

**CITY OF MARION
GENERAL COUNCIL MEETING
8 September 2015**

CONFIDENTIAL REPORT

Director: Kathy Jarrett

Subject: Investigation

Reference No: GC080915F03

If the Council so determines, this matter may be considered in confidence under Section 90(3)(g) of the Local Government Act 1999 on the grounds that the report contains information that Council has a duty to keep confidential.


Adrian Skull
Chief Executive Officer

RECOMMENDATION:

1. That pursuant to Section 90 (2) and (3)(g) of the Local Government Act 1999, the Council orders that all persons present, with the exception of the following persons: Adrian Skull, Kathy Jarrett and Abby Dickson be excluded from the meeting as the Council receives and considers information that it has a duty to keep confidential.

DISCUSSION RE THE MAKING OF THE CONFIDENTIAL ORDER:

The recommendation to consider and keep this matter confidential is based on [REDACTED]

[REDACTED]

BACKGROUND:

On 25 June 2015, [REDACTED] an anonymous report had been made alleging that *"Council employees allowed a company named CASA Pty Ltd to fall behind in rental payments and that Council Members were only notified once the debt had exceeded \$80,000, by which time the debt was potentially unrecoverable"*.

The matter had been assessed as raising potential issues of misconduct and maladministration in public administration, [REDACTED]

[REDACTED]

[REDACTED]

On 25 August 2015, Council ratified the investigation process outlined at Appendix 1. The Council also requested any Elected Members who had specific questions they wished to pose as part of the investigation, that they were to forward those questions in writing to the

CEO by 5pm Thursday 27 August 2015, following which they would be forwarded to Kaye Smith for consideration as part of her investigation. Questions received from Elected Members and forwarded to Kaye Smith are provided at Appendix 2.

DISCUSSION

As advised by the Acting CEO, the investigation has been undertaken in two parts. The first part by Kaye Smith examining the matters referred in accordance with the ICAC Act 2012. The second part of the investigation has involved an independent review of the broader Land and Property Team undertaken by Sam Ciccarello. The outcomes of this broader review have assisted Kaye Smith in her findings and the development of recommendations. It will further assist in the identification of appropriate actions in response to those findings and recommendations.

Provided as Appendix 3 and 4 are the Reports of Kaye Smith and Sam Ciccarello respectively.

Due to the timeframe of their receipt, they are yet to be examined for the purposes of developing an action plan. It is proposed that this will be developed over the coming days, and presented to Council at the 8 September 2015 Council meeting.

It is further proposed that discussion be held during the Council meeting regarding the next steps, including the potential to delegate responsibility for the implementation of actions arising from these reports to the CEO, with updates to be provided to the Mayor at times agreed. [REDACTED]

RECOMMENDATIONS: (4)

DUE DATES

That Council:

1. **Note and receive the contents of this report.** **8 Sep 15**
2. **Delegate to the CEO, finalisation of the action plan and its implementation in consultation with the Mayor.** **8 Sep 15**
3. **Delegation to the CEO, finalisation of the report [REDACTED]** **December 15**
4. **That Council in accordance with Section 91(7) and (9) of the Local Government Act 1999 the Council orders that the report, 'Investigation' (Report Reference GC110815F02), its appendices and the Minutes arising from this report having been considered in confidence be kept confidential under Sections 90(2) and (3)(g) of the Act and not be available for public inspection for a period of 12 months from the date of this meeting or until such time as Council's duty of confidence is no longer in force. This confidentiality order will be reviewed at the General Council Meeting in December 2015.**

APPENDIX 1 – INVESTIGATION PROCESS

1. Scope of review and associated timeline developed.

The findings of the investigation and recommended actions in response to the findings will be reported to Council at the 8 September 2015 meeting.

2. Proposal to undertake the investigation sought under strict confidentiality undertakings from Kaye Smith, EMA Legal.

Ms Smith has submitted a proposal and has been engaged accordingly.

3. Ms Smith has identified the matters to be dealt with [REDACTED] as including, but not limited to:

- 3.1 The time at which Council employees knew or ought to have known, CASA was experiencing declining income streams, and that rental relief was (or would be) sought;
- 3.2 The basis for the failure (or decision) by Council employees not to advise Elected Members of CASA's financial circumstances until the time that the Elected Members were so notified;
- 3.3 The times or opportunities that Council employees could have, but did not, notify Elected Members of CASA's financial circumstances or other relevant information, and why;
- 3.4 Information relevant to response times by Council employee(s) to CASA Pty Ltd;
- 3.5 Contravention of any code of conduct by Council employee(s) that constitutes a ground for disciplinary action;
- 3.6 Whether there is any practice, policy or procedure of the organisation that has resulted in substantial mismanagement of public resources;
- 3.7 System or other procedural failings in the direction, management or operation of the Department(s).

