



Governance Review of the Game Council of NSW

For: NSW Department of Primary Industries

By: IC Independent Consulting

- **Steve Dunn, Director**
 - **Steve Corrigan, Associate**
 - **Russell Watkinson, Associate**

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Review of Governance of the Game Council of NSW

1 Executive Summary

The Game Council of NSW is a statutory body established under the *Game and Feral Animal Control Act 2002* (the Act). The Game Council is subject to the control and direction of the Minister other than in respect of the content of any report or recommendation made by it. The Game Council is a body of 18 members including the Chief Executive. Under the Act, the Game Council cannot employ staff.

The statutory objects of the Act include promoting responsible and orderly hunting of game and pest animals. The statutory functions of the Game Council include representing the interests of hunters, administering a licensing system, enforcement of the Act, providing education services, and undertaking research.

Game Council services are delivered by the Game Council Division, the Division of the government service established to employ staff and undertake service delivery. The Division currently employs 21 staff, 6 of whom are compliance officers called Game Managers. It administers over 20,000 current hunting licences. The Game Council head office is in two converted residences in Orange, with operational staff in 5 regional offices. Revenue in 2011/12 was \$3.9 million, with \$1.2 million of that coming from licence fees, and \$2.6 million from NSW Government grants.

This review has found the Game Council has achieved significant results towards achieving its objects and functions, and this should be recognised. However, they have achieved these results by taking governance risks not normally associated with government bodies. They have prioritised resources into operational activities and neglected internal governance systems.

Specifically, more than a decade after it was established, the Game Council has no overarching governance framework; lacks a strategic planning framework; lacks some of the skills, tools and resources to ensure effective compliance with its regulatory framework; has no internal regulatory compliance program (and has compliance breaches for example with records, privacy, and information access legislation); has no approved enterprise-wide risk management framework; and has an inadequate policy framework.

Game Council members (councillors) and the Division's executive management have not fully understood their governance obligations and there is a lack of clarity about individual and organisational accountability. The Division lacks executive level experience particularly in the area of policy development, strategic planning, and internal compliance.

Without any real mandate or direction the Game Council has expanded its governance role beyond its statutory functions, and attempted to reinvent its statutory objects with a focus on the use of the term conservation hunting.

The Game Council has not been able to resolve the inherent conflict of interest associated with its functions to both represent the interests of hunters, and to regulate their activities.

The risks to government associated with these governance deficiencies should be regarded as unacceptable.

1.1 Review Recommendations

This review is required to make recommendations in respect of any aspect of the Game Council's governance, management, administration, organisation and operations that will enhance the Game Council's service delivery and capacity to deliver on its statutory functions.

The review's principle recommendation is that the services associated with the licensing, education and enforcement functions of the *Game and Feral Animal Control Act 2002* should be delivered by an appropriate Department, along with policy and legislation functions. For clarity the term **Game Licensing** should be used to describe the departmental function.

Additional functions should be delivered through the establishment of a **NSW Game Board**, which would replace the Game Council. The Game Board would have no more than eight members, would be skills based, and would not employ staff. Subject to the control and direction of a Department, and serviced by that Department, the Game Board's functions would include:

- a. Stakeholder engagement.
- b. Representing the interests of hunters.
- c. Promoting game and feral animal control.
- d. Providing policy advice to government.
- e. Advising the Minister on expenditure priorities from the Game Licensing Account¹, including:
 - i. Establishing research priorities.
 - ii. Commissioning appropriate research.
- f. Advising the Department on licensing, education and enforcement activities.
- g. Ensuring a strategic plan is developed, implemented and monitored.

To avoid duplication the review report makes specific recommendations at the end of the most relevant section of the report. A consolidated list of recommendations is appended as attachment 1.

Some of the report's recommendations are dependent upon others and may not be wholly applicable if recommendations relating to high level structural reforms are accepted. In particular this is relevant to the responsibilities of any government department becoming involved in the proposed reforms. That is to say, if the recommended high level reforms are implemented many of the further recommendations can be regarded as a check list with little further action required.

1.2 Discussion

There is a serious question about how the current situation has been allowed to develop. The Game Council has its roots deeply embedded in politics. It was established because of, and has grown with, the influence and power of the Shooters and Fishers Party in the NSW Legislative Council.

In the opinion of the review this power has resulted in the development of an inappropriate service delivery model. What should always have been a service delivery function undertaken by a government department, became a statutory body. What could have still been a tightly controlled body, has drifted, its autonomy encouraging governance risk taking and a lack of accountability.

The Shooters and Fishers Party argued and fought for autonomy and independence through the establishment of a statutory body. But winning that debate was the easy part. The hard part has been making it work. Despite many of those involved having highly credible private sector, political, and hunting expertise, that expertise could not substitute for the skills and experience required to set up and administer a new government function through a new statutory body in a way that meets government and community requirements and expectations.

Despite lots of hard work and well meaning effort by councillors and staff, and the ad-hoc support of other government agencies, the Game Council has become further and further isolated from mainstream government administration.

It has been argued that a high degree of autonomy and independence is desirable because the Game Council needs to be entrepreneurial if it is to achieve its ambition to be largely independent of government funding. But the Game Council is dependent on government for the majority of its

¹ The current statutory Game Council Account to be renamed Game Licensing Account

funding and this situation is unlikely to change; so that justification fails. With autonomy and independence should come ultimate accountability for actions and risk. But accountability clearly lies with government and that is highly unlikely to change.

The Game Council has faced conflicting challenges for scarce funding. It has needed to grow its business to make it financially sustainable, whilst still operating in a transparent and accountable way within the governance framework expected of a government body. This challenge has not been satisfactorily resolved and a risk has been taken to favour services over governance. The current situation is consequently out of balance and if, as appears likely, the orderly licensing of hunting is to be recognised as an ongoing government program then service delivery should be brought into a government department to get it back on track.

Government agencies are organised in clusters. Small agencies have both a parent and siblings. They have symbiotic relationships within the cluster, and extended relationships into other clusters. Part of this is formal and part informal, but all are critical. No amount of structure can substitute for effective working relationships. The Game Council has no parent and no siblings, no one wants to adopt it, and no one really wants a close relationship with it - because of the politics. The more apparent the politics become the more other agencies have distanced themselves. The situation is messy, unconventional and creates discomfort. Government employees, other than perhaps a few senior and chief executives, should not have to deal with this uncomfortable reality.

The Game Council is not unique. There are many statutory bodies like it and I'm sure many with an equally complex political context. But none are dealing in such a controversial policy space, with such direct government involvement, where direction and control is essential, and where the broader community expects public policy to be very cautious and very conservative.

The Game Council is a case study of power and politics illustrating why such small agencies can flounder unless they have clear direction, clearly described functions, and effective oversight; and why there should be clear rules for the establishment of such statutory bodies to demonstrate why they need to be independent, and why this is going to be the most efficient model for service delivery.

Allowing the Game Council to continue on its current path is not an option. To be brutally honest this is probably as close as we ever want to get in Australia to what has started to look increasingly like a private regulatory agency, i.e. a regulatory and compliance function, under the control of a small group of individuals, partially cloaked from mainstream government oversight.

The idea of responsible and orderly hunting of game and pest animals is a worthy goal and the program has made some good steps towards achieving it. The challenge now is to ensure that the delivery of licensing and compliance services is done in a manner consistent with accepted standards of government administration, and to ensure the effectiveness, efficiency, and sustainability of the program.

2 Background

This review was undertaken because of the NSW Government's concerns about the Game Council's governance arrangements. The review has therefore examined key areas of Game Council governance and made recommendations in respect of strategic planning, service delivery of core functions, and administration.

The terms of reference for the review were:

1. Review the services currently provided by the Game Council and ensure that the statutory requirements of the *Game and Feral Animal Control Act 2002* (the Act) are being met.

2. Examine the performance and delivery of both statutory and non-statutory functions and services provided by the Game Council, and determine whether these services are being provided effectively and efficiently and in line with NSW Government and Department of Premier and Cabinet regulations and policies.
3. Examine the governance structure of the Game Council and determine whether this is the most effective or appropriate model to enable the management and staff of the Game Council to deliver on the objectives of the Act.
4. Examine the Game Council's operational capacity, including staff skills and capabilities, to undertake and effectively implement its statutory functions.
5. Examine the Game Council's organisational, financial and administrative management and determine whether it is appropriately skilled and resourced to oversight the Game Council's operations.

In undertaking this Review, consultation will occur with staff of Trade and Investment and Game Council NSW and any other relevant body or person to:

- Identify and document functions and services provided by Game Council NSW
- Review these functions and services against government policy, legislation, policies and procedures
- Document, assess and evaluate Game Council NSW's governance structure for effectiveness in achieving statutory objectives and functions
- Assess staff capacity to undertake their role and the capacity of the organisation to support its staff
- Review relevant audit reports of Game Council NSW

The review report addresses each term of reference and makes recommendations both about high level governance reforms, as well as more detailed operational matters.

In the lead up to the commencement of a supplementary pest control program in NSW National Parks, the media have reported allegations about the hunting activities of a senior staff member in late 2012. These allegations are not within the scope of this review.

For the duration of this review the Game Council Communications Manager was suspended from his duties and hence not able to take part. The functions of the position were undertaken by other senior staff.

2.1 Review Process

The review process involved meetings with:

- The Game Council Chairperson.
- The Game Council.
- Staff of the Game Council Division.
- Senior officials from relevant government agencies.
- The Hon Robert Brown, MLC, of the Shooters and Fishers Party.

The review terms of reference were tabled in Parliament on 28 February 2013 and the review has been extensively reported in the media. The review has been largely inward focused and no meetings were held with members of the public. It was agreed anyone who made contact about the review would be provided with a copy of the terms of reference and invited to make a submission.

The review was presented with a significant amount of printed and electronic material to illustrate both the internal and external operations of the Game Council Division. That material was reviewed to the extent necessary to form a view on matters within the review terms of reference.

An early focus of the review was on the approach to strategic planning, and on regulatory compliance, particularly enforcement. Strategic planning is the foundation for organisational activities and governance; and enforcement activities represent an area of high organisational risk.

Throughout the review it became clear there was confusion about the name *The Game Council*.

- The Game Council of New South Wales is the correct term for the statutory body corporate. It is commonly called the Game Council.
- The Game Council Division established under the *Public Sector Employment and Management Act 2002* is also generally called the Game Council. Its branding supports that impression (badges, letterheads, advertisements etc).
- Staff identify as working for the Game Council.
- Many licence holders state (believe) they “are members of” the Game Council as if it were a club.

The terms game, pest and feral animal can also be confusing. Whilst the following is not a comprehensive definition it might assist with reading this report. A game animal is one prescribed in a schedule to the Act such as deer and quail; special hunting rules apply to game animals. A feral animal is any introduced species living wild. A pest animal may be either an introduced species or in certain circumstances a native species such as ducks impacting on rice crops.

2.2 Personal

I was brought up on a farm in England in an environment where firearms were commonplace. As a young man I was taught firearms safety and use, and held a gun licence. I have never held a firearms licence since arriving in Australia in 1990.

In the early days of the Game Council’s establishment I had input into elements of proposed operational policy (particularly licensing and compliance). At that time I was employed as a senior public servant with responsibility for the administration of similar functions for recreational and commercial fishers.

2.3 Acknowledgements

The Chairperson of the Game Council, members of the Game Council, staff of the Division, and the senior officials whom I interviewed during this review were all extremely cooperative and constructive. The Hon Robert Brown MLC gave useful context and background to help understand the Game Council and its origins. Dianna Watkins from the Department of Primary Industries provided valuable support as the review executive officer.

3 Governance Discussion

The review has been guided by accepted definitions and standards.

Whilst there are many definitions for governance, they follow very similar themes.

NSW Treasury (NSW Treasury, 2009) says:

- “Corporate governance - which refers broadly to the processes by which organisations are directed, controlled and held to account - matters. Effective corporate governance arrangements are *essential* to the performance, integrity and transparency of public sector organisations”.

The Australian Securities and Investment Commissions Corporate Governance Summit (Collier, 2002) states:

- “An analysis of definitions shows there is a reasonable consensus that, at a minimum, corporate governance is broadly about two things:
 - firstly, it is about the mechanisms by which corporations are directed and controlled; and
 - secondly, it is about the mechanisms by which those who direct and control the corporation are monitored and supervised. That is, it is about mechanisms that ensure those who are in control are accountable”.

The Uhrig report², the Commonwealth review of the Corporate Governance of Statutory Authorities and Office Holders (Uhrig, 2003) states:

- “In general terms, corporate governance encompasses the arrangements by which the power of those who implement the strategy and direction of an organisation is both delegated and limited to ensure the organisation’s success, taking into account the environment in which the organisation is operating”.

The Australian Standard 8000 – 2003 (AS 8000-2003) Good Governance Principles, (Standards Australia, 2003) applies to entities including government departments and government organisations with boards³.

The purpose of the Standard is to:

- (a) assist members of boards, chief executive officers and senior managers to develop, implement and maintain a robust system of governance that fits the particular circumstances of the entity;
- (b) provide the mechanisms for an entity to establish and maintain an ethical culture through a committed, self-regulatory approach; and
- (c) provide shareholders, or stakeholders, as the case may be, with benchmarks against which to gauge the entity’s performance.

The object of good corporate governance principles are described as to:

- (i) Enhance organisational performance.
- (ii) Understand and manage risks to minimise the negative aspects and maximise the opportunities.

² The Uhrig report was commissioned by the then Prime Minister, John Howard. For the last decade it has been a key guiding document for the Commonwealth Government in managing the reform of statutory bodies.

³ AS 8000 – 2003 commonly refers to boards. It states that recognising some entities to whom this standard applies may not have a board, the standard states such a reference should be taken to mean the equivalent body and/or the responsible senior management.

- (iii) Increase investor confidence in the integrity and efficiency of capital markets and also enhance the competitiveness of the economy.
- (iv) Strengthen shareholder and/or community confidence in an entity, particularly in areas that are not formally regulated.
- (v) Enhance the public reputation of an entity through enhanced transparency and accountability.
- (vi) Allow entities to demonstrate how they are discharging their legal, shareholder and ethical obligations.
- (vii) Provide a mechanism for benchmarking accountability.
- (viii) Assist in the prevention and detection of fraudulent, dishonest and/or unethical behaviour.

