



## Local Government Inspectorate

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Mr Eric Braslis  
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Dear Mr Braslis

### Governance Examination

I refer to the recent governance examination undertaken by the Local Government Inspectorate. The purpose of this letter is to provide you, in the attached report, with the outcomes of the examination and any issues identified and where appropriate, provide the council with recommendations for further action.

As highlighted in our original communication, the aim of this work is to promote higher standards of governance and encourage better practice across the sector. The Inspectorate would like to thank you and your staff for their cooperation throughout the examination.

Council is requested to respond to the matters raised in this letter by **Friday 5 April 2019**

Should you have any queries in relation to the matters raised please contact Senior Compliance Officer Peter Brasher on (03) 7017 8211 or [inspectorate@lgici.vi.gov.au](mailto:inspectorate@lgici.vi.gov.au).

Yours sincerely

**Ross Millard**  
**Manager Operations**

12 / 03 / 2019





# Golden Plains Examination 28 February 2019

## Local Government Inspectorate

Encouraging higher standards of integrity, accountability and transparency in local government  
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# **Golden Plains Shire Council Examination**

## **Scope of the examination**

The Inspectorate is the dedicated integrity agency for local government in Victoria. The Chief Municipal Inspector (CMI) leads the Inspectorate and has powers as set out in the Local Government Act 1989 (Act) to enable the Inspectorate to examine, investigate and prosecute any matter relating to a Council's operations and any breaches of the Act.

The Inspectorate undertook the examination following some concerns raised in relation to procurement practices in the Shire. The work had a particular focus on procurement as well as general governance arrangements. The examination was undertaken against the requirements of the Local Government Act and considerations of better practice across the sector.

Good governance is important for several reasons. It not only gives the local community confidence in its council, but improves the faith that elected members and officers have in their own local government and its decision making processes. It also leads to better decisions, helps local government meet its legislative responsibilities and importantly provides an ethical basis for governance.

The examination covered the following areas:

- Governance culture
- Governance schedule
- Policy framework
- Sale of land
- CEO/Senior Officer performance reviews
- Corporate credit cards
- Interest returns
- Audit Committee
- Special Committees
- Councillor expenses and reimbursement
- Government grants
- Community grants
- Delegations
- Authorised officers
- Procurement

## **Governance culture**

It is imperative that councils as public institutions responsibly manage public assets, exercise financial responsibility and good governance, and comply with all legislative requirements.

Governance arrangements are the necessary procedures and monitoring systems in place to ensure that council is performing all of its functions to the required standard and in accordance with legal obligations. Good decision making processes and therefore good governance share several characteristics. All have a positive effect on various aspects of local government including consultation, policies and practices, meeting procedures, service

quality protocols, councillor and officer conduct role clarification leadership and good working relationships.

In discussions with key council staff, it was indicated staff were generally aware of their roles and responsibilities, and were provided with sufficient information/tools to ensure poor behaviours or breaches of legislation were mitigated.

The interaction between staff and councillors is an important indicator of good governance and it was advised that there had been no known instances of inappropriate behaviour between councillors and/or council staff, indicating that robust processes were in place to deal with councillor/staff interactions.

It is acknowledged the council has recently made a commitment to improved governance through the appointment of fulltime governance staff in a centralised unit.

## **Governance schedule**

As part of meeting governance obligations, many councils maintain governance schedules to facilitate accountability for key dates throughout the year such as annual reporting and budgeting, interest return deadlines and other relevant time-critical legislative requirements.

While council considered they were meeting statutory obligations, it was acknowledged that there had been a reliance on key personnel to ensure tasks were undertaken within legislative requirements.

It is vital that governance staff are aware of their statutory obligations, and have a structured approach to meeting these obligations. As part of the review, staff provided a governance schedule to demonstrate that a structured approach was being taken, however it did not capture a large number of the statutory requirements, and did not take a whole of organisation approach.

A copy of a [recently-developed governance schedule](#) compiled by Hobsons Bay City Council was made available to governance staff to assist in the development of a Golden Plains-specific template.

### **Recommendation**

- The council develop a governance schedule to ensure key statutory requirements are met.

## **Policy framework**

Every organisation requires up to date policies and procedures to function efficiently and effectively. They are particularly important for local government, as they promote consistency across the organisation and maintain transparency for council officers, councillors and residents. Sound policies mitigate the risk to council, and provide a framework that promotes accountability across the organisation.

