



Government of **Western Australia**
Department of **Local Government and Communities**

SHIRE OF CARNARVON

2013

PROBITY COMPLIANCE AUDIT

REPORT

CONFIDENTIAL

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1. INTRODUCTION

The Shire of Carnarvon covers an area of 53,000 square kilometres and is situated in the Gascoyne region 902 km North of Perth. The district is made up of nine Towns and localities which include Carnarvon, Babbage Island, Brockman, Coral Bay, Gnaraloo, Kennedy Range, Lyndon, Macleod and Wooramel. The major local industries are Fishing, Horticulture, Dampier Salt Works, Tourism and Pastoral Stations.

The Carnarvon Shire Council consists of eight elected member positions that consist of seven positions of councillor and one popularly elected Shire President with the district made up of 4 wards. The Shire administration office is located in the Carnarvon town site, the Shire's total revenue is approximately \$20,928,430 and it has approximately 54 employees.

The Department of Local Government (DLG) decided to conduct a Probity Compliance Audit to determine whether the Shire's processes and procedures are of a standard expected of a local government for the provision of good governance to persons in its district, as a result of various concerns being brought to its attention. These include:

- Issues identified through an audit undertaken by Deloitte - at the request of the Department of Regional Development - relating to Royalties for Regions funding;
- Complaints from local business proprietors about contracts for Shire projects; and
- Local residents' claims of autocratic leadership, undue influence by elected members in Shire operations, works being undertaken without calling tenders or quotations, unauthorised variations made during contract works, changes to specifications without Council approval and ad hoc administration of projects.

The Probity Compliance Audit was conducted by DLG officers, Mr Vern McKay, Principal Project Officer, Mr Stuart Fraser, Principal Advisory Officer and Ms Susan Schafers, Senior Investigations Officer who visited the Shire's offices in Carnarvon on 24, 25 and 26 June 2013 to undertake the Probity Compliance Audit.

During that visit relevant documents and registers were examined together with the Shire's processes and procedures. This report examines certain areas of statutory compliance and also comments on matters relating to administrative best practice.

As a result of the Probity Compliance Audit, this report has been prepared which deals with the probity processes of the Shire and examines its standards of compliance with the *Local Government Act 1995* (the Act) and associated regulations in relation to those processes. The report makes specific recommendations in circumstances where the Shire is not compliant with statutory requirements. The report also makes recommended process improvements where the Shire's processes do not appear to reflect best practice.

It should be noted that the Probity Compliance Audit was conducted over a period of only three days and does not represent a detailed examination of any specific issues

that may need addressing by the Shire. It is suggested that a further detailed investigation of some matters may be warranted.

2. THE IMPORTANCE OF PROBITY

Probity is the evidence of ethical behaviour in a particular process. Probity is defined as complete and confirmed integrity, uprightness and honesty. It contributes to sound processes that accord equal opportunities for all participants.

Processes must be conducted with probity in mind to enable all parties to deal with each other on the basis of mutual trust and respect. Adopting an ethical, transparent approach enables the business of government to be conducted fairly, reasonably and with integrity. Probity rules must be clear, open, well understood and applied equally to all parties to the process.

It is accepted that conflicts of interest may arise in the course of business operations, especially during the decision making process. Possible conflicts are extremely varied but include pecuniary (financial) and non-financial interests, associations with external groups or bodies and non-direct personal interests. In carrying out one's duties, public officials must not allow themselves to be improperly influenced by family, personal or business relationships.

Maintaining a high level of probity in a local government's processes protects the reputation of not only the Council, but also the administration. This is important as a local government's activities involve the management and control of public money, and may be subject to considerable public scrutiny.

3. PROCEDURAL FAIRNESS (NATURAL JUSTICE)

As part of the Probity Audit's procedural fairness process, a copy of the confidential draft report was provided to all elected members and the former CEO on 16 August 2013 as some of the findings and conclusions related to non-compliance by the Council or may involve them personally in their roles.

All elected members and the former CEO were invited to comment on the draft report by 30 August 2013. At the close of the submission period five responses were received. The following table identifies the submissions that were received during the procedural fairness process:

Submission From	Date Submission Received
Maurice Battilana, Ex-CEO	23 August 2013
Karl Brandenburg, Shire President	25 August 2013
Cr Max March	28 August 2013
Cr Naomi McMahan	26 August 2013
Cr Julee Nelson	29 August 2013

No submission was received from Cr Graham Murphy, Cr Melissa Gibbings or Cr Neil Ganzer.

All comments and submissions received by the Department were examined and where it was considered necessary amendments were made to the draft report.

It was noted that the submissions generally supported the Probity Audit Report's 27 recommendations with the exception that two submissions did not support recommendations 14, 15 and 23 and one did not support recommendation 18. Only recommendation 23 was amended.

4. SCOPE OF THE AUDIT

The following areas of compliance were examined for the purpose of the Audit and specifically for the period 1 December 2012 to 30 June 2013. It should be noted that in some instances it was necessary to examine information outside that time frame:

- Purchasing and Procurement;
- Tenders – Tender Register;
- Policies – Policy Manual;
- Delegations – Register of Delegations;
- Meeting Structure and Process;
- Financial Interest Register – Disclosures at Meetings and in Returns; and
- Financial Management Controls and Procedures;

This report identifies a number of matters but is not an exhaustive examination of all the compliance issues identified as a result of conducting the Probity Compliance Audit.

5. STATUTORY COMPLIANCE

The following is concluded from an examination of the registers and documents listed in the above scope of the Audit. Specific matters of concern identified in this probity audit are:

- Procurement and purchasing processes and procedures followed by the Shire including tendering;
- The Council decision making structure and practices;
- The standard and manner of general and statutory record keeping by the Shire, especially in relation to recording information in registers, such as the Register of Delegations, Tender Register and Register of Financial Interest;
- Statutory compliance in relation to the standard of information recorded and meeting processes;
- Council Policies which are in need of review due to the out of date information, legislative references and relevancy of a number of policies; and
- Financial management practices and procedures.

6. PURCHASING AND PROCUREMENT

The Shire has a Purchasing Policy (F003) in place which was adopted by Council on 27 March 2007 and amended on 8 March 2010.

The Policy also states under clause 1.7.14 that:

All records associated with the tender process or direct purchase process must be recorded and retained. For direct purchasing process this includes:

- *Quotation documentation ;*
- *Internal documentation;*
- *Order forms and requisitions.*

“Check List” form is to be completed, signed and attached to the duplicate copy of the Purchase Order, along with copies of quotes.

The below checklist is an extract from the Shire’s purchasing policy which sets out the purchasing amounts and the relevant processes applicable to the expenditure ranges for those purchases.

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CHECKLIST			
Amount of Purchase	Purchasing Guidelines		Complied YES/NO
	Quotes	Conditions	
Up to \$5,000	No quotations required prior to purchase if expenditure is approved in Council budget.		NA
\$5,001 - \$19,999	Obtain two verbal quotes and these quotes to be recorded by the relevant officer.	"Check List" form is to be completed, signed and attached to the duplicate copy of the Purchase Order as proof verbal quotes were obtained.	
\$20,000 - \$49,999	Obtain at least three written quotations containing price and specification of goods and services (with procurement decision based on all value for money considerations).	"Check List" form is to be completed, signed and attached to the duplicate copy of the Purchase Order, along with copies of quotes.	
\$50,000 - \$99,999	Obtain at least three written quotations containing price and specification of goods and services (with procurement decision based on all value for money considerations).	All Purchases in this range must be countersigned by the purchasing officer's Manager/Departmental Head. "Check List" form is to be completed, signed and attached to the duplicate copy of the Purchase Order, along with copies of quotes.	
\$100,000 and above	Conduct a public tender process.	Legislative compliance requirements must be adhered to.	
<p>Note: Purchases made through the WALGA purchasing system, which have already been subject to quotes, tenders, etc, need not adhere to the abovementioned Conditions.</p> <p>A "File Note" must be completed confirming such purchases through WALGA system.</p>			

Statutory Requirement

Regulation 11(1) of the *Local Government (Functions and General) Regulations 1996* states:

- (1) *Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$100 000 unless subregulation (2) states otherwise.*
- (2) *Tenders do not have to be publicly invited according to the requirements of this Division if —*
...
(b) the supply of the goods or services is to be obtained through the Council Purchasing Service of WALGA;

Regulation 11A of the *Local Government (Functions and General) Regulations 1996* states:

- (1) *A local government is to prepare or adopt, and is to implement, a purchasing policy in relation to contracts for other persons to supply goods or services where the consideration under the contract is, or is expected to be, \$100 000 or less or worth \$100 000 or less.*
- (2) *A purchasing policy is to make provision for and in respect of the policy to be followed by the local government for, and in respect of, entering into contracts referred to in subregulation (1).*
- (3) *A purchasing policy must make provision in respect of —*
 - (a) *the form of quotations acceptable; and*
 - (b) *the recording and retention of written information, or documents, in respect of —*
 - (i) *all quotations received; and*
 - (ii) *all purchases made.*

Issues Identified

The Shire utilises WALGA's preferred list of suppliers when appropriate for the procurement of various goods or services.

There are instances where the Shire has contracted goods and services where the contract consideration has exceeded the tender threshold of \$100,000, but tenders have not been invited.