In summary, Corporate Governance represents the systems by and with which organisations are directed and controlled, and how those exercising power are held to account.

A key part of good governance is ensuring organisational compliance. Australian Standard 3806 – 2006 Compliance Programs (Standards Australia, 2006), defines compliance as “adhering to the requirements of laws, industry and organisational standards and codes, principles of good governance, and accepted community and ethical standards”.

Paraphrasing from the standard:

- Compliance is an outcome of an organisation meeting its obligations. To achieve this, compliance policies and procedures must be integrated into every aspect of the organisation’s activities, and should be aligned with the organisation’s strategic objectives - an effective compliance program will support these objectives.
- An effective compliance program will result in an organisation being able to demonstrate its commitment to compliance with relevant laws, including legislative requirements, industry codes, and organisational standards, as well as standards of good corporate governance, ethics and community expectations. The organisation’s approach to compliance should be shaped by (and should help to shape) its core values and how generally accepted corporate governance, ethical and community standards are met.

Compliance should be regarded as a critical issue for government bodies.

3.1 The Exercise of Power

The term *exercise of power* captures the concept that when you govern, you have to exercise power. It is a critical theme of governance and everyone can understand that it is possible to exercise power in a good way or a bad way, and that sometimes people or organisations given power are not always given the resources, or have the necessary skill sets to exercise it effectively. It is also understood that someone needs to be held accountable for the exercise of power, and for good governance.

Judgement about what comprises good or bad governance will be made by individuals, organisations, institutions, and democratically elected bodies based on a vast range of accepted norms. Some of these are mandated by law or policy whilst others are determined by our culture and values.

The foundation for the exercise of power, including the roles of the respective players, is partly established by the legislative framework. And if the legislative framework is clear about the way power is to be exercised, focussed in terms of what it expects to be done, and provides for delegation, then accountability is rarely in doubt.

Uhrig talks extensively on the role of Ministers responsible for statutory authorities, as well as the various authority models (Uhrig, 2003). This includes authorities where the Minister generally has the same powers in respect of the authority as he or she has in respect of a department of state -

except for those matters for which the authority has independent statutory responsibilities. In this case the Game Council is subject to the control and direction of the Minister in the exercise of its functions, except in relation to the contents of any report or recommendation made by it.

Uhrig describes circumstances where government may choose not to provide a wide-ranging power to act, instead establishing a narrow set of outputs to be delivered. A comparison is drawn to closely held companies (small group of controlling owners) where a limited delegation of power and the influence of a limited number of parties exercise control over the entity. In such circumstances an independent board may not provide the best governance arrangement. Whereas in circumstances where government provides a wide delegation and the authority can operate with entrepreneurial freedom, a board will be the optimal mechanism for governance.

This suggests that in circumstances where government is not providing a broad delegation (i.e. where there is a narrow set of functions) it is likely that holding the chief executive directly accountable for performance will produce better governance outcomes than a board.

Contrasting the relationship between a Minister and department, Uhrig states it is often a goal that a statutory authority operates with a greater level of separation and it is this separation that creates the need for robust governance structures. As independence increases, and is combined with power (and risk), so too the need for governance (and governance oversight) increases.

He expresses a view that statutory authorities should only be created where there is sufficient need for:

- efficiency: that is, a clear purpose is required to achieve objectives and it is considered beneficial to undertake functions outside the portfolio department, or;
- independence: when functions require a level of separation from government to ensure objectivity.

Where a statutory authority exists it would benefit from greater clarity in the definition of its purpose, direction and objectives. Uhrig recommends this be achieved through the relationship between government, portfolio departments and statutory authorities being clearly stated, including through regular enunciation of expectations through a Statement of Expectations between the Minister and the statutory authority.

4 The Game Council of NSW

The Game Council of New South Wales (the Game Council) is a body corporate established under the *Game and Feral Animal Control Act 2002* (The Act). The Game Council has the statutory objects to provide for the effective management of introduced species of game and feral animals and to promote responsible and orderly hunting of those game animals on public and private land and of certain pest animals on public land.

Part of the justification for the Game Council's services is that responsible and orderly hunting contributes to the effective management of introduced species of game and feral animals, and ultimately to a stronger NSW economy. The planned results from the Results and Services Plan⁴ prepared by the Division for Treasury are:

- Hunters comply with defined requirements and standards for licensing, safety, accountability and humaneness.
- Hunting makes a greater contribution to game and feral animal management and the NSW economy.

Some of the key services the Game Council aims to provide to contribute to these results include:

- Licensing of hunters: Administration of the NSW game hunting licensing system.
- Monitoring Compliance: Monitoring hunter compliance with defined standards by undertaking enforcement operations and conducting investigations of breaches of defined standards.
- Supporting hunters and hunting organisations: Consultation and communication with hunters and the hunting and firearms industry and provide training and advice to hunters.
- Dealing with government agencies: Communicating and coordinating with other government agencies on game and feral animal management.
- Education and training: Developing and delivering best practice education and training programs on game and feral animal management, animal welfare, hunter safety, and to meet licensing standards of the *Game and Feral Animal Control Act 2002*.
- Research: Promotion, fostering and funding research into best practice management of game and feral animals.

The Game Council consists of 18 members appointed by the Minister, comprising:

- The Chief Executive
- 8 persons appointed on the nomination of hunting organisations
- a person appointed on the nomination of the State Management Council of Livestock Health and Pest Authorities⁵
- a person appointed on the nomination of the Australian Veterinary Association
- 2 persons who are wildlife management scientists
- a person appointed on the nomination of the Minister administering the *Aboriginal Land Rights Act 1983*⁶
- a person appointed on the nomination of the Minister administering the *Forestry Act 2012*
- a person appointed on the nomination of the Minister administering the *Crown Lands Act 1989*

⁴ See section 6.1.1

⁵ It is proposed "Local Land Services" will assume the majority of LHPA functions in 2014.

⁶ This position is vacant.

- a person appointed on the nomination of the Minister administering the *National Parks and Wildlife Act 1974*⁷
- a person appointed on the nomination of the Minister.

The positions of Chairperson and Deputy Chairperson are elected from amongst the members.

Game Council meetings operate under a Code of Meeting Practice.

The Game Council is required by the Act to have a Committee of Management made up of 6 members comprising:

- the Chairperson of the Game Council, who is the Chairperson of the Committee
- two members from the Game Council's eight hunting organisations members
- the Game Council's State Management Council of Livestock Health and Pest Authorities member
- the Game Council's Australian Veterinary Association member
- the Game Council's Chief Executive Officer.

In the main, the Game Council delegates its statutory functions to the Committee of Management, and the Chief Executive.

The issue of Game Council funding has been a persistent theme throughout the review. Throughout its ten year evolution funding proposals to government appear to have been overly optimistic about the anticipated level of licensing revenue, and the consequent ability of the Game Council to be self funding.

Such proposals have suggested just a small funding top up would be required from the consolidated fund, and then only for a relatively short period. These proposals do not appear to have been realistic. Neither the current licence fee structure, nor prospects for increased licence sales suggest that situation is likely to change. A Game Council member stated during the review it had been a point of discussion whether they were being starved of funds by Treasury, to make them fail.

The Hon Robert Brown, MLC, of the Shooters and Fishers Party, and a former Game Council Chairperson, stated the Division had been "running on the smell of an oily rag" and that they had probably taken a risk on some elements of governance.

The argument has been that if the body can be self funding, deliver its core business, can be effectively governed, and held accountable for its actions and risks then there is at least an argument for a high degree of independence and autonomy.

However, the Division is dependent on government for the majority of its funding, is experiencing a range of governance failings, and both risk and accountability ultimately lie with government. Such autonomy is therefore not appropriate.

There is no specific agreement about funding or the services to be provided. There is no statement of expectations or other such agreement currently in place.

4.1 Discussion

In less than a decade the Game Council has built its business to the point where it now licences over 20,000 hunters to either hunt on public land, or to hunt certain game animals on private land. This is a significant achievement and has been supported through the development of a comprehensive range of hunter education material for the use of hunting organisations and their members.

It was stressed repeatedly to the review that the Game Council is about more than just the licensing of hunters. The establishment of the Game Council represents an attempt to bring order and

⁷ This position was created by an Act amendment in 2012 and is vacant.

structure to hunting, in particular for prescribed game animals on public land, and to focus and organise the efforts of hunters against pest animals. By doing this the Game Council claims it can assist in the control of feral animal populations and hence their impact, reduce costs to government, and make a contribution to a range of other social outcomes from reduced motor vehicle accidents, to reductions in greenhouse gas emissions.

Whilst it might appear self evident that removing any feral animal from a population is beneficial, some experts do not agree, stating this is an over simplification. The review was advised feral animal control programs can have a variety of goals including removing whole populations, or controlling breeding populations. Sport hunting however is generally quite random and selective in terms of its target (for example large trophy males) and in some instances has a goal of leaving some for next time. It is argued by some that because most of the hunting by Game Council licence holders is not done as part of a structured program the benefits in terms of reduced impact will be ad hoc, not measurable, and will not achieve the espoused goals and outcomes. Some go further and claim the Game Council is actively misleading in its attempts to justify the success of its program.

A lot of this debate is beyond the terms of reference of this review. It is none-the-less important to mention because it goes to the clarity of the Game Council's objectives, its policy underpinnings, its strategic intent, and to some of the entrenched opposition to the Game Council from some organisations and individuals.

Discussions with the Hon Robert Brown MLC of the Shooters and Fishers Party provided valuable background to the establishment of the Game Council.

The legislation establishing the Game Council was passed in 2002 but the work leading up to that point had been going on for many years. Mr Brown played a leading role in preparing the legislation and feels a strong sense of ownership. He explained the first few years after the Game Council was established were about creating awareness of the Game Council and about selling as many licences as possible. Because firearms licence holders only have to hold a Game Council licence to hunt on public land, or to hunt certain species on private land and then only if they are not the owner or occupier, the focus was on promoting the value of this service.

The Game Council has its roots deeply embedded in politics. It is commonly known that for many years the support of the Shooters and Fishers Party has been important to the Government of the day to ensure the passage of legislation through the Legislative Council. Mr Brown said the Shooters and Fishers Party has a general philosophy of supporting the legislative agenda of the Government but expects to be able to promote its own policy agenda in return, and aims to get support for at least some elements of that agenda.

Mr Brown is a former Chairperson of the Game Council. He advised he now liaises with the Game Council through the current Chairperson. He has made the Minister for Primary Industries aware of the fact he has regular contact. Where Mr Brown has contact with other Game Council members or Division staff it is infrequent, ad-hoc, and generally coincidental with his attendance at events.

Mr Brown was advised the analysis of the Division's policies and procedures showed they lacked rigour and a lengthy discussion ensued about the difficulties small organisations face and the tendency to focus on core business rather than support structures. Mr Brown was broadly aware of this problem and pointed to one particular issue, the accumulation of massive amounts of "time in lieu" (excess work hours) by senior staff, as a symptom of the problem. Mr Brown described the focus on external activities, as opposed to a focus on internal organisational governance as being somewhat of a calculated risk. He believes the Division needs to reach a critical mass of resources and funding to be able to support the required standards, a time when they no longer need to "run on the smell of an oily rag".

Discussions were held with the full Game Council at their biannual meeting in May 2013. Discussion and comments included:

- The review was welcomed. There was universal acceptance of the terms of reference, and the importance of, and need for the review.
- Members expressed views about how hard staff worked, their enthusiasm and motivation, and the good work that has been achieved through the various programs.
- The Division needs more resources but it is impressive what staff get done with current low levels of funding - the report needs to say that.
- At times it is almost as if Government has tried to unravel the Game Council and make it fail through inadequate funding.
- There is confusion about the name Game Council because it applies to different parts of the total organisation; but the level of ownership of the Game Council by hunters who often wrongly call themselves “members” is perceived at least partly as a good thing because they feel a strong sense of ownership.
- There are problems with the public image of the Game Council and it is not seen as part of the public service. There was some discussion about public reaction to councillors wearing Game Council branded clothing – some reaction was good and some bad.
- There is confusion about the reporting arrangements between the Game Council Chief Executive, the Game Council, the Department, and the Minister, and there needs to be clarification around such governance questions.
- Members were told by the Department to think of themselves as a board.
- There are perception issues (about potential conflicts of interest) with having representation and regulation roles side by side.
- Concerns were expressed about both the reality and perception of the political links between the Game Council and the Shooters and Fishers Party, which again needs clarification.

No views were expressed that opposed the need for this review.

5 The Game Council Division

The Game Council itself cannot employ staff. Staff are therefore employed under the provisions of the *Public Sector Employment and Management Act 2002*, schedule 1, part 3.

Part 3 Divisions comprise ancillary groups of staff who are not part of the Public Service but who are employed under Chapter 1A in connection with an agency that, in most cases, also has Public Service staff assigned to it. In this case there is no line agency with any statutory governance relationship with the Game Council.

Currently there are 21 staff employed in the Division. The Division's structure has four branches operating under senior managers reporting to the CEO:

- Business Manager.
- Stakeholder Services Manager (licensing and licensing compliance).
- Research and Development Manager (Research programs and OutREACH hunter education).
- Communications and Marketing Manager.

The Council's head office is in Orange with staff located in regional offices at Tumut, Tamworth, Bathurst, St Marys (Sydney) and Tocomwal. One staff member based at Tumut operates from a government shared facility office at Batemans Bay under a special arrangement. The review was advised no agreement for this arrangement was documented and part of the relevant personnel file could not be located.

For the financial year 2011/12 expenditure was \$1.7 million on employee related expenses, and \$2 million on other operating expenses. Income comprised \$1.2 million in licensing revenue, and \$2.6 million in government grants.

Current licence numbers recently exceeded 20,000 for the first time.

6 Addressing the Terms of Reference

Whilst each term of reference is addressed in turn, this section starts with a focus on the approach to strategic planning, and on regulatory compliance in particular, enforcement.

