

challenges improvement innovation good governance

# Local Government Reform Program - Promoting Better Practice

## **FOCUSSED REVIEW REPORT**

### **URANA SHIRE COUNCIL**

**DECEMBER 2004**



**dlg** Department of Local Government

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## 1. ABOUT THE REVIEW

### Focussed Review objectives

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

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

### Focussed Review process

The review process was developed after extensive research into council performance measurements in Australia and overseas. The review process is based upon a range of models including:

- the UK Audit Commission council inspection model
- the ICAC corruption resistance reviews
- LGMA/ICAC governance health check
- LGMA financial health check
- previous programs conducted by the Department of Local Government.

Focussed reviews are short reviews focussing on specific areas of council activities that have been identified as a result of an analysis of information relating to the council and its performance. These reviews use the same tools for identifying and analysing performance as the full reviews. This means that even though the department spends much less time with the council undertaking a focussed review, it still uses the tools to get the best possible benefit out of the process.

Focussed reviews involve the department working with up to three councils in a region at one time. After completing the practice checklist, the departmental staff spends a day with council on site carrying out verification. The council will receive a summary of the key issues identified during the review. The focussed review has a greater compliance focus than the full review strategy.

There are essentially five steps in a review - preparing, assessing, checking, analysing and reporting. The review team examines local circumstances in order to understand the pressures on council and how the council has sought to manage that environment.

It is expected that this type of review will be limited to some aspects of council operations. As such, it will not provide an in depth or overall picture of council operations. The results of the review may however provide an indication of matters needing attention across aspects of council operations.

### **Urana Shire Council Review**

Urana Shire Council was asked to complete a checklist on key council policies and practices. The completed checklist was analysed by the review team prior to commencing the on-site review process.

Senior Investigations Officers Keith Coates and Paul Terrett comprised the review team. They conducted an on-site review of council on 22 September 2004. In order to review council it is necessary to examine its performance across a range of functions. A number of modules of a practice checklist have been developed to assist council in assessing its functions and checking its compliance. Council's response to the checklist is used as a guide for the on-site review and tests how council has set about delivering its priorities and measuring its achievements.

The on-site review consisted of a briefing for council's General Manager and Mayor, conducting interviews, attending a councillor briefing session and reviewing a number of council's policies and other documents.

## 2. EXECUTIVE SUMMARY

Urana Shire Council is broadly complying with its statutory obligations and appears to meet its obligations under the council's charter as is required under section 8 of the Local Government Act 1993.

The council works well with its community and recognises the needs of the local area, with all councillors appearing to work together for the betterment of the Urana Shire area.

Some work is needed in improving practices in areas such as fraud control, risk management, disposal and procurement, record management and tendering. It is noted that these areas were also concerns in a number of other Riverina councils and council may consider addressing these areas on a regional basis through the Riverina East Regional Organisation of Councils (REROC).

Financially, council is in a satisfactory position. Strategic planning has not been a priority for the council and council needs to consider its long term planning requirements and goals. (*Recommendation 1*)

The council is a small operation and is to be commended for its ability to identify and address problems and to meet all of its statutory requirements, through the councillors, staff and the community working together.

### 3. RECOMMENDATIONS

1. Council should develop a strategic plan and long-term financial plan.

#### *Governance*

2. Council should provide information to councillors and designated staff on the completion of pecuniary interest returns to ensure they are completed accurately and in a timely way. Council should ensure it uses pecuniary interest forms that comply with the Regulation. *(Refer to the Department of Local Government's circular 04/16: Pecuniary Interest Returns)*
3. Council should develop a statement of business ethics to communicate both internally and externally the ethical standards that council abides by and expects others to abide by when doing business with council. *(Refer to the ICAC publication: Developing a statement of business ethics)*
4. Council should examine the costs and benefits of establishing an internal audit function. Given the council's size consideration should be given to contracting for this function or to sharing this function with other councils.
5. Council should develop a risk management plan that provides a framework to proactively identify and manage generic and specific risks.
6. Council should conduct routine fraud risk assessments as part of its risk management responsibilities.
7. Council should conduct routine risk assessments of council's procurement and disposal procedures.
8. Council should develop a disposal policy for its assets.
9. Council should develop a records management plan and business continuity plan that reflects the requirements of the State Records Act 1998. The

business continuity plan should include consideration of the risk of the loss of development application information.

