, Councillors may put questions to each other, or ask a question of MCW staff at the meeting...”*. The Division's Circular to Councils 10-10 regarding implementation of the revised meetings practice note deals with, among other things, questions without notice. The circular states that allowing questions without notice is inconsistent with the provisions of clause 241(1) of the Regulation, which requires notice to be given of matters to be raised at council meetings. This enables all councillors and the public to be aware, by reading the agenda for the meeting, of matters that will be raised at the meeting.

Leave of absence

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

A review of Council's minutes indicates that councillors are advising Council of their inability to attend a meeting by tendering an apology. Although this practice is recognised as a component of good meeting practice, it has no recognition in either the Act or the Regulation.

During the Council meeting on 20 April 2010, it was observed that shortly after commencement of the meeting, Council proceeded to accept apologies received from two councillors. After some debate, it was decided that the correct procedure is for Council to accept a leave of absence from the councillors. While this is an improvement on past practice, councillors still appear to be unaware of the need to seek a leave of absence prior to the meeting. This is important because a leave of absence may be granted at the discretion of the Council. In addition, section 234 (1)(d) of the Act provides that a civic office becomes vacant where the office holder is absent from three consecutive ordinary meetings of the Council without prior leave of the Council or leave granted by the Council at any of the meetings concerned.

Code of meeting practice

The Division issued the revised and updated *Practice Note 16 – Meetings Practice* in August 2009. Council's Code of Meeting Practice was issued in May 2005 and contains a review date of May 2008. It is unclear whether the Code was reviewed at that time. Council should review its Code in light of the revised Practice Note and amend its Code of Meeting Practice accordingly.

Recommendation 6

- a Council should review and amend its code of meeting practice to ensure it is consistent with the provisions of the Local Government Act 1993 and Council's code of conduct.***

- b Council should review its meeting practices taking into account the comments made in this report.**

Council response

MCW will review the code of meeting practice to address the comments in this report. The updated code will be presented at our December council meeting. Our recently elected chairperson for the following 12 months has implemented several changes to our meeting procedures, which were reflected in the conduct of the October council meeting.

Reviewer comment

The agenda and minutes from Council's ordinary meeting on 19 October and 16 November 2010 were reviewed. The following items were noted as still requiring attention:

- Leave of absence – councillors should seek a leave of absence from council when they are unable to attend a meeting, rather than tender an apology.*
- Closed meetings - Council should ensure that any matters to be dealt with in closed session are included in the meeting agenda and specifically indicate the relevant part of section 10A(2) of the Act. Council should also ensure that resolutions made in its closed meetings are made available to the public. The agenda and minutes from the October and November meeting indicate that there is insufficient detail to identify the matter dealt with by Council and the resolutions made. For example, resolutions such as “....that the report & recommendation as stated in the confidential report.....be accepted and adopted as written” are not considered sufficient.*

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

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

Risk management is about the systematic identification, analysis, evaluation, control and monitoring of risks. Council is aiming to establish and maintain best practice in the management of all key business risks facing Council.

Council does not have an overarching risk management plan for the organisation. Risk management forms part of many of the plans and activities of individual sections of Council's operations. Managers are responsible for managing risks within their area of responsibility.

Council has a fraud and corruption resistance policy and a fraud and corruption management plan. Council has not undertaken a systematic fraud risk assessment since July 2005. It is important that fraud risks are identified and managed effectively and that processes are put in place to ensure that the existing and emerging risk areas are managed appropriately.

Council does not have an internal audit function or program. Council advised that it has attempted to establish a regional approach to internal audit but has been unsuccessful to date. Council should formalise an internal audit function and develop an internal audit program to review relevant sections of its operations on a regular basis, including procurement processes and the exercise of delegations. The Division has released guidelines to assist councils in developing and implementing an internal audit function.

Recommendation 7

- a Council should undertake a systematic fraud risk assessment to assist in the identification and management of fraud risks.***
- b Council should formalise an internal audit function and develop an internal audit program.***
- c Council should develop an overarching risk management plan.***

Council response

In 2005, MCW took advantage of the ICAC's Corruption Resistance Review (CRR) program, under which, the ICAC conducted a desktop audit and training in corruption and fraud prevention, which was attended by most of MCW's senior management

team, together with invitees from Greater Taree and Great Lakes Councils. After the review, MCW and ICAC agreed on an implementation timetable of 3 years, which was completed within that timeframe. It is appropriate that another review be conducted within the next two years.

Negotiations are continuing with Greater Taree City Council to develop a joint internal audit program and our current auditors have met with MCW to discuss how a program can be implemented.

MCW has multiple risk management plans in place for various functions of the organisation (including comprehensive investigation and concepts study guidelines for all large capital works projects, based on AS4360 risk management standard). We will work towards developing an overarching risk management plan and will be developing software for a risk management register similar to our delegations register. A risk management review will be carried out by the asset management strategic working group.

4.1.13 Councillor expenses and facilities policy

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

The Division issued updated guidelines for the preparation of policies under section 252 in October 2009. Council's policy indicates that it was reviewed and adopted in March 2008. However, a review of the policy indicates that it has not been updated for some years. The policy is poorly structured with headings and content that does not appear to match.

The reporting in the annual report is confusing in that the report is simply a small, inadequate table embedded within the policy which is within the annual report.

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

- the allowance of additional accommodation and travel expenses for spouses accompanying councillors to conferences
- no statement clarifying that general expense allowances will not be paid
- ensuring that limits on all expenses and facilities are clearly stated and, where appropriate, justified within the policy
- although the policy provides that a Council resolution is required for certain major expenses it does not articulate a general approval process
- the requirement for detailed information about expenses and facilities to be included in the annual report in accordance with clause 217 of the Regulation.

4.1.14 Procurement and tendering

Council last reviewed its Procurement Management Policy on 26 February 2007. The Procurement Management Policy provides a guide for staff on the type of expenditure permissible and their approved level of expenditure. As stated in the Procurement Management Policy, as a general guide, the following levels of expenditure apply:

- executive managers have a limit of \$100,000
- middle managers have a limit of \$50,000
- team leaders have a limit of \$2,000
- team members have a limit of \$500.

Council provided a current listing of levels of expenditure. It was noted that 68 of the 175 staff had levels of expenditure that were not in accordance with the general guide.

Delegation	Number of Staff
3,000	4
5,000	24
10,000	8
20,000	27
30,000	2
35,000	1
200,000	2
TOTAL	68

The Procurement Management Policy states that where a staff member requires a higher level of expenditure to carry out his or her duties, the matter will be referred to the General Manager for determination. No evidence was provided with the Procurement Management Policy that the General Manager had determined that 68 staff required a higher level of expenditure.

Of particular concern is the approval and level of expenditure up to \$200,000 for the General Manager and Construction and Design Division Manager. The limit of \$200,000 is double the limit of expenditure for executive managers outlined in the Procurement Management Policy. The limit of \$200,000 is also over the \$150,000 threshold contained in the tendering provisions of the Act and Regulation.