Examples of these include:

- Bitutek Pty Ltd – total of \$129,630. This amount is made up of 4 Purchase Orders Nos.18530 to 18533 incl. all dated 27/11/2012 for various jobs that included airport sealing, Sandhurst Rd, Marmion St and car park festival grounds. Quotes were sought from Curnow Group P/L, Fulton Hogan and Bitutek P/L. Only the Curnow Group and Fulton Hogan are WALGA preferred suppliers. Bitutek P/L is not listed as a WALGA preferred supplier.
- Carnarvon Hardrock Limestone Quarry Pty Ltd – total of \$158,598. This amount is made up of 4 Purchase Orders Nos. (POs) 19828, 19829 and 19831- totalling

\$102,960 all dated 22/04/2013 for various jobs that include road base Pelican Point, Sydney II Memorial Dr, and Browne's Range Cemetery Project. A PO No. 17856 dated 02/07/2012 - \$23,760 and PO No. 16283 dated 04/05/2012- \$19,800 for Fascine Repair Works/Town Beach maintenance and payments of \$9,900 and \$2,178 for limestone rock placed at the Fascine Wall, Town Beach and other areas not described.

While the attached supporting documents to the payment vouchers indicate that the Purchasing Guidelines have not been adhered to, an explanatory note was included stating:

There are only 2 local suppliers in Town that supply this product only one came back to me with a price and availability.

There are also instances where no written information is attached to the duplicate copy of the Purchase Order in relation to verbal quotes.

It is noted that on 23 April 2013 the Council resolved to:

Request staff to investigate the implementation of the WALGA e-Quotes system to manage a range of supplier relationship types from formally selected panel to prequalified supplier lists or informal contractor pools.

Conclusion

Shire officers advised that the WALGA e-Quotes system will provide better controls over purchases and documentation supporting these.

The Shire is not in compliance with Regulation 11(1) of the *Local Government (Functions and General) Regulations 1996* as it is awarding some contracts for the supply of goods and services to contractors where no exemptions apply for a consideration that exceeds the tender threshold of \$100,000 without inviting tenders.

It is also found to have not adhered to its Purchasing Policy guidelines as there are instances where there is no written record of verbal quotes or in some cases written quotes attached to the duplicate copy of the Purchase Order.

Recommendation: 1

That Council directs the CEO to review the Shire's purchasing and procurement procedures to ensure that contracts for goods and services that are \$100,000 or more and not exempt, are subject to a tender process in accordance with Regulation 11 of the *Local Government (Functions and General) Regulations 1996*.

Recommendation: 2

That the CEO arranges for the completion of the staff investigation concerning the implementation of a WALGA e-Quotes system or, examine other options that would improve the quotation process to ensure that it complies with the Shire's Purchasing Policy in relation to quotation record keeping.

7. TENDERS – TENDER REGISTER

A Tender Register is kept by the CEO of the Shire of Carnarvon which contains information concerning tenders invited by the Shire. There is a separate Register kept for each calendar year. The Registers readily available that were examined dated back to 2010. The Shire frequently engages the Western Australian Local Government Association (WALGA) Purchasing and Procurement services to conduct a number of tender processes on its behalf and also utilises WALGA's preferred list of suppliers when appropriate for the procurement of various goods or services.

Using WALGA's preferred list to select suppliers for the provision of goods and services exempts the local government under regulation 11(2)(b) from having to comply with the legislative tender provisions.

Statutory Requirement

Regulation 17 of the *Local Government (Functions and General) Regulations 1996* states:

- (1) *The CEO is responsible for keeping the tenders register and making it available for public inspection.*
- (2) *The tenders register is to include, for each invitation to tender —*
 - (a) *a brief description of the goods or services required; and*
 - (b) *particulars of the making of —*
 - (i) *the decision to invite tenders; and*
 - (ii) *if applicable, the decision to seek expressions of interest under regulation 21(1); and*
 - (c) *particulars of —*
 - (i) *any notice by which expressions of interests from prospective tenderers was sought; and*
 - (ii) *any person who submitted an expression of interest; and*
 - (iii) *any list of acceptable tenderers that was prepared under regulation 23(4); and*
 - (d) *a copy of the notice of the invitation to tender; and*
 - (e) *the name of each tenderer whose tender has been opened; and*
 - (f) *the name of any successful tenderer.*
- (3) *The tenders register is to include for each invitation to tender the amount of the consideration or a summary of the amount of the consideration sought in the tender accepted by the local government.*

Regulation 11(2)(b) states:

- (2) *Tenders do not have to be publicly invited according to the requirements of this Division if —*
 - (b) *the supply of the goods or services is to be obtained through the Council Purchasing Service of WALGA*

Issues Identified

The Shire's Tender Register contained information on various tenders that had been invited by the local government. However, not all the information is recorded and in some instances the information was not compliant with the tender regulations.

For example, Tenders 1/2013 and 2/2013 listed the tenderers details and price details (consideration) for each tender. The Register is only to include details of the amount of the consideration for the tender accepted by the local government.

For those tenders where WALGA was engaged to conduct the tender process information was not recorded concerning the opening of tenders and tenderer details along with details of the successful tenderer, and the consideration sought in the tender accepted.

The Shire staff member responsible for maintaining the Tender Register advised that WALGA had been contacted on a number of occasions in an attempt to obtain details of tenders it had dealt with on behalf of the Shire, however these details have not been provided. The Shire needs to access the information to ensure the register meets statutory compliance.

A request for tender (described as 'Request for Quote') was advertised on 3 March 2012 (RFT 2/2012) for the refurbishment of the Carnarvon Regional Library and Art Centre. The Shire engaged WALGA Procurement Consultancy Service to undertake the procurement process for this project which was estimated to cost \$3.4 million dollars. On 26 June 2012 Council awarded the tender to Laybrik Unit Trust trading as Briklay Builders, but on 25 September 2012 Council noted the withdrawal of Briklay Builders from performing the work due to it going into administration.

The Council also provided the CEO delegated authority to conduct direct negotiations with another reputable supplier to form a contract in accordance with regulation 11(2)(c)(i) of the *Local Government (Functions and General) Regulations 1996*. This regulation only applies where no tender was submitted that met the tender specifications.

Negotiations with the next preferred supplier were undertaken and Northerly Interiors was awarded the contract, but no supporting documentation or information was recorded in the Shire's Tender Register advising of the situation and the awarding of the tender to Northerly Interiors. To date the Shire has paid Northerly Interiors \$2.3 million for the project with no written agreement or contract recorded in the Shire's Agreement Schedule.

7.1 Delegation to Accept Tenders

Issues Identified

At the 25 June 2013 ordinary meeting of council (Agenda Item 8.5.1 – *Airport & Swimming Pool Management Contracts – Delegation to CEO*) the council resolved in part:

That Council:

1. *Delegate authority to the CEO to award the Airport Management contract in accordance with the results of the WALGA procurement process.*
2. *Delegate authority to the CEO to award the Aquatic Centre Management contract in accordance with the results of the WALGA procurement process*

The agenda item also advises that the Airport Management contract was given “ ... an administrative extension in February 2013 for six months beyond the contract finish date to allow time for a new contract to be considered properly ...”.

Conclusion

The Shire’s Tender Register is not compliant with regulation 17(2) and (3) of the *Local Government (Functions and General) Regulations 1996* as it does not include for some tenders information required by regulation 17(3) and 17(2)(e),(f). Where information has been omitted, the relevant tender process has usually been conducted by WALGA Procurement Consultancy Services which has not provided sufficient information to the Shire for it to meet its statutory obligations.

Delegating to the CEO the power to award tenders often means that tender evaluations are not included in agenda reports or Council minutes. This denies the public access to what decision was made on the tender and how that selection was made and fails tests of openness, transparency and accountability in decision making.

While the six month administrative extension to the Airport Management contract may have been a pragmatic approach to the situation, there was no delegation to make such a decision.

Negotiation with Northern Interiors on the Carnarvon Regional Library and Art Centre project may have been in breach of regulation 11(2)(c)(i) if the tender initially accepted from Laybrik Unit Trust met tender specifications.

Recommendation: 3

That the CEO review the procedures and practices concerning the recording of information required by Regulation 17 of the *Local Government (Functions and General) Regulations 1996* to ensure that the Tender Register complies with the regulations.

Recommendation: 4

That where delegation to award tenders is granted, the CEO establishes a procedure whereby tender evaluations and decisions taken to award tenders are reported back through Council meeting agendas for noting, to ensure openness, transparency and accountability to the community in the Shire’s decision-making process.

8. POLICIES – POLICY MANUAL

The Shire has a significant number of policies that are in the process of being reviewed.

Statutory Requirement

Section 2.7 of the Act states the role of Council to be:

2.7. Role of council

(1) *The council —*

- (a) *governs the local government's affairs; and*
- (b) *is responsible for the performance of the local government's functions*

(2) *Without limiting subsection (1), the council is to —*

- (a) *oversee the allocation of the local government's finances and resources; and*
- (b) **determine the local government's policies.** (emphasis added)

Issue Identified

The Shire has a Policy Manual covering a range of matters. While the probity audit undertook a review of policies only a cursory review was made of the appropriateness or content of policies.

The Council Policy Manual provided to the Probity Auditors included many policies that have not been reviewed for some time and which were either not up to date or unnecessary in the form of a policy. It was noted that a review of the manual by Shire officers was under way.

Some policies either reflected what is already provided for in the legislation such as the *Local Government Act 1995* or contained references to delegated authority which should be included in the Shire's Register of Delegations.

The following statement appeared in a report authored by the CEO under Item 8.1.1.1 "Delegation Register – Review Of" in the Agenda for the Ordinary Meeting of Council held on 26 June 2012:

Many of Council's existing Policies also reflect delegations and there will be some minor over-laps until a full review of the Policy Manual has been undertaken. These over-laps will not create any logistical problems for Council operations.