10. Council should develop a gifts and benefits policy and establish a gifts register.

11. Council should review its delegations.

### *Tendering*

12. Council should review its tendering practices to ensure they comply with the tendering requirements of the Local Government Act 1993 and the Local Government (Tendering) Regulation 1999. (*Refer to the Department of Local Government: Competitive Tendering Guidelines (1997) and the ICAC publication: Taking the con out of contracting (2001)*).

13. Council should consider whether section 55 (3) of the Act (at dot point 8) is applicable to the contract for supply of bitumen products.

14. Council should ensure for all tender processes that:

- a record is kept on the relevant tender file, confirming that the tenders in question were opened in accordance with clause 16 of the Local Government (Tendering) Regulation.
- the relevant tender file contains a copy of the tender requirements including the proposed term of supply for the goods and services.
- the advertisement relating to a particular tender is kept on the relevant file.
- tender documents are kept on the relevant tender file.
- documents provided to tenderers include information relating to the need for tenderers to refrain from interaction with councillors.
- tenders are both time and date stamped.

### *Assets and Financial Management*

15. Council should complete the development of its long-term financial plan in conjunction with its strategic plan by July 2005, taking into account the following considerations:

- a. alternative sources of revenue
- b. long term rates strategy (rating structure, special variations etc)
- c. long term borrowing needs and debt service ratio
- d. investment strategies
- e. the alignment of its long-term financial plan with other strategic plans for areas such as asset management, social planning and council's overall strategic objectives.

16. Council should investigate the development of a rating hardship policy.

17. The council should have all land and building assets valued by an independent valuer.

### *Community and Consultation*

18. Council should develop its website and consider providing a list of council's policies on its website as well as information on how to access council information and council's complaint system. It should also consider the promoting of the local area and its tourist attractions.

### *Workplace relations*

19. Council should develop a workforce strategy to address its future employment needs particularly in relation to the age of its workforce.

20. Council should ensure it is in compliance with the Occupational Health and Safety Act. This includes holding elections for committee member, holding regular meetings and developing and applying O.H. & S. policies.

21. Council should adopt a secondary employment policy.



## 4. CONTEXT

Urana Shire Council has a population of 1,427 as at 30 June 2002. It is currently the smallest council in NSW by population. Over the last 5 years the population has declined at an average rate of –1.79% per annum.

Covering an area 3,357.4 square kilometres it covers the towns of Oaklands, Boree Creek, Rand, Morundah and Urana.

The shire was constituted on 22 May in 1906. It is located between Lockhart, Narrandera and Jerilderie Shires. It is represented by 9 councillors in three wards.

The shire is principally an agricultural shire, with its main sources of income from grain, wool, fat lambs, beef cattle and pigs. Urana is developing as a prominent area for aquatic sports, camping and fishing at Lake Urana.

The total revenue for 2002/2003 was \$4,939,000 which is raised from the following

sources:	Rates and charges	24.74%
	User charges	9.15%
	Interest	2.07%
	Grants	35.9%
	Contribution	21.48%
	Other revenue	6.66%

## 5. DELIVERING AND ACHIEVING

### *Overview*

There is clear evidence that the council broadly complies with its statutory obligations and appears to meet its obligations under the council's charter under section 8 of the Local Government Act 1993.

There is a culture of co-operation between the staff and elected representatives and councillors understand their role in the strategic and policy making process.

The council understands its resource limitations and strives to find solutions to problems. This is shown in its strategic alliances to other councils in the Riverina region. For example, it shares a town planner with Lockhart Shire Council. This long history of resource sharing is now being formalised with the signing of a Memorandum of Understanding with the other councils in the REROC area.

The council understands its community and issues monthly newsletters in the absence of a local newspaper. In co-operation with the federal government it has established a Regional Transaction Centre to provide Telstra, Centrelink, council and other services to its residents.

The council addresses its needs for the present. However, some work is required on its strategic direction. Council needs to look to the future and define a vision for the shire area. This could address such areas as business development, tourism, infrastructure replacement, major capital works, etc. These plans should be integrated.

The auditor notes that council will need to look at a plan for infrastructure replacement. The review team agrees with this. The Management Plan for 2004/2005 states that much of the plant is many years older than the lifecycle of the equipment. While this equipment is still performing satisfactorily. Should council need to replace plant urgently this will place the council budget under some pressure.

