

Section 430 Investigation Report Improvement Plan

Following the investigation of Council under Section 430 of the NSW Local Government Act 1993 ten recommendations were made, these were outlined in Section 3 of the Report.

Council provided advice to the Office of Local Government on 25 June 2020 outlining its Drinking Water Management System Improvement Plan. This sets out Council's direction forward for the improvement of water and sewer services for the LGA and generally covered those areas in recommendations 3.1, 3.2 and 3.3 of the Report relating to water and waste water.

3.1 The Minister considers issuing a Performance Improvement Order (PIO) under section 438A of the Act to improve Council's performance in:

- **planning for and managing its water, waste water and other assets;**
- **procurement and tendering processes.**

The Organisation Structure for Warrumbungle Water has been undergoing a further review to determine effectiveness. Following the resignation of a supervisor a further change is being trialled that focusses on operational effectiveness rather than locality.

A proposal will be submitted to the next meeting of the Council Consultative Committee proposing permanent implementation.

3.2 The Minister appoints a Temporary Adviser under section 438G of the Act to provide advice and assistance to Council in relation to its water and waste water functions, to ensure that:

- **all existing capital works programs relating to Council's water and waste water functions are undertaken within acceptable timeframes;**
- **Council develops asset management plans for its water, waste water and other assets;**
- **Council continues to work co-operatively with NSW Health and DPIE Water.**

These items are being dealt with through the submission of the DWMS Improvement Plan on 25 June 2020.

In addition to Council's submission of 25 June 2020, the services of Mr Chris Devitt Consulting have been engaged to assist Council in completing several projects. Mr Devitt has assisted Council on other matters such as the IWCM process and s.60 approval for Baradine discussions with DPIE. Mr Devitt holds a Bachelor of Engineering and provides consultancy services specialising in Strategic Water Security, Project Management Services and Strategic Management to Local Government. Mr Devitt has over 40 years' experience in all facets of Local Government Engineering and Management, with specific focus over the last 15 years in Water Security Planning and Major Infrastructure Project Delivery

Some of Mr Devitt's major consultancy achievements have included:

- Development of water security plan for Dubbo Regional Council, involving delivery of \$30m program of emergency drought works for Dubbo, Wellington and Geurie during the recent drought. Works include major pipelines, additional groundwater supplies, recycled water scheme and stormwater harvesting project. Project involves liaison with Dubbo, Wellington and Geurie communities as well as key water users such as Taronga Western Plains Zoo and Fletchers International Exports, as well as ongoing

liaison with NSW Government agencies including DPIE Water, Water NSW, NSW Health and EPA.

- Development of \$1.0m emergency water supply project for Molong including establishment of new groundwater supply and associated infrastructure in addition to assisting Council with establishing an emergency water supply from Orange to Molong, Cumnock and Yeoval.
- For Mid Western Regional Council project managed the leachate management system project for Mudgee Landfill plus conducted a management review of Development Engineering section.

Mr Devitt has extensive local government and project management roles holding senior management roles in Local Government including:

- Director Infrastructure – Dubbo Regional Council 2017-2019
- Director Technical Services – Orange City Council 2006-2017
- General Manager – Forbes Shire Council 2003-2006
- Assistant General Manager – Mudgee Shire Council (now Mid-Western Regional Council) 1988-2003

Mr Devitt's experience in these roles includes:

- Director Infrastructure -Dubbo Regional Council 2017-2019. Key projects included:
 - \$27m RFS Training Academy at Dubbo,
 - \$15m upgrade of infrastructure and runways/taxiways at Dubbo Regional Airport,
 - \$6m replacement of Wellington Olympic Pool
- Director Technical Services -Orange City Council 2006-2017. Key projects included:
 - \$40m Macquarie River to Orange raw water pipeline
 - \$30m Orange to Blayney/Carcoar potable water pipeline
 - \$5m Blackmans Swamp Creek Stormwater Harvesting Project
 - \$7m Ploughman's Creek Stormwater Harvesting Project
 - \$5m dual water supply system -north-west Orange
 - \$70m Northern Distributor Road Construction
 - \$40m Orange airport upgrade including 500m runway extension and new terminal building
 - \$15m infrastructure provision/upgrade for new Orange Hospital
 - \$40 Southern Feeder Road Project development
- General Manager-Forbes Shire Council 2003-2006
 - \$15m Construction of new Forbes Saleyards
 - \$5m Construction of new Forbes Sewerage Treatment Plant
 - Industrial Estate development and construction

3.3 Council continues to work co-operatively with NSW Health and DPIE Water to re-introduce fluoridation.

These items are being dealt with through the DWMS Improvement Plan.