The Policy outlines the procedures for tendering. In October 2009, DLG released *Tendering Guidelines for NSW Local Government*. MidCoast has not reviewed or updated its Procurement Management Policy to ensure compliance with the Tendering Guidelines.

An internal control structure consists of policies and procedures designed to provide the governing body of Council assurance that it is achieving its objectives and goals. The weak control environment in relation to Council's procurement policies and procedures translates into an increased risk of fraud and misappropriation.

Clause 209 of the Regulation requires the General Manager to:

- ensure that effective measures are taken to secure the effective, efficient and economical management of financial operations within each division of the Council's administration
- ensure that authorising and recording procedures are established to provide effective control over the Council's assets, liabilities, revenue and expenditure
- secure the accuracy of the accounting records, including a proper division of accounting responsibilities among the Council's staff. This means a separation of duties relating to the payment of accounts
- ensure that the lines of authority and the responsibilities of members of the Council's staff for related tasks are clearly defined (ie, proper authorisation of transactions and activities).

Council response

A complete review of the policy has taken place and a new policy and management plan have been approved by council after extensive consultation with staff and our auditors.

A review of expenditure levels for all staff will be complete by 31 October.

The expenditure levels have been reviewed in the policy and we will be reviewing each employee's expenditure levels annually. In future, expenditure levels will be recorded in MCW's delegations register.

There may have been some confusion regarding information provided by MCW with regard to our system for the ordering of materials and authorisation of invoices in general. The purchasing limits are for issuing purchase orders only, as council does not have a purchasing officer. The limits for the general manager, executive manager infrastructure development and executive manager corporate services was to enable the system to process orders for large quantities of pipe which was purchased under a two year unit price contract. Only once during the past 12 months was that authorisation necessary, as we ordered a large consignment of pipe for the construction of the Nabiac borefield pipeline, which has been constructed internally. Authorisation for the signing of invoices is based on the expenditure levels equal to the ordering limits, but there is a requirement for multiple authorisations for amounts greater than \$100,000. This procedure is required as

MCW manages its own large construction contracts and we follow the local government tendering guidelines and MCW contract management practices. For example – a large contract for the installation of process equipment at Bootawa water treatment plant has signatures from the project manager, the superintendent's representative and the superintendent, who is appointed by the general manager, representing the contract principle before the project commences.

Reviewer comment

It is noted that Council has reviewed and updated its Procurement Management Policy and that Council's auditor was involved in the revision of the Policy. Therefore, this recommendation has been removed from the final report and action plan.

4.2 PLANNING & OTHER REGULATORY FUNCTIONS

Council exercises planning and regulatory functions in relation to water and sewer services in the Greater Taree and Great Lakes local government areas. 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.

4.2.1 Scope of review

A review was conducted of the following aspects of Council's planning and regulatory practices:

- Council's planning instruments and policies
- Development assessment
- Environmental management
- Compliance and enforcement practices

4.2.2 Overview of development assessment and regulatory practices

The former Department of Water and Energy (now the Office of Water in the Department of Environment, Climate Change and Water) published *Best Practice Management of Water Supply and Sewerage Guidelines* to encourage continuing improvement in performance of all NSW urban water utilities. The purpose of best-practice management is to encourage the effective and efficient delivery of water supply and sewerage services and to promote sustainable water conservation practices and water demand management through NSW. All utilities are expected to comply with the guidelines covering the following criteria: strategic business planning, pricing and regulation of water supply, sewerage and trade waste, water conservation and demand management, drought management, annual performance monitoring and integrated water cycle management.

The NSW Office of Water's assessment of MidCoast's operations in the 2008-09 year shows it as having achieved 100% compliance with the best practice requirements for water supply and sewerage services.

Areas for improvement

4.2.3 Development assessment

Council's development assessment responsibilities involve determining whether sites can be adequately serviced with water and sewer, ensuring that new development does not affect existing water and sewer lines and controlling the impact on the sewerage system of trade waste from new developments.

Council has not evaluated its systems and policies to guide the exercise of its development assessment functions for some years.

While Council has a series of flow charts outlining the assessment process, it does not currently have a procedures manual to guide or assist staff when assessing development applications. In the interests of streamlining the development assessment process and ensuring consistency of practice across the two administration centres, Council should develop a comprehensive procedure manual for processing development applications.

It was also apparent from the review team's discussions with staff that there are deficiencies in Council's information systems. Particular concerns raised include lack of comprehensive operational documentation and procedures, difficulty locating documents in electronic form, lack of knowledge as to how the systems operate and no dedicated systems support officer.

Recommendation 8

- a Council should develop a comprehensive procedure manual for processing development applications.***
- b Council should undertake a comprehensive needs analysis of its information systems to assist its planning and regulatory areas in undertaking their operations.***

Council response

MCW will develop a procedure manual as recommended.

MCW has recognised the limitations of its 10 year old document management systems and has recently purchased the “Objective” document management system and has commenced the system change over. A review of the planning and regulatory information systems will be undertaken following the installation.

4.2.4 Compliance and enforcement practices

Council undertakes water and sewer plumbing installation inspections. Council does not have an Enforcement and Compliance policy and non-compliance is dealt with by way of a defect notice rather than a penalty infringement notice (PIN). Council advised that, based on advice from the Office of Fair Trading, the issuing of a defect notice to deal with non-compliance may be similar to the issuing of a PIN. However, there still appears to be some doubt as to the legal status of a defect notice in terms of its enforceability.

The NSW Ombudsman has issued a publication titled *Enforcement Guidelines for Councils*. This publication has been developed to help councils act promptly, consistently and effectively in response to allegations of unlawful activity. While the guidelines are primarily directed at the regulation of development activity, they are applicable to other regulatory activities.

A Compliance and Enforcement policy should address key issues such as:

- How complaints may be lodged
- Timeframes for actioning complaints
- Options for dealing with unlawful activity
- Criteria to guide the exercise of Council’s discretion
- Specific provisions relating to building works.

Recommendation 9

- a Council should use the NSW Ombudsman’s Enforcement Guidelines to develop a Compliance and Enforcement policy.***
- b Council should provide compliance and enforcement training to its employees.***

Council response

Unlike general purpose councils, MCW does not have a high demand for enforcement activities and has preferred to work with customers without the need for enforcement by engaging with and educating the customers involved. MCW has guidelines in place for the collection of outstanding debts and relies on the provisions of the Local Government Act for other enforcement requirements. It should be noted that MCW has very few referrals to the ombudsman's office. We will provide future documentation which embraces the ombudsman's enforcement guidelines.

4.3 ASSET & FINANCIAL MANAGEMENT

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

4.3.1 Scope of review

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

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

4.3.2 Overview of financial position

The Division has been advised by the NSW Office of Water that MidCoast is well regarded in the industry as an effective and innovative local water utility. However, following the Promoting Better Practice review, the Division has some concerns regarding MidCoast's financial position in the long term.