It was noted that many policies had not been reviewed regularly although senior officers advised that the review was in progress and handwritten comments and narration in the Policy Manual confirmed this. Policies not reviewed for some time included:

- *Policy F013 – Works for Local Sporting Bodies – reaffirmed by Council 28 March 1998;*
- *Policy F001 – Corporate Credit Card – amended by Council 27 February 2007; and*
- *Policy F025 – Rates Recovery – adopted by Council 14 April 2007*

This in itself may not be inappropriate, however other policies that are affected by or link to legislation should be reviewed if legislation or other factors change. For example:

- *Policy F025 – Rates Recovery* makes reference to the 'Local Court'. The Local Court no longer exists and was amalgamated into the Magistrates Court in 2005.
- *Policy F025 – Rates Recovery* includes comment with respect to a "FINAL DEMAND" that this is to advise that all legal costs incurred will incur a penalty and are fully recoverable. Section 6.56(1) of the Act only permits 'costs of proceedings' [taken to be cost of proceedings in a matter before the court] to be recoverable not all legal costs.
- *Policy F001 – Corporate Credit Card* still includes a current credit limit of \$4,000 although as noted under section 12.9 in this report, cards with a credit limit of \$13,000 are in place with no Council approval identified to support this limit.
- The existing Investment Management Procedure is unlikely to comply with Regulation 19C of the *Local Government (Financial Management) Regulations 1996* which was inserted into the regulations in April 2012 to restrict cash investments.
- Other policies list specific position titles which may no longer exist. These too require urgent review to ensure alignment with the current organisational structure.

Conclusion

The Shire's policies require urgent review by way of updating information, removing irrelevant policies and ensuring that all policies are effective and applicable.

Recommendation: 5

That the Council adopt a process and timetable for a structured review of all Council's policies, including a requirement for all policies to be reviewed at least every 4 years.

Recommendation: 6

That Council arrange for the completion of a comprehensive review of its policies and adopts those reviewed policies by 30 September 2013. In meeting that timeframe Council may wish to consider engaging a consultant to complete the review.

9. DELEGATIONS AND AUTHORISATIONS

A Register of Delegations to the CEO and employees is kept by the CEO of the Shire of Carnarvon which contains ongoing delegations adopted by Council from June 2009. The delegations to the CEO have been reviewed every year up to 2013 with the last amendments made to the delegations in May 2013.

The CEO also keeps an electronic record of what is referred to as “one off” Council authorisations/delegations effective from 1 September 2010.

Delegation 1032 – *Authorisation of Officers* - provides the power to authorise officers to make complaints and enforce the various Acts and Regulations for the Shire including, yet not limited to, those listed hereunder:

- *Local Government Act 1995*
- *Dog Act 1976 and Regulations thereunder;*
- *Bushfire Act 1954 and Regulations thereunder;*
- *Control of Vehicles (Off Road Areas) Act and Regulations thereunder;*
- *Caravan Parks and Camping Act 1995 and Regulations thereunder;*
- *Town Planning Act 1928 (sic).*

Statutory Requirement

Section 5.18 – Register of Delegations to Committees - of the *Local Government Act 1995* states:

A local government is to keep a register of the delegations made under this Division and review the delegations at least once every financial year.

Section 5.46 of the *Local Government Act 1995* states:

- (1) *The CEO is to keep a register of the delegations made under this Division to the CEO and to employees.*
- (2) *At least once every financial year, delegations made under this Division are to be reviewed by the delegator.*

Section 5.42 of the ***Local Government Act 1995*** provides:

5.42. Delegation of some powers and duties to CEO

- (1) *A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under —*
 - (a) *this Act other than those referred to in section 5.43; or*
 - (b) *the Planning and Development Act 2005 section 214(2), (3) or (5).*

** Absolute majority required.*

- (2) *A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.*

Section 29 of the **Dog Act 1976** provides:

29. Power to seize strays, etc.

- (1) *A local government shall, in writing, appoint persons to exercise on behalf of the local government the powers conferred on an authorised person by this Act.*
- (2) *No proceedings, whether civil or penal, shall lie against —*
 - (a) *any person assisting an authorised person or a police officer, at his request and in accordance with his directions; or*
 - (b) *the owner or occupier of any premises for the time being used to detain a dog pursuant to this Act, in respect of any act, matter or thing done or omitted to be done in good faith for the purposes of carrying out the provisions of this Act.*

Section 14B(1) of the **Bush Fires Act 1954** includes the following definition:

***authorised person** means a bush fire liaison officer or another person who is given an authorisation and includes a person acting under an authorised person's orders and directions under section 13(6);*

Numerous sections of the *Bush Fires Act 1954* provide an authorised person with specific statutory powers.

Sections 3 and 38 of the **Control of Vehicles (Off-road Areas) Act 1978** provide:

3. Terms used

- (1) *In this Act unless the contrary intention appears —*
authorised officer means a person to whom section 38(1) applies;

38. Authorised officers, who are, functions of etc.

- (3) *A local government may by resolution appoint —*
 - (a) *any employee of the local government; and*
 - (b) *where the Minister by notice published in the Government Gazette authorises the local government to do so, any member of the council of that local government,*

to be an authorised officer for the purposes of this Act either in respect of the whole of its district or any part thereof defined in the appointment.

Sections 5(1) and 17(1) of the **Caravan Parks and Camping Grounds Act 1995** provide:

5. Interpretation

- (1) *In this Act, unless the contrary intention appears —*
authorised person means an authorised person appointed under section 17;

17. Appointment of authorised person

- (1) *The chief executive officer of the Department or a local government —*
 - (a) *may appoint such persons to be authorised persons for the purposes of this Act as the chief executive officer or the local government considers necessary;*

Sections 5 and 26 of the **Litter Act 1979** provide:

5. Terms used

(1) *In this Act, unless the contrary intention appears —*
authorised officer means a person to whom section 26(1) applies;

26. Authorised officers, appointment and jurisdiction of etc.

(1) *For the purposes of this Act an authorised officer is —*
 (c) *within the district of a local government, any person who is —*
 (i) *a member of the council of the local government; or*
 (ii) *an employee of the local government; or*
 (iii) *an honorary inspector appointed by the local government under section 27AA.*

Issues identified

Probity Auditors were unable to establish when the last review of delegations to committees had occurred or whether a Register of Delegations to committees was kept by the Shire as required by s 5.18 of the Act.

The electronic record of “one off” delegations was not included in the Shire’s Register of Delegations. A record of all delegations to the CEO and to employees is to be kept in the Register of Delegations (the Register). This issue was raised with the CEO at the time of the visit and it was indicated that steps would be taken to include “one off” delegations in the Register.

A number of other anomalies were found in the delegations contained in the Register which are in need of addressing.

It is noted that some delegations in the Register are either unnecessary as the performance of such a power or duty is already provided for in the legislation or the power or duty is not within the Council’s responsibility, which is outside the scope of the Council to delegate.

For example, delegation 1020 – “Staff Employment” states that it is the function of Council *to employ such persons as the Council believes are necessary to enable the functions of the local government and the functions of Council to be performed.* This is not a function of Council to delegate as the Act already provides for the functions of the CEO to include that he or she *be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees).*

Delegation 1022 – “Contract – Senior Employees” states that *the employment of a person who is designated as a senior employee is to be governed by a written contract in accordance with this section.* As this is already a legislative requirement under section 5.39(1) of the Act, this delegation is unnecessary.

Other matters include:

- Some legislative references are either not directly relevant to the delegation or not up to date;
- There are instances where the Council has delegated matters to the Shire President when the Act only allows for delegation to the CEO;

The Council's power to delegate to the CEO is limited to exercising powers or discharging duties under the *Local Government Act 1995* or the *Planning and Development Act 2005* section 214(2), (3) or (5). The *Shire of Carnarvon Town Planning Scheme No 10* at section 8.9 also provides for the Council to delegate to the CEO, any of its powers under the Scheme.

The *Town Planning and Development Act 1928* was repealed in 2005 and replaced with the *Planning and Development Act 2005*. While the Council can delegate to the CEO certain matters under the *Planning and Development Act 2005*, it is likely that this has not occurred given the incorrect head of power nominated in the delegation.

Four of the five other Acts nominated in the delegation all require appointment of 'authorised persons' or 'authorised officers' to carry out duties under or enforce provisions of those Acts. Appointments of authorised officers or authorised persons under these Acts can only be by the Council.

Conclusion

The Register of Delegations is non-compliant as it did not include numerous one-off delegations to the CEO, and the standard of information recorded in the Register requires improvement.

Probity auditors identified a resolution of the Council (Item 8.4.2 26 February 2013 ordinary council meeting) to appoint two officers as authorised officers under the above Acts and other legislation. It is not known whether all officers exercising a power or duty under these Acts have been formally appointed by the Council as authorised officers or authorised persons. If appointments have not been validly made by the Council any actions taken by such persons may not be valid or enforceable.

Persons properly authorised to enforce or take action under legislation usually enjoy legal protection from any action taken by a person aggrieved or affected by the actions of the person authorised. This statutory protection may not exist where persons have not been properly authorised by the Council.

Recommendation: 7

That the Council immediately review all appointments of authorised persons or authorised officers to ensure that appointments are properly made.

Recommendation: 8

That the Council obtain legal advice as to the validity of any actions or decisions taken by persons who may not have been properly authorised or appointed by the local government, to take those actions or decisions.

Recommendation: 9

That the CEO review the Shire's Register of Delegations within the next three months in order to improve the standard of information recorded in the Register and to correct the type of anomalies identified in this report.