4. The process of investigation will include, but not limited to:

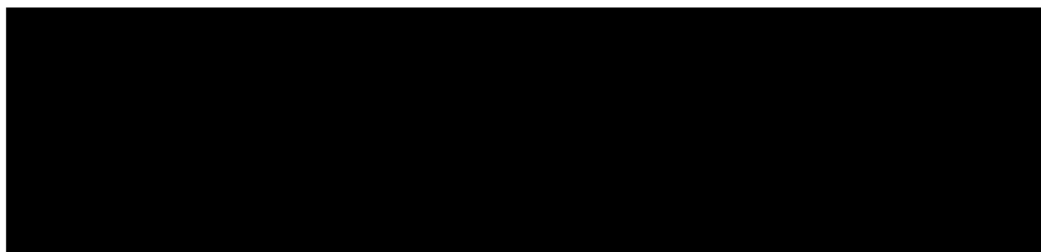
- 4.1 Document discovery and preparation of a chronology of events. This has commenced and will be used by Kaye Smith as a starting point. It will be expanded upon as required during the investigation. The final chronology will be as determined by the investigation, together with relevant documents at the end of the process.
- 4.2 Interviews with persons / staff who can give information relevant to the issues to be addressed. To be determined following review of initial document discovery, and refined during the course of the investigation.
- 4.3 In parallel with the investigation, a review of the Land and Property Department is being undertaken. The outcomes of this review are likely to assist with the identification of responses to the various findings.
- 4.4 Preparation of a final report for Council consideration at the 8 September 2015 meeting.

APPENDIX 2 – ELECTED MEMBER QUESTIONS

1. The previous Council (elected members) were deliberately and wilfully withheld information for several months relating to significant management/financial issues at the Marion Leisure & Fitness Centre that denied the Council the opportunity to respond in a timely manner resulting in the current dispute where Council is clearly financially compromised and may suffer reputation damage.
2. Reports that the Administration withheld this critical information from Elected Members because of Care Taker provisions, but the Election was in October 2014. I understand that in March 2014 the Administration were already aware of the problems at this Centre? In any event I do not believe that the Care Taker period is grounds for withholding critical information from Elected Members.
3. During the said period, apart from the responsible- [REDACTED] which other senior Council staff members knew about the circumstances at hand and failed to advise the Elected Members?
4. In particular, when did the [REDACTED] first become aware of the said situation and if advised when did he appropriately brief the Elected Members?
5. When did Mayor Lewis first become aware of the said situation and if advised when did she appropriately brief the Elected Members?
6. I would like to know which if any elected members knew of the issue in the last term and when.
7. I also want to know if any staff knew of the matter and if they were advised to keep it from members, why and by whom.

STRICTLY PRIVATE & CONFIDENTIAL

CONFIDENTIAL REPORT



**Prepared by: Kaye Smith, Partner
EMA Legal**

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A. APPROACH TO THE INVESTIGATION

1. The ICAC Act defines misconduct and maladministration in broad terms, as follows:

(3) *"Misconduct in public administration" means—*

- (a) *contravention of a code of conduct by a public officer while acting in his or her capacity as a public officer that constitutes a ground for disciplinary action against the officer; or*
- (b) *other misconduct of a public officer while acting in his or her capacity as a public officer.*

(4) *"Maladministration in public administration —*

(a) *means—*

- (i) *conduct of a public officer, or a practice, policy or procedure of a public authority, that results in an irregular and unauthorised use of public money or substantial mismanagement of public resources; or*
- (ii) *conduct of a public officer involving substantial mismanagement in or in relation to the performance of official functions; and*
- (b) *includes conduct resulting from impropriety, incompetence or negligence; and*
- (c) *is to be assessed having regard to relevant statutory provisions and administrative instructions and directions.*

2. The definition of misconduct calls up the code of conduct applying to all employees. Relevantly, this requires employees to:

- 2.1 act with reasonable care and diligence in the performance of official duties, as required by section 109(2) of the *Local Government Act 1999*;
- 2.2 deal with information received in a responsible manner;

- 2.3 provide accurate information to the Council at all times;
 - 2.4 take all reasonable steps to ensure that the information upon which employees make decisions or actions are based is factually correct and that all relevant information has been obtained and is considered.
3. The investigation has [REDACTED]
[REDACTED]
 - 3.1 Identified all issues of misconduct and/or maladministration to be assessed;
 - 3.2 Obtained all information from witnesses who can give information relevant to the issues to be assessed;
 - 3.3 Obtained all documentation relevant to the issues;
 - 3.4 Made relevant findings;
 - 3.5 Recommended the taking of certain action for the Administration to take.
4. The content of the Report must be understood in the context that conclusions or findings made are not the result of a Court process.
5. Each person interviewed provided me with a confidentiality undertaking before meeting. Each witness presented honestly, and forthrightly and cooperated with my requests for documents or information.