In very early discussions it became clear both the strategic planning framework and enforcement activities needed attention. Because strategic planning is such an important foundation for organisational activities and governance; and enforcement activities represent an area of high organisational risk; it was agreed these areas would be the subject of particular focus for the review.

6.1 Strategic Planning

Strategic planning is universally accepted as a key governance issue.

The Audit Office (NSW Auditor General, 2011) uses a lighthouse as a metaphor for corporate governance, with the lighthouse anchored on rock comprising management and oversight, supported by strategic and business plans, regular reporting against those plans, and clear accountability and delegations. It states evidence of performance as:

- Strategic and business plans exist and are provided to key stakeholders.
 - Are regularly reported against to CEO, Board and Minister.
 - Include clear accountability and delegations meaning all staff know what they are to do, for whom, when and to what level of performance.

It is standard practice that government agencies undertake a strategic planning process including preparing a business plan that aligns with the budget cycle.

In the Game Council's case it is clear that over the years a great deal of planning has been undertaken and this review has looked at the Game Council's approach to identify:

- How it addresses statutory functions and related government policies.
- How it accounts for use of public resources.
- Whether transparency and accountability are supported by planning.

Planning efforts have not been effective. Whilst the Game Council has a semblance of a planning framework, a draft strategic plan prepared in May 2008 has yet to be finalised, approved and published. The agency has an expired business plan but it is not derived from that draft strategic plan and it too has not been published.

The review was advised both were developed primarily to support bids for government funding, and that they are both Cabinet in Confidence documents.

There is no doubt the Division is busy and working hard, but without a transparent and publicly available planning and reporting framework it is difficult to determine whether it is focussed on the right priorities, or working as efficiently and effectively as possible.

The documents comprising a planning framework should reflect the provisions of relevant legislation and government policy, and explain to readers the nature of the agency's business. The long term goals of the organisation should be clearly articulated and it is desirable that the processes for prioritising and allocating resources to achieve these goals over the short to medium term be described. The framework should also describe how performance will be measured, both in achieving targets and in running an effective and efficient organisation.

Like other small statutory authorities, the Game Council has its objects and functions set out in legislation, in this case the *Game and Feral Animal Control Act 2002* (the Act).

A key governance question is how well the Game Council's strategic planning framework addresses its statutory functions, any related government policy, and its use of public resources; and

consequently how this helps ensure transparency and accountability. An assessment has been undertaken based upon a review of draft and completed documents looking at clarity of purpose, and the substance of strategic and supporting plans. A framework illustrating a model for connectivity of planning documents, and drivers and influencers is set out in Figure 1.

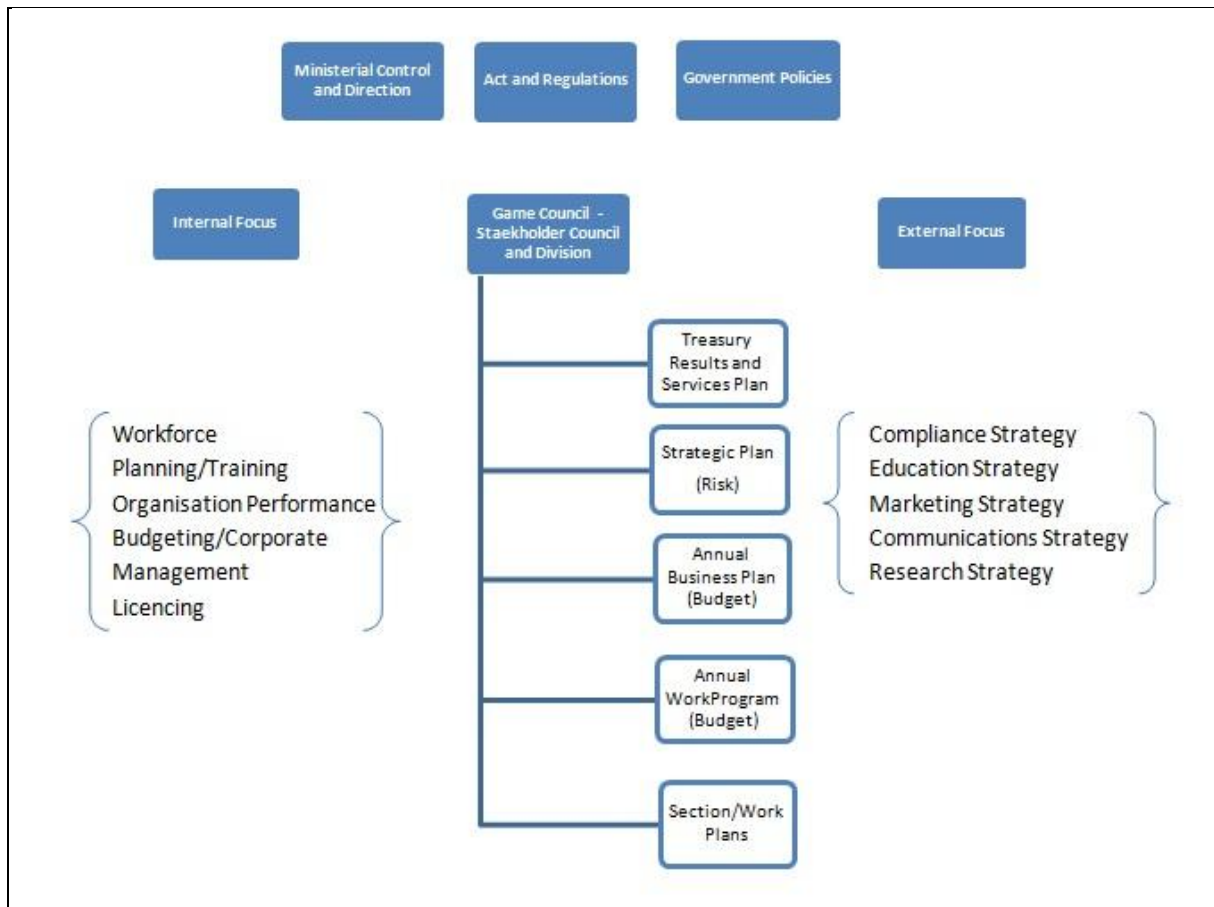


Figure 1. Planning Connectivity Framework

6.1.1 Treasury Results and Services Plan (RSP)

For well over a decade the Treasury Results and Service Plan (RSP) was the document all NSW Government agencies were required to submit annually as part of the budget cycle. In a consistent, across government approach the RSP documented achievements, strategic direction, budget initiatives, priorities, and results and services in a logic template with links back to broader government planning documents.

For three years from 2008 to 2011 the Division was required by Treasury to produce a RSP. This document is very close to what looks like a potentially effective planning document, but it is not public; the RSP is a Cabinet in Confidence document. There is no record to show it was approved by the Game Council before being submitted and no record of any feedback from Treasury.

The RSP template illustrates multi-year budget against core activities tracking forecast and actual expenditure against functions. It records emerging strategic issues; illustrates potential improvements in value for money; describes policy and regulatory constraints; risk and risk management strategies; organisational capability; and agreed actions. It is understood the RSP approach is no longer used by Treasury but whatever approach is used to support budget allocations against performance, it should both mirror and inform the agency's strategic plan. This has not occurred at the Game Council. There are no tangible links between any planning documents.

6.1.2 Strategic and Supporting Plans

The key document in a planning framework is the agency strategic plan. According to generally accepted public service practice this should be the output of a planning process that defines a vision, mission and long term goals, and the strategies to achieve these goals (normally over a 5 year timeframe). The plan should include performance measures that are outcome focussed to enable progress to be monitored and to identify parts of the plan that might need adjustment. It is an outward looking plan which aims to engage and inform staff and stakeholders so they know what the agency plans to do, why and how it plans to do it, what the proposed timeframe is, and how it is to be funded. Everyone should know where they fit and their respective role.

The strategic plan guides the development of specific supporting strategies around agency activities, internal corporate services, and an annual business plan which should inform the annual budget cycle, as illustrated in Figure 1. In large organisations it is common to have a hierarchy of separate corporate and strategic plans whilst smaller organisations tend to combine these into one document that addresses both high and low level, and external and internal issues.

The documents examined by the review comprise Treasury Results and Services Plans (Cabinet in Confidence), the draft 30 year Strategic Plan (Cabinet in Confidence), and the expired 3 year Business Plan 2008/9 to 2011/12 (Cabinet in Confidence), as well as the Compliance Strategy, Educational Products Strategy, Marketing Plan (found within the Business Plan), and the Annual Report 2011/12. All strategic and supporting plan documents reviewed lacked clear goals and objectives, measurable targets, and meaningful performance indicators.

The Division has also published a document entitled Research Strategy 2010. This document is technically a policy statement and guidelines rather than a strategy. It contains no goals, no strategies, and no performance indicators, although it does identify some areas for future research. As research is a key function, a research strategy is an essential part of the planning framework. The strategy should ensure effective collaboration with other relevant government and national research programs.

Some of the Division's corporate support systems are provided through a Service Level Agreement with the Department of Trade and Investment (DTIRIS). DTIRIS has provided the Division with a staff Performance Development Scheme (PDS) which includes a template for individual work planning. The Division uses the template, with work planning activities based primarily on job descriptions and current perceived priorities. A more rigorous approach would be for work plans to be informed by the agency's planning framework, i.e. there should be a clear link from individual work plans back to a work program driven by strategic and supporting plans.

6.1.3 Clarity of Purpose

Vision

The Vision set out in the draft strategic plan is *"to be the leading promoter, educator and advocate of Volunteer Conservation Hunting"*. This Vision emphasises the concept of volunteer conservation hunting, a term not defined in the Act or other government documents. The Act has the objects of effective management of introduced species of game animals and promoting responsible hunting of those game animals and certain pest species.

The vision therefore seems inconsistent with the statutory objects, shifting emphasis from management and hunting of game animals, to a conservation role. There is a consequent risk of confusion about the purpose of the Game Council if the guiding vision of the strategic plan does not reflect the requirements of the Act.

Mission

The stated Mission is *“to efficiently and effectively manage responsible and orderly Volunteer Conservation Hunting in a manner that advances the importance to all stakeholders of the intrinsic value of hunting as a part of our cultural, economic, social and land use heritage”*.

This is similarly focussed on conservation hunting, giving emphasis to *advancing the importance*, derived from the Game Council’s statutory function to represent the interests of licensed game hunters. The draft strategic plan identifies the need *for government to formally recognise conservation hunting as a viable land management technique*. This would suggest a change to both policy and legislation is being sought although how that might be achieved is not outlined as a strategy.

Objects and Functions

Neither the draft strategic plan nor the expired business plan specifically refer to objectives. Instead these documents identify “strategic themes”, derived from a SWOT analysis. The themes are broadly consistent with the functions of the Game Council. Key amongst these are representing the interests of hunters, administering a licensing system for hunters including the granting of licences, the enforcement of the Act, providing education services, and undertaking research. It is notable that public safety does not receive a high level of attention in planning documents despite a specific reference in the Act requiring the Game Council to have regard to public safety.

The draft strategic plan provides an assessment of the Council’s current position, where it wants to be, and how it intends to get there. This descriptive text leads to a simple table that outlines strategies, key measures, and aspirational targets. The strategies are very general, the key measures are largely not measurable, there are no targets within the 30 year timeframe of the plan, and the aspirational targets are somewhat optimistic, e.g. “100% satisfaction with Game Council”.

Transparency and Communication

More than a decade after legislation came into effect establishing the Game Council a strategic plan has yet to be finalised and made available to the public. Given the fundamental importance of a strategic plan as the foundation for any organisation this should be of concern. The draft strategic plan appears to have been prepared with limited external input other than from some Game Council members. It has not been exposed for public comment. Similarly, the expired business plan was never made available to key stakeholders or the general public.

Open engagement with key stakeholder groups in planning exercises (as well as in general dealings) can build confidence and achieve buy-in to an organisation. Such a consultative approach would generally be regarded as both common and best practice. Several examples of communication breakdown between government agencies were provided to the review involving staff from the Firearms Registry, the National Parks and Wildlife Service, and the Department of Primary Industries. There were some quite serious concerns expressed that communications with staff of other agencies had become quite forthright, if not confrontational.

The lack of strategic communications as part of a strategic planning framework for the Council has hindered the Council’s operations.

Accountability

The Council reports to the Minister and is required to produce an annual report. The annual report outlines “Milestones and Achievements”, but these do not appear to relate to any stated objectives

or targets in strategic planning documents. There are no key performance indicators against which the Council can be assessed. It is therefore not possible to readily form a view on whether the Council has applied public resources efficiently to meet priority tasks in an accountable manner. Accountability thus appears to be weak. It is worth noting that the SWOT analysis in the expired business plan identifies “political interference” as a threat. Perhaps this is indicative of the Council’s perception of itself as only on the fringe of government. This, along with the lack of public documentation of the draft strategic and expired business plans leaves the Council vulnerable to accusations about lack of accountability.

6.1.4 Strategic and Supporting Planning Documents Consistent with Public Sector Standards

The draft strategic plan conforms broadly with a typical format for such documents but it lacks clarity of objectives, targets and measurable performance indicators. Normally, strategic plans have a 5-10 year time horizon. The timeframe for the Game Council’s draft strategic plan, 30 years, does not seem plausible, especially when the key measures and aspirational targets are considered.

The lack of clear and measurable performance indicators over a realistic timeframe is a significant weakness in the draft strategic plan and in the expired 3 year business plan.

An appendix to the draft strategic plan does however identify critical success factors. This is a good approach and they appear to relate well to the intent of the functions of the Council as well as picking up other major issues such as “certainty of funding” and “safe and ethical hunting”. The draft strategic plan would be a better and more useful document if it was structured around addressing such critical success factors.

The compliance strategy is little more than a motherhood statement. The document gives emphasis to promoting the history and cause of hunting, and provides no sense of direction for compliance activities, priorities, resourcing and performance assessment. There is some reference to options for compliance activities, e.g. “investigation of suspected breaches of law”, but it lacks any detail. This indicates a rather worrisome lack of focus on compliance despite this being a core Council function. It also makes no reference to the statutory requirement that the Game Council “have regard to public safety” which is an important outcome.