10. MEETING STRUCTURE AND PROCESS

The Council maintains a mixed number of committees and working groups in order to support its governance decision making processes. A number of working groups meet on an ad-hoc basis with some committees being disbanded and occasionally replaced by a working group. It was observed that following Council meetings, elected members retire to a confidential strategic projects briefing forum where they are briefed by senior staff on various matters

10.1 Committees and Working Groups

Information about the operation of this structure was found to be inconsistent which made it difficult to clarify the functioning of the various committees and working groups. A senior staff member advised that there was no one employee in control of the structure which appeared to lack co-ordination in the operation and function of the process.

A Shire of Carnarvon document was provided to a member of the Audit team titled "Council Committee and Working Group Profiles" (CCWGP) dated as at October 2011. This document contained a list of all the Council's committees and working groups and details on:

- Name of the Committee or Working Group;
- Purpose;
- Meeting Frequency;
- Whether it has delegated authority;
- Membership;
- Quorum; and
- Notes (if any)

According to the CCWGP document the following committees have delegated authority, but a senior member of staff subsequently advised that only one committee had delegation which is the Community Growth Fund Committee.

- Management Review Committee;
- Civic Centre Management Committee (now disbanded); and
- Awards Committee;

It is understood that the Shire is planning to advertise the meeting dates of the Community Growth Fund Committee as the Act provides that any committee with delegated authority needs to be open to members of the public who are permitted to attend the committee meetings.

Statutory Requirement

Section 5.8 of the Act states:

A local government may establish committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.*

** Absolute majority required.*

Section 5.16 of the Act states:

Under and subject to section 5.17, a local government may delegate to a committee any of its powers and duties other than this power of delegation.*

** Absolute majority required.*

Section 5.23 of the Act states:

- (1) *Subject to subsection (2), the following are to be open to members of the public —*
- (a) all council meetings; and*
 - (b) all meetings of any committee to which a local government power or duty has been delegated.*

Section 7.12 of the Act states:

- (2) *Without limiting the generality of subsection (1), a local government is to meet with the auditor of the local government at least once in every year.*

Regulation 16 of the *Local Government (Audit) Regulations 1996* prescribes the functions of the Audit Committee as follows:

16. *An audit committee —*
- (a) is to provide guidance and assistance to the local government —*
 - (i) as to the carrying out of its functions in relation to audits carried out under Part 7 of the Act; and*
 - (ii) as to the development of a process to be used to select and appoint a person to be an auditor; and*
 - (b) may provide guidance and assistance to the local government as to —*
 - (i) matters to be audited; and*
 - (ii) the scope of audits; and*
 - (iii) its functions under Part 6 of the Act; and*
 - (iv) the carrying out of its functions relating to other audits and other matters related to financial management; and*
 - (c) is to review a report given to it by the CEO under regulation 17(3) (the CEO's report) and is to —*
 - (i) report to the council the results of that review; and*
 - (ii) give a copy of the CEO's report to the council.*

Regulation 17 of the *Local Government (Audit) Regulations 1996* prescribes that the CEO is to review certain systems and procedures as follows:

- (1) *The CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to —*
- (a) risk management; and*
 - (b) internal control; and*
 - (c) legislative compliance.*

- (2) *The review may relate to any or all of the matters referred to in subregulation (1)(a), (b) and (c), but each of those matters is to be the subject of a review at least once every 2 calendar years.*
- (3) *The CEO is to report to the audit committee the results of that review.*

Issues Identified

Information in Council documentation is inconsistent and not up to date in relation to the number of committees and working groups and their operation.

It is considered that due to the inconsistency in the information contained in documents kept on the decision making structure combined with a lack of central record keeping control over the process, there is potential to overlook legislative compliance and standards of probity in relation to the operation of the Shire's committees and working groups. For example, without sufficient clarification on which committees have delegated authority, a particular committee may not be in compliance with the requirements under the Act, especially in reference to advertising its meetings or other legislative requirements placed on committees.

Further uncertainty about the function of working groups is created, when for example Council at its September 2011 meeting appears to delegate a Council function to its Robinson Street/Fascine Redevelopment Working Group as follows:

FC23/9/11

COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION

Cr Burt/Cr Smith

2. *Council authorise working group to commence the development of detailed tender specifications and tender process.*

**CARRIED
F8/A0**

It is acceptable for the Council to request a working group to provide a service as long as the work undertaken by the working group is then referred back to the Council to endorse or adopt. The above matter was next considered by the Council in December 2011 (OCM item 8.1.1.1) when the tender was awarded. The development of the detailed tender specifications and tender process appears to have also been actioned by the working group and not referred back to Council to endorse or adopt.

There is also concern that working groups of Council are making determinations and giving directions that are decision based. For example, at Item 8.3.3.4 *Proposed Amendments – Blowholes Master Plan 2008* included in part 3 of the Council resolution is the decision to:

Endorse the formation of the Blowholes Implementation Working Group to replace the Blowholes Tourist Advisory Committee (BTNAC) with the following representation and grant delegation to this group (including delegation to the CEO to award contracts ...) (emphasis added)

Another example found in the Meeting Notes of the Land Development Working Group Meeting of 1 November 2012 refers to actions under the heading *Recommendations and Priority Actions (if any) – Agenda Items/s to Council:*

3.0 Staff Housing

3.1 The group acknowledged the merits of this property (lot 668 Mindirra Cres) as suitable for staff housing and requested an offer to purchase be lodged with negotiations commencing at \$135,000 ...

7.1 Reference 3.1 – Action – Director of Corporate and Community Services is requested to proceed with an offer to purchase lot 668 Mindirra Crescent with negotiations commencing at \$135,000 and land purchase (including funding) being subject to final endorsement by Council.

An offer to purchase property is a legal binding agreement and should not be entered into prior to a Council decision to approve the land transaction.

Subsequent endorsement of the working groups' action by Council is not appropriate and is committing Council to expenditure that has not been properly authorised. Any action that is taken should be resolved by Council in the first instance. This situation is of concern when the Shire's Schedule of Councillor Committee Membership as at 17 May 2013 lists at least 25 working groups as making up the Shire's decision making structure. It is considered that with this number of working groups alone, without taking into consideration Council Committees, it would be a difficult structure to manage and control.

There is potential for elected members who are members of working groups to be involved in influencing working groups' recommendations on matters dealt with by the group without disclosing an interest, but subsequently making financial interest declarations on the same matters when presented to Council.

Whilst it is accepted that there is no legislative requirement for those declarations to be made at working group meetings, it would reflect poor standards of transparency and ethical behaviour.

10.2 Function of the Shire's Audit Committee

The Audit Report completed by the Shire's Auditors for the year ended 30 June 2012 included a Management Report that raised a matter concerning the Shire's failure to comply with Section 7.12A(2) of the Act as it did not meet with the auditor during the 2011/2012 financial year.

This is a fundamental requirement under the Act and the Shire's failure to meet with the auditor again demonstrates a lack of control and co-ordination in relation to the operation of the Shire's Committees.

The Shire's CCWGP document describes the purpose of the Shire of Carnarvon Audit Committee as:

In accordance with S.712a of the local Government Act 1995, and

1. *Carrying out its (council) functions in relation to audits under Part 7 of the Local Government Act 1995 and the Local Government (Audit) Regulations.*
2. *The reporting of financial information, application of Australia/International Accounting Standards and the assessment of the adequacy of the management of financial risk.*

It should be noted that an amendment was effected to the *Local Government (Audit) Regulations 1996* in February 2013 which expanded the functions of the Audit Committee.

The Committee is now to review a report given to it by the CEO under regulation 17(3) which is to report to the Council the results of that review and provide a copy of that report to Council.

The review undertaken by the CEO is to examine the appropriateness and effectiveness of the local government's systems and procedures in relation to:

- *risk management; and*
- *internal control; and*
- *legislative compliance.*

The review may relate to any or all of the matters referred to in subregulation (1)(a), (b) and (c), but each of those matters is to be the subject of a review at least once every 2 calendar years.

The CEO is to report to the audit committee the results of that review.

Whilst it is acknowledged that the review is to be conducted at least once every 2 calendar years, it is suggested that in view of the issues raised in this report and to set a benchmark for future reviews the CEO undertakes a review in accordance with regulation 17 no later than 31 December 2013.

10.3 Clarity in Council Motions

Statutory Requirement

Regulation 11 (c) and (d) of the *Local Government (Administration) Regulations 1996* states:

11. *The content of minutes of a meeting of a council or a committee is to include —*
 - (c) *details of each motion moved at the meeting, the mover and the outcome of the motion; and*
 - (d) *details of each decision made at the meeting.*

Issue Identified

Where a local government has delegated to the CEO the power to make payments from the Municipal fund and Trust fund, a detailed list of payments made has to be submitted to the Council.

At the 28 May 2013 ordinary meeting of Council (*Item 8.2.2 Financial Activity Statement – 30 April 2013*) where the Council resolved (in part):

“That Council

- 1 Receive the Statement of Financial Activity covering the period April 2013.*
- 2 Receive the following Budget variations – ...”*

A list of 17 budget increases and/or budget decreases was included under point 2 of the resolution. The intention was to amend the budget for the 17 items listed; however the Council only ‘received’ the variations and did not ‘authorise’ or ‘approve’ the variations to budget.

A list of payments made by the CEO under delegated authority of the Council was submitted to the 25 June 2013 ordinary meeting of Council (*Item 8.2.1 Accounts for Payment*), where the Council resolved (in part):

“That the accounts paid to 31 May 2013 as listed in Schedule covering vouchers numbered from –

<i>BD1409</i>	<i>To</i>	<i>BD1409</i>	<i>Muni</i>	<i>\$1,648.66</i>
<i>44287</i>	<i>To</i>	<i>44350</i>	<i>Muni</i>	<i>\$144,199.00</i>
<i>EFT11167</i>	<i>To</i>	<i>EFT11368</i>	<i>Muni</i>	<i>\$11,893,943.32</i>

Totalling \$12,039,790.09 be endorsed.”