The responsibility for ensuring that council policies are appropriately developed, adopted and subsequently kept up to date through timely reviews resides with the Director of Corporate Services.

It was confirmed that until recent times the process had been ad hoc, lacking formal structure, however the process is now formally managed with adequate oversight. Policy



reviews are the responsibility of individual departments and are conducted in a manner that ensures currency and appropriateness.

Monthly reports are provided to the management team, detailing policies that have recently been reviewed, and those due for review.

A random sample of a number of policies were reviewed. The results indicated that each of the policies were current, having been reviewed within the stated time period.

## **Sale of land**

Compliance with the legislation is mandatory and a failure to meet these requirements may be sufficient to invalidate a sale. Transparency to the community is an essential part of the advertising and sale process.

Council advised that no contracts to sell council-owned land had been entered into since 2010.

However, it was confirmed that as council infrequently sells land, it would utilise relevant best practice guidelines in conjunction with the requirements of the Act.

### ***Recommendation***

- Council must ensure that sale of land transactions are at all times transparent to the community, in accordance with the [Local Government Best Practice Guideline for the Sale, Exchange and Transfer of Land](#).

## **CEO/Senior Officer contract/performance reviews**

The successful management of human resources is one of the key pillars of councils supporting a harmonious and productive workforce. A key element is the provision of consistent and timely staff performance reviews.

Employment contracts were reviewed for the Director of Corporate Services, the Director of Assets and Amenity and the CEO.

The contracts were reviewed to ensure they were for a fixed term not in excess of five years, contained performance criteria at the point of execution, and did not contain clauses contrary to the requirements of the Act. Each satisfied the requirements.

Both directors had performance reviews completed in accordance with section 97A of the Act. However, as the CEO commenced in December 2017, a performance review had not been completed at the time of the examination. It was noted that council had recently sought tenders for an independent external consultant to administer the process. The preferred tenderer was scheduled to attend a councillor briefing on 19 February 2019, with an intention to have the review completed by the end of February 2019.

### ***Recommendation***

- Council ensure that the CEO performance review is conducted at the earliest convenience.

## **Corporate credit cards**

The misuse of corporate credit cards can expose councils to potential financial and reputational risk therefore, it is important that internal controls are in place to mitigate this risk.

In response to carrying a large book of creditors with low values a number of years ago, it was advised that an increased number of staff were provided with procurement cards. Council staff confirmed that the introduction of the procurement cards had streamlined the purchasing process.

Credit card usage is currently governed by the Procurement Card Use – Standard Operating Procedure. There generally appears to be adequate controls within the policy to mitigate the risk to council of unauthorised expenditure, including the requirement for cardholder statements to be reconciled monthly by the cardholder and approved by the next level manager. However, while the transactions/statements are overseen by the Finance Department, there is currently no random, independent checking of card transactions.

It was noted that CEO transactions are appropriately overseen/approved by the Director of Corporate Services.

A review of card transactions of Senior Officers for the previous 18-month period did not identify any anomalies.

### ***Recommendation***

- Council should ensure that as per section 6.8 of the Standard Operating Procedure, audits of procurement card usage are conducted randomly by the Finance Department, internal and/or external audit to further mitigate fraudulent activity and ensure that all procedural requirements are being met.

## **Interest returns**

Councillors, members of the audit committee and special committees, and nominated officers are required to submit interest returns twice yearly to the CEO. The submission of interest returns is the responsibility of the individual and they are liable for any breaches of the legislation.

Adequately meeting legislative requirements ensures that persons responsible for submitting returns can participate in council decision making, free from concerns of having bias or a conflict of interest.

Council demonstrated that a robust, documented process has been implemented to manage interest return submissions with the process broken into planning, preparation and finalisation stages.

However it was noted that the notification memo is forwarded two weeks prior to the commencement of each return period.

An examination was conducted on the three most recent returns for councillors, nominated officers and audit committee members. It was identified that a number had been submitted prior to the commencement of the return period, some did not contain the name of the witness, one return was not witnessed at all, and one councillor did not submit a return. The Inspectorate will communicate directly with the individuals who have not met their legislative responsibilities.

The interest return register did not contain any detail in regard to the above deficiencies.