B. REPORT**Background and Overview**

6. At all relevant times, CASA Leisure Pty Ltd operated the Marion Fitness and Leisure Centre (Centre or **CASA**) pursuant to the terms of a commercial lease with the City of Marion. Leases (including CASA's lease) are managed by the "Land and Property" department of Council. This Department is led by a Director, who is supported by [REDACTED] and in practice the Team Leader from time to time.
7. CASA's lease, whilst best described as commercial, also achieved community outcomes for the area. Among other things, the lease terms required CASA to pay base rent of \$30,000 per year, and share its profit with the City of Marion where that net profit exceeded \$30,000 in any financial year. Rates (and other terms) were not strictly market based in recognition of CASA's social and community contribution. It is one of only a few 'commercial' leases managed by Council, the remainder being community leases on terms that reflect that status.
8. Pursuant to the terms of CASA's lease, it was also required to report to the Land and Property Department on a monthly basis. It did so in the form of a written monthly report, and monthly "Job Profit and Loss Statements". After each financial year, CASA would also produce audited financial statements.
9. The Director of Land and Property reported CASA's performance to Council after each financial year following receipt of CASA's audited financial statements. This report included advice to Council as to whether or not there was a profit to be shared or returned to Council.
10. CASA had shared profits with the City of Marion in 2011.¹ CASA did not share a profit for the financial years ended 2012 and following.
11. Council was first made aware of the fact that CASA was in rental arrears, and other arrears when a report was brought to it at its 9 December 2014

¹ See Report Ref GC 250111R. Note that this report did record the actual net profit figure for CASA.

meeting. These matters were known by the Land and Property Department much earlier than reported. It is one of the issues identified by the investigation as amounting to misconduct and maladministration that resulted in a failure to properly inform Council of CASA's position, and a failure to properly deal with CASA who remained in occupation of the premises on lease terms it could no longer afford.

12. In all, six (6) issues amounting to misconduct and/or maladministration were identified, for the reasons set out in the Part 1 of the Report.

Summary

13. Matter of maladministration and/or misconduct were found, as a consequence of:
- a. The failure to assess the financial standing of CASA;
 - b. The failure to report CASA's performance in a timely fashion;
 - c. The failure to report CASA's performance to Council accurately;
 - d. Lack of systems, processes and accountabilities within roles;
 - e. Mismanagement of the commercial lease;
 - f. Failure to properly manage leave of absence of staff in key positions; and
 - g. In light of the above failure to ensure Land and Property Department staff were competent to perform their respective roles.

PART 1

Failure to assess the financial standing of CASA

14. Each month CASA provided the City of Marion with key documents. This was a condition of the lease. These were the "monthly report" and "Job Profit and Loss Statement". These reports were sent to [REDACTED] [REDACTED] each month electronically. They were received by [REDACTED], and

saved to the records management system "Bluepoint". [REDACTED] did not assess the content of the statement. [REDACTED] would visually scan the monthly report for any maintenance issues that may have arisen, but beyond noting the receipt of the documents from a lease compliance perspective, no other assessment was made.

15. The Job Profit and Loss Statements, had they been given even cursory attention, identified a monthly loss making entity, that was not trending any differently from month to month. That was the case from at least November 2013, with a year to date operating loss in December of \$50,298.92.
16. This critical information was not specifically transferred by [REDACTED] to any direct report, or Manager. What [REDACTED] would do, and would be responsible for doing, is raise a request for the Finance department to issue invoices for payments (rent, building insurance and water) and in accordance with the Sundry Debtors Procedure, resume carriage of outstanding invoices that were 90 days+ outstanding.