Conclusion

It is considered that there is an excessive number in the combination of committees and working groups that form part of the Shire’s decision making governance structure that are not being properly administered and controlled. Shire officers advised that the Department of Regional Development and Lands (RDL) insisted on working groups for every project. However, RDL has advised that working groups were not a requirement of funding agreements; only that reports have to be submitted to working groups or committees – where these exist.

This situation has led to instances of non-compliance and lowering of standards of integrity in the Council’s decision making processes together with the inappropriate use of working groups to initiate Council decision based actions.

The Council appears to have made delegations to working groups that have not been formally established as committees.

In addition, there have been instances where working groups have acted without delegation which is outside of their authority.

It is likely that confidential strategic projects briefing forums are also used to provide elected members with information that should be discussed in open Council

meetings. In this regard, the Deloitte's audit report commissioned by RDL contained some serious findings in relation to the control and management of key systems and procedures around grant funded projects and non-compliance with funding conditions. These included:

- Weaknesses of the state of controls creating uncertainty as to the nature of significant expenditures
- The Shire does not have adequate systems, policies and procedures in place to support compliance with grant funding agreements
- Instances of non-compliance (with grant funding agreements) were identified
- The Shire needs to build capacity in the areas of people, processes and systems
- Has not been suitably structured to manage multiple grants concurrently, with core administrative functions, such as record keeping and filing, not maintained to a standard that is expected of a public sector organisation

While probity auditors were advised that all members of the Council were provided with a copy of the Deloitte's report, this has never been formally presented to the Council, denying the community access to information that the audit was undertaken and on the Shire's governance and financial management practices.

Every effort must be made to ensure that all decisions of the Council are in the form of motions that are clear in their intent and enable a person to understand what has been decided.

In dealing with Item 8.2.2 on 28 May 2013, the Council only received budget variations and did not authorise any amendment to the budget.

In dealing with Item 8.2.1 on 25 June 2013, the Council was asked to endorse the payments. However, as all payments had been made under delegation the Council should only receive or note the payments made.

Recommendation: 10

That Council direct the CEO to undertake a review no later than 31 December 2013 in accordance with Regulation 17 of the *Local Government (Audit) Regulations 1996* and to report the results of that review to the Shire's Audit Committee for its review with the Committee reporting the results to Council and provide the Council with a copy of the report.

Recommendation: 11

As part of that review, the CEO to include a review of the Council's decision-making structure in relation to its system of committees and working groups with the view to introducing a more effective process for the control and management of the system which includes improved record keeping practices and probity/accountability measures. Part of that review should include a rationalisation of the number of working groups and the use of committees where decision-based action is required.

Recommendation: 12

That Council provide a copy of the report prepared by the CEO (under recommendation 10) to the Director General of the Department of Local Government and Communities along with details of its consideration of the results of CEO's report and the action, if any, it has taken or it proposes to take in addressing the findings of the report.

Recommendation: 13

Council ensure that all resolutions are in a form that is clear in its intent.

11. FINANCIAL INTEREST REGISTER – DISCLOSURES AT MEETINGS AND IN RETURNS

The CEO keeps Registers of Financial Interests that contains the Primary and Annual Returns for Council members and employees. The Register also contains declarations of interest for financial interest disclosure made at meetings. All current returns for Council members and employees were contained in the Registers.

Statutory Requirement

Section 5.65 of the Act States:

- (1) *A member who has an interest in any matter to be discussed at a council or committee meeting that will be attended by the member must disclose the nature of the interest—*
- (a) *in a written notice given to the CEO before the meeting; or*
 - (b) *at the meeting immediately before the matter is discussed.*

Section 5.68(1) of the Act states:

- (1) *If a member has disclosed, under section 5.65, an interest in a matter, the members present at the meeting who are entitled to vote on the matter —*
- (a) *may allow the disclosing member to be present during any discussion or decision making procedure relating to the matter; and*
 - (b) *may allow, to the extent decided by those members, the disclosing member to preside at the meeting (if otherwise qualified to preside) or to participate in discussions and the decision making procedures relating to the matter if —*
 - (i) *the disclosing member also discloses the extent of the interest; ...*

Section 5.73 of the Act states:

A disclosure under section 5.65 or 5.70 is to be recorded in the minutes of the meeting relating to the disclosure.

Section 5.75 of the Act states:

- (1) *A relevant person other than the CEO must lodge with the CEO a primary return in the prescribed form within 3 months of the start day.*

- (2) *A CEO must lodge with the mayor or president a primary return in the prescribed form within 3 months of the start day.*

Section 5.76 of the Act states:

Each year, a relevant person other than the CEO must lodge with the CEO an annual return in the prescribed form by 31 August of that year.

Section 5.88 of the Act states:

- (1) *A CEO is to keep a register of financial interests.*
- (2) *The register is to contain —*
- (a) *the returns lodged under section 5.75 and 5.76; and*
 - (b) *a record of the disclosures made under sections 5.65, 5.70 and 5.71, and be in the form that is prescribed (if any).*

Regulation 11(2) of the *Local Government (Rules of Conduct) Regulations 2007* states:

- (2) *A person who is a council member and who has an interest in any matter to be discussed at a council or committee meeting attended by the member must disclose the nature of the interest —*
- (a) *in a written notice given to the CEO before the meeting; or*
 - (b) *at the meeting immediately before the matter is discussed.*

Issue Identified

11.1 Disclosure of Interests in Returns

Although all Council member returns were completed, up to date and contained in the Register, the quality of the information recorded in the returns was below standard.

The following anomalies and discrepancies were noted in elected members' returns:

- Undated Start Day in a Primary Return;
- Unsigned Annual Return for the 2006/2007 return period;
- Blank sections left in Annual and Primary Returns;
- Incorrect date for completion of Annual Return i.e. dated at the commencement of the return period not the end;
- Blank or no notation/reference in sections of the Annual Return;
- Insufficient detail concerning real property interests that identifies address of property;
- Information on current interests not being clearly disclosed i.e. where income sources remain unchanged no clear declaration that interests are still current in more recent returns;

Conclusion

Elected members' Primary and Annual Returns are often incomplete and not prepared to the extent required by the Act.

11.2 Disclosure of Interests at Meetings

The recording of elected member declarations of interest at meetings was examined and it was found that although the system for recording the declarations is in order and appeared to be working properly (i.e. disclosures are being recorded in the minutes of Council meetings and the Register of Financial Interest) there are some issues with the content of the information being recorded.

Those issues are as follows:

- The nature of the impartiality interest was not recorded (refer minutes of OCM 23 April 2013 Item 8.3.2);
- The extent of the interest was not recorded when a decision had been made to grant participation approval in relation to a declaration of financial interest (refer minutes of OCM 22 May 2012 Item 8.1.1.1);
- Action by two elected members in disclosing the same impartiality interest in the same matter with one member leaving the room and the other member staying in the room to participate in the decision making process. Note: the legislation only requires a disclosure of interest and the recording of that disclosure. It does not require a member to leave the room (refer minutes of OCM 26 February 2013 Item 8.2.9)

Conclusion

Information recorded in the minutes in relation to disclosures of interest is not compliant with the Act and the standard for the completion of the information in financial interest returns requires improvement.

Recommendation: 14

The CEO ensures that the correct details for each disclosure of interest are recorded in the minutes of Council meetings in order that the information provided is compliant with the Act.

Recommendation: 15

The CEO implements a process that checks for discrepancies in the manner in which information is completed in Financial Interest Returns with any discrepancies being brought to the relevant elected member's attention for correction.

12. FINANCIAL MANAGEMENT CONTROLS AND PROCEDURES

Senior staff were interviewed regarding various financial procedures, controls and processes to establish what controls were in place and to identify any risks or weaknesses in controls. The interviews used a checklist based on *Section 7 – Internal Control Framework* of the *WA Local Government Accounting Manual* published by the Department.

Senior staff advised that documented procedures exist for all financial processes. An extract from the Creditors Procedure Manual confirmed the detailed steps that should be taken for various tasks such as:

- Processing invoices
- Verification of purchase orders
- Creditor setup or modification
- Statement reconciliation
- Cheque list report
- Private works setup and completion
- Selection of invoices for payment processing
- Payment processing – cheque run
- Payment processing – EFT run
- Daily tasks
- Monthly procedures

A fundamental principle of internal control is the segregation of duties which relies on the premise that the risk of two or more officers making the same error or colluding to defraud the local government is less than an individual act.

It is recognised that small local governments with less staff and limited resources have a reduced capacity to segregate duties. In the absence of full segregation the increased involvement of the CEO and other knowledgeable senior staff in checking transactions and controls takes on a greater significance in reducing the risk that material error will go undetected and uncorrected. The primary internal control weakness in these situations is the comparative ease with which senior officers may override the internal controls.

Management override may be mitigated by the establishment of well documented procedures and policies with systems to ensure these policies and procedures are followed and regularly reviewed.

In March 2012, UHY Haines Norton conducted a limited assurance review of the appropriateness and effectiveness of the Shire of Carnarvon's financial management systems and procedures. The outcome of the review was provided to the Shire in May 2012. While the report was made solely to the CEO to assist him discharge his responsibilities under Regulations (see regulation 5(2)(c) under Statutory Requirements below), it has been referenced to confirm systems described by senior officers during the probity audit.