The Educational Products Strategy (2011) has some interesting content related to past activities but again lacks clear objectives, targets and performance indicators. It focuses on the past rather than on what will be done in the future, apart from a long list of current and proposed courses and workshops. It is noteworthy that the strategy devotes only three sentences to the potential for web-based educational materials, which given the size of the Division and the dispersed nature of stakeholders seems a missed opportunity, and one that is not reflected in the reality of a website which already contains a great deal of information and acts as an effective interface between the Division and hunters. Resourcing to deliver the strategy is not addressed and no review period is identified.

In contrast, the Marketing Plan, which is incorporated within the expired business plan, is a thorough document which identifies clear options for better marketing and consequent revenue opportunities. Having said that, nowhere in the Game Council’s statutory functions does it mention marketing and whilst promotion is important it seems incongruous that one of the best elements of the planning framework is about growing and expanding the business.

There should be a logical strategic planning framework where the strategic plan is derived from the objects and functions outlined in the Act, and government policies. This in turn drives the development of supporting plans such as a business plan, functional plans, and individual work plans. As a statutory authority, the Division should meet public sector standards in its strategic planning activities.

Meaningful Performance Indicators

Whilst the draft strategic plan outlines “key measures (performance indicators) and aspirational targets”, these are not particularly meaningful when considered in the context of a 30 year timeframe. There is little information on what level of improvement these targets might represent over current performance. However, these measures and aspirational targets could be readily converted to a meaningful performance monitoring framework within a more sensible timeframe of 5-10 years.

The expired business plan does refer to moving towards a balanced score card reporting framework, and identifies potential indicators, but it does not appear this has been implemented. Such an approach should complement the longer term performance indicators identified in the strategic plan, but is by no means the only option available and such an approach would consume significant amounts of time and resources to keep it current.

None of the documents examined contain meaningful performance indicators.

Effective Performance Monitoring

The lack of meaningful performance indicators means there is no ability to determine how well the Division is performing its roles. The expired business plan refers to a review of organisation performance (within the Operational Plan) and identifies a number of recommendations to improve performance. However, a review has not been undertaken and implementation of the recommendations has apparently not been reported against.

Review and Adjustment

None of the documents provide for a regular process of review and adjustment. The Action Plan within the expired business plan identifies a range of actions, who is responsible, initiation dates, along with “follow-up dates” which tend to be monthly. No target dates are identified for completion of these actions, instead there seems to be an ongoing program of very varied actions with no clear focus or priorities.

There should be clearly stated processes and timelines for review of progress against defined strategies and actions, consistent with the timeframes of the various documents i.e. progress against an annual business plan would probably be reviewed at least quarterly with necessary adjustments, whilst the longer term strategic plan would normally be reviewed at least every two to three years.

6.1.5 Recommendations

The strategic planning documents examined do not meet accepted public sector standards. The following steps would resolve this:

- 1) A statement of expectations be developed which describes respective roles and responsibilities.
- 2) A five year strategic plan addressing statutory objects and functions, and government policies and expectations should be developed as a priority, and in consultation with stakeholders.
- 3) The planning process should feed into the development of a business plan, with supporting plans developed for example for:
 - a. hunter safety
 - b. licensing
 - c. public land access

- d. education
 - e. communications
 - f. compliance, and
 - g. research.
- 4) The research strategy should prioritise projects to address the question of how hunting programs can be designed and effectively used to manage the impacts of game and feral animals.

The review has been advised a strategic plan has been initiated within the management team. It will be work-shopped with all staff in June, and with Councillors at the next full council meeting later in the year.

6.2 Regulatory Compliance and Enforcement

“Agencies involved in regulatory enforcement deliver obligations rather than services. To do this they are given awesome powers to impose economic penalties, seize property, suspend business licences, and destroy livelihoods. They use these powers not against foreigners in war but against citizens in peacetime. How these powers are used affects the nature and quality of life in a democracy”, (Sparrow, 2000).

The Game Council has responsibility for ensuring compliance with the provisions of its Act and Regulations, specifically, the regulatory and associated licensing framework for hunting of game and feral animals.

Compliance is both a description of a group of activities as well as being an outcome that regulatory agencies aim to achieve. It includes a spectrum of activities from education through to hard edged enforcement. These activities are often described as a progressively escalating approach and often illustrated using a pyramid, as in Figure 2, to show the resources allocated to each area of endeavour (WA Commerce). All these activities fall within the job description of six compliance officers, called Game Managers.

From the description of the work activities provided to the review it appears the amount of time spent on investigation and enforcement as part of the mix of compliance activities is between 25% and 50% of a Game Managers time. No detailed records were available to the review to readily support an improved estimate. This means that somewhere between 1.5 and 3 equivalent full time positions are involved in investigation and enforcement.

The remainder of a Game Manager’s time is spent on other related duties. Discussions with staff and observations about communications with hunters and hunting groups, and hunter education, suggest such non-enforcement activities are undertaken to a good standard, whilst noting no specific performance indicators or assessments were provided to the review.

This framework could be improved in particular with the use of more sophisticated support systems. A suitable electronic case management system would enable staff to maintain documentation from first report or suspicion, through planned follow up and investigation activities, to close off or prosecution.

Such a system would ensure all important information is recorded, and would require the investigator to seek important supporting information. Mandatory fields would include asking the investigator to plan for risks and for occupational health and safety.

The system would also require any person involved in the investigation, whether in a practitioner, supervisory or management role to record involvement and decisions affecting the investigation, and would enable progress to be monitored by and reported to management at any time.

The system would allow for the input of documents such as statements, photographs, and other information and evidence, would assist with the preparation of briefs of evidence, and record the outcome of any investigation, providing quality assurance and reporting capacity.

Regulatory enforcement is a highly skilled profession requiring training, order and discipline. The profession blends academic perspectives with hard earned trade skills and experience to drive enforcement programs and operations. Systems are needed to support modern approaches to regulatory enforcement for intelligence gathering and analysis, operational planning, and case management. Such systems are not present.

6.2.3 Clients

Modern Police Forces in Australia invest a great deal in crime prevention strategies. Positive community and client involvement can create a huge asset to all forms of law enforcement, and one that is extremely cost effective.

A key factor in developing an effective enforcement strategy is consideration of the type of person the agency will deal with regularly. To hold a firearms licence an applicant will have been through a technical licensing assessment, as well as a fit and proper person assessment by the Firearms Registry. To hunt game animals they must also be assessed by the Division, and be known to their respective hunting organisation (as a member).

This system therefore provides an assurance that people able to possess a registered firearm, to hold a firearms licence, and a Game Council licence, have been law abiding. They should therefore be able to be relied upon to provide a valuable service in supporting game and feral animal management, and to be a considerable potential compliance asset - including as a source of information.

One way to tap into this potential is for Game Managers to be empowered to establish local reference groups of hunters and other stakeholders.

6.2.4 Enforcement of Illegal Hunting

There was a lack of clarity about the responsibility of Game Managers for enforcement of illegal hunting by unlicensed hunters. This sub-group of hunters are by definition not law abiding and Game Managers should not in the opinion of the review be directly engaging with them in the field. In the opinion of the review, the focus for Game Managers should be on compliance by licensed hunters. If Game Managers come across illegal hunting in the course of their patrols they should withdraw and refer the matter to Police. Likewise intelligence reports involving illegal hunting should be automatically referred to the Police.

Game Managers are however enthusiastic about being involved in enforcement of illegal hunting. The review was advised of current attempts to secure approval to carry a baton (a defence weapon)

and handcuffs (a restraint device). Mention was also made of the use of load bearing tactical vests for field wear.

Careful consideration should continue to be given to how Game Managers are perceived within the hunting community because the attitude of that community is critical to their success. Some simple ways in which perception is influenced is the demeanour and appearance of officers. Carrying and wearing this kind of equipment might well result in a negative impression. What it says is the Game Council considers it likely this equipment may be needed, that it is likely an officer will be required to strike and restrain hunters. Such an approach is fraught with risk for both the officers and the organisation. It is not reasonable to expect a small group of staff to maintain the level of training and skills necessary to operate at this level whilst also having a range of other responsibilities.

The current response to concerns about the safety risks to Game Managers has been to seek permission to issue baton and handcuffs. In the review's opinion it is more appropriate to mitigate against those risks. This is not about the individuals or their capability, this is about role, image and perception, the skills and qualifications necessary for higher level enforcement engagements, and the lack of a critical mass of officers to support the required level of initial and ongoing training.

Game Managers efforts should in the opinion of the review concentrate on informing public opinion, education, communication, offence prevention, gathering intelligence, and investigations. A focus on non-adversarial interactions would improve community and client attitude, provide a safer workplace for employees, and reduce risk.

The review was advised \$500 infringement notices are issued for offences such as failing to sign a Written Permission. It is arguable optimal outcomes can be achieved (in terms of compliance outcomes and relationship building with the hunting community) from a formal policy of verbal or written warnings for minor offences, especially first offences.

6.2.5 Operational Training

Game Managers have received a range of training opportunities typical for a compliance role of this kind including selected relevant certificate IV level training modules, advanced four wheel drive, remote area first aid, chainsaw operation, use of quad bikes, use of surveillance cameras, and client interaction and defensive tactics (CIDT). Training is provided in dog attack defence including the use of citronella spray. Game Managers are required to undertake remote area first aid training and to be re-certified every three years. CIDT refreshers are undertaken annually.

Some Game Managers are proposing to undertake a Certificate IV in Government investigations, a move which should be strongly supported.

6.2.6 Firearms Training by Staff.

A proposal to obtain firearms for training purposes should be thoroughly risk assessed if it is to proceed. The review could see no justification why this should occur other than perhaps dummy firearms for safety demonstrations.

6.2.7 Firearms Training for Staff.

Game Managers do not carry firearms of any kind so there is no requirement for them to receive training in their use. There is however merit in requiring training for Game Managers, even those who are experience hunters, to ensure they can identify firearm types, makes and models, and render a range of firearms safe, if seized.

6.2.8 Gun Possession and Storage Arrangements.

The Division does not possess or store firearms with the rare exception of seized hunting weapons, and then only very occasionally. The Division does not allow private firearms to be stored on its premises. The gun storage arrangements for seized weapons were appropriate.

Currently Division staff are permitted to carry private firearms in their salary packaged work vehicles, and staff can lawfully hunt after work. This arrangement creates a range of perceived and potential conflicts, makes unattended vehicles a potential target for theft, and creates an image problem.

6.2.9 Staff Hunting Policy

The review was advised all Game Managers and all senior staff are hunters. The staff hunting policy is therefore a key document for enforcement staff that aims to address the potential conflicts of interest of being an employee, and

- hunting on private property
- involvement in conservation hunting groups, and
- hunting on public land.

It has been variously argued to the review that staff should not hunt, or that staff should not hunt on public land, or that staff should not hunt on private land. These options may be draconian, but there is at least a good argument for the policy to be amended and simplified to avoid the perception of conflict of interest, to state:

Staff are not to hunt:

- on any day they are on duty
- or whilst on a patrol away from their base
- or involving the use of any Division vehicle or other official equipment
- and including a total ban on the carriage of any hunting weapon in any Division vehicle, unless a confiscated weapon.

6.2.10 Position Description Requirements

It is noted that it is currently a position requirement that Game Managers be hunters. This requirement was introduced following an initial round of recruitment that saw compliance staff without hunting experience failing to achieve credibility with hunters and hunting organisations. The review has not been convinced that in order to undertake enforcement activities it is necessary to be a hunter. There is no doubt some merit in understanding hunting and the culture of hunting when undertaking a range of lower level compliance engagements, but for high end investigation and enforcement this is less important than strong generic enforcement skills and qualifications.

6.2.11 Recommendations

- 5) A compliance strategy should be developed, driven by the strategic plan.
- 6) Stakeholder reference groups should be established by Game Managers to engage with hunters at a local level.
- 7) Game Manager enforcement responsibilities should be kept under annual review with a particular emphasis on risk management, and with clarification of responsibilities about engagement with illegal hunters.

- 8) Intelligence gathering and analysis, operational planning, and case management systems should be introduced.
- 9) A compliance training requirements policy and standard should be developed, including periodic re-certification of skills.
- 10) A compliance skills and training audit should be undertaken and a program implemented to address identified gaps. There should be an emphasis on stakeholder engagement, communications and hunter education.
- 11) Position descriptions for Game Managers should include a requirement to have, or to commit to obtaining, *Certificate IV in Government Investigations*, with staff responsible for investigations management being required to obtain a *Diploma in Government Investigations* (or equivalent).
- 12) The requirement of the current position description that Game Managers be experienced hunters should be reviewed.
- 13) No private firearms or other hunting equipment should be carried in any Division vehicle (including salary packaged vehicles) at any time (unless a confiscated weapon or by a Police Officer), and no employee should be in possession of a personal firearm at any time when on duty. These policies should be publicly advertised.
- 14) Consideration should be given to a no hunting policy on any day an officer is on duty.
- 15) Game Manager operational equipment should not include baton and handcuffs.
- 16) Arrangements should be made to store seized firearms and other weapons in a private or Police facility. The fact no firearms are stored at premises should be publicly advertised.
- 17) The staff hunting policy should be reviewed, simplified and clarified, noting the comments of this review.

6.2.12 Australian Government Investigations Standards

In reviewing the approach to investigations employed by the Division the review had regard to the Australian Government Investigations Standards (AGIS) in particular the sections dealing with investigations management. Various elements of the AGIS approach could be adopted and it would be a useful tool to guide the level of training and experience Game Managers require.

Compliance with AGIS is mandatory for all Australian Government agencies involved in investigations. Any person involved in investigations must hold the requisite qualifications. AGIS would be a useful standard for the Division to adopt for its purposes. It includes some very relevant content, and outlines recommended minimum standards for the following:

- investigation policy and performance measurement
- prosecution policy
- access to legislation
- investigator qualifications
- agency relationships
- ethical standards, and
- media considerations.

AGIS required qualifications are:

- Certificate IV in Government (Investigation), or its equivalent, as set out in the Public Services Training Package (PSP04). This qualification should be obtained before an officer is primarily engaged as an investigator; otherwise the officer should be under the supervision of a qualified investigator.