Findings and Conclusion

17. There was no system or responsibility allocated to a position, to assess or refer the monthly reports or statements that CASA provided. Given that CASA's lease was not a community lease, but rather a commercial lease with community outcomes, there ought to have been a level of consideration and analysis of the report and statements that were provided. These were key indicators of what was to happen, and what in time did happen.
18. The failure by [REDACTED] to pay any attention to the Job Profit and Loss Statements or the pattern emerging as to its losses, or for the Department to have a system which ensures knowledge transfer of this kind, is a serious deficiency in management of leases and a matter of maladministration.
19. In 2012 CASA had not shared a profit with Council, because it had made less than \$30,000 for that year. CASA had not however, recorded a net loss in that year. It had recorded a net profit in 2012 of \$26,821. By the time the audited financial reports came through for the 2013 financial year in

November 2013, CASA had recorded an audited net loss of \$52,414. Recurring monthly losses that CASA continued to sustain added to that figure.

20. Monthly reports identified reducing membership, and other factors, that were directly impacting viability. There was no assessment of the combination of these matters in terms of potential consequences for CASA, or Council, by any position in the Department.

Recommendation

21. Establish a process and system for the assessment of financial statements and monthly reports beyond lease condition compliance. These documents are significant indicators of the actual and future performance of the entity dealing with Council, that should be assessed within defined delegations and processes, by a position of appropriate classification and authority, and by an employee with a level of basic report reading skill in accordance with defined processes.
22. Address the failure [REDACTED]
[REDACTED] to pay any attention to the monthly Job Profit and Loss Statements, or to escalate them (and the trending losses) for appropriate consideration [REDACTED].

Failure to report CASA's performance in a timely fashion

23. This issue concerns the failure to report CASA's performance to Council as soon as practicable.
24. As noted above, the Job Profit and Loss Statements were received [REDACTED]
[REDACTED] each month. Further, after each financial year, [REDACTED] would also receive the annual audited financial statements. The Department would report to General Council only after these audited statements had been received.

25. For the financial year ended 2013, audited statements were received by [REDACTED] on 26 November 2013. [REDACTED] commenced preparation of a draft of the report some time in December 2013. That task was referred to another employee within the Department to carry on with, [REDACTED]. The second person allocated the task of writing the report waited on an 'annual summary' and explanation from CASA as to the reason for the net loss of \$52,000, by email exchanges between 3 December and 13 February 2014.
26. The task of writing the report was completed on the direction of [REDACTED], on 10 January 2014.
27. The report for General Council was not delivered until its meeting of 8 April 2014.

Findings and Conclusion

28. Council is entitled to the timely report of its commercial lease arrangements, as soon as practicable to the time at which relevant information is provided to the Administration.
29. There is no acceptable reason for the delay in the report of CASA's performance to Council, which should have taken place in January 2014. That is consistent with previous years; for example the 2009/2010 Financial Year report for CASA was delivered to Council in January 2011.²
30. The audited statements had been received at the end of November 2013. There was no need for an annual summary or additional explanation for the loss. CASA was already providing monthly reports as to its activities.
31. The report was not prepared in time for Council's meeting on 28 January 2014 nor its February or March 2014 meetings.

² See Report reference GC 250111R.

Recommendation

32. More effective handover procedures should be implemented to ensure that responsibilities between positions in the Department are effectively transferred.
33. Clear timeframes should be developed to ensure that time lags in the reporting of matters to Council are minimised. This can be achieved by each position within the Department having standing deadlines for the report of end-of-year matters back to Council.
34. A standing agenda item for Council in January of each year should be considered for further reporting, with interim reports or justification given by the Department if reports are not delivered in that time frame.
35. Monitoring [REDACTED] to ensure Originating Officers commence report writing in time for deadlines.
36. Greater accountability [REDACTED], where information is to hand, to actually meet deadlines for reporting information to Council.

Failure to report CASA's performance to Council with accuracy

37. This concerns the failure to report CASA's performance accurately to Council.
38. There is nothing in the April 2014 report for the 2012/13 financial year, that identifies for Council the fact that CASA has been making monthly losses. By the time of that report, CASA had a significant turnaround in its financial position, from making a \$26,821 profit in 2012 to a \$52,414 loss and counting. This is material information that ought to have been squarely brought to Council's attention. It was not.
39. The April 2014 report is to be compared with the report to Council (under a previous Director) for the 09/10 financial year where the profit/loss figure was specifically identified for Council. In that year the Department advised no profit share but a profit of \$17,696.35.
40. Council noted, received and approved the 12/13 report without comment or enquiry because there was nothing particularly of note to alert Council to

CASA's true position. The fact that CASA did not share a profit was not a sufficient indicator of the situation; that only indicated that a profit of less than \$30,000 was made (as was the case in 2012 and 2010).