## 5.1 Governance

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

### *Good governance*

Urana Shire Council demonstrates good practices in the preparation of its minutes and business papers, with a copy of the report to council and the resolution clearly shown. When meetings have been closed to the public the reason for closing the meeting has been clearly minuted in accordance with the Act.

Councillors have a clear understanding of their role in policy development and leave the day-to day management of the council to the General Manager. The review team was impressed by the professional approach adopted by all councillors and a willingness to work together in the interest of the shire.

With limited resources, the council works closely with its community to improve resources and uses section 355 committees to assist in achieving council objectives.

The council knows and understands its community and is willing to listen and engage the community, for example; the monthly newsletter that communicates the current activities of council.

### *Pecuniary Interest*

The Local Government Act sets out the parameters which must be adhered to when councillors and staff have a conflict between their public duty and private interests that constitutes a pecuniary interest. The Act requires that councillors and designated staff complete and lodge disclosure of pecuniary interest returns. It is important that councillors and staff observe these requirements, as to not do so has

the potential to seriously undermine the community's confidence in the integrity of local government and the decision-making processes.

We conducted a review of pecuniary interest returns. This identified that some returns did not include all prescribed information. Some did not stipulate street addresses for councillor properties and some councillors' returns did not include addresses for employers. The Local Government Pecuniary Interest Tribunal has pointed out the need for councillors (and designated staff) to give due care and attention to the accuracy, detail and content of the disclosures required in returns.

It is important that councillors and staff who are identified as designated persons complete the pecuniary interest returns accurately and in a timely way. Council should use the information provided in the department's circular 04/16 to prepare information for staff and councillors to assist them in completing their returns.  
*(Recommendation 2 )*

#### *Code of conduct*

Section 440 of the Act requires that every council must adopt a code of conduct to be observed by councillors, members of staff and delegates of council. Section 440(3) requires a council to review its code of conduct within 12 months after each ordinary election.

Council adopted its code of conduct in 1994. Council will need to review its code of conduct in line with recent amendments to the Local Government Act, which provide for a mandatory the Model Code of Conduct for Local Councils in NSW issued by the Department of Local Government.

#### *Statement of business ethics*

Council has business relationships with the private sector but does not have a statement of business ethics to guide these relationships. This is important because strong working relationships with the private sector are an essential part of building an efficient and cost-effective public sector. A statement of business ethics can be an excellent tool for raising private sector awareness of public sector values.

*(Recommendation 3)*

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### *Risk management and internal control*

A risk management plan provides council with a framework to proactively identify and manage generic and specific risks so that ethical behaviour and practice can be promoted.

Council does not have an overall plan to guide its risk management activities. It does not have a fraud policy nor has it carried out a fraud risk assessment. It does not have a procurement policy that assesses risk. There is no systematic scrutiny of council's operations, systems and performance. (*Recommendations 4, 5 and 6*)

Council does not have a disposal policy guiding the disposal of its assets. The failure of council to adopt such a policy increases the risk it will fall victim to corrupt practices. (*Recommendations 7 and 8*)

### *Access to information*

Section 12 of the Local Government Act identifies the documents that are available for the public to inspect free of charge. Council has a policy that identifies documents that are publicly available and any specific exceptions. The policy identifies who members of the public can obtain assistance from. Council only imposes a charge for reasonable copying costs. To date, copying charges have not been levied. The policy is consistent with the requirements of section 12 of the Local Government Act. However, this policy process could be improved by informing the public about how they can access council information.

### *Record keeping and information technology*

Council is required to make and keep full and accurate records of its activities in accordance with section 12 of the State Records Act 1998. Council must establish and maintain a records management program that conforms to best practice standards and codes.