The ongoing challenge for the Council is to ensure that it has the financial resources, now and into the future, to maintain and improve services and infrastructure in accordance with its business activity strategic plan and its adopted delivery program. At the same time, the strategic plan and delivery program need to be informed by accurate information about Council's financial resources.

As mentioned previously, Council will be required to implement and deliver on the requirements of the new strategic planning provisions by 1 July 2012.

Council does not have updated long term financial or asset management plans. The long term financial plan, asset management plans and workforce management plan all form part of Council's resourcing strategy to support its long term strategic plan. The goal of the resourcing strategy is to provide Council with sufficient resources, such as funds and people, to implement its business activity strategic plan. While

Council's focus has been on immediate and short term operations, a lack of foresight in planning is indicative of some of the challenges now facing Council.

Investing and financing activities in the cash flow statement should be looked at in tandem. Investing activities refer to the purchase and sale of current and non-current assets, including investments. Financing activities generally refers to council borrowings. When councils are growing they generally have positive cash flows from financing activities and negative cash flows from investing activities.

In previous financial years, MidCoast had positive cash flows of \$55.7 million in 2008/09 and \$45.5 million in 2007/08 in its financing activities and negative cash flows of \$58 million in 2008/09 and \$63.8 million in its investing activities. According to its cash flow statement, MidCoast has been expanding and growing its asset base quite rapidly in the past two financial years. This rapid expansion in services and assets in recent years has left Council with significant future liabilities.

The construction of the Bootawa Water Treatment plant is Council's largest capital project to date and has required a significant amount of resourcing. In April 2007, Council reported that construction had commenced on the Bootawa Water Treatment plant. At that time, Council reported the total cost of the Bootawa Water Treatment plant to be \$60 million. It was expected that the Bootawa Water Treatment plant was to be completed in late 2008. In December 2009, Council estimated the total cost of the Bootawa Water Treatment plant at \$82 million. It is inappropriate to comment further on the construction of the Bootawa Water Treatment plant, as this matter is currently the subject of legal proceedings.

As Council has not developed long term financial plans, the governing body has been unable to make informed strategic decisions. It is also the responsibility of the governing body to be aware of and request such important information. A long term financial plan should provide sufficient detail for the community to know how funds will be used, what specific projects/works are proposed and when they will be undertaken. A lack of transparency in relation to Council's long term plans is of concern.

Council's operating result slightly improved from a deficit of \$16.96 million in the 2007/08 financial year to a deficit of \$10.47 million at the end of 2008/09. The

operating results are also of concern. According to the *2008-09 NSW Water Utility Performance Monitoring Report* published by the NSW Office of Water, MidCoast had the worst operating result, other than Wyong Shire Council (Water and Sewer), for utilities with between 20,000 and 50,000 connected properties.

It is imperative that staff continue to engage with the elected Council to gain direction as to future management of Council's finances and assets.

Noteworthy practice

4.3.3 Productivity Improvements and Cost Savings

All staff are encouraged to show initiative in developing ideas that save costs and improve productivity. This fostering of ideas has provided many benefits to Council, resulting in a greater level of staff satisfaction and reduced employee turnover.

Areas for improvement

4.3.4 Asset maintenance

Council has demonstrated that it has effective systems in place to record its assets, including their condition and maintenance requirements. Strong systems and dedicated staff have enabled MidCoast to use its asset register as a base to plan effectively for asset renewals and condition maintenance. The asset register is well developed and serviced providing valuable information for administration and field staff to identify priorities.

During the PBP review Council demonstrated the use of its SCADA system at the treatment plant. This state-of-the-art system provides the operators with information to monitor and control the water and sewer treatment plants from a single site. It is evident that Council has acknowledged the skill and expertise of staff in using the SCADA system.

Council has also employed a local community group to look after the maintenance of grounds surrounding its water and sewer treatment plants. This initiative not only saves on expenses but provides experience and jobs to the community. In engaging

outside contractors, skilled staff can concentrate on the monitoring and maintenance of the plants.

The asset systems that have been developed appear to be serving Council well. The National Water Commission *National Performance Report for 2008-2009* reported that MidCoast has one of the lowest levels of water main breaks (per 100km of water main) for utilities with between 20,000 and 50,000 connected properties.

Reviewer comment

Since the writing of the draft report, it has come to the Division's attention that Council's auditor, Forsyths Chartered Accountants, has raised concerns regarding Council's infrastructure (water and sewer networks) valuation and asset registers.

In a letter from Council's auditor to Council dated 29 October 2010, it is noted that:

"Council uses a self developed database to record and manage its infrastructure assets for the water and sewerage network.....

Due to integrity issues in relation to the asset condition assessment within the database, the database was unable to provide an accurate revaluation adjustment for changes in asset condition since the last revaluation in 2009. Therefore assets have been held at the previous revaluation of 2009 indexed by 3% as required by DUES guidelines.

In addition, Council is presently unable to determine the value of roadworks it is required to transfer to Taree Council. The transfer of control of this road would be recorded as a loss on disposal of assets. However, at balance date Council is unable to determine the value of the works to be transferred or agreement with Taree Council been obtained with regard to its agreed value.

The above factors have resulted in our inability to obtain sufficient appropriate audit evidence to satisfy ourselves as to the accuracy of the fair value of infrastructure assets as at 30 June 2010. However, we believe the major impact would be to vary the final values of asset revaluation reserve, closing written down value of assets and to a lesser extent operating surplus (variations in depreciation and disposal of assets).

We have been advised that Council will be migrating from the current database to another recognised system in the 2011 financial year, which will include a clean out of old and redundant data and will also seek external consulting support to conduct a review of the compilation of condition data, depreciation calculations and triggers for changes in asset conditions.”

In this regard, asset maintenance has been moved from noteworthy practice to areas for improvement. No recommendation will be made given that Council has acknowledged the need to implement a new asset database.

4.3.5 Investments

In November 2009, Council’s auditor made several recommendations regarding Council’s Investment Policy. One of these recommendations included exercising care with respect to investments and investment income in the context of obtaining an appropriate return from those investments while ensuring the security of the funds.

In this light, Council’s auditor recommended that the investment policy be reviewed on a regular basis to ensure it is up-to-date, includes appropriate limits and restrictions, provides guidance on the type and diversity of investments suitable to ensure capital is protected and to ensure sufficient funds are available as required to carry projects and provide services.

Council’s Investment Policy was last updated in June 2008. The Ministerial Investment Order was revised in July 2008. Council has not updated its Investment Policy in light of recent changes to the Ministerial Investment Order. For example, page 3 of Council’s Investment Policy states *“the Minister considers that any security issued by a “body” or “company” rated AAA, AA+, AA, AA-, A+ and A are authorised and may form part of your portfolio”*. Councils are no longer permitted to make such investments.

However, as at 31 March 2010, it would appear that Council has not breached the current Ministerial Investment Order. As at 31 March 2010, Council held a total of \$67.5 million in investments including \$8.3 million in cash, \$19 million in term

deposits, \$1 million in Floating Rate Notes (FRNs), \$2.4 million in Collateralised Debt Obligations (CDOs) and \$36.5 in Capital Protected Notes.