41. Both the [REDACTED] and [REDACTED] of the Department were made aware of the actual audited loss figure [REDACTED], by email dated 29 November 2013.
42. The significant turnaround in position, together with the fact of the rent arrears and recurring monthly losses were all significant pieces of information. [REDACTED] to draw to Council's attention to those matters.
43. These facts were known, or ought to have been known, [REDACTED] at the time for these reasons:
 - a. by memo dated 5 March 2014, CASA wrote to explain its deteriorating financial performance in 2013, and highlighted changes to the market and other factors as causative of that loss;
 - b. [REDACTED] met with CASA representatives on 4 April 2014, as a direct result of that memo and to discuss what could be done. CASA subsequently wrote on 7 April 2014 [REDACTED] [REDACTED] confirming the exercising of the lease extension, but wanting to negotiate varied terms;
 - c. a basic look at the monthly Job Profit and Loss Statement for March 2014 (that had been filed by [REDACTED] without assessment or referral [REDACTED]) identified by then a year to date loss for the Centre of almost \$85,000;
 - d. Invoices for rent and water were outstanding for January to March 2014;
 - e. CASA had agreed already a payment plan for building insurance;
 - f. CASA was in arrears for rent, emergency services levy and water charges for the whole of the second half of 2013.³

³ see letter of 12 November 2013 with total amounts due being \$13, 878.73.

44. [REDACTED] did not, at the time of delivering the 2013 report, bring Council up to date with respect to any of the matters discussed with CASA about their financial situation.
45. Whilst a report on arrears of itself may not be a concern for Council, in this instance the extent of the arrears together with the actual financial loss for 2013, should have been squarely brought to Council's attention.
46. The failure to do so meant CASA continued to operate each month at a loss, and unknown to Council.
47. Of concern is that [REDACTED] the report included the actual financial loss figure in first draft of the report under the heading of "Analysis: Financial Implications". The draft of that report was revised [REDACTED]
[REDACTED]
[REDACTED] In that process of revision, the sentence that identified the financial result for CASA of a \$52,414 loss, was removed.
48. There was no explanation for its removal. I could not identify through document tracking or by speaking with those concerned, who removed the information.⁴ It would appear that [REDACTED], through [REDACTED] handwritten amendment has circled the loss figure and made a note "*what are we going to do about this!*", and after that the loss information did not appear on any draft of the report to Council.
49. [REDACTED] did work hard to try to find community outcomes and solutions to the problem. Those efforts:
- Do not absolve the obligation to bring material information to Council;
 - Would never have been an answer to the reality that CASA could no longer afford to stay on the terms of the lease;
 - Made no difference to the change in the market conditions and environmental factors impacting CASA, and which CASA brought directly to the attention of the Department each month in its reports.

⁴ see draft report with reference GC 280114R with the date of 28 January 2014, and subsequent versions with GC references GC080414, GC 080414R01,

50. CASA's true position was not in fact brought to Council's attention until December 2014 when all efforts by the Department to resolve the basis for CASA's continued occupation of the premises had failed. This was not the provision of timely information.
51. It is important to note that the Executive Management Group (EMG), meeting frequently, were also not informed of CASA's position prior to the report to Council on 8 April 2014. Like Council, EMG had no basis to question the content of the April report.
52. The first EMG knew of the position was on 18 August 2014. The report objective to EMG was to *"present a report for discussion addressing options for Council to consider regarding the renewal of the lease to CASA ..."*. The issue was brought to the attention of EMG at the request of [REDACTED] who felt [REDACTED] concerned about the situation.
53. As a consequence of EMG's involvement, [REDACTED] took steps to obtain further information from CASA that would be used to support the options and recommendations to Council. A Business Strategy document from CASA was requested, and provided to the Department on 21 October 2014.
54. By October 2014, the Centre was recording a profit for that financial year of around \$40,000 but arrears were still outstanding with funds *"not available to pay outstanding amounts owed to Council."*⁵
55. [REDACTED] took back to EMG the CASA Business Strategy document on 18 November 2014. From there, the full extent of the problem was recorded in the December 2014 report to General Council.
56. The December 2014 meeting was probably the first opportunity for the newly-elected Council to receive and consider the information, noting that the November meeting was the very first meeting of Councillors, where (among other matters) Councillors were inducted.

⁵ See letters to the Team Leader dated 13 October 2014 and to the Director on 3 September 2014.