- Diploma of Government (Investigation), or equivalent, as set out in the Public Services Training Package (PSP04) for staff primarily engaged in the coordination and supervision of investigations.

There is also a guide to information sharing and privacy requirements, specifically information and guidance on the use of intelligence, stating agencies should have a policy outlining the use of intelligence in identifying conduct which allegedly, apparently or potentially breaches the law. This should include:

- electronically recording matters in a manner that facilitates the identification of trends, risks or convergences that can be readily retrieved and linked to new information
- a process for creating and disseminating intelligence reports to other agencies where appropriate. A standard Intelligence Report template should be developed by each agency, and
- establishing a single point of contact for receiving and disseminating intelligence.

Agencies must employ investigation management procedures which are based on project management principles of managing resources, processes, work to be undertaken, time and outcomes. Agencies should have an electronic investigation management system available and provide training in its use. An investigation management system should include the ability to:

- record investigation plans, investigation activity and management of tasks
- assist in exhibit management, and
- facilitate the preparation of briefs of evidence.

AGIS compliant systems will provide information as to witnesses, witness statements, formal interview and physical evidence and exhibits.

6.3 Term of Reference 1

Review the services currently provided by the Game Council and ensure that the statutory requirements of the *Game and Feral Animal Control Act 2002* (the Act) are being met.

The Objects of the Act are:

- To provide for the effective management of introduced species of game animals.
- To promote orderly and responsible hunting of those game animals on public and private land and of certain pest animals on public land.

The key services the Division aims to provide to contribute to these results include:⁸

- Licensing of hunters: Administration of the NSW game hunting licensing system.
- Monitoring Compliance: Monitoring hunter compliance with defined standards by undertaking enforcement operations and conducting investigations of breaches of defined standards.
- Supporting hunters and hunting organisations: Consultation and communication with hunters and the hunting and firearms industry and provide training and advice to hunters.
- Dealing with government agencies: Communicating and coordinating with other government agencies on game and feral animal management.

⁸ From the RSP

- Education and training: Developing and delivering best practice education and training programs on game and feral animal management, animal welfare, hunter safety, and to meet licensing standards of the *Game and Feral Animal Control Act 2002*.
- Research: Promotion, fostering and funding research into best practice management of game and feral animals.

Key requirements of the Act are the Ministerial power of direction and control (section 7), and the Game Council's functions (section 9) which include the function of representing the interest of hunters, as well as administration of a licensing system, hunter education, and game animal research.

Whilst these were a particular focus of this part, discussions with staff and the Game Council, and a review of documents and files, resulted in a broad review of all identified statutory obligations. Notable comments about the services provided and compliance with statutory requirements are outlined below.

6.3.1 Ministerial Direction and Control

A statutory power for a Minister to direct and control a statutory authority is common. In the case of the Game Council this power has historically been applied in a passive way, and according to the Chief Executive only rarely has a direction been issued. During the meeting with the Game Council the lack of Ministerial intervention was discussed and it was suggested this implied an acceptance they were operating effectively, and free to operate in an independent and entrepreneurial way. However, the meeting also expressed concerns about the lack of clarity of the current governance structures and reporting and accountability arrangements.

The Minister's power could have been exercised at any time in the past decade to clarify roles and responsibilities, either in an ad-hoc way or through a formalised process such as a statement of expectation. A strategic planning process involving high level approval would have provided official sanction for operational activities.

6.3.2 Representing the Interests of Hunters

The Game Council represents the interests of licensed hunters. This is a statutory function and the Division is required to do it. It does this in a range of ways such as through meetings and hunting expos, its efforts to promote safe hunting, and the education of hunters and the public about hunting. It also advertises and publishes articles and brochures promoting the benefits of hunting to the environment. This function is actively encouraged and is a part of the culture of the organisation.

There is a serious question whether it is appropriate for a regulatory agency to be representing the interests of hunters whom they also regulate. This topic has been the feature of media commentary and was raised as an issue by the Ombudsman when responding to a complaint against the Game Council. This is a contentious issue and such advocacy might be better left to hunting organisations external to government. The argument that the regulatory and representation functions can operate side by side with appropriate controls is highly questionable. The appropriate balance is unlikely to be achievable in any situation especially given the small size of the organisation and the inherently conflicting nature of these functions.

There were questions raised about the judgment being exercised in undertaking this function. One example cited was whether it was appropriate for a government body to produce and distribute a Game Council *stress ball* featuring the words "Stressed? Go Conservation Hunting".

6.3.3 The Licensing System

A critical statutory function for the Division is hunter licensing. This service provides the major non-Government revenue stream. It is evident from discussions with Division staff this is a priority area. The licensing system is web based. The licensing system was demonstrated to the review.

The licensing database was designed and built following a competitive tender process by a company called DesignBais. They host the database in Sydney on a UniVerse database platform⁹. The Chief Executive advised the probity of the tender process was ensured through the engagement of DollMartin associates in 2004; and PricewaterhouseCoopers, and IAB Services in 2011.

A weakness in the licensing system is it does not record details of inquiries by staff. We were told that if a staff member or administrator investigates a licensing file for personal details the system does not track or record those inquiries. It is also possible to export the database in full to an Excel spreadsheet without a record being kept of who did this. There are no specific policies in place to deal with the security of that data on a laptop or PC, or for the effective deletion of the file record from a hard drive when it is no longer needed.

The licensing system has appropriate access controls from *read only* for game management staff requiring licence information, through to *administrator* and Chief Executive level access. The Chief Executive is the only person with access rights to cancel and suspend licences. The system features fraud controls that do not allow transactions to be completed if payment is not made. The system has been the subject of scrutiny by Forests NSW because it issues *written permissions* to hunt in State Forests, on the Game Council's behalf. The licensing system is modern and efficient but lacks some of the security features to be expected on a database that should be categorised as top secret. Staff and IT contractors who access the database are not required to undergo security screening.

The Chief Executive was confident there has been no breach of database security.

The licensing system provides statutory written permissions to hunt on public land. Written permissions (on behalf of Forests NSW) are an additional form of approval hunters must hold in addition to their licence. They include details of the species that may be hunted, maps of the area of land on which they may hunt, along with details of any special conditions. Written permissions are required to be read and signed by the holder, and produced to an authorised officer on demand.

The Division engages with retailers and organisations to give them agent status. When licence applications are returned which show the unique agent number, that agent is eligible for a 10% commission. This provides an incentive for agents to promote licence sales and ensures they are not out of pocket for doing so. At the time of the review there were 279 agents.

The information available to licence applicants through both the application form and the Game Council website outlines licensing requirements. These requirements come from the regulations or have been approved as policy by the Game Council or Chief Executive. The licensing system is hard coded and there is very little discretion available to Division staff whilst undertaking the licensing process. It would be good practice to consolidate all this information into context by placing it into a publicly available licensing policy.

The review was advised the Division has held discussions with the Government Licensing Service (GLS) about moving the database to the GLS. For the time being it has been agreed not to move the database. With only around 20,000 current records it is not a large database, it is modern and

⁹ The review was advised the Hon Robert Borsak MLC, then a member of the Game Council, advised a pecuniary interest and took no part in the tender process or decision. This matter was reported in the Sydney Morning Herald on 14 August 2009.

effective, and under the current pricing policy the GLS development costs were reportedly prohibitive.

The Division produces non-statutory written permission books which it sells to hunters to record their permission to hunt from private land owners. Whilst this is not mandatory it is good practice for a range of reasons.

6.3.4 Other Activities Prescribed by Regulation

The Game Council holds public liability insurance on behalf of licence holders. The ability to do this is provided in clause 5 of the regulations and the Game Council has made arrangements to provide such public liability insurance on behalf of licence holders. The provision of insurance has been the subject of periodic tender. The review notes the NSW Commission of Audit report (Commission-of-Audit, 2012) recommends that NSW Government agencies and entities with insurance arrangements outside of the Treasury Managed Fund (TMF) should work with SICorp to transition their insurance across to the TMF scheme as their current insurance arrangements expire. Division staff were not aware of this requirement.

6.3.5 Game Council Delegations

Under section 13A of the Act the Game Council can delegate its functions to the Committee of Management and the Chief Executive. It would be normal practice to list the statutory provisions to which the delegation applies, with a written description, along with the date of approval and details of changes over time, in a consolidated delegations manual, which is regularly reviewed. The manual would act as a record of the Game Council decisions, and would be signed by the Chairperson. At the moment a formal delegations manual is not maintained. The delegations file keeps a copy of the Game Council Minutes relevant to each decision to a delegated responsibility.

6.3.6 Pecuniary Interest Register

It is possible the current pecuniary interest register arrangements do not meet the requirements of the Act which requires a register for both the Game Council and the Committee of Management. At the moment there is a single register for the Game Council. It is a manual system and no electronic copy has been maintained. An earlier register was lost. The Act also requires the register to be available for public inspection and for a fee to be set for its inspection. No such arrangements were in place at the time of the review.

6.3.7 Education Courses

Clause 12 of the regulation relates to approval of training courses. Two staff do have relevant certificate IV qualifications but there is no position description requirement for staff engaged in the development of education material to be accredited for this type of work.

The review was advised that the Ethics, Education and Training Committee currently considers and endorses all course material, and that there are discussions being held with Tocal College, the Department of Primary Industries' Registered Training Organisation (RTO) to establish links and to potentially provide course accreditation. Only an RTO can issue Australian Qualification Framework (AQF) qualifications and statements of attainment in the vocational education and training (VET) sector.

6.3.8 Statute Review

The statutory five-year review of the *Game and Feral Animal Control Act 2002* was tabled in Parliament in June 2008. The review was supportive of the legislation, reported positively on the Game Council and its achievements, and made a number of recommendations for changes to the Act. For the assessment the review group relied on policy objectives from a variety of sources. They did not however question the lack of an approved strategic plan, and the policy objectives cited for the agency are not reflected in any readily available public document.

6.3.9 Recommendations

- 18) The statutory function of representing the interests of hunters should not be carried out by government employees.
- 19) The licensing database should be transferred to the Government Licensing Service as soon as practical, but in the interim:
 - a. The licensing process and database should be reviewed for potential security risks.
 - b. Appropriate audit and tracking systems should be installed to mitigate against identified risks.
 - c. Security clearance should be required for any person accessing or working on the database including administrators.
 - d. An internal policy should be developed concerning the security of licensing data stored on PC's and laptops.
 - e. Additional training be provided to those required to access the database about their obligations on data privacy and protection.
- 20) Licensing practices and information be consolidated into a licensing policy and made available through the agency's website.
- 21) The transfer of Public liability insurance arrangements to TMF should be investigated before current insurance arrangements expire.
- 22) A delegations manual should be established and annually reviewed.
- 23) Pecuniary interest registers be established for each statutory body and other committee and electronic records of each entry be maintained on the records management system.
- 24) Arrangements be made for the public inspection of pecuniary interest registers, and the fee for public inspection be set at no more than \$30, the same level as a request for information under GIPPA.
- 25) The position descriptions for senior and specialist staff involved in developing education course material and delivering education courses be updated to require appropriate certificate or diploma level qualifications.
- 26) If staff are to continue to develop hunter education course material and they do not hold appropriate qualifications they should be encouraged to obtain them, and be required to do so within 3 years.
- 27) For clarity, policy objectives for game licensing should be clearly articulated and published in the strategic plan and each annual report. They should be clearly aligned with statutory objects and functions, and government policy.

6.4 Term of Reference 2

Examine the performance and delivery of both statutory and non-statutory functions and services provided by the Game Council, and determine whether these services are being provided effectively and efficiently and in line with NSW Government and Department of Premier and Cabinet regulations and policies.

Effective services are those that produce the expected result. Efficient services are those delivered with reasonable levels of resources and effort. The former is relatively easy to measure because often there is an observable product; whilst the latter requires established performance measures which are preferably benchmarked. As those were not available the review comments are consequently subjective.

6.4.1 Licensing of Hunters

The performance target advised to the review is for licence applications to be processed in less than 10 working days. This is not formally measured because licences are processed in a much shorter time, the majority within one working day. The main stakeholder complaint about the licensing process is that licences are not received by licence applicants once dispatched. The majority of these complaints are about the process for obtaining a replacement which requires a waiting period, and then for a statutory declaration to be completed. Anecdotally this occurs “every couple of weeks but maybe more often”.

The licensing system is automated and efficient given it is quite small scale. The database administrator is engaged under contract and appears to be readily accessible when required. The process is not complicated and the number of staff engaged in licensing activities seems appropriate.

6.4.2 Monitoring Compliance

Regulatory compliance activities are undertaken by six Game Managers operating across four regions (northern (1) (Tamworth); Sydney and central west (2) (St Marys and Bathurst); south east (2) (Tumut); and Murray (1) (Tocumwal)).

Each Game Manager operates from a local office with the exception of one manager for the Tumut based south east region who operates from his home town of Batemans Bay under an informal arrangement. The functions of Game Managers are quite broad, ranging from public relations at trade shows, through to club visits, education, training, licence assessment, surveillance, investigations and enforcement.

An annual operations team training event is held in Orange. Whilst there is a significant amount of effort applied to training there is currently no documented training needs analysis, no minimum training level, and no training policy or standard.

The compliance policy manual is very broad and contains several inaccuracies. For example it refers to accessing vehicle and driver licensing information from DRIVES24 with no agreement in place (at the time of the review); and it refers to baton and handcuff equipment which staff are not permitted to use; it refers to Game Council Watercraft of which there are none.

An extensive set of related policies and procedures (see document library) have been reviewed which are typical for an agency involved in enforcement activities. Policies are often incomplete, overlap, and have no version control or readily accessible record of approvals.

The review was not convinced all policies were fully adopted. For example it is policy that job safety analysis and remote fieldwork OHS risk assessment to be routinely conducted and documented. It is likely this requirement is not being routinely observed.

A staff hunting policy aims to address the potential conflicts of interest between being an employee, hunting on private property, involvement in Conservation Hunting Groups, and hunting on public land and in forests. The current approach should be revised as recommended.

Memorandums of Understanding (MOUs) are used to establish effective communications, responsibilities, roles and responsibilities between two or more agencies. The status of MOU

arrangements with other Government agencies was unclear. A MOU with the firearms registry has expired, and a proposed MOU with NSW Police is in draft form and has not been finalised.