While Council's investments appear permissible under the Ministerial Investment Order, there are still ongoing concerns as to their make-up and composition. Upon review of Council's investments, it is concerning that \$39.9 million worth of investments are not due to mature until beyond the 2010/11 financial year, limiting Council's ability to access funds. Also of concern is that Council holds \$19 million in term deposits with one branch of a foreign bank in Australia. By only investing in one financial institution for short term investments, Council's credit risk exposure is increased.

Recommendation 10

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

Council response

The investment policy review has now been completed. The review was conducted in line with the guidelines issued by the DLG.

We have developed long-term financial plans in line with the NSW Office of Water's requirements. The most recent plan was produced in 2008, which was the result of the implementation of our new Sustainable Water Cycle Management Strategy – these plans are reviewed every 5 years in accordance with the 5-6 year requirement under the Office of Water Guidelines. We are in the process of upgrading those plans and are finalising the review of our 30 year capital works program.

MCW would like it noted that we carry out extensive consultation with our stakeholders before a project is commenced and wherever possible we aim to deliver triple bottom line benefits to our stakeholders. We continue to review projects before they are commenced and defer or minimise where possible.

For example – the pacific palms wastewater treatment plant was deferred by the Great Lakes Council prior to MCW's formation due to an unforeseen increase in costs in the delivery of the pacific palms sewerage reticulation scheme. The plant was initially deferred to 2004; the original dept of public works designs catered for 10,000

equivalent persons (e.p.). In 2004, MCW reviewed the need for the treatment plant as our current Forster treatment plant was reaching full capacity and the plant was redesigned and downsized to 8,000 e.p. At the same time we made process improvements at the Forster plant for just under \$1.5 million, which increased the capacity of the plant by 33%. The construction of the Pacific Palms treatment plant has been costed at \$18 million and MCW has been informed by the state government that despite previous assurances, there will be no funding available for the plant. MCW has decided to build the new plant in stages and the first stage will cost approximately \$3 million to enable MCW to delay further expenditure by a further 10 years.

The following extract from the NSW Office of Water's document 'Non-metropolitan NSW Water Supply and Sewerage: A case study', explains MCW's approach.

"Section 60 Approvals

Under section 60 of the Local Government Act 1993, Local Water Utilities are required to obtain approval from the Minister for Water for the construction or extension of water treatment works, sewage treatment works and dams for effluent reuse or biosolids reuse projects.

The section 60 approvals are a high value activity whose objectives are to provide an independent assessment of a proposed project to ensure it is fit for purpose, provides a robust, safe, cost-effective and soundly based solution and meets public health and environmental requirements. The Office of Water applies its extensive experience and expertise developed through its oversight and review of all such facilities throughout NSW.

Each activity requiring Section 60 approval involves specialist facilities for which an options report, conceptual design report and detailed design are required. These need to be prepared by suitably qualified and experienced practitioners."

Reviewer comment

A review of Council’s updated Investment Policy, dated June 2010, was undertaken. There are a number of areas still to be addressed, revised or amended to ensure compliance with the DLG Investment Policy Guidelines (the Guidelines) issued in May 2010. For example:

- Reference to specific parts of the documents referred to in the section titled “Legislation requirements” should be included.*
- Council’s risk profile should be defined. The Guidelines require Council to recognise all risks and include its understanding, tolerance and permitted exposure to risks in its investment policy. While it appears that Council currently does this by way of its Investment Risk Management Guidelines and Investment Management Checklist, this should be incorporated into Council’s Investment Policy.*
- Monitoring and reporting. The Guidelines require Council’s Investment Policy to establish guidelines in relation to monitoring and reporting on Council’s investments. Further, the policy should set a minimum review of investments each month and should include information on what is required to be presented to Council each month.*

4.3.6 Debt

As at 30 June 2009, Council had total current and non-current borrowings of \$210 million, which was a net increase of \$55 million from the previous financial year.

	2008/09	2007/08
Debt Services Ratio	42.40%	42.93%

The Debt Services Ratio (DSR) assesses the degree to which revenues are committed to the repayment of debt. A DSR of 20% or more is generally considered to be of concern. In MidCoast Water’s case, the DSR has been more than double the 20% benchmark in the previous two financial years 2007/08 and 2008/09.

	2006/07	2007/08	2008/09	2009/10
	(\$m)	(\$m)	(\$m)	(\$m)
Total Borrowings	110	155	210	228*
Total Investments	61	65	66	67**
Net Financial Liability	49	90	144	162
Total Income	51	38	50	52
Net Financial Liabilities Ratio	96%	236%	288%	311%

* This is the expected figure, based on the drawdown figure of \$24 million

** This figure is based on Council's Investment Report for 31 March 2010

The *IPWEA Australian Infrastructure Financial Management Guidelines - Version 1, 2009* calculates the Net Financial Liabilities Ratio (NFLR) as total liabilities less financial assets as a percentage of total operating income. The indicative target is between zero and 100%. MidCoast Water's NFLR is above the indicative rate for 2007/08, 2008/09 and 2009/10.

Where the value is rising over time, it indicates that the entity's capacity to meet its financial obligations from operating income is weakening. Increases in the net financial liabilities ratio will sometimes also result in an entity incurring higher net operating costs. This will detract from the entity's overall operating result. Council's growing NFLR is of concern, especially given that the last time Council had developed any form of long term plan was in February 2007.

Councils with healthy operating surpluses could decide to allow their NFLR to increase in order to provide additional services to their communities through the acquisition of additional assets without detracting from their financial sustainability. A NFLR greater than 100% is generally considered to be of concern. In MidCoast's case, the NFLR was more than three times greater than the 100% benchmark in 2008/09.

Council should also take into account that the Auditor has raised questions about the recoverability of MidCoast's investments, which forms part of the NFLR calculation.

According to the *2008-09 NSW Water Utility Performance Monitoring Report* published by the NSW Office of Water, MidCoast Water had the second highest net debt to equity ratio of 25% for local water utilities with more than 10,000 properties connected. The median debt to equity ratio result for all 28 local water utilities with more 10,000 properties connected was 1%.

Also concerning is the difference between Council's planned borrowings in the Management Plan 2008 – 2011 and actual borrowings. Council had proposed to undertake new borrowings of \$31 million. However, according to Council's cash flow statement for the year ended 30 June 2009, it has borrowed \$61 million. This represents a 100% increase.

According to Council's Management Plan, Council intends to borrow a further \$13 million in 2010/11. In February 2010, Council sought interest rate quotes from a number of financial institutions but at that time not all financial institutions provided quotes. In not receiving a number of competitive interest rate quotes from lenders, Council has limited options. This could potentially increase the risk of Council paying a higher interest rate than otherwise might have been the case. This is of concern. However, there may be a number of reasons, which do not relate to MidCoast specifically, why financial institutions have decided not to provide interest rate quotes.