57. Whilst EMG does not have any decision making power or responsibility, that Group provided focus and guidance to the Land and Property Department in terms of its ultimate report and disclosure to Council.
58. There is no evidence that any Elected Member knew of the matters concerning CASA. The minutes of Ward Briefings do not record anything of note.
59. The only evidence of Elected Member enquiry came much earlier in July 2013, where Cr Bouwens was emailed and was asked by a resident *"secondly, CASA the gym at the Rec Centre seem to [be] having money problems. Have they paid a profit back to Council in the last couple of years?"*⁶. This query was passed on to the relevant Department.
60. [REDACTED] were emailed information⁷ to identify the profit figures for 2011 and 2012 so as to respond to Cr Bouwens, identifying:
- a. No profit share for 2012 (but a profit to the Centre of \$26, 821.58);
 - b. Profit share of \$16,812.03 for 2011 (and a profit to the Centre of \$58,462.66).
61. There is no evidence that anyone in a senior position other than [REDACTED] knew of the matters concerning CASA, until EMG were advised on 18 August 2014.

Findings and Conclusion

62. CASA's turnaround in financial performance was a critical matter to be advised to Council on 8 April 2014. In the 09/10 report, under a different [REDACTED] CASA's financial result was specifically advised to Council.
63. The recent correspondence and information known about CASA up to and including the meeting between CASA and [REDACTED] on 4 April 2014 should also have been brought to Council's attention. [REDACTED] [REDACTED] had the opportunity, and in my view obligation, to bring the combination of these factors to the attention of Council, in confidence if necessary.

⁶ see email of Graham K Watts JP dated 25 July 2013 to Cr Bouwens

⁷ Email 29 July 2013 from Acting Team Leader to Manager and Director.

64. [REDACTED] has advised that the information contained in the report for the [REDACTED] sign off and approval, is 'fact checked' [REDACTED] and the assumption is that those facts are correct. That is not unreasonable, but in this instance, [REDACTED] were aware of the loss, [REDACTED] personally aware of the concerns that were raised by CASA, days prior to the report to Council.
65. It is possible that [REDACTED] forgot the fact of CASA's loss for 2013, but that is difficult to accept given the conversations [REDACTED] proximate to the General Council meeting on 8 April 2014, that is on 4 April 2014 and in view of CASA's earlier memo on 5 March 2014.
66. There is no reasonable excuse for the failure to disclose and handle information responsibly. [REDACTED]
67. I was not able to resolve conclusively why this information was not reported. The fact of the \$52,414 loss was captured in a draft of the report, was noted and questioned by [REDACTED] and then deleted by someone. The persons interviewed could not explain nor recall why that information was deleted, or by whom.
68. Even if the information was deleted, there were failures [REDACTED] to insist it be inserted. Specifically, [REDACTED] knew of the extent of the loss, and did not take positive steps to have this identified in the report.
69. [REDACTED]
[REDACTED]
[REDACTED]
70. [REDACTED], disciplinary action is recommended to be taken by the Administration in accordance with the relevant policy for alleged maladministration in this respect. Each of these positions is responsible for accurate reporting to Council.
71. There was a lack of clarity on the part of all persons interviewed as to the trigger for notification to Council of matters where entities are in arrears, or perhaps in payment plans, which Departments manage frequently. Whatever

the trigger, where Council is receiving a report for any entity for a financial year, it should be given accurate, timely information.

Recommendation

72. [REDACTED] positions have their own accountability for the accuracy of information for Council reports.
73. [REDACTED] should be disciplined in accordance with Council's Discipline Procedure about the need to ensure accuracy of information in reports, and the consequences of not doing so, which amounts to a breach of the code of conduct.
74. [REDACTED]
[REDACTED]
75. Better version control of documents to identify the accuracy of the contribution of any one person as to the facts in the report.
76. The basic assessment of financial information and reports to be conducted [REDACTED] to be able to identify concerning trends.

Lack of Systems, Processes and accountabilities within roles

77. Overall, the department is a reactive, poorly systemised department. This is the subject of further comment with respect to the management of leases generally below. Failings in the CASA matter began at the operational level, and were not corrected or identified for correction at higher levels.
78. The accountabilities and responsibilities of each level of management within the Department are not clear, and certainly not standardised, across portfolios or areas of responsibility.