This review was assisted by a former Police Officer with expertise in firearms licensing, enforcement, training, and use. He commented as follows:

- There is a clear passion for the job by those we spoke to.
- Senior management is enthusiastic but inexperienced in enforcement.
- Game managers cover a large geographic area, with a broad role.
- They are probably somewhat naive to the risks of enforcement, and not “paranoid enough” about those risks.
- The lack of a coordinated approach to incident management, supported by an electronic incident management system, is an inherently inefficient approach. This potentially leaves staff, management and government exposed when operations are not effectively managed and cannot be reported against.
- The procedures for seizure, storage and disposal of firearms and other weapons are adequate.
- There are potential conflicts between the Game Manager role and participation in hunting activities and these need to be more strictly controlled.
- The proposed expansion of enforcement equipment to include baton, handcuffs, and a load bearing tactical vest should not be supported at this time.
- Given the low level of resources and the geographically dispersed nature of Game Managers it is unlikely enforcement activities could be regarded as effective or efficient.

6.4.3 Supporting Hunters and Hunting Organisations

Staff of the Division engage directly with hunters and hunting organisations in a range of forums. Several examples were provided to the review where licence applicants or licence holders seeking written permissions were provided with advice and support beyond normally expected levels of service.

The review did not engage with licence holders or the broader community about consultation and communication. However, the 2012 Game Council Licence Holder Survey Report (involving around 1200 responses) does provide relevant independently acquired information. The reported results are quite positive.

- In the area of customer service 45 percent of respondents rated excellent, 23 percent good, and 15 percent average.
- In the area of relationship with clubs 46 percent rated excellent, 28 percent good, and 20 percent average.
- The Game Council website rated 33 percent rated excellent, 35 percent good, and 30 percent average.

It is noted the website, whilst containing a lot of information, is not well organised or easy to navigate.

6.4.4 Dealing with Government Agencies

The Division liaises with relevant government agencies including DPI/DTIRIS, Livestock Health and Pest Authorities (LHPAs), National Parks and Wildlife Service (NPWS), Forests NSW, and NSW Police. The Game Council has members from DPI, and Forests NSW. The Police rural crime advisory group has agreed to establish an illegal hunting sub committee but this has not yet happened.

Whilst the total effort in this area is significant, several problems were reported about the way engagement takes place, and the sometimes combative approach encountered. Both sides reported this. The Division's approach might be explained by being a minnow in a relationship pool of much bigger fish and therefore needing to be assertive. An alternative view expressed by some was that Division staff are too assertive in the defence of its clients.

6.4.5 Education and Training

The Division's Educational Products Strategy 2011 describes the services available for delivery of education and training. It outlines educational products in support of hunter licence testing, and provides details of a range of workshops and short courses. The Division's OutREACH program is a hunter education initiative. OutREACH has licensing arrangements with Approved Hunting Organisations (AHOs) to use and deliver hunter education material.

The Game Council website provides significant amounts of information about the organisation, the obligations of hunters, hunter safety, hunter education, the impacts of feral animals, booking hunts on public land, and AHOs. Combined, the Division's efforts appear to be effective and efficient within the available resources.

There is a public debate about the skills required to hunt humanely and safely, the training required, and the assessment of competency which is beyond the terms of reference of this review. A related concern expressed to the review is about the lack of training in practical skills such as map reading which is required under the public land written permission conditions.

6.4.6 Research

The Research Strategy 2010 describes the approach to undertaking research. The document is described in the preamble as a guideline, and the majority of the content is under the heading of policy i.e. it is not a strategy.

Examples were provided of involvement in a number of research projects including projects looking at: impediments to hunting, ecological deer management, the use of sound moderators, development of a photographic browse index, the Australian hunters survey, biology of quail and pigeon, biological characteristics of harvested ducks, public benefit analysis, hunting and harvesting trends in state forests, and non intentional firearms deaths in NSW.

The review was advised that whilst the Division does commission research it does not itself undertake research involving animals. The Division is therefore not required to be authorised under the *Animal Research Act 1985* (ARA). The requirements of the Act are quite broad and include teaching. If the Division or any related organisation becomes directly involved in teaching hunting where that involved live animals, advice should be sought on the application of this Act. The Game Council has a research subcommittee that reviews and approves all research proposals. This is not a formal animal care and ethics committee under the ARA.

6.4.7 Administrative Support for the Game Council and the Division

The Game Council, particularly the Chairperson, expressed confidence in the performance and delivery of the services being provided by staff. Game Council members commented if anything they are over serviced with a large amount of meeting papers. A process is underway to rationalise the workload of members.

Game Council meetings operate under a Code of Meeting Practice. The code is a comprehensive document but it was noted it has not been reviewed and updated for some time, for example to reflect changes to legislation such as the creation of the position of Deputy Chairperson. The

provisions of the code which relate to pecuniary interests do not fully reflect the provisions of the Act to explicitly address both direct and non pecuniary conflicts of interest.

The Division is a small group of staff. It appears to work well as a team, in a collaborative manner. The use of systems such as an intranet for all staff and support systems for compliance staff would improve performance.

The Division maintains a full set of HR policies typical of government requirements. A lot of these policies are maintained, and a range of services provided by DTIRIS. These activities are administered under a Corporate Services Service Level Agreement (SLA). A range of services are or can be provided under the SLA including corporate cards, payroll, financial reporting, GST, HR policy development, performance management, fleet management, fuel cards, employee leave self service, appointments to boards and committees, disciplinary action, and training and development.

There has not been a formal performance review or assessment as indicated in the SLA although meetings are held when necessary. Until recently no issues have been encountered. Recent changes to the DTIRIS financial management system resulted in the Game Council not being adequately serviced this financial year.

Because there has been some confusion about the role DTIRIS plays and where it sits in the governance of the Game Council, the Division has struggled to get timely information on central agency memorandums which are only provided to departments.

Staff stated some of the Division's policies are up to date whilst others need to be reviewed. However, there is no formal program of policy reviews and policies are not adequately organised or widely understood in a way that could give confidence they can guide, support, and defend sustained performance and delivery of services.

There was extensive discussion about the Division's corporate services policies. Those reviewed generally appear to be in accordance with model policies. Of note there is no secondary employment policy although employment contracts state CEO approval is required.

The review scrutinised a range of recruitment files and found no notable discrepancies against policies. It is noted that job evaluations are conducted independently by Mercer. Selection practices appeared in order, other than interview panel members have not been required to complete merit selection training.

Copies of financial delegations on file are only part-signed by the former Minister, i.e. the covering brief is signed but not the actual delegation instrument. New delegations have been submitted for approval to correct this and to update financial delegation amounts.

Records are managed through the TRIM records management system. Management staff advised there is reasonable compliance with TRIM use but some problems have been experienced with field staff and the Chief Executive recently directed them to ensure compliance.

The Division has regular contact with State Records but does not currently meet its statutory obligations under the *State Records Act 1998* (SRA) to have a records management program or to report to State Records on that program.

The review was advised very few requests for access to information under the *Government Information (Public Access) Act 2009* (GIPPA) are received. When they are, support is received from DTIRIS on processing applications. The agency does not fully comply with GIPPA requirements. For example the website does not have an up to date or complete current agency information guide, information about the agency contained in any document tabled in Parliament, policy documents, log of access applications, the agency's register of government contracts, or the agency's record of the open access information that it does not make publicly available on the basis of an overriding public interest against disclosure. The Division has not put resources into identifying open access

information. The General Correspondence Policy states employees have obligations and provides a link for further information.

Licence holder information is protected under the provisions of the *Privacy and Personal Information Protection Act 1998* (PPIPA). To ensure customer service officers are aware of their obligations they are required to undertake training through a Privacy and Personal Information Protection Online Training Program. There is no official Privacy Contact Officer, and no Privacy Management Plan although one has been under development since the matter was raised by a Game Council member at the February 2012 council meeting. The General Correspondence Policy states employees have obligations and provides a link for further information.

There is no agency compliance program and no approved internal audit work plan. The audit and risk committee has been exempted from Treasury requirements under a provision that allows small agencies who cannot afford to implement the policy to seek exemption.

The Game Council has always received unqualified independent annual audit reports from the Auditor General. Post audit management letters from the Auditor General have not identified significant problems.

The Game Council complies with its obligations under annual reports legislation. Annual reports can be viewed on the Game Council website.

The procurement policy is adequate for an agency where no significant procurements occur and with no capital works program. The use of corporate cards for minor purchases is promoted in line with government policy.

The agency reports low levels of involvement with the Independent Commission against Corruption (ICAC) in terms of referred matters and allegations of corruption. Training has been undertaken for all staff. Game Council members receive induction training by ICAC corruption prevention staff and relevant senior staff demonstrated their understanding of their obligation to report potentially corrupt conduct.

The agency reports low levels of involvement with the Ombudsman. Relevant senior staff demonstrated an understanding of their obligations to respond to complaints from the public, and inquiries from Ombudsman's office.

The Ombudsman's office published a case study in their 2009/10 Annual Report concerning the Game Council, finding they had published inappropriate material on their website. They wrote to the Director General of the then Department of Industry and Investment citing concerns that:

- the Game Council had not corrected the (website) voluntarily when asked to do so
- the content and tone of other articles on the website was inappropriate for a statutory authority
- the advocacy role played by the Division might potentially conflict with their regulatory function of administering the licensing system for game hunters
- the Game Council's complaint-handling policy was inadequate.

According to the Ombudsman's Annual Report the Director General at the time expressed his disappointment the Game Council had not voluntarily amended the (website) and agreed some of the media releases on their website appeared to be inconsistent with what would normally be associated with a government department. The Director General at the time said he believed the Game Council could undertake an advocacy role as well as a regulatory function, but advised that in the future the super department's media unit would check all material before it goes on the Game Council's website (noting this **is not** current practice) and staff would be given clear information

about the department's policies and procedures, including those to do with complaint-handling (noting there is no oversight of the Game Council by any Department at this time).

The requirements of the *Subordinate Legislation Act 1989* are fulfilled by DPI, on the Game Council's behalf, and with their involvement.

The Division does not have an organisation wide disaster recovery strategy and has not undertaken disaster recovery testing. The Chief Executive advised that the Division does ensure regular backups of critical IT systems.

The Division does not have an approved enterprise-wide risk management framework. A risk management policy was drafted by IAB Services in 2010 and more recently a draft risk register is under consideration by the Game Council.

The Division does not have an intranet. Providing staff with access to an intranet should be regarded as a priority.

6.4.8 Recommendations

- 28) The code of meeting practice should be updated and reviewed annually.
- 29) The frequency of reports of lost licences should be benchmarked with other agencies to minimise the risk of fraud.
- 30) The website should be redesigned to ensure information is well organised and readily accessible. For ease of use website information should be organised around key product areas: for example licensing, public land hunting, education, research, corporate, and general information.
- 31) An internal audit work plan should be finalised as a priority.
- 32) The enterprise-wide risk management framework should be completed and approved as soon as possible.
- 33) A compliance program should be developed as a priority.
- 34) Statutory compliance, for example with PPIPA, GIPPA, and the SRA need to be resolved through a series of internal audits under the compliance program.
- 35) Staff should be provided with access to an intranet which contains all policies, and organisational information and resources.
- 36) All staff and independents involved in recruitment panels should undergo merit selection training.
- 37) A secondary employment policy should be developed and implemented.

6.5 Term of Reference 3

Examine the governance structure of the Game Council and determine whether this is the most effective or appropriate model to enable the management and staff of the Game Council to deliver on the objectives of the Act

The composition of the Game Council and the Committee of Management is provided in part 3.

The Game Council comprises 18 members including the Chief Executive. Membership is organisation and not expertise based. The positions of Chairperson and Deputy Chairperson are elected from amongst the members. The Game Council is subject to the control and direction of the Minister in the exercise of its functions.

The Committee of Management exercises its functions under delegation. The Committee of Management reports to the Game Council. The Game Council Chairperson is also the Chairperson of the Committee of Management.

The Game Council Committee of Management is made up of 6 members of the Game Council.

The Game Council and the Committee of Management are governance bodies in that they control and direct, and they exercise power.

The Game Council has established other committees to support its work. One of these committees is an audit and risk committee. The Audit and Risk Committee has been exempted from Treasury best practice guidelines in terms of its composition and operations. It is noted that Treasury policy does provide for exemptions where an agency cannot afford the costs of implementation – perhaps such agencies might be the ones to most benefit?

The other committees established by the Game Council are:

- Ethics, Education and Training Committee.
- Research Committee.
- Game Bird Management Committee.
- Public Lands Hunting Committee.

In the main, the Game Council delegates its statutory functions to the Committee of Management, and the Chief Executive.

The Chairperson of the Game Council appoints the Chief Executive Officer. The Chief Executive Officer is the Division Head and exercises employer functions on behalf of the Government in relation to the members of staff.

The Game Council cannot employ staff. The Division comprises the group of employed staff who deliver the functions of the Game Council. The Division is a division of the Government Service, but not a part of the public service.

The current reporting arrangements are described in Figure 3.