### ***Recommendations***

- Council send notification memo on the day the return period commences.

- Communication with relevant staff and councillors reinforces that returns are due within 40 days after 30 June and 31 December.
- That the responsible officer ensure that all submitted returns are reviewed for completeness but excluding content.
- For any non-compliant or non-submitted returns, relevant detail must be recorded in the register.

## **Audit Committee**

An independent Audit Committee is a vital component of an effective corporate governance structure. In the context of local government, the committee is an advisory body that typically:

1. focuses on issues relevant to the integrity of financial reporting
2. monitors risk management systems, the internal control framework, compliance and audit activities, and
3. liaises between internal and external auditors and management.

This examination was to ensure the council has a suitably functioning committee that operates in adherence to the adopted Audit and Risk Committee Charter.

A copy of the charter was provided, however it could not be established if or when it had been adopted by council as it was not dated and no review date was recorded. The charter appropriately outlined the responsibilities of the committee, which are a broad-ranging mix of tasks relating to risk management, financial management, control and regular reporting to council.

Overall, the committee appears well organised, operates effectively and adds value to the good governance of the council. The independent members are suitably experienced and qualified. In recent times they have improved the methods of reporting and emphasised the importance of taking a risk-based approach.

A review of the last four audit committee meeting minutes (to January 2019) contained sufficient detail of what had been reviewed and clearly outlined any subsequent actions to be taken.

### ***Recommendation***

- Review date included on the charter or in the governance schedule to ensure the document is routinely reviewed in line with other policies and procedures.

## **Special Committees**

Councils create special committees to assist in the management of specific projects, initiatives and selected municipal assets. Special committees are required to have current, authorised Instruments of Delegation to ensure they act within their regulated powers, are properly constituted and limited to their purpose.

Council confirmed it does not currently have any active special committees. In a review several years ago, it was decided to transition to alternative governance arrangements.

## **Councillor expenses and reimbursement**

The purpose of an effective councillor expenses policy is to provide guidance to promote consistency, transparency, ethical behaviour, control over expense reimbursements and demonstrate accountability to the community.

Council manages the reimbursement of councillor expenses through its Councillor Reimbursement Policy dated July 2015. While the policy is brief, it outlines the process for reimbursement to councillors and includes the types of expenses that may be claimed.

A review of recent councillor expenses indicates they are in accordance with the policy. It was noted that while the policy states that councillors are to forward claim forms to the Council Support Officer for verification, it does not provide any clarification on the designated approver for a submitted claim form.

The Inspectorate was advised that the CEO is responsible for authorising payments. However a review of three randomly selected completed claim forms did not support this. The forms were signed off variously by the Director Corporate Services, the Administrative Support Officer, and the Executive Assistant to the CEO.

***Recommendation***

- Approval process to be formalised in the Councillor Reimbursement Policy and adhered to.

## **Government grants**

Councils are responsible for the management of public funds, which include federal and state government grants and ratepayer contributions. The importance of responsible administration of council grants cannot be overstated.

The examination identified that there are operational standards to be followed in the management of recurrent grants. Performance criteria, acquittals, and regular meetings with the grantors form part of the governance requirements.

Similarly in regard to non-recurrent grants there appears to be an appropriate process in place to manage the process. Although council is always actively seeking opportunities for grants, applications are required to be strategically aligned to the corporate plan and budget with appropriate sign off or approval from directors or managers.

The CEO recently recommended that councillors should be briefed prior to the council applying for a grant. If this is to be the case, it is to be included in the process documentation.

***Recommendation***

- Where any changes to the process are agreed upon, the process document be updated accordingly.

## **Community grants**

Council must manage its processes for the distribution of grants across the community in a fair and transparent manner.

A review of the council website identified that detailed information is provided regarding grant funding opportunities and eligibility. While the grant information was updated from the 2018 period to the 2019 period during the examination, the guidelines document that includes online application information no longer appeared to be available.

The Community Grants Program policy adequately details the process to be followed, however it does not specifically indicate who is responsible for ensuring applications meet the criteria, who makes the recommendations, and who is responsible for sign-off on the recommendations prior to going to council.



A review of three randomly selected grants confirmed that an assessment sheet had been appropriately completed, however there was no means of identifying which staff member had completed the assessment, with no name or sign-off included on the form.