79. [REDACTED] The absence of staff in key positions at critical times was not managed closely enough by those in leadership positions to ensure accountability in the Department.
80. In the matters concerning CASA, [REDACTED] had little input into management of the issues. While [REDACTED] was absent from the end of June to the end of August 2014, the critical time for [REDACTED] input was:
- a. from when the financial losses in audited form were provided;
 - b. in the period December to April 2014
- to ensure the CASA report was prepared and that it was presented with accurate information [REDACTED]
81. [REDACTED] did not allocate the CASA issue [REDACTED] for attention from May 2014. [REDACTED] was given other matters to work with, evident from a whiteboard discussion captured by photo. [REDACTED] played a more interactive role in the issues.
82. In those circumstances, [REDACTED] assumed greater responsibility for the outcomes that concerned CASA. However, the interactions with CASA were not timely, and not driven strongly enough [REDACTED] at the time.
83. [REDACTED] attempted to explore high level solutions to CASA's position, for example, by looking at combining health and wellbeing programmes with CASA's facility to get people 'through the door'.
84. In hindsight, that initiative would never have overcome the problems. Fundamentally, Council needed to decide whether it would allow CASA to continue to operate before any of these options were implemented. In any event, these steps were not taken until mid-June 2014.
85. Through discussions with relevant persons, there was a consistent and recurring theme of a lack of strong leadership, direction, and control of a situation that needed close management. [REDACTED]
[REDACTED]
[REDACTED]

Findings and Recommendation

86. The position of [REDACTED] provide two checkpoints to ensure:
- a. Timely reports;
 - b. Accurate reports.
87. There was no evidence of the input of [REDACTED] in the development of the April 2014 report, and had there been, the report may have presented differently, and on time.
88. It is critical to ensure that staff understand their importance and responsibility in their respective roles.
89. The lack of systems affects a consistent approach to issues in the Department, and creates enormous inefficiencies and unnecessary workload for staff.
90. An interim assessment of key areas of risk in the Department should be conducted urgently, to identify any other areas of concern.
91. [REDACTED]

Mismanagement of the commercial lease

92. The request for varied lease terms from CASA was given in good time before the expiry of the lease. That was a matter that should have immediately been brought to Council's attention, since that is a matter for Council's decision. Had this happened, the management of arrears would have been addressed earlier.

93. It is clear that the Department did not act quickly enough to ensure that the lease terms were complied with, or if they were to be departed from, that this was on a clearly understood basis.
94. This led to my enquiry as to the number of leases on 'holding over' terms. There are twenty-three (23) leases in that state, of a total of eighty two (82) leases/licenses over ninety-seven (97) buildings. The Team Leader is feeling concerned at that statistic, explaining that on his commencement only six (6) leases were in that holding over state.
95. The lack of systematic and systemised approaches to the leases is of concern.
96. The failure to ensure systems are in place to standardise processes is a matter of maladministration, [REDACTED]. It is no answer that staff are too busy to find time to assist in the introduction of templates, checklists or other tools to standardise non-complex processes. This is where stronger leadership is necessary and solutions to temporary problems need to be insisted upon.
97. It is evident that [REDACTED] the "Land and Property Process System Improvement" project [REDACTED] must be given priority, and an explanation given for why standardised processes are still not introduced across the Department.
98. The mismanagement of the CASA lease is also not assisted by the allocation of different employees at different times to deal with CASA's issues. This results in inefficiency, risk of a lack of proper knowledge transfer and a lack of accountability as to who is responsible for what decision.
99. The number of leases in holding over is not acceptable. Immediate steps are needed to intervene and bring that situation under control.

Findings and Recommendation

100. My recommendations above refer, as to the need to undertake a systematic approach to bring the leases to conformity with agreed terms.
101. Support from other Departments should be allocated, if human resources are needed.

102. System improvements are to be given priority such as automatic triggers for lease renewals, templates and checklists.
103. The lack of systematic and systemised approaches to the leases and the Department, where this was a task assigned [REDACTED] in May 2014, to be progressed with urgency, [REDACTED]
[REDACTED]

Failure to properly manage leave of absence of staff in key positions

104. The correspondence with CASA and on the file involved, at one time or other, [REDACTED]. Letters were sent sometimes from the [REDACTED], other times from [REDACTED] and other times from [REDACTED]. This is another indicator of ad hoc approaches to the management of CASA's lease.
105. [REDACTED]
106. Handovers between critical positions in January 2014 interfered with the timely report to Council. [REDACTED]
[REDACTED]
107. The [REDACTED] first draft of the CASA report was not appropriately managed [REDACTED] to ensure timeliness.