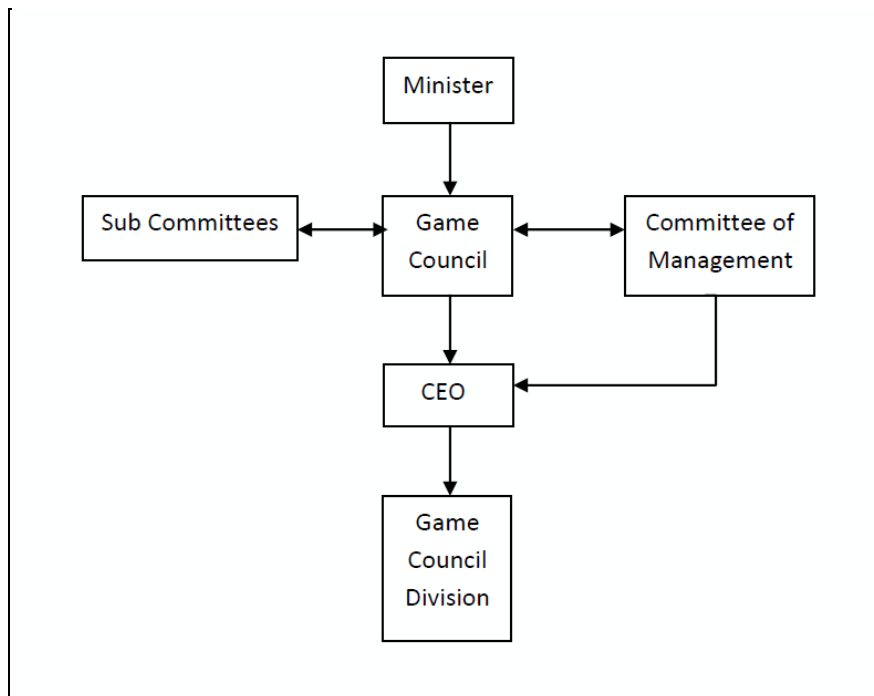


Figure 3. Current Reporting Arrangements

6.5.1 Summary of Governance in the Game Council

In the terms of the Uhrig report (Uhrig, 2003) the Game Council's statutory functions are narrow and specific, suggesting an independent board may not be the optimal governance mechanism.

The Game Council has adopted a broader set of functions than are described in statute, more like those of a company board. It has done this based on the views of the Council members about what its role should be. Those views have at least in part been guided by direction from the Department of Primary Industries (DPI) with reference to "On Board", the Audit Office's guide to better practice for public sector governing and advisory boards. DPI staff provided On Board to inaugural members as a guide to their Game Council membership responsibilities.

Typically the role of a government board includes ensuring strategies, policies and procedures are developed and implemented to meet the organisation's functions, and that the organisation complies with relevant legislation and regulations. The board delegates day to day management to its executive. The board reports to the minister or ministers and:

- Is accountable to its shareholder or shareholders.
- Develops strategy.
- Monitors performance.
- Ensures compliance with legal obligations.
- Ensures risks are managed.
- Employs the Chief Executive.

Whilst the Act does not require the Game Council to undertake these functions there is no explicit barrier to them being adopted. There is still a question, perhaps even a legal one, about how far the Game Council has gone in exercising functions beyond those of the Act and how accountability then operated. Perhaps that question should have been asked by members, and could have perhaps been clarified by Ministerial direction. There does not appear to be any doubt that currently ultimate accountability and responsibility for Game Council's decisions and actions lies with the Minister. This alone should be reason enough for a reform of the current governance arrangements.

Routine operational delegations and decision making power are with the Management Committee, the Chairperson, and the Chief Executive. They all suffer from a lack of approved strategic direction.

The Game Council enjoys a high degree of independence but the review was not convinced this is necessary. There is an argument that if independent the Game Council can be more entrepreneurial – but this is offset by the inherent risks and costs of this approach. Whilst a point of view has been put there is a benefit to Government from receiving independent advice, if that is to be argued the question needs to be asked – advice about what?

These points also go to accountability and transparency. As a general rule, the more entrepreneurial an organisation is the less transparent its operations are likely to be, and the more accountable those responsible for governance have to be. As it stands today all accountability lies with the Minister and yet the Game Council undertakes its business and takes its business risks in the way it sees fit, with minimal oversight or direction. It regards itself as commercially focussed in its attempts to sell licences and related products. This stand-alone small agency approach to service delivery goes against the trend of all Australian governments.

Well described governance functions are important. Uhrig 2003 states: "A well-governed organisation will clearly understand what it is required to achieve, will be organised to achieve it through the success of its executive management and will focus on ensuring it achieves its goals. In other words, by ensuring that the effort of an organisation is well directed, a well-governed organisation will be more efficient and more likely to produce effective outcomes. Governance should be enduring, not an instrument that is exercised from time to time depending on circumstances. A good governance framework should guide the actions of individuals by providing

clarity of direction as to appropriate behaviour and decision-making. When working well, a governance framework produces better outcomes simply because it exists”.

The Audit Office’s “On Board” publication is a plain English document. It frequently references statistics from a performance audit of corporate governance in the public sector which included a survey of the governance practices of boards and committees and case studies to illustrate governance in practice.

On Board says a governing board needs to understand that governance functions include setting strategic direction, ensuring compliance with statutory requirements, managing risk and monitoring organisational performance.

Whilst these have already been commented upon, some of the other content about boards and committees, which are not best practice features of the Game Council include:

- Appropriate number of members
- Appointments should be based on merit
- Monitoring and evaluation of board performance

Check lists are provided asking questions like:

- Is there an understanding between the relevant Minister and the board on role and responsibilities, strategic direction, goals, and performance expectations?
- Has the scope of governance functions undertaken by the board been approved by the Minister?
- Does the board ensure the organisation has an up-to-date corporate, strategic and business plan?

To which the answer to each appears to be no.

Just because the Game Council does not have a well developed governance framework this does not mean it has not been working hard, or that it has not achieved good outcomes. However, as a Government sector agency there are high expectations about governance that need to be met and this is not the case.

6.5.2 Game Council Size and Composition

The *ASX Corporate Governance Principles and Recommendations* (ASX 2010) provides the following guidance on the appropriate size of a governing board; “the board should be of a size and composition that is conducive to making appropriate decisions. The board should be large enough to incorporate a variety of perspectives and skills and to represent the best interests of the company as a whole rather than of individual shareholder or interest groups. It should not be so large that effective decision-making is hindered”.

Fifteen of the eighteen Game Council members are appointed based on nominations from organisations or other Ministers (in accordance with the Act), and not based on a merit selection process.

With 18 members the Game Council is too large, and two meetings each year is not often enough to be able to undertake a meaningful governance role.

6.5.3 Discussion

The current governance structure is arguably not effective or efficient and not the most appropriate model to enable the management and staff of the Division to deliver on the objectives of the Act. To resolve this we first need to identify the outcomes sought from the delivery of the various services.

These have been discussed previously but in brief terms they relate to a framework for safety focused hunting on both private and public land through services that ensure:

- Efficient and effective licensing of hunters.
- Appropriate education about hunting and safety.
- Enforcement of hunting laws.
- Effective stakeholder engagement and representation of the interests of hunters.
- Sound and timely advice is provided to government.
- Research is undertaken that supports future planning and evidence based decision making.

Stakeholder engagement, representing the interests of hunters, advice to government, establishing research priorities, and commissioning appropriate research are all activities which can be effectively delivered by a statutory body.

Licensing, education and enforcement are all mainstream service delivery functions and they could be delivered more effectively by a Department. All of the governance structures, management skills, and subject expertise already exist in agencies such as the Department of Primary Industries and the National Parks and Wildlife Service.

6.5.4 Recommendations

- 38) The services associated with the licensing, education, and enforcement functions of the *Game and Feral Animal Control Act 2002* should be delivered by an appropriate Department.
- 39) Additional functions should be delivered through the establishment of a **NSW Game Board**.

The Game Board's functions would include:

- a. Stakeholder engagement.
- b. Representing the interests of hunters.
- c. Promoting game and feral animal control.
- d. Providing policy advice to government.
- e. Advising the Minister on expenditure priorities from the Game Licensing Account¹⁰, including:
 - i. Establishing research priorities.
 - ii. Commissioning appropriate research.
- f. Advising the Department on licensing, education and enforcement activities.
- g. Ensuring a strategic plan is developed, implemented and monitored.

Figure 4 outlines the proposed reporting arrangements.

- 40) The Game Board would be advisory to the Minister and be subject to the control and direction of the Department. The Department would be responsible for executive support.
- 41) The Game Board would be funded from the Game Licensing Account for its activities.
- 42) Consideration should be given to setting funding at a percentage of total licence income.
- 43) Game Board membership should be no more than eight members, including the Chairperson.
- 44) All Game Board members should be appointed on merit, some should be independent of hunters, none should be from Government agencies.
- 45) The Game Board should meet at least 4 times each year.
- 46) The Game Board should maintain a register of its activities in representing the interests of licensed hunters and make that information available through an annual report of its activities.
- 47) Delivery of policy, legislation, and corporate services should be undertaken by the appropriate Department.

¹⁰ The current statutory Game Council Account to be renamed Game Licensing Account

- 48) The licensing system should be moved to the Government Licensing Service (GLS) to mitigate security risks and facilitate delivery through the more than sixty GACs across regional NSW. An alternative consideration would be for the licensing function to be delivered by the Firearms Registry.
- 49) Delivery of licensing services through rural Government Access Centres (GACs) should be explored.

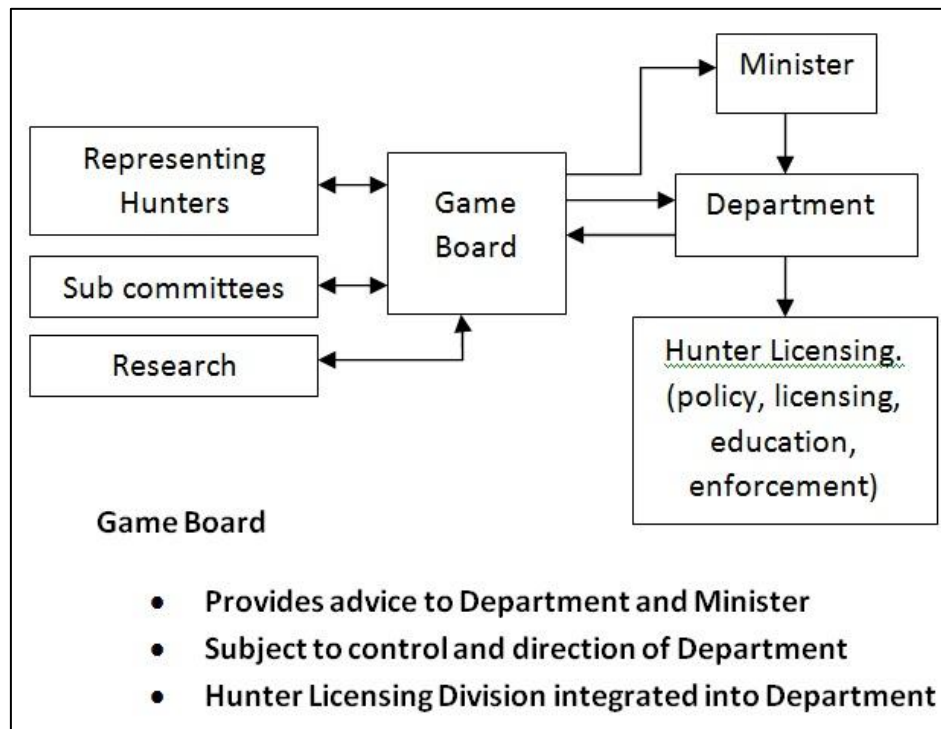


Figure 4. Proposed Reporting Arrangements.

What the Game Council and the Division have achieved thus far is significant and should be recognised and applauded. But they have achieved this by taking considerable governance risks not normally associated with government agencies. They have done this in part by prioritising their limited resources into operational activities and in part because Game Council members and the Division's executive management did not fully understand their governance obligations. There is no need for these risks to continue be taken.

The services being provided are now well established and their purpose and benefits largely accepted. The new challenge is to ensure these functions are efficiently delivered as part of mainstream government administration and service delivery, ensure they are properly governed, and to make the program effective, efficient and sustainable.

6.6 Term of Reference 4

Examine the Game Council's operational capacity, including staff skills and capabilities, to undertake and effectively implement its statutory functions.

In addressing this term of reference a high level review of position descriptions was undertaken, and discussions held with staff representing major functions. Parts of this term of reference have been addressed in previous sections.

6.6.1 Representing the Interests of Hunters

The culture of an organisation is characterised by its behaviours and beliefs. The Game Council's culture has been formed by the way it was established and the way it has evolved, with its roots in politics. Advocating the interests of licensed game hunters is a key part of the way the Game Council operates. Both Game Council members and Division staff are largely active participants in hunting, and actively represent the interests of hunters. They appear to do this well and this is evidenced by the high licence renewal rate and the steady overall increase in total licence sales. However, it also highlights the lack of separation between the role of being regulators whilst also engaged in representing the interests of hunters - which will inevitably lead to potential conflicts of interest.

6.6.2 Licensing

Licensing services appear to be delivered effectively and efficiently. The staff involved are appropriately skilled and have the appropriate capabilities to undertake this statutory function. The key licensing system risks identified during this review relate to security of data. To resolve this concern the review has recommended this function be moved to the GLS or another secure government database, and that staff receive additional training on their privacy obligations.

6.6.3 Enforcement

Enforcement staff appear dedicated and hardworking, a typical feature of enforcement staff in a vocational area. They are all hunters and this is a key requirement of the position description. From a review of employment files there is not a strong depth of enforcement or investigation expertise in either field staff or management. This brings with it a range of risks that need to be carefully managed. Some training is provided and more is planned, but relevant experience and skills are missing.

The Game Council has a range of policy and liaison functions including providing advice to the Minister. The review was given access to files to demonstrate these functions were undertaken but concluded there is a gap between the current operational focus of staff, and the skills and capabilities required to provide policy advice, a core government sector activity.

6.6.4 Research

It is well known the Division has very limited resources to undertake research and monitoring. The Division does have staffing expertise at an appropriate level and they have fostered partnerships and alliances. Given the level of funding available a range of relevant research reports have been produced.

In an ideal world research and monitoring programs would, at a minimum, be targeted at a state wide level gathering empirical evidence of the impact of feral animals, and designing programs to mitigate those impacts over time.

Such monitoring programs should be sufficiently scientifically robust to determine whether hunting efforts are keeping impacts of feral animals under control, reducing them, or whether it is not possible to measure their effect. However, until such time as programs of that kind are implemented there will continue to be a reliance on estimates of hunting-related feral and game animal mortality as a proxy for measuring impacts, under the assumption that any reduction in numbers has to be a good outcome. Noting this assumption is not universally agreed to be the case.

6.6.5 Education

The scope of the statutory function “promote, fund, develop or deliver educational courses regarding *game animals and animals that interact with game animals*” is quite narrow. The Division produces material that goes beyond that into a broader range of hunting related education material. Caution should be exercised to ensure statutory functions are given the appropriate priority over other activities, or perhaps to seek an amendment to those statutory functions.