A business continuity plan should apply to council's physical records as well as electronic records. We encourage and support the development of a records

management plan that particularly reflects the requirements of the State Records Act 1998. (*Recommendation 9*)

#### *Gifts Register*

No gift and benefits policy exists and council has no gift register. Council is encouraged to adopt a policy for gifts and benefits. Council should review the ICAC publication, *Gifts, Benefits or Just Plain Bribes (1999)* when preparing this policy. (*Recommendation 10*)

#### *Delegations*

The power of delegation is an important tool that assists council officers to carry out the functions of council in an effective and timely manner. Delegations need to be made in accordance with sections 377-381 of the Local Government Act and regularly reviewed to ensure they remain current. (*Recommendation 11*)

#### *Tendering*

During the course of the review process, the review team was advised that council had two contracts that exceeded the \$100,000.00 threshold prescribed by section 55 of the Local Government Act 1993. We were further advised that council had utilised the tendering process in relation to the two relevant contracts. The contracts in question relate to the supply of bitumen products for road resealing and the collection of domestic waste.

The review team reviewed the files relating to these tenders and found that in the main, the tendering requirements as prescribed by the Act and the Local Government (Tendering) Regulation 1999 had been followed. However, the review team did note the following records were in some respects less than better practice in this area:

- The record of the tender being opened in accordance with clause 16 of the Local Government (Tendering) Regulation was not kept on the relevant tender file.

- No record of all requests for tender documents was kept on the tender file.
- No record of the staff involved in preparing and issuing tender documents was kept on the tender file.
- The tender documents provided to tenderers did not appear to include information relating to interaction with councillors (including a prohibition on contacting councillors).

In relation to the emoleum contract, the review team noted that council conducted an open tender process in September 2000 and the contract was executed in March 2001. However, the contract does not specify the term of the contract, and as such, no expiration date has been stipulated.

The review team also noted that the original advertisement for this particular tender and the related tender documents do not state the term for which the supply of the bitumen is required.

Council advised that the contract in question has been extended annually, by the mutual agreement of the parties. In fact, contract extensions appear to have been negotiated in this way for 2002/03, 2003/04 and 2004/05. These offers to extend the “existing contract for a twelve month period” have been reported to council and council has resolved to accept the offer and extend the contract accordingly. Some of the prices (within the relevant pricing schedule) have increased over that payable in the previous twelve month period. Thus, the terms of the contract appear to have been varied at the time the extension was considered. If the accumulated amount of the contract within a twelve month period is in excess of \$100,000, the council must tender the contract in accordance with section 55 of the Act.

In the present case, the actions of both parties appear to indicate that the contract in question has been treated as an annual contract. It would appear that council, pursuant to section 55 of the Act, may have been required to invite tenders for each annual contract for the supply of bitumen products.

Council's general manager stated that the nearest potential supplier of similar products is located in Wodonga, Victoria. This potential supplier is situated considerably further than the present supplier (120 klms from Urana). Council is strongly encouraged to undertake a further tendering process, which may serve to highlight the question of whether remoteness of locality is a serious impediment to competitive tenders.

*(Recommendations 12 , 13 & 14)*



## 5.2 Planning & Other Regulatory Functions

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

Council shares a planner with Lockhart Shire Council. All food outlets are checked on a routine basis and there was evidence of compliance monitoring including the issuing of penalty infringement notices.

Council has participated in a companion animal program with other councils in REROC which educates children on responsible dog ownership. The review team notes that the role of enforcement of companion animals in Boree Creek was carried out with Narrandera Shire Council.

The processing of development applications is effective, with 95% of delegations being dealt with under delegated authority. The council offers pre-lodgement advice which has minimised the "stop the clock" provisions.

### 5.3 Asset & Financial Management

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

#### *Overview of financial position*

Council has budgeted for a break-even budget and a zero debt strategy. This has resulted in a surplus after capital items of \$87,000 for 2002/2003.

Outstanding rates and charges have been reduced from 9.74% and it is anticipated that this rate will drop below 5% this year with the removal of a number of bad debts through recovery action.

Council receives 57.38% of its total income from grants and contributions. This is principally from two sources, Financial Assistance Grants and RTA contributions. Should either of these be reduced the council would face significant financial challenges. The council has not aggressively sought grants for other services and council may look to seeking specialist skills in the application of grants. Council should consider investigating grant opportunities via the regional organisation of councils.

#### *Long term financial planning*

Council demonstrates an understanding of its past financial problems. However council should develop a long term financial plan in order to give council a greater capacity to identify and plan for future risks. (*Recommendation 15*)

#### *Alternative sources of revenue*

Council currently relies heavily on rates and grants as its main sources of income. Over time this will increase the rate burden on residents and businesses if alternative sources of revenue are not identified.