Findings and Recommendation

108. [REDACTED]
[REDACTED] It was the responsibility of [REDACTED] together with [REDACTED] to ensure the report for Council was in hand, on and from the time when the audited financials were achieved.
109. The expectation was that the report would have been prepared for Council but that was not the case. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] The point is that in January, handovers were occurring between four (4) positions. This impacted timelines.
110. At a later stage in the process, when important discussions were necessary between the Department and CASA, two (2) [REDACTED] were on leave at the same time. This left persons in roles who did not have continuity of understanding of the CASA matters, to work on that matter. The absence of continuity in personnel, and knowledge of the matters being negotiated at that time, impacted on the timeliness of responses, and the coordinated effort to identify (or discount) solutions to problems.
111. A thought-out approach to leave management at critical times, was not evident to me in the investigation. [REDACTED]
[REDACTED]

PART 2**ADMINISTRATION****Summary - Actions and recommendations**

112. Actions and recommendations in the report are for the Administration to consider and implement where appropriate. Council's responsibility is to provide support for those actions by providing adequate resources to do so,

and to verify that those changes are improving the Department by report back from the CEO at times agreed.

113. Reviews of the Department conducted to now have had a narrow focus, looking at what can be done within the Department, not necessarily what can be brought from other departments, to Land and Property. Resources exist within the organisation that can be deployed to Land and Property.

System improvement

114. Before additional positions are considered for the team, there is an immediate need for:

- a. an assessment of what skills are needed for the positions;
- b. clear, robust systems that manage much of the defined process around leases.

115.

[REDACTED]

These systems would mean lease renewals are more streamlined, conducted efficiently and in a timely fashion, there is less room for error, and the Department is more proactive rather than reactive.

116. There needs to be defined clear accountabilities and performance outcomes for each level of the reporting structure. This will identify who makes decisions, who is responsible for decisions and their decision making authority. This does not necessarily mean increasing the financial delegations of any position, but rather the scope of that person's authority to directly manage customers, to a particular point. This will mean more timely action on customer files.
117. Better document management is required, so that drafts of reports track who makes what change to a document, and that knowledge is retained. There should also be ready access to source documents utilised as the basis for reports, such that the persons responsible for creating and finalising any report, can be assured of the accuracy of information.

118. A review of the skills and qualification of persons working in the Department is necessary. Two (2) employees in the Department have qualifications and are qualified to discharge the requirements of their role. There is significant administrative work, that should be done by administrative officers, within defined procedures, to enable those skilled employees to conduct the more complex work and assessments.
119. It would seem that there is adequate 'head count' to achieve (with systems and processes) what the Department needs to achieve. [REDACTED]
[REDACTED] It is my preliminary assessment that:
- a. With the assistance of systems, templates and checklists, confidence in each persons' role in the team will be assisted;
 - b. Workload pressures and inefficiencies will be reduced ;
 - c. [REDACTED] position involves non-complex largely transactional responsibility and needs one (1) full time equivalent person;
 - d. Until those systems are in place, it is not possible to assess whether there is a need for another person in the Department. The Team Leader already has five (5) direct reports. Assuming an additional resource is needed, that person should have property qualifications, rather than be another administrative assistant;
 - e. There are significant special projects underway; those projects probably require a specific resource for that;
 - f. [REDACTED] needs to be set up to deliver outcomes, and better co-ordinate processes, resources and workers under his/her responsibility;
 - g. [REDACTED] must have strong leadership skills, exceptional organisational skills and the ability through systems to have confidence in the work of those reporting to the position.
120. Monthly reports from entities delivering performance summaries and financial information need to be assessed, not 'ticked' and saved to the records management system without analysis.

121. I defer to the Departmental review with the assistance of Mr Ciccarello, in terms of any structural or other changes that can be identified.
122. There are a lack of measurable indicators of performance of each role. This needs to be rectified so that employees understand clearly their targets and milestones.
123. There were a number of contributing factors to the situation involving CASA. The following is a summary of them.

Human behaviours

124.

125.

126.

127.

128.

Lack of understanding of responsibilities on handover

129. Especially where there is a changeover of staff in key positions at critical times, or an absence of staff on leave with the required skills to ensure more timely responses to CASA's queries at other times, responsibilities must be clearly understood.
130. There must be clear, systemised handover procedures for those coming to or from Acting positions over any length of time.

131. There must be accountability for decision making buy identification of who authorised what in the way of actions and correspondence.

Measurement of performance in positions/KPIs

132. Positions need to be aligned with measureable and relevant outcomes for the role. Key performance indicators (KPIs) need to be appropriate, and capable of change to accommodate different situations.
133. Too often KPIs' are vague, general or out-dated for the job and its environment. Each position should be reviewed from this aspect and assigned understood deliverables.

Kaye Smith
Partner
4 September 2015