### ***Recommendations***

- Ensure that all relevant information is available on the council website.
- A provision be included on the assessment form that allows for the assessors name and sign-off to be recorded.

## **Delegations**

Under the Local Government Act and a wide range of other Acts and Regulations, council, the CEO and the municipal building surveyor can delegate powers, duties and functions to special committees and council staff. The delegation process is essential to ensure actions and functions are lawfully exercised.

The examination identified that the delegation from the council to the CEO had been reviewed in accordance with legislative requirements, at the March 2017 council meeting. The delegation from the council to council staff was also reviewed in accordance with legislative requirements at the July 2017 council meeting, however the Instrument of Delegation was not executed at this time. It was noted that the delegations were subsequently reviewed in April 2018, at which time the Instrument of Delegation was correctly executed. Operating without correctly-executed delegations raises potential legal and financial risks for the council.

It was confirmed that the council subscribes to the Maddocks model for updating delegations, receiving half-yearly updates of any legislative amendments that may affect the statutory powers of the council. A process document was also provided that outlines the necessary steps when a delegation review is required.

### ***Recommendations***

- Council must ensure that whenever a review of a delegation takes place, it is authorised via a resolution of council, and the instrument of delegation is executed accordingly. This can be included in the governance schedule.
- Council assess whether there are legal and financial risk for the period in which the Instrument of Delegation were not executed.

## **Authorised officers**

Section 224 of the Act and various other Acts and Regulations allow for council staff and contractors to be appointed as authorised officers. Authorisations enable staff, particularly those with enforcement responsibilities, to undertake their roles. The authorisations allow for powers of entry and the institution of proceedings

To demonstrate adherence to the appointment process, council provided minutes of council meeting 26 June 2018, whereby a resolution of council was passed appointing and authorising members of council staff in accordance with the Planning and Environment Act 1987. The Instrument of Delegation contained the common seal of council, and was appropriately signed by the mayor.

Three identification cards were reviewed to ensure compliance with the Act. Each was found to contain a photo of the officer, the signature of the officer, and the signature of a member of council staff (in these cases, the CEO) as required by the legislation. It was also

confirmed that council maintains a register containing the names of all current authorised officers.

## **Systems/record keeping**

The Public Records Act requires the effective management of records made or received by a [public officer](#) – which includes council staff - in the course of their duties. Record keeping practices that meet legislative requirements ensure records are kept secure and allows for them to be made readily available to the public and other government entities, which is an important function of councils.

The importance of these issues was highlighted in 2017, when an Inspectorate investigation revealed that record keeping at Central Goldfields Shire Council had a major impact on the council's ability to function effectively for the community.

During the course of our examination and in discussion with the IT and Digital Transformation Manager, a number of key issues were identified.

These include:

- The significant number of physical records that are held off site at Linton that was not an approved site.
- The software currently utilised by the council is not compliant with the Victorian Electronic Records Strategy (VERS)
- The number of physical records that are stored in desks and offices
- The large number of documents maintained on personal network drives that are not readily accessible.
- The lack of record system training. It was indicated by the transformation manager that the ALTUS system was not as bad as most people believed it was, rather it was the lack of training that was the major obstacle to it being utilised to the maximum.

It is acknowledged that the council is exploring an option for a shared IT platform with eight other councils that ultimately would, amongst other things, include records management.

### ***Recommendation***

- Council should develop an appropriate record keeping strategy to address the identified issues over an appropriate time period.

## **Procurement**

Procurement is an important function for council in expending public funds and obtaining best value for the community. Procurement is a potentially significant governance risk for councils. The intent of the legislation applying to procurement in Victorian local government is to ensure councils and their communities achieve value for money through open and fair competition and in the context of high standards of probity, transparency accountability and managed risks.

The procurement review was twofold: the first involved a series of procurement related questions that focused on the processes generally undertaken by the council, the second being the physical review of a random sample of procurement files/projects.

It was identified that the council had a procurement policy that had been reviewed in accordance with legislative requirements, most recently adopted at the 22 May 2018 council meeting. The policy was considered to be sufficiently detailed, including clear instructions for purchases with values below the legislative thresholds.

