

Key Outcomes of Internal Audit Report



Review of Planning Processes

Lifestyle Capital of Victoria

Introduction

At its meeting on 16 December 2019, a Council Decision was made for an Urgent Business item - Casey City Council Corruption allegations:

'That a comprehensive public report be provided at the February Ordinary Meeting (without delay) concerning the fallout from the ongoing IBAC investigation relative to Casey City Council, namely:

- a) Whether any of the developers or named actors have had applications lodged in Frankston or have made representations to Frankston City Council;*
- b) What increased processes Frankston City Council could implement to ensure that the allegations vis-a-vis Casey City Council do not occur at Frankston City Council;*
- c) What additional future processes (if any) will Frankston City Council consider to further strengthen and protect its planning decisions; and*
- d) That a stocktake of planning decisions - recent (previous 5 years) and current - be considered as part of Council's next Internal Audit.'*

At its Ordinary meeting held on 29 June 2020, Council resolved:

That Council:

- 1. Receives and notes the internal audit report on planning processes relative to the Casey City Council IBAC investigation.*
- 2. Publishes a separate report highlighting the key outcomes of the internal report through Council's website.*

The following report addresses item two in the resolution highlighted above.

The internal audit of the Review of Planning Processes consisted of the following:

- Reviewed the past 7 (seven) year's applications (January 2013 to January 2020) extracted from Council's planning database system 'Pathway', which were submitted by the following entities and/or individuals, to ascertain their compliance with Council policies and procedures and relevant legislations:
 - John Charles Woodman;
 - Lorraine Joan Wreford;
 - Megan Ann Schutz; and
 - Wolfdene.
- Reviewed Council practices with respect to donations, gifts, pro bono services and hospitality including compliance with these policies by Councillors and Council Officers;
- Reviewed Council's Conflict of Interest policy and procedures including compliance with the policy by Councillors and Council Officers with respect to planning decisions;
- Reviewed Campaign Donation Returns submitted in the last 7 years by the Council candidates;
- Reviewed Lobbyist Register;
- Interviewed Councillors and Council Officers with respect to planning approval processes;
- Conducted a Councillors and Council Staff Survey consisting of questions relating to planning processes and controls, and potential affiliation with John Charles Woodman, Lorraine Joan Wreford, Megan Ann Schutz, Wolfdene and Watsons Pty Ltd.;
- Reviewed the appropriateness of ongoing councillor training to ensure adequate governance and compliance; and
- Identified links to potentially inappropriate activity in the Council, if any, by obtaining the findings/results (verbal or written) of similar reviews conducted by Kingston City Council and Mornington Peninsula Shire Council.

In accordance with delegations there was one planning application referred to Council for approval (22 October 2018), where Councillors had declared that there was no conflict of interest. In addition, based on the Councillor and staff survey conducted as part of the review, no Councillor has any affiliations with the respective entities/individuals.

It was identified that one staff member had an acquaintance with a staff member working at Watsons Pty Ltd and other staff members dealt with the respective entities/individuals as part of their normal duties. However, the staff member did not assess the planning application received from the respective entities/individuals.

The results of the audit identified eight (8) findings for Council's consideration to address the identified gaps and strengthen Council's planning processes.

Finding 1 – high risk rating

Inadequate Conflict of interest declaration embedded in planning procedures / templates

Recommended Actions

- Implement the requirement that Planning Officers should declare a conflict when assessing applications.

Management Comment

Management agrees - Council staff are required to sign the staff Code of Conduct on employment which explains and requires staff to avoid any real or apparent conflict of interest between personal and Council employment. Any staff member with a conflict of interest is removed from working on the application. A declaration of Conflict of Interest is included in the Delegate Report. A Declaration of Conflict of Interest will also be inserted in the Application Assessment Checklist by July 2020.

- Finalise Conflict of Interest Policy as soon as practicable.

Management Comment

Management agrees - a draft Conflict of Interest Policy (Policy) will be revised to reflect the requirements of the new Local Government Act 2020. The Policy will be presented to Council no later than September 2020 to be endorsed for public exhibition (after the Caretaker Period) and presented to the Audit and Risk Committee at its meeting in September 2020. Disclosure of Conflict of Interests are reflected in Chapter 5 of the draft Governance Rules, which are being presented to Council, at its meeting on 29 June 2020, to be endorsed for public exhibition. Section 60 of the Local Government Act 2020 requires Council to adopt its first set of Governance Rules by 1 September 2020.

Finding 2 – low risk rating

No evidence of approval of the application and no planning permit/certificate of compliance.

Recommended Action

Re-iterate the requirement to the relevant planning officers to evidence approval of the application and maintain adequate records of planning permit issued and/or certificate of compliance.

Management Comment

Management agrees - digital signatures were included in the compliance certificates in 2017. A refresh of compliance requirements will be undertaken with planning officer by July 2020.

Finding 3 – high risk rating

No records of meetings conducted by planning officers with the applicants.

Recommended Action

Re-iterate the requirement to Planning Officers that:

- All meetings with the applicants should be documented in the form of minutes; and
- Planning application forms, which have been adequately completed, are accepted.

Management Comment

Management agrees - Planning officers are now using a standard template which has been developed for officers to record meeting minutes. These will be stored in REM, Council's document management system. Further guidelines will be prepared to assist applicants to complete application forms fully as part of a planned business transformation project in FY20-21.

Finding 4 – low risk rating

Non – Compliance with the Planning and Environment Regulations 2015.

Recommended Action

Council management should re-iterate the requirement to Council's Planning Staff to complete planning applications within prescribed timeframe.