Council has relied heavily on debt to fund expansion, including the ambitious capital works program. Several indicators suggest that this continued reliance is unsustainable and is putting pressure on Council's financial position, now and into the future.

Recommendation 11

Council should develop a Borrowing policy which includes a long term strategy to reduce its reliance on debt.

Council response

MCW acknowledges that a DSR of 40% seems high. However, we believe that it is appropriate for a water and sewerage county council at our current stage in the lifecycles of our assets.

MCW receives limited financial assistance grants for water and sewerage projects. Since MCW's inception, we have spent some \$370 million on constructing new assets or upgrading existing assets, with a \$30 million contribution from the state and federal governments. The balance of funding has come from loans, developer contributions, general revenue and reserves. These upgrades were necessary as we inherited several existing assets that were in poor condition. Also during this period of time MCW has provided sewer services to the following villages; Nabiac, Manning Point, Lansdowne/Cooperook, Pelican Bay, Crowdy Head and several rural residential subdivisions which had to be serviced as a result of Wallis Lake water quality issues in 1997. We have taken a triple bottom line approach to these projects, and while they are uneconomic and in the normal course of business, would not be undertaken if the focus was on generating a profit, they provide social and environmental benefits to our community.

Past practices, particularly in the Manning water supply system have been that major upgrades have occurred every 20 years. Previous upgrades have attracted 50% cost sharing with the state government; this is no longer the case. It should be noted that all our major wastewater treatment plants have now been upgraded to reflect changing environmental standards and to cater for future development over the next 25 years.

Our loan borrowing is matched to reflect intergenerational equity, which is in line with NSW Office of Water policies. We have a mixture of 10 year, 20 year and 30 year loans, which reflect the 70 year average life of these assets. It is also important to note that we are in a growth area with large increases in population served during holiday periods. The department of Planning have indicated that there will be an increase of at least 15,000 allotments over the next 25 years in MCW's operating area.

A DSR of 20%, indicated above may be appropriate for a general purpose council that has access to financial assistance grants and other specific capital works grants, however, MCW has limited access to grant funding (as detailed above) and it is considered that a DSR of up to 50% is acceptable for a water utility. MCW’s capital projects have long life and we have taken the view of spreading the costs of new works and upgrades so that current and future customers contribute, which is in line with our strategic focus on intergenerational equity.

“Reducing Long Term Debt” - It should be noted that the DSR can only ever be used as a guide, as changes to the Code of Accounting Practice require fair value recording of increments and decrements on Council’s investments to be passed through the Income Statement, and this can significantly affect the ratio’s from year to year.

When looking at dept ratios, headworks charges (S64) need to be taken into consideration as these charges are based on providing new capacity in the system and an allocation is made from headworks charges each year as part of the debt repayment process. In years of high growth, a high proportion of headworks charges is allocated to loan repayments, this can change from year to year.

4.3.7 Asset Management Plans

The Written Down Value (WDV) is calculated by dividing the WDV by fair value of the asset. A percentage of 50% or greater is generally regarded as acceptable. The WDV of a class of assets is a determination of the amount that an asset has been depreciated. It can reveal the degree of life that council assets retain. A low WDV can provide an indication that assets are in need of replacement and may be close to being no longer serviceable.

	Written Down Value 2009	Written Down Value 2008
Water Supply Network	54 %	53 %
Sewerage Network	66 %	66 %

It would appear from the above table that there has been little improvement on the condition of Council's water and sewer networks over the past year.

According to Special Schedule 7 (unaudited) in the financial statements, the estimated annual maintenance was \$5.492 million and Council spent \$6.995 million on program maintenance works during the financial year.

Like many councils in NSW, MidCoast faces challenges in managing its long term asset replacement and maintenance programs. While it has a comprehensive asset register, the lack of planning in relation to assets, lack of long term asset management plans and a failure to dedicate suitable resources into achieving strategic goals is consistent with other problems currently facing Council.

Recommendation 12

Council should ensure the completion of an Asset Management Strategy and Plan/s for a minimum timeframe of 10 years.

Council response

Planning is now underway. We expect completion by June 2011, with the exception of the assets taken over from Gloucester Shire Council.

It should be noted that MCW has a system of preventative maintenance, where maintenance is carried out before asset failure, For example we have an extensive mains rewrapping program for our major trunk mains; this can extend the life of these mains by around 20 years. MCW also has a policy of replacing water meters every 15 years to ensure the accuracy of the measurement of water taken from the system. MCW also has a 5 year mains renewal program and conducts extensive mobile camera monitoring condition assessment of older pipe assets in accordance with industry best practice. We do not use the written down value to structure our priorities, we use condition and performance assessments. MCW reviews every major upgrade and looks at the most economical way of delivering the service and at achieving triple bottom line objectives.

Every 12 months we are revaluing our asset values using the reference rates from the NSW Office of Water, which increases the value of the business, but this adds pressure to operating statements as depreciation increases.

Unlike most water utilities in NSW, MCW operates regional water and sewerage schemes and as a result we have a much higher rate of assets per capita due to a large service area and low population density. MCW has been prepared over the years to fund asset improvements rather than let the assets deteriorate.

4.3.8 Income

The following table shows Council's percentage increases in water access charges, water usage charges and sewer charges over the past three years. The table also includes the total percentage increase and the average percentage increase over the past three years for each of the three charges.

	2010/11 from 2009/10 (%)	2009/10 from 2008/09 (%)	2008/09 from 2007/08 (%)	total percentage increase over 3 years	average percentage increase over 3 years
Water Access Charge	10 %	15 %	- 5 %	20 %	7 %
Water Usage Charge	9 %	15 %	19 %	44 %	15 %
Sewer Charge	5 %	15 %	7 %	27 %	9 %

Significant increases in water and sewer charges are of concern. Given the lack of long term financial planning, it is difficult to know what future increases in charges are required to service Council's debt, maintain and replace assets and provide ongoing services.

In comparison to other water utilities, the *National Water Commission, National Performance Report for 2008-2009* reported that MidCoast had the highest typical residential bill for utilities with between 20,000 and 50,000 connected properties for

2008-09. Also, the *2008-09 NSW Water Utility Performance Monitoring Report* published by the NSW Office of Water indicates that MidCoast had the second highest typical residential bill for local water utilities with more than 10,000 properties.

Recommendation 13

Council should prepare a long term financial plan for a minimum 10 years, which is updated and reviewed on an annual basis.

Council response

Council will review its current plan, developed in 2007.

Changes to water usage and access charges were made deliberately to comply with the requirements of the NSW Office of Water that 75% of water supply income be derived from usage charges and 25% from fixed charges. The requirements of the Office of Water are being questioned by most of the larger councils that manage water and sewer as it does impede the raising of fixed charges to cover identifiable fixed costs.