As for the remaining recommendations the actions outlined below have been undertaken by Council or are proposed to be taken by Council.

3.4 Council offers councillors the opportunity to be mentored in undertaking their role.

The following actions are proposed:

- 3.4.1 Council develop a mentoring program.
- 3.4.2 Council develop and conduct an Induction Program for new councillors following the 2021 local government elections.

Note: Council has engaged Mr Graeme Fleming PSM to facilitate the performance reviews of the current Council General Manager and has assisted Council in some other matters.

3.5 Council examines its records keeping function and takes appropriate action to ensure that Council meets its responsibilities under the *State Records Act 1998*.

The following actions are proposed:

- 3.5.1 Report to Council on a review of the Council Records Management Policy.
- 3.5.2 Implement the revised Records Management Policy to ensure that councillors and staff understand and meet their responsibilities under the *State Records Act 1998*.
- 3.5.3 Provide recordkeeping training to councillors and staff.
- 3.5.4 Include recordkeeping in Councillor inductions at each new term of Council.

3.6 Council ensures that only authorised persons have access to its premises and facilities.

The following actions are proposed:

- 3.6.1 Council to undertake a review of the keying system.
- 3.6.2 Provide regular reminders to staff that only authorised staff are to enter sites.

3.7 Council continues to address staff cultural and conduct issues.

The Report identified that there are:

- ongoing cultural issues that have carried over from the merger of the former Coolah and Coonabarabran Shire Councils, and
- significant behavioural issues that need to be addressed with some members of staff.

To support these comments throughout the Report the following remarks were made about staff cultural and conduct issues:

241. ... *lack of **sufficient trained staff** to operate the equipment.*

252.*that some **staff had refused to allow staff living in other parts of the Shire to operate plant.***

.... *there was always a **north verses south** in the outdoor staff because there - not only being two different councils but there was **differences of opinions between supervisors** about how things should be done, roadworks, water, sewer, they had different work practices.*

..... was a fairly strong willed character who is no longer with council and he just **refused to do what he was supposed to do.**

..... in the last 18 months it became more apparent that on any one day there are 30 per cent of the outdoor staff absent. Now, when you have got that sort of **absenteeism** and some of them are self-conducted leave without pay, people who just don't want to come, they have run out of holiday and run out of sick leave and whatever. Some of them are sick leave, some of them are unapproved leave and some of them, of course, are RDOs, but 30 per cent.

255.:

- A **lack of understanding or an appreciation of the risks** highlighted in the Improvement Plan by Council and senior management;
- A **lack of leadership** being provided to address the risks; and
- A **lack of support to water and sewer management and operational staff** which has developed a **culture of acceptance of poor performance.**

256.:

- A **lack of trained staff** to operate the equipment.

258. **apparent lethargy in carrying out important work nor will it address staff skill shortages and territorial issues.**

268. In the lead up to the investigation, there had been a number of **conduct complaints by staff.**

285. The **tensions within the governing body and mistrust of certain members of staff** have combined to divert the attention of councillors away from their strategic role. Instead, their focus has been on operational and day-to-day issues.

314. **significant bullying** by one particular member of staff who exercised a supervisory role.

315. Other issues related to the **conduct of staff at social gatherings**, including Council's Christmas function.

Since the commencement of the Section 430 investigation Council has:

- Conducted Code of Conduct training for all staff – face to face training was provided to all staff on the newly updated Code of Conduct and specific examples and practical exercises undertaken to engage staff and extend their understanding of the Code of Conduct requirements in respect of their role and position with Council.
- Provided targeted training to staff
- Conducted an Employee Engagement Survey across the organisation and an Action Plan put into place to deal with the issues raised
- Managed sick leave more effectively along with challenging excessive sick leave utilised. The leave is being taken in accordance with the Award and relevant policies.
- Better managed the accumulation of leave (annual, RDOs and time in lieu)
- Dealt with inappropriate conduct generally by staff
- Terminated the services of the employee referred to at paragraph 314
- Established an Internal Audit Committee
- Improved communication is being improved throughout the organisation by the introduction of staff newsletters
- Restructured the WH&S Committee and improved consultation processes
- Directed that senior management and managers be in the field more with staff
- Changed its recruitment practices, except in certain circumstances recruitment is now done on the basis of all permanent roles being advertised externally
- Not received any Code of Conduct complaints during the current or previous reporting period starting on 1 September 2018
- Entered into Performance Agreements with each director
- The Executive Leadership Team (ELT) monitoring, on a monthly basis, Organisational Development issues and performance in the following areas:

- Recruitment
- Resignations and Terminations
- Exit Interviews
- Update on the Employee Engagement Program
- Grievance and Disciplinary Matters
- Learning and Development
- Training
- Staff Competencies
- Work Health and Safety
- Workers Compensation and Injury Management
- Payroll, including:
 - Staffing
 - Pays
 - Overtime
 - Casuals
 - Leave – Annual Leave
 - Leave – Rostered Days Off
 - Leave – Time in lieu
 - Leave – Leave Without Pay
 - Leave – Sick Leave
 - Leave – Carers Leave

To expand on some of these issues:

Staff Training

The following training courses have provided to staff in various areas of the organisation:

- Managing Performance and Productivity training for managers and senior supervisors – the objective of the training was to provide managers to better manage the performance of their direct reports and develop their skills in clarifying expectations and consequences, building their confidence in having difficult conversations.
- Stepping into Supervising Training for supervisory staff and team leaders – the objective of the training was to provide supervisors with practical skills to manage their team, communicate effectively, provide feedback and improve working relationships with internal and external stakeholders.
- Project Management training for a number of staff – the purpose of the training was to provide responsible staff with basic project management skills, including; Gain mastery over concepts, principles and terminology of project management; Grasp an understanding of appropriate project management methodologies; Acquire technical skills involving project planning, scheduling and budgeting, process reporting and project control; Gain an appreciation of the capability and function of a modern project management software tool.
- Report Writing training – the aim of the training was to address identified report writing deficits / support staff in writing more effective Plain English reports.
- Due Diligence training to certain staff – the objective of the training was to increase management and supervisor understanding of WHS obligations. The intent here is to have better engagement and participation in Council’s WHS program and practices.

In relation to Warrumbungle Water deficiencies in training were identified in several areas and in addition to the regular training program training was provided to staff working in the Warrumbungle Water section of Council.

Warrumbungle Water staff training 2019 - 2020	Staff Attending
Traffic Controller (Blue Card)	4

Warrumbungle Water staff training 2019 - 2020	Staff Attending
Apply Traffic Control Plans (Yellow Card)	4
Assessing Team Competencies	3
Procurement Essentials	1
Procurement Planning & Specifications Writing	1
Tendering Evaluation & Selection	1
Contract Management in Local Government	1
Supervising Trainees & Apprentices	3
Water Treatment for Engineers	1
Water Treatment Plant Jar Testing	7
Certificate III in Water Industry Operations (commenced)	2
Chemical (Pesticide) Accreditation	1
Load Restraint Training	13
Due Diligence	3
Managing Performance & Productivity	3
Stepping into Supervising	3
Evaluation, Supplier Selection and Contractor Establishment	3
Structure and Application of a Pollution Incident Response Management Plan (PIRMP)	1
Code of Conduct refresher training	1

In addition to this training Council also operates a trainee program with one employee currently training as a water and sewer operator. Council also proposed to provide a School Based Trainee program in this area however due to changes at TAFE resulting in the inability to deliver the required training, this could not proceed.

Council also has positions for two apprentice plumbers, one of these positions is currently being recruited.

Employee Engagement Program

The purpose of the proposed employee opinion survey is, initially to obtain a baseline measure of employee engagement across Warrumbungle Shire Council and subsequently to enable action to be planned and implemented in order to address areas identified as requiring attention. By planning a three-year program, progress against previous results will be able to be measured and future actions planned.

The program is designed to run over three years, with an annual survey which will be the basis for development of engagement action plans by and for each department of Council, as well as organisational actions which will be determined by the Executive Leadership Team. Consultation and participation by staff in the improvement process is an essential factor, with all employees having a role in moving the organisation forwards.

The Employee Engagement Program is a continuous improvement process and the timetable following the results included:

- October 2019 - Initial meeting with managers and supervisors to provide information and guidance on the process.
- November 2019 - Managers to meet with teams to discuss survey results
- Departments develop quarterly action plans to address selected questions from the survey. Each quarter will focus on a different set of questions, to ensure a holistic response to the survey results.

- Progress meetings to be held with staff by managers and supervisors during each quarter to review progress against the plan and update it as required.
- Reports to ELT submitted at end of each quarter.
- ELT to report to staff on progress across the organisation at quarterly intervals, including actions taken at ELT and management level.

Following the meeting with Managers and Supervisors, the General Manager wrote to all members of staff in late October regarding the survey outcomes and future actions. Some improvements had already been identified and action started, including:

- Management, including senior management have been requested to make more visits to staff in their workplace, to enable them to better understand the issues confronting their staff.
- Some items of equipment were also ordered to improve the efficiency of jobs.
- Training had been scheduled for managers and supervisors to provide additional skills in undertaking their roles.