Management Comment

Management agrees - staff are encouraged to process applications in a timely manner, and this is a key indicator which is reported to Council on a monthly basis. However, the statutory timeframes were set in 1987 and do not reflect current processing requirements for many planning applications. Accordingly, very few Councils in Victoria succeed in consistently achieving a high level of compliance with the statutory timeframe. Frankston Council's own performance has progressively increased in recent years and is now at the upper end of peer Councils with recent achievement above 80%.

Finding 5 – medium risk rating

Incomplete register of CEO and Director Meetings of Importance (Lobbyist Register).

Recommended Action

Re-iterate the requirement to Council's staff for timely notification to Governance team in regard to CEO and Director Meetings of Importance. Notification may include but not limited to the following:

- Date of meeting;
- Attendees of the meeting; and
- Matters discussed during the meeting.

Management Comment

Management agrees - note that information of meetings held with developers or lobbyists have previously been documented by Economic Development, but not included in the Register.

Going forward the CEO and Directors (via their Executive Assistants) and relevant Departments (such as Economic Development, Statutory Planning, Infrastructure and Policy, Planning and Environmental Strategy Departments) to notify Governance and provide any information to be included in the Lobbyist (Thumbs Up) Register. Governance will update the 'centralised Lobbyist (Thumbs Up) Register with all information and provide it to the Executive Management Team one per month for review and approval, then include via a Memorandum to Councillors.

Finding 6 – medium risk rating

No documented planning procedures in place.

Recommended Actions

- Complete the business transformation (town planning) project as a priority to ensure comprehensive Planning Procedures are embedded, which may include (but not limited to) the following:
 - Purpose and objectives;
 - Process flow chart for planning decisions and key controls;
 - Roles and responsibilities of staff in regard to planning process;
 - Conflict of interest declaration;
 - Conduct of meetings with applicants / developers;
 - Monitoring actions for planning activities including turnaround time; resourcing constraints etc.;
 - Reporting requirements to the Council on planning decisions; and
 - Filing and recordkeeping requirements.

Management Comment

Management agrees - while workflows exist the business transformation project will improve processes for Council and applicants alike. This work will take between 6 and 12 months to complete. It has been made a priority and a report will be submitted to Council in July 2021.

- Ensure that the Planning Procedures are endorsed by relevant personnel and subsequently circulated to relevant planning officers;

Management Comment

Management agrees - the business transformation project will require all procedures are formally adopted, embedded into training and complied with.

- Review the Planning Procedures on a periodic basis thereafter to ensure they remain relevant, meet the needs of stakeholders and address any emerging issues or legislative requirements.

Management Comment

Management agrees - digital signatures were included in the compliance certificates in 2017. A refresh of compliance requirements will be undertaken with planning officer by July 2020.

Finding 7 – medium risk rating

There is no Donations Policy at the Council and current Sponsorship Policy is out of date.

Recommended Action

Review and update the Sponsorship Policy and develop a standalone donations policy or include donations in the sponsorship policy. The key processes to be documented may include (but not limited to) the following:

- Purpose and objectives;
- Roles and responsibilities of staff regarding sponsorships and donations receipt;
- Disclosure requirements for sponsorships and donations;
- Reporting requirements to the Council on matters related to sponsorship and donations;
- Filing and recordkeeping requirements.

Management Comment

Management agrees - a draft Sponsorship Policy has been prepared to replace the existing outdated Sponsorship Policy. It will now be considered for recommended inclusions. A separate Donations Policy will be considered against Council's Policy and Protocol Register and drafted if required or included in the updated Sponsorship Policy. A report will be provided to Council no later than February 2021, to consider the draft Sponsorship Policy and/or draft Donations Policy, taking into account the Caretaker Period and new term of Councillors to be appointed by November 2020.

Finding 8 – medium risk rating

No training is provided to Councillors with respect to fraud prevention, corruption, gifts and hospitality.

Recommended Action

Undertake training in relation to fraud prevention, corruption, gifts and hospitality periodically. These trainings may include (but not limited to) the following:

- Code of conduct;
- Fraud prevention and anticorruption;
- Gifts and hospitality; and
- Receipt of donations.

Management Comment

Management agrees - Councillors undertook refresher training in Governance requirements in February 2020. They are due to undertake refresher training on Councillor Expenses, which will include Gifts and hospitality in July 2020. A new term of Councillors will commence in November 2020 and will participate in mandatory training which will include fraud and corruption prevention, gifts and hospitality and donations. Refresher training is scheduled every two years and after each review and adoption of a policy or protocol.

Overall Conclusion

A review of Council's planning processes identified Council officers follow the process detailed in the Planning and Environment Act and the Frankston Planning Scheme. Workflows and templates are in place within the Council Pathways system. Further improvements are being made through a business transformation priority project.

No conflicts of interest are currently recorded as part of the application assessment. It is recommended that paper based, and digital forms include a declaration of interest check box.

In the one instance where planning officers held a meeting (on site) with the applicant there was no record of meeting minutes for transparency.

In accordance with delegations, there was 1 planning application referred to Council for approval (22nd October 2018), where Councillors had declared that there was no conflict of interest. In addition, based on the Councillor and staff survey conducted as part of the review, no Councillor has any affiliations with the respective entities/individuals and 1 staff member has an acquaintance with a personnel working at Watsons Pty Ltd on a personal level and other staff members dealt with the respective entities/individuals as part of their normal duties. Sample testing identified that the staff member did not assess any planning application received from the respective entities/individuals.

Management comments have included actions that will take place in order to manage these risks within acceptable levels. The implementation of these actions will be monitored and reported back to the Audit and Risk Committee until completed.