The Office of Water is inconsistent with the charging regime for state water and the Office of Water itself

Even though the water charge has increased, the quantity of water used has decreased. This is a 2 edged sword as we are reducing consumption to save on future augmentations which will offer environmental benefits to our community.

MCW pricing increases are in line with most metropolitan utilities throughout Australia, which are undertaking major capital investments to secure their water supplies. These price rises are not just in the water industry but are also extended to the electricity industry. Recently, IPART has released the draft determination of water pricing to fund the NSW office of water's expenditure over the next three years and has recommended increases ranging up to 73% for certain areas of regional NSW. IPART has tried to cap the average increases to 20% each year for the three year period.

MCW believes that many councils in NSW will be faced with large capital expenditure as environmental and health requirements are tightened and we are well placed to comply with any new guidelines without the necessity of large capital.

Recommendation 14

Council should set benchmarks which relate to debt, capital expenditure and other expenses to monitor and control future costs.

Council response

It is very difficult to set benchmarks, as often our capital works are governed by changes in environmental and health requirements. For example, the Wallis Lake issues in 1997 resulted in expenditure of \$11 million in constructing the Nabic sewerage system. DECCW's initiative to reduce pollution through load based licensing required the upgrading of all of our wastewater treatment plants to reduce the level of pollutants in the effluent. We are continuing to reduce costs, for example, in 2008/09, despite considerable increases in chemical, electricity and material costs, we restricted our wastewater and water treatment costs to an increase of 2%. Due to poor raw water quality, sensitive receiving environments for treated water and high population growth compared to other areas, establishment of useful benchmarks is difficult.

Also, compared to most NSW councils MCW's employee cost/total cost ratio is moderately low (19%). We are continuing to review our operating processes and we are continually reviewing our capital works program to reduce future capital works

It is also recognised in this report that MCW has a lean organisational structure, the Office of Water statistics also show that MCW has one of the lowest administration costs per customer in regional NSW. Another challenge for MCW is that despite a comparatively large customer base, we have fewer customers per km of water and sewer mains than the NSW regional average.

4.4 COMMUNITY & CONSULTATION

A council's charter requires that a council:

- provides services after due consultation
- facilitates the involvement of councillors, members of the public, users of facilities and services and council staff in the development, improvement and coordination of local government
- actively promotes the principles of multiculturalism
- plans, promotes and provides for the needs of children, and
- keeps the local community and State Government informed about its activities.

4.4.1 Scope of review

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

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

4.4.2 Overview of community and consultation practices

Overall, MidCoast County Council has many effective community and consultation practices in place. Council works with the community to plan and deliver a range of appropriate community services.

Noteworthy practice

4.4.3 Community participation and consultation

Community engagement is an important element of Council's operations and planning processes. Involving representatives of the community throughout the planning process ensures that community views and ideas are incorporated into the development of plans and provides for greater ownership of the process and the

outcome. Effective community engagement can mean greater community support for the planned directions and resultant actions that are taken.

Council successfully uses various mechanisms to provide information to the community and to encourage input from residents and ratepayers. These include:

- a WaterWise community newsletter sent to all customers four times a year with their accounts. The newsletters aim to provide the community with information about MidCoast Water projects and services.
- a Stakeholder Survey every two years to assist Council to measure community and stakeholder perceptions, determine how services will be delivered and how best to engage with the community and stakeholders in the future.
- education programs such as the Summer Water Savings Program and the Waterwatch program.
- sponsorship Programs which assist in raising Council's profile within the local community and in the water industry.
- community partnerships over water catchments with groups such as Landcare and the MidCoast Dairy Advancement Group in order to achieve environmental outcomes aimed at improving quality in rivers.
- media releases updating the community and other stakeholders of various services and activities.

Areas for improvement

4.4.4 Community feedback

In 2007 Council undertook a Community Involvement Review to identify opportunities for Council to interact with its community. The review identified a number of stakeholder groups and activities to assist Council to determine the types of programs to be developed. The review formed the basis of Council's Community Involvement Strategy adopted by Council in June 2007. The aim of the strategy is to outline the activities to be undertaken by Council over a four year period.

There are aspects of the community involvement strategy that require improvement to aid community understanding of key issues in the future. There needs to be more emphasis on strategic activity rather than reporting on operational matters. This includes making it clear what is trying to be achieved and how this will be measured.

The strategy should also provide guidance in relation to when consultation is appropriate, the level of consultation needed, the methods of consultation, managing and evaluating the consultation process.

Recommendation 15

That Council review the format and content of its Community Involvement Strategy.

Council response

Council's strategy was completed in 2007 for a four year period, to be reviewed in 2011, with particular attention to measurable outcomes.

4.4.5 Customer service standards

MidCoast County Council does not have a customer service charter or set of specific customer service standards. Such a document should set out standards that customers can expect to receive in relation to Council's response to correspondence, telephone calls, visits with Council staff and requests for information.

Council should include details of service calls or breakdowns of services and identify the standards and timeframes customers can expect of Council in responding to such requests. As part of this process, Council may wish to consider creating a focus group to assist Council in identifying what the community's expectations are or seek public input through a public exhibition process. It is important that once these standards have been developed, they are monitored and reported on to ensure accountability to the community and to provide feedback to the Council. Council should also include this information on its website.

Recommendation 16

Council should adopt an organisation-wide Customer Service Standards policy that identifies standards for Council services.

Council response

It should be noted that MCW conducts extensive monitoring and reports to the NSW Office of Water and the National Water Commission through the national performance reporting surveys in delivering services to customers.

Reports are provided to Council on a quarterly basis and water quality information is included on our website. In conjunction with stakeholders, including NSW Health, MCW has developed drinking water management plans for its water supplies, which will be included on our website by the end of October 2010.

MCW has planned for the introduction of formal customer service standards following the completion of our water and sewerage treatment plant upgrades.

MCW also believes that customer service standards should be meaningful and achievable.

In the next 6 months, MCW will establish a customer consultative committee.

4.5 WORKFORCE RELATIONS

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

4.5.1 Scope of review

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

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

4.5.2 Overview of the organisation

MidCoast is aiming to achieve a less hierarchical structure to allow staff to respond and make decisions in a responsive and timely manner for customers.

Council employs approximately 175 full-time equivalent staff. 1% of staff are identified as being of Aboriginal and Torres Strait Islander origin and 1% percent of staff are of culturally and linguistically diverse origin.

Council's auditor has noted in the annual financial reports that employee costs have increased by 8.5%, which is largely the result of a combination of award and competency increases. However, the number of full-time employees has remained static from 2007/08 to 2008/09 at 175.

Noteworthy practice

4.5.3 Education and training

Council's Education Assistance Policy has been well received by staff. It provides the opportunity for all staff to retrain and increase their current knowledge and skills.

The benefit of the Education Assistance Policy is that it helps to retain the current workforce, creates employee satisfaction, provides a skilled and well-trained workforce and encourages employees to take initiative and be ambitious.

The 2009 employee survey states that 74% of employees agreed that they are given the opportunity to undertake professional development training so they can advance their career within the organisation. The high satisfaction rate suggests that the Education Assistance Policy has been implemented effectively and successfully.