Statutory Requirement

Regulation 5 of the *Local Government (Financial Management) Regulations 1996* provides:

5. CEO's duties as to financial management

- (1) *Efficient systems and procedures are to be established by the CEO of a local government —*
 - (a) *for the proper collection of all money owing to the local government; and*
 - (b) *for the safe custody and security of all money collected or held by the local government; and*

- (c) *for the proper maintenance and security of the financial records of the local government (whether maintained in written form or by electronic or other means or process); and*
 - (d) *to ensure proper accounting for municipal or trust —*
 - (i) *revenue received or receivable; and*
 - (ii) *expenses paid or payable; and*
 - (iii) *assets and liabilities; and*
 - (e) *to ensure proper authorisation for the incurring of liabilities and the making of payments; and*
 - (f) *for the maintenance of payroll, stock control and costing records; and*
 - (g) *to assist in the preparation of budgets, budget reviews, accounts and reports required by the Act or these regulations.*
- (2) *The CEO is to —*
- (a) *ensure that the resources of the local government are effectively and efficiently managed; and*
 - (b) *assist the council to undertake reviews of fees and charges regularly (and not less than once in every financial year); and*
 - (c) *undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and not less than once in every 4 financial years) and report to the local government the results of those reviews.*

12.1 Purchasing Authority

The Council has delegated purchasing authority to the CEO in delegation 3004 – *Council Purchasing Authority*. This also details the CEO's delegation to employees and individual purchasing limits that apply to each person (position). All persons with purchasing authority were recently called into a training briefing where purchasing practices were explained.

All aspects of the IT system are password protected and provide for different levels of access with only three persons with access to change the system. All systems have an audit trail of changes made. Purchase orders are system generated and pre-numbered. Prior to issuing purchase orders, the originator checks available budget and records this on the purchase order copy so that expenditure only occurs within budget.

The system and processes as described seem reasonable and appropriate.

12.2 Payables

The systems as described apply necessary controls, authorisations, validations to prevent duplicate payments and reconciliations to operate effectively. This is supported by the Creditors Procedure Manual document provided. Independent review is undertaken by the Manager Financial Services.

The UHY Haines Norton review confirmed that in general, controls over payments and payables are operating effectively and are appropriate for the Council's current scope of operations.

Issues Identified

Notwithstanding the above, probity auditors identified instances where purchase orders were issued for goods for a value described as "Total Including GST" and Tax Invoices paid have had GST added to the value shown on the purchase order. Section "6 Purchasing and Procurement" of this report, details issues relating to purchases involving Carnarvon Hardrock Limestone Quarry Pty Ltd. The following discrepancies between purchase orders and Tax Invoices were identified for this company:

Purchase Order			Tax Invoice			
Date Issued	PO Number	Total Including GST	Date	Tax Invoice No	Total Including GST	GST in addition to PO
02/07/2012	17856	\$21,600	7/07/2012	00000070	\$23,760	\$2,160
22/04/2013	19829	\$29,120	22/04/2013	00000077	\$32,032	\$2,912
22/04/2013	19831	\$38,400	22/04/2013	00000079	\$42,240	\$3,840
22/04/2013	19828	\$26,080	22/04/2013	00000078	\$28,688	\$2,608

The fact that several of the purchase orders were dated the same date as the Tax Invoice may indicate that goods were supplied on the day the order was made. Alternatively, purchase orders may not have been issued until after the Tax Invoice was received and dated the same as the purchase orders. In any event, the total of the Tax Invoice does not seem to be checked with the value of the Purchase Order when being processed for payment.

12.3 Payments Made

The CEO can only make payments from the Municipal or Trust fund if the Council has delegated this power. Where delegation has been made, the CEO is to prepare a list of payments made and submit this to the Council.

Delegation 3001 – Payment of Accounts lists the function to be performed as:

The Chief Executive Officer and the Director, Corporate & Community Services are delegated authority to sign Council cheques and utilise Electronic Banking Facilities jointly for the payment of budgeted items of expenditure.

The CEO has delegated this function to the Director, Corporate & Community Services. The CEO exercises the above as a delegation and lists of cheques issued and EFT payments made are presented to Council on a monthly basis for Council to 'be endorsed'.

Issues Identified

Senior officers advised that other officers and elected members can sign cheques (confirmed by the Carnarvon ANZ Branch Manager) and that there are three officers with electronic keys used to log on to the ANZ bank to effect EFT payment transfers. These include the CEO, Director, Corporate & Community Services and Manager Financial Services.

12.4 Revenue

The systems as described apply necessary controls, authorisations and reconciliations to operate effectively. Adjustments to debtors are authorised by the Director, Corporate & Community Services. Aged listings are reconciled monthly and reviewed by the Manager Financial Services and often by the Director, Corporate & Community Services.

12.5 Cash/Receipting

The systems as described including issuing system generated pre-numbered receipts and daily banking of monies appear satisfactory. Monthly bank reconciliations are undertaken by the Manager Financial Services and verified by the Director, Corporate & Community Services (although see issues identified in section 12.12 of this report). The UHY Haines Norton review confirmed that controls and procedure were considered to be operating effectively and are appropriate for Council's current scope of operations.

12.6 Petty Cash

This is operated on an 'imprest' system and subject to a documented procedure number *F008 – Petty Cash and Business Till Floats*, which as described by officers and documented is satisfactory. The UHY Haines Norton review concluded systems and procedures were being properly controlled and maintained.

12.7 Investments

Subject to documented procedure which is under review given recent regulatory restrictions on investments. Details of investments are reported to Council on a monthly basis. However, see comments under section 8 of this report.

12.8 Payroll

The payroll officer also has a HR role but does not make decisions on appointments or hiring staff and is therefore independent of that process. Employees can only be included on the payroll on the basis of a written offer of employment letter. This also confirms pay rates to be used. Changes to pay rates are based on written advice provided by the CEO to the payroll officer.

All employees are required to complete timesheets which form the basis of fortnightly payroll preparation. A letter of termination is issued to all employees severing employment with the Shire and after their final payment is made a termination date is entered which prevents any further payment being made.

UHY Haines Norton undertook sample testing to ensure that employees existed, pay rates were correct, deduction authorities were held, timesheets were properly

completed and authorised, hours worked were authorised and allocation of costs were reasonable and correctly posted. They concluded that the system as described and its supporting controls were found to be operating effectively.

12.9 Corporate Credit Cards - Staff

ANZ credit card statements indicate that credit cards have been issued to five officers with an overall credit limit of \$13,000. Transactions for the four month period January 2013 to April 2013 were reviewed with total monthly transactions over this period within the range of \$854.96 to \$1864.57.

As credit cards are issued to relevant staff members they are provided with a copy of the Shire's policy on credit card use. They do not have to sign to agree to abide by the policy, but each month they have to sign that expenses were appropriately incurred for business purposes.

Statutory Requirement

Section 6.20 of the Local Government Act 1995 provides (in part)

6.20. Power to borrow

- (1) *Subject to this Act, a local government may —*
 - (a) *borrow or re-borrow money;*
 - (b) *obtain credit; or*
 - (c) *arrange for financial accommodation to be extended to the local government in ways additional to or other than borrowing money or obtaining credit, to enable the local government to perform the functions and exercise the powers conferred on it under this Act or any other written law.*
- (2) *Where, in any financial year, a local government proposes to exercise a power under subsection (1) (**power to borrow**) and details of that proposal have not been included in the annual budget for that financial year —*
 - (a) *unless the proposal is of a prescribed kind, the local government must give one month's local public notice of the proposal; and*
 - (b) *the resolution to exercise that power is to be by absolute majority.*

Regulation 11 of the *Local Government (Financial Management) Regulations 1996* provides (in part):

11. Payment of accounts

- (1) *A local government is to develop procedures for the authorisation of, and the payment of, accounts to ensure that there is effective security for, and properly authorised use of —*
 - (a) *cheques, credit cards, ...*

Issue Identified

The Council has a formal policy; *F001- Corporate Credit Card* in place which details the control and use of cards. The policy was amended by the Council on 27 February 2007 and includes conditions under which cards can be used. The policy is under review and a draft policy with handwritten notations of proposed changes was provided to probity auditors.

The current policy provides:

“3. The corporate credit card limit will be set by Council and reviewed as required. The current limit on the Shire of Carnarvon corporate credit card is \$4000.”

The handwritten notation strikes-out the “\$4,000” and proposes to replace this with “to be determined by the CEO.”

12.10 Bank Accounts

Municipal, Trust and Reserve bank accounts are maintained in accordance with requirements of the Act and Regulations.

In addition, the Shire maintains a Civic Centre account, a Visitors Centre account and is signatory to a Landcare account.

12.11 Bank Account Signatories

The Shire could not provide a copy of bank account signatures authorities from its records and details were sourced directly from the Carnarvon ANZ Bank Branch Manager on 26 June 2013.

The ANZ Bank advised that the following persons are recorded as signatories to bank accounts:

Municipal Fund Bank Account – 4334-09426

M Battilana
K Brandenburg
C Brown
I D’Arcy
M Toomalatai
B Wall

Trust Fund Bank Account – 4334-09434, and Visitors Centre Bank Account – 3781-67777

M Battilana
K Brandenburg
C Brown
I D’Arcy
A Mills
M Toomalatai
B Wall

Various Term Deposits – 9680-50042, 9682-58433 & 9687-75502

M Battilana
K Brandenburg
N Ganzer
D Maslen
A Mills
M Toomalatai
B Wall

Issues Identified

The Shire was unable to produce records confirming who was authorised as bank signatories and has not exercised adequate controls over who can sign on bank accounts. In this regard:

- D Maslen was the former Shire President who has not been a member of Council since he unsuccessfully contested the October 2011 elections. He was still authorised as a signatory to three term deposits 20 months after his term on Council expired.
- A Mills was the former Executive Manager, Community Services who resigned from the Shire in approximately October 2012. She was still authorised as a signatory to three term deposits, the Trust Fund and Visitors Centre bank accounts eight months after she resigned from the Shire.
- B Wall was the former Director, Infrastructure Services who resigned from the Shire in approximately January 2013. He was still listed as a signatory to three term deposits, the Municipal Fund, Trust Fund and Visitors Centre bank accounts five months after he resigned from the Shire.