Total revenue over the last year was:	Rates and annual charges	24.74%
	User Charges and fees	9.15%
	Grants	35.9%
	Contribution	21.48%
	Interest	2.07%
	Other revenue	6.66%

Council needs to identify and access sustainable sources of funds other than grants and contributions.

#### *Long-term rates strategy*

Council has applied for a number of rating special variations in recent years. Council needs to review its rating structure as part of its long term financial planning process. This will ensure that rating policy meets council's costs over the long-term and provides a strategic approach to the spread and structure of rates.

#### *Rates hardship policy*

Section 577 of the Local Government Act 1993 allows council to extend concessions to avoid hardship in relation to its rates and charges. Council does not have a rates hardship policy in place. Given the demographics of the area there appears to be a need for council to consider adopting such a policy. (*Recommendation 16*)

#### *Linking of strategic plans*

It is important that the financial direction of the council is aligned to its strategic objectives. Therefore the development of council's long-term financial plan should support its strategic direction.

#### *Reserves*

Currently the council has no long-term capital works program or strategic projects reserve. A strategic approach to identify future capital works and other areas requiring significant capital reserves needs to be taken in conjunction with the development of council's long-term financial planning.

*Valuation of land and buildings*

Council has not engaged an independent professional valuer to value buildings and land since 1995. The review team encourages council to have these valuations reviewed.

The failure to have updated valuations is detrimental in determining the true worth of asset and will impact on the external financial reporting of council.

*(Recommendation 17)*

## 5.4 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

### *Council's community focus*

Overall, Urana Shire Council has a strong community focus. Council's social plan meets the requirements of the department's guidelines and there is evidence that the social planning process is linked to council's management planning process. The community consultation processes undertaken has underpinned council's planning. Council has included information about the social plan in its annual report and management plan.

### *Community feedback*

Council uses a range of methods to obtain feedback from its community. Council regularly consults the community on planning and policy issues. Additionally, council conducts briefing sessions in the community to provide residents with the opportunity to raise and discuss issues directly with councillors and council staff.

Council has a number of section 355 committees that regularly meet and include members from the community. This highlights the council's willingness to involve the community in council activities.

Council keeps its community informed through the production of a monthly newsletter that is delivered to all residents.

### *Council's website*

Council does not have a current website. While use of computers may not be high in the shire, council needs to acknowledge the use of websites in the promotion of its area and for informing non-residents interested in the shire's activity. There are a number of council policies that would be of interest to the community. Council could consider providing a list of its policies on its website so that members of the community are aware of the policies that council has developed. Council should consider providing information that assists members of the public to access information under council's policy and information on how to lodge a complaint or comment with council.

Council should also look at using the website to promote tourism and other activities. Since the focussed review council is in the process of developing a promotional video, which will focus upon the opportunities and attractions of Urana Shire.  
*(Recommendation 18)*

## 5.5 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.

### *Staffing*

Urana Shire Council has identified that approximately a quarter of its workforce is over the age of 55 (9 of 32 staff). The staff work well together and have a professional approach to their work. They show a willingness to accept various tasks; this is demonstrated in the administration of the Rural Transaction Centre and the learning of new activities.

The consultative committee is representative of the organisation and provides for two way communication between management and staff.

Selection and recruitment is transparent and selection is clearly on merit in accordance with section 349. Recruitment is well documented, with the ranking of candidates and reasons for selection outlined on relevant files.

### *Workforce planning*

Urana, like many councils, is exposed to a number of workforce issues, such as:

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

Council needs to consider a long-term workforce plan that looks at the staffing need of each section of council and allocates staff according to workload and priorities. The long-term plan should also address the issue of council's aging workforce and increase opportunities for apprenticeships, cadetships and traineeships.

*(Recommendation 19)*

### *Occupational Health and Safety*

The Occupational Health and Safety committee has not held a meeting in recent times and election of the committee in accordance with the requirements of the Occupational Health and Safety Act has not occurred. (*Recommendation 20*) It is noted that since the focussed review a committee meeting has been held.

### *Secondary Employment*

Section 353 of the Local Government Act includes requirements for both the general manager and staff in relation to secondary employment. Section 353 (1) stipulates that a general manager must not engage in outside employment or contract work without the approval of council. (*Recommendation 21*)