In addition, the Education Assistance Policy fully reimburses employees' costs upon completion of their approved course. The policy is inclusive and provides opportunities for all staff to retrain or increase their skills. The policy is in addition to normal workplace training courses required for job competency, or those required by legislation as essential for employee safety.

Training is also provided to enable staff to have the knowledge and skills required to undertake their work in a professional and safe manner. All staff are able to access an internally developed online training register and calendar. MidCoast is committed to providing staff with opportunities for learning and development to enhance their performance and improve their personal knowledge, skills and qualifications.

However, while this is commendable, there are concerns that the education undertaken through the Education Assistance Policy has not been linked to Council's business needs. These concerns result from the lack of strategic planning, specifically workforce planning, undertaken by Council.

Areas for improvement

4.5.4 Workforce Strategy

Council formed a consultative group called the Human Resources (HR) Strategic Working Group which informs Council's executive staff on human resources issues and assists in setting the strategic direction on human resources.

The key responsibilities of the HR Strategic Working Group include providing input to Council's strategic direction on human resources matters and ensure that the strategic direction aligns with Council's strategic plan.

However, the last meeting of the HR Strategic Working Group occurred on 4 February 2009. This is reflected in the lack of action in reviewing and updating human resources policies. For example, according to the policy register, the Child Protection Policy was due for review on 18 April 2005. Council last approved the Child Protection Policy on 18 April 2001. Other policies that require review include, but are not limited to, the recruitment policy, selection panel policy and advertising policy.

Council has yet to complete the requirements of the new strategic planning provisions, which includes completing a Workforce Strategy.

Council should consider, when developing Council's Workforce Strategy, undertaking an analysis of the workforce requirements based on commitments in the business activity strategic plan and delivery program. An appropriate Workforce Strategy should address issues of workplace equity and diversity, supporting and developing staff and strengthening Council's workplace governance.

The Workforce Strategy should respond to an ageing workforce, changes in workload for certain sections as Council's and government priorities change, shortages of specialised skills in certain areas, remuneration or market pressures for higher wages and demands for a better work/life balance. Workforce planning needs to ensure that the organisation can respond to its strategic priorities and effectively respond to challenges that Council will face.

Recommendation 17

- a Council should give priority to the preparation of a Workforce Strategy in accordance with the project plan for implementing the Integrated Planning and Reporting framework.***
- b Council should allocate sufficient ongoing resources to implementing and reviewing its Workforce Strategy.***

Council Response

MCW's Industrial relations strategic group has conducted regular meetings, with the last meeting before the PBP review held on 23 March 2010. As a result of the group,

MCW has completed a review of all job descriptions, which will form part of the Workforce Management Strategy and the Strategic Business Plan as part of the Integrated Planning and Reporting framework..

MCW has strengthened the HR management section with the recruitment of a Safety Officer and a Human Resources Officer.

The Industrial relations strategic working group is also trialling an improved employee performance assessment system. Several employees have taken part in a voluntary trial and MCW is reviewing their comments.

4.5.6 Employee surveys

Employee attitude surveys enable management to evaluate and inform the development of workforce relations practices.

MidCoast's employee survey in 2009 demonstrates employee satisfaction in undertaking their roles. The survey stated that 85% of employees agreed with the statement '*I enjoy working at Mid Coast Water*' and 74% of employees agreed with the statement that '*I am proud to work for Mid Coast Water*'.

However, it appears that many areas for improvement identified in the survey have not been followed up. This is evidenced through the Employee Survey 2009, which indicates that employees have some concerns surrounding the following up of such surveys. Only 30% of the employees agreed with the statement that they were '*confident that action was to be taken in response to the survey*'.

Recommendation 18

- a Council should act on employee attitude surveys.**
- b Council should work with other councils to make use of common questions and thereby facilitate benchmarking.**

Council response

MCW has acted on the results of employee surveys where problems have been clearly identified; however, opportunities for action are sometimes limited by the

anonymous nature of the survey. Examples of actions taken following surveys include, the upgraded 2007 Enterprise Agreement and the commitment to improve the employee performance management system, the new position descriptions have been developed in part to address issues raised in previous surveys. MCW is open in its surveys with its employees by providing a comprehensive survey and encouraging open communication at all times.

MCW will continue to access opportunities for partnerships and shared ventures with our constituent councils, water corporations and other county councils where appropriate, recognising that we may have different operating conditions.

It should also be noted that MCW sends a range of performance statistics to the NSW Office of Water, which they publish and compare to other water service providers.

4.5.7 Enterprise Agreement 2007

Council employee entitlements are outlined in the Enterprise Agreement 2007. The Enterprise Agreement was approved for three years from 13 February 2008. Pursuant to section 42(2) of the *Industrial Relations Act 1996*, the nominal term of an enterprise agreement must not be more than 3 years. However, Council intends to continue with the Enterprise Agreement 2007 until 31 October 2012. It should be stated that it is not the role of DLG to provide legal advice in relation to industrial relations matters. DLG is simply bringing this matter to Council's attention.

Council's policy register notes that the Enterprise Agreement 2007 is to be reviewed by the General Manager on 1 July 2012.

MidCoast has been asked by the reviewers on a number of occasions to provide a signed copy of this agreement for completeness, without success. It appears that MidCoast may not have a signed copy of the Enterprise Agreement in its records management system.

Council Response

The enterprise agreement was approved on 13/2/2008 and council has now received the signed copies, which had been retained as an oversight by the United Services

Union who were co-ordinating the enterprise agreement with the electrical trades union and APESMA. The agreement was finalised in late 2007, at that time MCW had to meet all requirements under Federal WorkChoices legislation as well as NSW IR commission requirements. In his determination of the agreement, Commissioner Harrison noted that the intentions and commitment of all parties for the agreement to continue until 31 October 2012, this was contained in the correspondence to the industrial registrar. The commission registered the agreement for three years and confirmed that both parties had agreed to a five year period and that there was no need to register the agreement for the final two years unless one of the parties wished to open the agreement. Even though the agreement was registered in the NSW IR commission it should also be noted that the agreement met all requirements under the WorkChoices legislation at the time.

Reviewer comment

It is noted that Council has taken action to verify the validity of its Enterprise Agreement. Therefore, this recommendation has been removed from the final report and action plan.

4.5.8 Staff Development and Performance Reviews

The employee survey in 2009 states that only 46% of employees thought that the performance review system was fair and adds value. The survey also indicated further inadequacies in the promotions process, with only 36% of employees agreeing that the process was fair.

As a consequence of a lack of strategic direction for Council, it would appear that not all employees understand their role, accountabilities and performance standards expected of them. The lack of role clarity, acceptance of goals and regular feedback are hindering effective performance.

The Enterprise Agreement 2007 provides guidance on the expectations of MidCoast and its employees in relation to staff development. The Enterprise Agreement 2007 states that performance reviews should be completed at least annually, usually in May each year. The performance reviews should allow staff to acknowledge achievements since the last review, plan constructive ways of improving on past

results, identify training and development needs and set new work objectives for the next period.