At the outset, the Inspectorate was made aware of some concerns raised by the former Procurement Officer. The concerns related to:

- the failure of the council to execute formal contracts with suppliers
- a lack of historical data being maintained in council systems
- completed files not being reviewed from a probity perspective
- failure to monitor cumulative spend to suppliers
- relevant guidance material not being updated since 2014
- a failure to review/improve governance controls, including policies, procedures, and systems.

It should be noted that a request was made to council on 22 November 2018 for the provision of a list of lump sum contracts awarded by council in excess of \$25,000 for the previous two-year period.

Council was not in a position to provide the information as requested, as record keeping practices were inadequate.

It is acknowledged that the procurement area has had difficulty in attracting/retaining experienced staff in recent times.

Below are the issues raised through interviews with staff, which essentially confirm the issues previously highlighted.

### **1. Documentation of processes**

Standard procurement processes were not documented or updated. The procedure manual was outdated as was the Standard Operations Procedure. Procurement documentation that did exist lacked suitable version control. This provided minimal guidance to staff.

### **2. Cumulative spend**

It was established that until recently, the council had no mechanisms in place to monitor the cumulative spend to individual suppliers. As a result, council made payments to suppliers in circumstances that should have been subject to an open tender process when payments to individual suppliers exceeded the legislative threshold.

### **3. Execution of contracts**

It was established that successful tenderers were not required to execute a formal contract, with the council only requiring them to sign a 'letter of agreement'. Examples were given of a roadside slashing project, a cleaning project, and the ongoing purchasing of bulk fuel as instances where payments were being made without a formal contract.

### **4. Accountability and management**

There was limited oversight of the work undertaken by procurement staff. Poor practice was not identified or dealt with, exposing the council to significant risk. Process risks were rarely managed or mitigated. This is particularly significant given the community centre and shire office capital works projects currently underway.

It was noted that there was inconsistency between the views of staff and that of management. While management acknowledged there were improvements that could be made, and needed to be made going forward, there was a view from staff that management didn't give priority to improving general procurement practices.

## **5. Training**

Sourcing specific procurement training was the responsibility of individual staff members. Structured and formal training was ad-hoc and did not appear to be promoted or supported.

## **6. Reporting**

Reporting was produced on an ad-hoc basis, and did not capture important information such as contracts that were due for review/renewal. Reports that were produced could not be relied upon due to a combination of factors including poor procurement/finance systems.

## **7. Collaboration**

There is a view that council would benefit through cooperation with other organisations in the area such as council networks in providing procurement services.

## ***Recommendations***

- Council, as a matter of priority, develop a strategy to address the issues identified above in the management of procurement.

## **Documentation review**

The Inspectorate, as part of the review, randomly selected five files to assess the end-to-end evaluation process undertaken by council. Documentation was requested to demonstrate adherence to the council procurement policy, section 186A of the Act, and that fair, honest and transparent evaluation practices had been carried out.

As the list of contracts was not available, the Inspectorate identified a number of recent procurement files to review. Relevant documentation was requested from council for the following tenders:

- Supply of Motor Graders x 2 GPS - RFT20-2018
- Construction of the Victoria Park Netball Courts Upgrade GPS-RFT242018
- Construction of Linton Recreation Reserve Football Lighting GPS-RFT24/2018
- Internal Auditing Services GPS-RFT11-2018
- Bitumen Emulsion GPS-T9/2017

## **1. Process issues identified**

- Not all completed files contained a detailed procurement plan.
- Not all completed scoring matrix documents contained the sign-off of any/all of the tender evaluation members to confirm individual or consensus ratings.
- Scoring matrix was completed, where not all of the panel members participated in the evaluation process, but no explanation was given as to why.
- Instances where tender evaluation panel members listed in the report were not those that conducted the evaluation. No explanation to outline why panel members were substituted.
- Not all tender evaluation reports contained the sign off on the tender evaluation panel members in support of the panel recommendation.
- One of the evaluation processes was finalised without a written tender evaluation report being completed.
- Tender evaluation reports did not contain the signature of a suitable delegate (CEO or Director) in support of the recommendation of the tender evaluation panel prior to the report going to council for formal approval.
- Not all files contained signed conflict of interest and confidentiality agreements by panel members.

### ***Recommendations***

- Review systems and process relating to procurement to ensure they meet the requirements of the procurement policy, the Act and that the process is fair and transparent.
- Relevant training should be provided for procurement staff to ensure they are fully aware of their roles and responsibilities.