Delegation 3001 only provides for the CEO and Director, Corporate & Community Services to sign cheques and utilise Electronic Banking Facilities. However several elected members and other employees are listed as signatories to bank accounts and a third officer has access to EFT Bank log on passwords.

12.12 Bank Account Reconciliations

A file of bank reconciliations maintained in monthly order was provided for review. Senior staff advised that bank reconciliations are done on a monthly basis and verified by the Manager Financial Services and Director, Corporate and Community Services. The verification was noted on bank reconciliations reviewed.

Issues Identified

While there is evidence that bank reconciliations were undertaken each month, all were incomplete with no actual reconciliation being achieved. For example:

The reconciliation associated with Bank Statement No 507 included a system generated warning – *“The Bank Statement is out of balance with the General Ledger by \$2,616.51”*.

The bank reconciliation associated with Bank Statement No 697 included a similar warning – *“The Bank Statement is out of balance with the General Ledger by \$15,505.45”*.

The (incomplete) reconciliation for 31 July 2012 included unrepresented cheques dated 22 November 2011.

The UHY Haines Norton review commented that bank reconciliations for all accounts were not promptly and regularly prepared as required.

While not raised in the 2011/12 audit, auditors raised this in the 2010/11 audit management report, commenting that reconciliations at 30 June 2011 included a number of reconciling items that were not properly identified or bona fide. Once those reconciling items were cleared, auditors were satisfied that bank reconciliations were materially correct although the process was far from timely or efficient.

12.13 General Information Technology Controls

Senior staff advised that IT support services are provided under contract through a Geraldton based company – Market Creations. General controls include use of system passwords, access controls, data field validation, processing restrictions, reporting restrictions, audit trails, automatic daily back-ups, virus protection and other controls. The Manager Financial Services and Director, Corporate and Community Services provide limited internal onsite support.

12.14 Monthly Statement of Financial Activity

A required monthly statement of financial activity is included in the Council agenda each month in the required format and content. Material expenditure variances between year to date budget and year to date actuals given in the report are often just explained as “Under expenditure due to YTD Budget Allocation”.

The UHY Haines Norton report commented that material variances should be explained in the monthly Statement of Financial Activity.

12.15 Contract Management and Monitoring Expenditure against Budget

Included among the findings of the Deloitte’s audit of Royalties for Regions funded projects, undertaken on behalf of the Department of Regional Development and Lands were that:

- the Shire did not have a proper integrated contract management framework in place; and
- the Shire sustained a budget overrun on a particular project.

The audit management report on the Shire’s 2011/12 annual financial audit, reported that the Shire’s closing position at 30 June 2012 was \$813,953 less than the funds anticipated in the 2012/13 annual budget to be available at 1 July 2012.

The CEO advised that the Shire had identified the need for proper project management systems before the Deloitte audit and purchased project management software and implemented project management training for the staff. A senior officer confirmed that this system was purchased purely for grants administration and will implement the full system as time permits.

Probity auditors observed that the Shire has recently implemented a detailed financial reporting system for projects, with reports on the status of each project considered by the Executive Leadership Team on a fortnightly basis.

12.16 Proposed Differential Rating for 2013/14

Statutory Requirement

Section 6.32 of the *Local Government Act 1995* provides (in part):

6.32. Rates and service charges

(1) *When adopting the annual budget, a local government —*

(a) *in order to make up the budget deficiency, is to impose* a general rate on rateable land within its district, which rate may be imposed either —*

- (i) *uniformly; or*
- (ii) *differentially;*

(b) *may impose* on rateable land within its district —*

- (i) *a specified area rate; or*
- (ii) *a minimum payment;*

Differential general rates are subject to the requirements of s 6.33 of the Act, and minimum payments are subject to the requirements of s 6.35 of the Act (not reproduced here). Section 6.33(3) provides for Ministerial approval of a differential rate which is more than twice the lowest differential general rates imposed.

Section 6.36 requires a local government to give local public notice of its intention to impose differential general rates or a minimum payment applying to a differential rate, before imposing the rates. In this regard, section 6.36(3) provides:

(3) *A notice referred to in subsection (1) —*

(a) *may be published within the period of 2 months preceding the commencement of the financial year to which the proposed rates are to apply on the basis of the local government's estimate of the budget deficiency;*

Issue Identified

The Shire applied for Ministerial approval for UV-based differential general rates for 2013/14 in correspondence dated 6 May 2012 (sic). In considering this application it was established that local public notice had been given on 3 April 2013.

12.17 Integrated Planning and Reporting

Local governments are required to develop and adopt a Strategic Community Plan and Corporate Business Plan by 30 June 2013, so their contents can be taken into account when preparing the 2013-2014 annual budgets. The Strategic Community Plan, together with the Corporate Business Plan, will constitute the new Plan for the Future under the *Local Government Act 1995* from 30 June 2013 onwards.

The Corporate Business Plan activates the Strategic Community Plan. The Corporate Business Plan is developed through Asset Management, Workforce and Long Term Financial Plans as well as other informing plans. The Shire of Carnarvon adopted a Strategic Community Plan in December 2011.

Issues Identified

Senior staff advised that the Workforce Plan was under development by a consultant and close to finalisation. The Long Term Financial Plan was developed on a

regional basis by consultants in conjunction with the Shires of Exmouth and Shark Bay and expected to be finalised in the last week of June 2013. Officers advised that the Asset Management Plan had been adopted by Council on 25 June 2013.

The item on the ordinary meeting of Council agenda for 25 June 2013 (Item 8.2.4) presented the Shire of Carnarvon Draft Asset Management Improvement Plan with a recommendation to adopt an Asset Management Policy and Asset Management Strategy. The policy and strategy were adopted by Council. The improvement plan, strategy and policy will be the basis for developing Asset Management Plans.

No action had been taken on developing a Corporate Business Plan.

A request was made to the Shire on 1 July 2013 to advise the status of asset management planning. The Shire provided a brief response on 23 July 2013 indicating that the Roads Asset Management Plan was being finalised by consultants. There has been no advice on the status of plans for other asset classes.

The Shire has not completed its statutory Integrated Planning and Reporting requirements by 30 June 2013. Further, as the Corporate Business Plan has also not been finalised, the Shire's 2013/14 Annual Budget will not be based on the Corporate Business Plan as required.

12.18 Compliance Audit Return 2012

All local governments have to complete a (self-assessed) compliance audit return to be submitted to the Department by 31 March following the year to which the return relates.

Statutory Requirement

Section 7.13(1) of the Act provides for audit matters that may be prescribed in Regulations. Specifically s 7.13(1)(i) provides;

7.13. Regulations as to audits

(1) Regulations may make provision —

...

- (i) requiring local governments to carry out, in the prescribed manner and in a form approved by the Minister, an audit of compliance with such statutory requirements as are prescribed whether those requirements are —
 - (i) of a financial nature or not; or
 - (ii) under this Act or another written law.

Regulation 14 of the Local Government (Audit) Regulations 1996 provides in part:

14. Compliance audits by local governments

- (1) A local government is to carry out a compliance audit for the period 1 January to 31 December in each year.

(2) After carrying out a compliance audit the local government is to prepare a compliance audit return in a form approved by the Minister.

Issue Identified

The following responses were included among the Shire's responses to the 78 questions completed in the 2012 annual compliance return:

Delegation of Power / Duty				
No	Reference	Question	Response	Comments
1	s5.16, 5.17, 5.18	Were all delegations to committees resolved by absolute majority	Yes	June 12 OCM
11	s5.46(1)	Has the CEO kept a register of all delegations made under the Act to him and to other employees	Yes	

Tenders for Providing Goods and Services				
No	Reference	Question	Response	Comments
1	s3.57 F&G Reg 11	Did the local government invite tenders on all occasions (before entering into contracts for the supply of goods or services) where the consideration under the contract was, or was expected to be, worth more than the consideration stated in Regulation 11(1) of the Local Government (Functions & General) Regulations (Subject to Functions and General Regulation 11(2))	Yes	
8	F&G Reg 17	Did the information recorded in the local government's tender register comply with the requirements of F&G Reg 17	Yes	

Conclusion

No inappropriate use of credit cards was identified in the four months of transactions reviewed.

The Department of Local Government issued *Local Government Operational Guideline – Number 11 Use of Corporate Credit Cards* in September 2005 to guide the sectors increasing use of credit cards. The guideline suggested various issues that should be considered when developing policies and procedures for controlling credit cards.

While the Shire has a credit card policy this could be improved if all of the suggestions included in the guideline are incorporated into the policy. For example, the policy should provide for a formal use agreement to be signed by staff to whom a credit card is issued, acknowledging their responsibilities and undertaking to only use the cards in accordance with the policy.

Probity auditors were unable to confirm any authority of the Council to increase the credit card limit from \$4,000 to the current \$13,000 limit with ANZ bank. While the CEO can decide which officers are issued with credit cards, only the Council can exercise a power to borrow and the cards have to be issued within the card limit (currently \$4,000) set by the Council. The Act does not permit delegation of this role to the CEO (s 5.43(f)).