As one of the biggest areas of concern raised by staff was around resources, particularly around staffing levels, the General Manager provided advice on Council's financial position including its history of operating deficit budgets as well as the need for urgent infrastructure works across the Shire. This was critical communication as many staff had never been provided with this information. Additionally, it will assist Council in managing staff expectations, including understanding why some positions have been removed from the organisation structure.

A key part of the General Manager's message was the importance of recognising that not everything can be actioned, or is easy to improve. Some things may not be achievable within available budget, however by working together we may find alternative solutions that will make a difference. He reminded staff that we need them to be constructive, and contribute achievable suggestions on how to make things better, as well as understanding that Council is committed to moving things in a more positive direction.

The below table outlines the progress with the survey:

Directorate	Department	1st quarter plan	1st quarter report	2nd quarter plan
EX	Organisation Development	√	√	√
CCS	Finance	√	√	√
	Finance – Stores		√	
	Corporate Services	√	√	√
	Community Services	√	√	√

Directorate	Department	1st quarter plan	1st quarter report	2nd quarter plan
TS	TS Management	√		√
	Roads	√		
	Projects	√		√
	Urban Services			
	Fleet	√		
EDS	Planning & Regulation	√	√	√
	Warrumbungle Water	√	√	√
	Economic Development & Tourism	√	√	√

Absenteeism

Concerns about absenteeism were raised in the report with commentary about the absence of staff from the work place. Below table shows the use of sick leave in recent years. Since the commencement of the Section 430 investigation there has been effort placed on how sick leave has been used and certain staff challenged on their use of sick leave. Where trends in behaviour were identified such as sick leave being taken adjacent to weekends or regular days, or part days, taken greater justification has been required of employees. This has been done in accordance with the Award.

No. Sick Days per FTE – comparison to previous years, full years

Financial Year	Sick and Well-being Days	Carers Days	Total Leave
2012/13	10.93	N/A	10.93
2013/14	10.34	N/A	10.34
2014/15	12.66	N/A	12.66
2015/16	13.06	N/A	13.06
2016/17	14.47	N/A	14.47
2017/18	15.59	N/A	15.59
2018/19	10.25	2.77	13.02
2019/20	9.54	1.96	11.50

Note: Carer's Leave uses sick leave entitlements. A breakdown of the use of carer's leave was not kept prior to 2018.

The following actions are proposed:

- 3.7.1 Ensure that Code of Conduct is part of Council's induction program with all staff required to complete the training prior to commencement.
- 3.7.2 Hold Code of Conduct training/refresher training for all employees once during each term of Council along with each time there are significant changes to the Code.
- 3.7.3 Maintain a training plan that includes managing performance and productivity of staff. Training for directors, managers and supervisors.
- 3.7.4 Review the training needs of employees working in Warrumbungle Water.
- 3.7.5 Continue with the three-year Employee Engagement Program process.
- 3.7.6 Continue to monitor sick leave to ensure that leave is being taken in accordance with the Award and relevant policies.
- 3.7.7 Continue to monitor employee leave balances to ensure that staff leave do not accrue/hold excess leave balances.
- 3.7.8 Put in place and maintain performance agreements for all directors and managers of the Council.
- 3.7.9 Conduct a review of the effectiveness of the organisation structure, particularly for Warrumbungle Water.
- 3.7.10 Executive Leadership Team (ELT) continues to monitor on a monthly basis Organisational Development issues and performance across the organisation.

3.8 Council undertake a further review of its procurement processes to strengthen its probity processes and to provide greater transparency, particularly in relation to contracts that are subject to tendering. In doing so, the limited role of councillors should be clearly defined.

Council conducted a review of the Council Procurement Policy and also considered the issues raised in the Section 430 Final Investigation Report. The reviewed policy was submitted to the June Council meeting and has been placed on display for community comment.

The report to Council made reference to specific sections of the Report and how those issues were dealt with.

The following actions are proposed:

- 3.8.1 Review and Report to Council on a reviewed Procurement Policy.
- 3.8.2 Conduct a workshop with councillors on the Procurement Policy and the tendering processes.

3.8.3 Report on progress against the Procurement Improvement Plan – the Procurement Policy outlines requirements to report against the requirements of the Policy.

3.8.4 Include procurement in Councillor inductions at each new term of Council.

3.9 Council amends the form of its tenders to ensure that the terms are clear and precise.

See 3.8 above

3.10 Further training be provided to councillors and relevant staff in how to undertake their respective roles in the revised procurement process.

See 3.8 above

Attachments:

1. Report to the June 2020 Council Meeting on the Procurement Policy
2. Council Draft Procurement Policy
3. Warrumbungle Shire Council Organisation Structure inclusive of Warrumbungle Water
4. Improvement Plan Table