Staff Development and Performance Reviews allow employees to provide their view on their past performance history, improvements to the workplace and future planning. To determine staff performance, a set of statements are addressed by the supervisor and employee in collaboration.

Ultimately, the results of the reviews are fed through to the General Manager to make decisions on which staff receive increases to their salary steps within their grade. Council has considered changes to its performance review system.

Possible improvements to the performance review system include creating key performance indicators that may be used to develop performance targets for teams or individual employees. The key performance indicators for teams or individual employees should align to Council's strategic plans. Council's Management Plan includes both Delivery Plan Goals and Operational Plan Goals that may assist Council in setting key performance indicators for teams or individual employees.

Key performance indicators should be easily understood by the workforce. If possible, key performance indicators for teams should be shared at monthly team meetings and ideas sought for the improvement of measures. Service areas within MidCoast should be expected to evolve and improve team key performance indicators to best suit customer service needs.

Key performance indicators for teams may include, but not restricted to, measures of quality of service, timeliness, cost effectiveness, workplace safety, environmental management, flexibility of working arrangements, training, employee participation and resource optimisation.

Recommendation 19

Council should review its performance system for employees and ensure that performance measures are linked to its strategic plans.

Council response

MCW is reviewing the system as described under recommendations 17 and 18.

5. RISK RATING ANALYSIS

Each recommendation made in this report has been assessed and a priority ranking has been applied based on the following risk analysis.

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

Priorities for recommendations:
(based on application of risk analysis)

- High
- Medium
- Low

Risk categories could include:

- Reputation
- Compliance with statutory requirements
- Fraud/corruption
- Financial
- Legal liability
- OH&S

6. ACTION PLAN

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

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
1 Council should review and make relevant amendments to its plain English version of the code of conduct to ensure consistency with the Act and the Model Code of Conduct.	High	Internal review of the plain English version will be conducted.	31 December 2010	Governance and Corporate Support Manager	
2 Council should review its Gifts, Benefits and Hospitality policy to ensure consistency with the Model Code of Conduct.	Medium	Internal review.	31 December 2010	Governance and Corporate Support Manager	
3 Council should develop an induction and professional development program for councillors.	Medium	MCW will develop an induction program and councillors already have the availability of development programs.	December 2011	Executive	
4 Council should review its policy register and policies taking into account the comments made in this report.	Medium	MCW is installing a new document management system. The policy register and policy documents will be reviewed following the adoption of the document management system to ensure consistency of review dates.	June 2011	Information Systems Manager; Governance and Corporate Support Manager	

Promoting Better Practice Report – MidCoast County Council

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
5a Council should review and update its Complaints Management policy to ensure it is consistent with <i>Practice Note No 9 - Complaints Management in Councils</i> .	High	Revision of policy.	June 2010	GM	Completed. Although, note reviewers comment in final report
5b Council should provide follow-up complaints management training to its employees.	High	Training to be provided for relevant staff.	March 2011	Customer Service Manager; Governance and Corporate Support Manager	
6a Council should review and amend its code of meeting practice to ensure it is consistent with the provisions of the <i>Local Government Act 1993</i> and Council's code of conduct.	High	Internal review will be conducted.	December 2010	Governance and Corporate Support Manager	
6b Council should review its meetings practices taking into account the comments made in this report.	Medium	Council has reviewed meeting practices and changes have been made in line with comments in this report.	October 2010	MCW Council	Review complete – improved practices ongoing. Although, note reviewers comment in final report.
7a Council should undertake a systematic fraud risk assessment to assist in the identification and management of fraud risks.	High	Conduct a review and update of 2005 plan – delivery complete in 2008.	December 2011	Executive Manager Business and Community Services	
7b Council should formalise an internal audit function and develop an internal audit program.	High	This will be formalised and an internal audit program will be developed.	June 2011	Governance and Corporate Support Manager	
7c Council should develop an overarching risk management plan.	Medium	A risk management working group will be assembled. Scoping of the plan will be determined following scoping.	December 2011	Corporate Development Manager	

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8a Council should develop a comprehensive procedure manual for processing DAs.	Medium	Manual will be developed to meet MCW's needs.	June 2011	Infrastructure development group	
8b Council should undertake a comprehensive needs analysis of its information systems to assist its planning and regulatory areas in undertaking their operations.	High	MCW has reviewed the delivery of the document management system. MCW is implementing a new system, the operation of this system will be reviewed after 12 months.	October 2011	Infrastructure development group; Information Systems Manager	
9a Council should use the NSW Ombudsman's <i>Enforcement Guidelines</i> to develop a Compliance and Enforcement policy.	Medium	Policy, guidelines and a training program will be developed.	June 2011	Development Engineer; Governance and Corporate Support Manager	
9b Council should provide compliance and enforcement training to its employees.	Medium	As above			
10 Council should, as a priority, review its Investment policy.	Medium	Review completed	August 2010	Executive Manager Business and Community Services	Completed. Although, note reviewers comment in the final report.
11 Council should develop a Borrowing policy which includes a long term strategy to reduce its reliance on debt.	Medium	Borrowing strategies will be reviewed as part of the financial plan update, as required by the NSW Office of Water.	June 2011	Executive	
12 Council should ensure the completion of an Asset Management Strategy and Plan/s for a minimum timeframe of 10 years.	High	Strategy plan is in progress. Completion will depend upon transfer of assets from Gloucester Shire Council.	June 2011	Asset Manager	
13 Council should prepare a long term financial plan for a minimum 10 years which is updated and reviewed on an annual basis.	High	See recommendation 11.	June 2011	Executive	

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RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
14 Council should set benchmarks which relate to debt, capital expenditure and other expenses to monitor and control future costs.	Medium	Per 11 and 13	June 2011	Executive	
15 Council should review the format and content of its Community Involvement Strategy.	Medium	Existing document to be reviewed by June 2011.	June 2011	Public Relations Manager	
16 Council should adopt an organisation-wide Customer Service Standards policy that identifies standards for Council services.	High	Review currently underway.	June 2011	Asset Manager; Customer Service Manager	
17a Council should give priority to the preparation of a Workforce Strategy in accordance with the project plan for implementing the Integrated Planning and Reporting framework.	High	Currently being reviewed.	June 2011	HR strategic working group.	
17b Council should allocate sufficient ongoing resources to implementing and reviewing its Workforce Strategy.	Medium				
18a Council should act on employee attitude surveys.	Low	Ongoing	November 2012 - new enterprise agreement	Governance and Corporate Support Manager	
18b Council should work with other councils to make use of common questions and thereby facilitate benchmarking.	Low				
19 Council should review its performance system for employees and ensure that performance measures are linked to its strategic plans.	Medium	Performance measures are being developed as part of the strategic management plan review. One-page work plans are being developed for all staff.	June 2011	Executive	