Bank reconciliations were incomplete and appear to have not been properly reconciled for some time despite signed verifications indicating that this had occurred. This was also raised as an issue by UHY Haines Norton in their report following a financial management review in March 2012. There seems to be an ongoing issue with the performance of bank reconciliations as this was raised in the 2010/11 audit management report and is still an issue in 2013.

Officers with authority to authorise payments, sign cheques and effect EFT transfers of funds also have involvement in reconciling bank accounts. It is recognised small local governments with less staff and limited resources have a reduced capacity to segregate duties. In the absence of full segregation the increased involvement of the CEO would assist in reducing the risk that material error will go undetected and uncorrected.

In accordance with s 6.36(3) of the Act, local public notice for proposed rates for 2013/14 cannot be published before 1 May ("*... within the 2 months preceding the commencement of the financial year ...*"). The Shire published its local public notice on 3 April 2013, before the statutory period allowed had commenced.

The proposed rates are to be based on the local government's estimate of the budget deficiency. When the Council adopted the proposed rates in March 2013 for local public notice, it was unlikely that the Shire's draft annual budget had been developed to a stage that a reasonable estimate of the budget deficiency had been established.

In addition, as unimproved values are reassessed every year and usually not made available to a local government until close to the end of the financial year, the Shire would not have accurate and up to date values on which to calculate a proposed rate in the dollar.

It is clear that a number of the Compliance Audit Return responses did not reflect what actually happened in 2012. While this may have been completed in good faith based on information thought to be correct, procedures need to be implemented to ensure that the return is completed accurately. Such procedures may go a long way to identify non-compliance and allow corrective action to be implemented at an earlier date.

Recommendation: 16

That the Shire immediately reviews and updates the list of persons authorised as signatories to bank accounts and implements a procedure to ensure that where changes in personnel occur that the authorisations are immediately amended.

Recommendation: 17

That bank reconciliations receive immediate and urgent attention to finalise reconciliations and that future reconciliations be completed no later than 14 days following the end of each month.

Recommendation: 18

That given the limited ability to segregate some duties, the CEO take on increased reviewing and verification roles; particularly relating to bank reconciliations to reduce the risk that material errors will go undetected.

Recommendation: 19

That the Council, through the Audit Committee, instruct the Shire's auditors to report on the effectiveness of cash receipting, bank reconciliation and payment practices and recommend processes to confirm that bank reconciliations are prepared in a correct and timely manner.

Recommendation: 20

That the Council, through the Audit Committee, instruct the Shire's auditors to review purchasing practices and recommend processes and controls to ensure that purchase orders are issued for values 'inclusive of GST' and that payments made on Tax Invoices only be for the value of the purchase order.

Recommendation: 21

That year to date budgets in future Monthly Statements of Financial Activity be more accurately determined so that meaningful explanations of material variances between year to date budgets and year to date actual results are reported.

Recommendation: 22

That the Council ensure that future local public notice of any proposal to impose differential general rates and minimum payments applying to differential rates is not given before 1 May and then only after valuation information is available and the draft budget has been completed to a stage where the budget deficiency and proposed rates can be reliably estimated.

Recommendation: 23

That the Council consider engaging an external independent person to undertake the completion of the Compliance Audit Return every 2 or 3 years to ensure that compliance has been achieved

Recommendation: 24

That Council Policy *F001 – Corporate Credit Card* be reviewed for Council's approval, to ensure that the policy considers all of the matters suggested in *Local Government Operational Guideline 11 – Use of Corporate Credit Cards*.

Recommendation: 25

That the Council immediately review the credit card limit to determine whether this should be adjusted to the credit level of \$13,000 provided by the ANZ Bank or whether cards should be withdrawn if that limit is not approved.

Recommendation: 26

That all elected members undertake appropriate training to build their capacity to understand and perform their roles and responsibilities under the Act.

13. CONCLUSION

It is considered that the main areas of concern identified in this Probity Audit relate to:

- Procurement and purchasing processes and procedures followed by the Shire including tendering;
- The Council decision making structure and practices;
- The standard and manner of general and statutory record keeping by the Shire, especially in relation to recording information in registers, such as the Register of Delegations, Tender Register and Register of Financial Interest;
- Statutory compliance in relation to the standard of information recorded and meeting processes;
- Council Policies which are in need of review due to the out of date information, references and relevancy of a number of policies; and
- Various financial management practices and procedures.

Shire officers and elected members raised the issue of enormous pressures that the Shire was under due to the largest flood in 64 years and 2010/11 from which the Shire is still recovering and the largest bush fire in 64 years in 2012 which over a period of four months diverted significant resources away from normal operations. This was not raised as an excuse, however the impact of these events on the Shire is noted.

The Shire was not compliant with regulations as it had awarded contracts for the supply of goods and services that exceeded the \$100,000 threshold without calling tenders. There were also instances identified where the Shire had not adhered to its purchasing policy guidelines.

While the Shire maintained various statutory registers, there were omissions from the Tender Register and Register of Delegations to the CEO that made them non-compliant with regulations. The probity audit did not establish whether a Register of Delegations to Committees exists and there was uncertainty on the part of the Shire as to which committees had delegation from Council.

Issues of unnecessary delegations and irrelevant delegations were identified. The latter related to appointment of authorised officers and authorised persons under various Acts and if those appointments have not been properly made, actions by those officers may not be enforceable and the officers may not enjoy statutory protection for their actions.

It is acknowledged that Council and the administration have in recent times been under considerable pressure to deliver the best outcomes for its community in terms

of infrastructure projects that have been made possible with Royalties for Regions funding. Whilst it is accepted that these projects have and will render improvements to facilities in the Shire and have been generally well received by the community, there is an indication that the Shire's internal governance processes have been neglected in areas of statutory compliance, decision making accountability and transparency, and adherence to sound processes in record keeping practices.

In what may have been a process to streamline and facilitate Council's decision making processes, a structure consisting of 25 working groups has been adopted in order to drive the working operations of the Shire to achieve desirable outcomes in response to the expenditure of funding opportunities presented to Council. As these working groups have not been established as formal committees of Council, no delegation could be made to them. However, the probity audit identified examples where working groups appear to have delegation from Council and where other working groups acted without the approval of Council. There are serious non-compliance issues with this and potential for breaches of the financial interest provisions of the Act to have occurred. While there is no legislative requirement for financial interest declarations to be made at working group meetings, there is potential for elected members on working groups to be involved in developing working groups' recommendations to the Council without disclosing interests but then subsequently disclosing an interest when the matter is considered by Council.

There is a risk that this process could cost the Shire of Carnarvon in overlooking its role and responsibilities of being publicly accountable and transparent by meeting its statutory obligations in a compliant manner. The probity audit found that fundamental processes and practices are deficient in meeting certain minimum standards required of a local government under the legislation.

The probity audit team members attended and observed the conduct of the Shire's Ordinary Council meeting of 25 June 2013. The meeting lasted 18 minutes and while questions were asked by elected members on several of the agenda items, no debate occurred on any of the 14 matters decided. This could reflect that the Council's processes and procedures are so effective and efficient that Council needs only to spend minimal time on discussing, debating and making decisions on matters of Council business. Conversely, this could indicate that the items presented to Council at its meeting are pre-determined and that Council is not driving the business of Council.

The operation of a confidential strategic projects briefing forum is also likely to affect open and transparent governance and accountability to the community as evidenced by the Deloitte's report not formally being considered by the Council.

In some cases Primary and Annual Returns submitted by elected members were found to be incomplete and not in accordance with the Act. In addition, the nature of an impartiality interest and the extent of a financial interest were not recorded in Council minutes when there was a requirement to do so.

The probity audit also identified that various policies of the Council had not been reviewed for several years. Unnecessary and out-dated policies were identified.

While many of the financial management and record keeping practices were acceptable for the operations of a Shire the size of Carnarvon, others did not meet required standards of good governance and internal control. These included payments of Tax Invoices for amounts that did not agree with the values of purchase orders issued, corporate credit cards issued for greater limits than authorised by the Council and no record of who was authorised to sign on various bank accounts.

Of real concern is the fact that three of the current bank signatories had not had any formal involvement with the Council for at least five months and in one instance, 20 months. Bank reconciliations had not been finalised in a timely manner; an issue raised by the auditor in 2010/11 and in a financial systems review in March 2012. There is a real risk that material errors may go undetected if bank reconciliations are not completed in a timely manner.

The Shire has not achieved full compliance with the Integrated Planning and Reporting process that develops the statutory plan for the future and the 2013/14 annual budget is unlikely to be based on the Corporate Business Plan as required. The Shire also gave local public notice of proposed differential general rates for 2013/14 outside of the statutory period permitted. In addition, four responses in the 2012 Compliance Audit Return were found to be incorrect.

Many of the matters identified in the Probity Compliance Audit supported some of the Deloitte's audit findings and concerns of Carnarvon business proprietors and residents.

The probity audit identified evidence of a range of statutory non-compliance, inappropriate decision-making processes, decisions taken outside of delegations or beyond statutory powers and inadequate record keeping.

The probity audit was not an exhaustive examination of all matters. Many of the matters on their own may not be serious issues. However, when considered together, the extent of non-compliance with the Act at both Council and officer level that was identified in the three days that the audit was undertaken is of significant concern.

Given this and the considerable pressures on the local government to deliver major grant funded projects, there are indications that the local government may not have the capacity to achieve a suitable level of compliance.

Recommendation: 27

That the A/Director General of the Department of Local Government and Communities presents the Probity Compliance Audit Report 2013 to the Council of the Shire of Carnarvon for its comment and response, within 28 days, on what action it proposes to take in implementing the report recommendations prior to determining what further action, if any, should be taken by the Minister and the Department on this matter.