Those staff currently engaged in developing education material have the skills and capabilities necessary to deliver the required services. This review has recommended formalising the requirements for qualifications. The same approach should be applied to Game Managers if they are to be required to deliver educational courses, and in particular if they are to deliver train-the-trainer type courses for approved hunting organisations.

6.6.6 Other Activities

The Act provides for the regulations to prescribe other activities where they are consistent with the objects of the Act. This suggests there is an expectation that where an additional or expanded function is proposed, Parliament expects it to be addressed by regulation.

At this time the only additional activity included in the regulations relates to the provision of public liability insurance. This service is provided in an effective way.

6.6.7 Corporate Services

The Division’s corporate services are provided by a small team of staff based at the Orange Head Office. DTIRIS provides a range of services under a service level agreement. The day to day administration of corporate activities appears to run smoothly and the staff are hard working and committed.

Corporate services staff appear to have appropriate levels of skills and capabilities for the size of the organisation. What appears to be lacking is executive level experience particularly in the area of policy development, strategic planning, implementation and review, and monitoring obligations for internal compliance. The issue of the lack of executive level experience would be resolved by the broader involvement of a department.

Subject matter expertise appears good but a general lack of knowledge and understanding of public sector processes and protocols was evident from the briefing material provided to the review, and to some extent by an apparent reticence to actively promote the Game Council’s activities to the Minister’s office, and to seek Ministerial direction.

6.6.8 General

There is a shortage of high level public sector or government authority administration experience.

The lack of quality engagement with other government agencies was acknowledged in discussions with senior staff. This was illustrated by the lack of current operational memorandums of understanding, and further evidenced through the lack of progress in organising regular liaison with agencies especially those that should be considered partners.

It is noted the small size of the Division makes it difficult for staff to have the full range of skills and capabilities in every competency. Larger departments have the luxury of individual staff with relatively narrow functions, relying on combined skills across the organisation.

6.6.9 Recommendations

- 50) Position descriptions for Game Managers should be reviewed with a particular focus on whether experience in hunting should continue to be an essential requirement, and whether there should be a greater focus on investigation and enforcement expertise.
- 51) Education programs should be focused on statutory functions.
- 52) Staff should be encouraged to gain broader government sector experience through secondments to other agencies and through appropriate training.

6.7 Term of Reference 5

Examine the Game Council's organisational, financial and administrative management and determine whether it is appropriately skilled and resourced to oversight the Game Council's operations.

In addressing this term of reference the review undertook further analysis of the organisational structure and reporting arrangements, and spoke with staff from each branch undertaking each major function. Parts of this term of reference have been addressed in previous sections.

6.7.1 Organisational Management

The Game Council and its individual members appear to have a very limited role in day to day management of the Division. That is to say they do not involve themselves in dealing with or attempting to plan, organise, control, coordinate or direct, day to day activities. This is appropriate.

The Game Council's role in oversight of statutory functions appears more reactive than proactive. They principally rely on the Division to prepare papers for their approval. The Committee of Management exercises the functions of the Game Council under delegation. The Chief Executive uses the Committee of Management for guidance on emerging matters related to the management of the organisation.

The Chairperson of the Game Council is also the Chairperson of the Committee of Management. The current Chairperson has a close working relationship with the Chief Executive and they hold each other in high regard and communicate regularly. This relationship is appropriate and appears to function effectively. The current Chairperson also advised he does contact other staff members from time to time. He acknowledged this might not always be good practice but stated he tries to limit such contact.

The Chief Executive is responsible for day to day control and direction of the Division's activities. The Division's senior managers are each responsible for a defined suite of activities and all are head office based:

- Stakeholder services (licensing and enforcement)
- Research and Development
- Business Support (corporate)
- Communications and Marketing

With a small staff of 21, the group appears tight knit and internal communications appear to be effective.

External communications with licence holders, according to survey results is in good shape, whilst communications with and between other government agencies needs attention. There is a perception that Division staff have actively worked against government programs implemented by

other agencies, where they have disagreed with them. Whilst this is beyond the terms of reference for this review, several examples were provided that showed a significant gap between the objectives of the Game Council and in particular those of relevant NPWS and DPI programs.

The Division's media, PR and issues management policy (the closest thing to a communications policy) states the Game Council is "newly created", so this policy is relatively old. The policy frequently refers to the position of PR Manager, a position that does not appear on the organisational structure diagram. The policy should be reviewed and updated.

The Chief Executive and senior managers appear to operate well as a team. When the Chief Executive took leave during the review, acting arrangements continued to ensure effective support was provided.

The Division's key focus is on delivering external services and the deficiencies in internal systems and practices are documented elsewhere. These deficiencies represent a failure of management systems and good governance.

6.7.2 Financial Management

The Game Council is subject to the provisions of the *Public Finance and Audit Act 1983* (PFAA) which directs accounting arrangements, banking and investment requirements, internal control and audit, and independent audit obligations. The Game Council is required to observe directions, guidelines and policies from Treasury and the Audit Office.

The PFAA outlines the Chief Executive's obligations to ensure an effective system of controls over financial and related operations; to establish effective internal audit arrangements to monitor those controls; and to prepare an accounting manual.

The Game Council's financial management is supported by a service level agreement with DTIRIS. This agreement has not been formally reviewed. The Game Council has always received unqualified independent financial audits. The services provided appear to have worked well other than in recent times whilst a system upgrade has been underway. Whilst frustrating, this is being resolved.

The Division's performance on internal audit was reviewed in 2010 by IAB Services with the report indicating extensive non-compliance. Subsequent to that an exemption to Treasury internal audit policies has been provided and a draft audit plan prepared. The draft plan has not been progressed or approved.

There are an extensive set of controls (policies and procedures) over operations which are discussed elsewhere. They lack an overarching framework and coordination.

There is no accounting manual prepared for the Division. The majority of accounting services are provided under the service level agreement that contains detail on the standard of accounting to be provided. The Division has standard operating procedures for internal accounting transactions.

6.7.3 Administrative Management

The administrative management of the Division involves its manual and computer based information systems and how they support the administration of the agency's functions, guiding, capturing and storing information, and making it available to those who need it.

The key system is the licensing system. This is a good system that works well. Users find it intuitive to use, effective and efficient. The database is maintained under contract and service levels are reportedly high. Most stakeholder contact is organised through the licensing database which records contact details for all past and present licence holders.

The review identified potential security risks in a stand-alone licensing system, as well as in the long term, potential inefficiencies in procurement, development and maintenance. Moving to a whole of government solution such as the GLS would resolve these issues.

Records are managed through TRIM. This is a standard system in government and is used effectively by the Division. The records management policy does not fully address statutory requirements. The State Records Act lays out a regime, including duties and obligations and the policy should be reviewed to reflect these requirements.

Policies and procedures are stored on a shared drive which all staff have access to. This is far less desirable than an intranet which enables policies to be summarised and placed in context, to be linked to the provisions of other relevant policies, and to provide relevant training resources. Staff do not have access to an intranet.

Administration of financial transactions is mainly undertaken by DTIRIS under a service level agreement. Those parts of the transaction undertaken by Division staff are mainly manual.

The Division is not involved in high value procurement of assets. Its largest procurements have been for public liability insurance and the licensing system. Appropriate use is made of corporate cards for purchase of office equipment and supplies.

The administration of human resource policies are a significant function in any government agency. At the Division some of these policies are administered in house and some elements under the service level agreement with DTIRIS. The Division's policies cover every element of the human resources spectrum including equal employment opportunity, ethnic affairs priority statement, correspondence, gifts and benefits, recruitment, grievance, harassment, workplace health and safety, employee assistance program, motor vehicle use, phone use, staff hunting and more.

Whilst individually these policies are typical of those found in any agency they lack the structure of a formal policy framework (including change records, and approvals). There is significant potential for overlap and policies should be rationalised into a single policy manual and be made available through an intranet.

6.7.4 Policies and Related Documents

The review was provided with unrestricted access to files and records. The review was provided with hard copies of 115 key policy, procedure, and other documents of record (see document library at attachment 2), and a great many more in electronic format.

Comments in relation to specific policies are included in the body of the report. The following general comments are provided:

- There is no policy framework. That is to say there is no policy on policies; no set nomenclature for policies, strategies, procedures or guidelines; no overarching policy manual or manuals; externally facing policies are not published on the Game Council website; internally facing policies are not available through an intranet.
- Most policies do not include details of changes, or approvals. Such features would normally be standard to enable changes to be tracked over time along with details of who approved the changes and when.
- There is no set review period for key policies.

6.7.5 Recommendations

- 53) A policy framework be developed that lays out a policy on policies (e.g. development, approval, review and change) and brings together operational and organisational policies in

a common, readily accessible, and searchable format, through an intranet available to all staff.

- 54) An Accounting Manual be prepared consistent with the requirements of the *Public Finance and Audit Act 1983*.
- 55) The draft Audit Plan prepared by IAB services be finalised, submitted for approval and implemented as soon as practical.

7 Correspondence

The review received the following correspondence:

1. Kim de Govrik, Chairperson, Parks Officers Vocational Branch of the Public Service Association.
 - Raises concerns on behalf of several staff about the Game Council's involvement in undermining NPWS trials.
 - Raises concerns about safety of NPWS staff and a range of program administration issues about which detail had not yet been provided.
2. Andrew Cox, Chief Executive Officer, Invasive Species Council.
 - Raises a range of concerns about effectiveness, hunter competence, culture, statutory functions, and government control.
3. Mick O'Flynn, National Parks and Wildlife Service
 - Questions about licence agents and what constitutes adequate training.
4. Janice Franklin, (East Monaro Central South Coast Wild Dog Management Plan Group)
 - Concern over relationship with Game Council and their actions in not supporting wild dog management.

8 Commission of Audit

The review was asked to take into account broader public sector reform, specifically the Commission of Audit report (Commission of Audit, 2012). The report is focussed on agencies responsible for infrastructure, transport, health, family and community services, TAFE, police and justice, local environment, and communities. Notwithstanding that it contains good principles for small agencies, particularly around restoring accountability, availability of government information, transparency, and involving a broader community in decisions about government policy, services and projects.

Some areas for improvement in service delivery are self evident and simply observing the relevant content of the Commission of Audit report would help to resolve many of the deficiencies observed by this review, for example:¹¹

Transparent and evidence based decisions

More transparent and evidence based decisions around programs is essential. It is worth reviewing whether or not programs are achieving what was intended. This comment applies across the public sector to both small and large programs.

Collaboration and coordination

Collaboration and coordination across government can improve outcomes significantly. This is the case for some important services and also for internal activities that require coordination and consistent standards across the sector.

Budget constraint

Government must prioritise its activities. Government should not do things that others can do more effectively, and what government does must be done efficiently.

Some things to look at:

- Service delivery issues
- Quality of services
- Existing performance levels
- Workforce Flexibility
- Transparent and evidence based decisions
- Clear reporting in plain English.
- More collaboration and coordination across agencies
- Management practices at a basic level
- Quality of data
- Reporting lines
- Effectiveness of systems
- Corporate and shared services:
 - i. Governance and risk
 - ii. Finance
 - iii. Human Resources management
 - iv. Workplace health and safety
 - v. Information technology and communications
 - vi. Records and knowledge management
 - vii. Fleet management

¹¹ Summarised and abridged content of Commission of Audit report

Corporate services should be strategic and provide advice on driving business improvements and on risk management, as well as ensuring attention to compliance with standards, controls and policies.

Devolution

The devolution of authority and accountability must move from the centre to more local units. The capabilities of both people and systems need to be significantly improved along with a clearer understanding of the respective responsibilities of central and local roles. The experience of front line public servants needs to inform the development and delivery of government policy.

Partnerships and outsourcing

Partnerships, outsourcing and divestments are an increasing part of modern government and service delivery. This should be encouraged.

It is also evident that many relatively routine tasks, like cleaning and maintenance, are more cost effective when done by private enterprise who specialise in these roles. While outsourcing has been used by government for some time there are still many areas of government that have not fully embraced outsourcing.

Workforce flexibility

Greater workforce flexibility allows modern work practices to be implemented. This is not happening sufficiently because of a perceived or real restriction in workplace practices. The outcome is a frustration to those wanting to do their best and having to work around needless hierarchy and bureaucracy. This is observable throughout the public service and it impedes talent and new ideas which undoubtedly exist within the service.

All Recommendations

The review's principle recommendation is that the services associated with the licensing, education and enforcement functions of the *Game and Feral Animal Control Act 2002* should be delivered by an appropriate Department, along with policy and legislation functions.

Additional functions should be delivered through the establishment of a **NSW Game Board**, which would replace the Game Council. The Game Board would have no more than eight members, would be skills based, and would not employ staff. Subject to the control and direction of a Department, and serviced by that Department, the Game Board's functions would include:

- a. Stakeholder engagement.
- b. Representing the interests of hunters.
- c. Promoting game and feral animal control.
- d. Providing policy advice to government.
- e. Advising the Minister on expenditure priorities from the Game Licensing Account¹², including:
 - i. Establishing research priorities.
 - ii. Commissioning appropriate research.
- f. Advising the Department on licensing, education and enforcement activities.
- g. Ensuring a strategic plan is developed, implemented and monitored.

The following recommendations are presented in the order in which they appear in the report:

- 1) A statement of expectations be developed which describes respective roles and responsibilities.
- 2) A five year strategic plan addressing statutory objects and functions, and government policies and expectations should be developed as a priority, and in consultation with stakeholders.
- 3) The planning process should feed into the development of a business plan, with supporting plans developed for example for:
 - a. hunter safety
 - b. licensing
 - c. public land access
 - d. education
 - e. communications
 - f. compliance, and
 - g. research.
- 4) The research strategy should prioritise projects to address the question of how hunting programs can be designed and effectively used to manage the impacts of game and feral animals.
- 5) A compliance strategy should be developed, driven by the strategic plan.
- 6) Stakeholder reference groups should be established by Game Managers to engage with hunters at a local level.
- 7) Game Manager enforcement responsibilities should be kept under annual review with a particular emphasis on risk management, and with clarification of responsibilities about engagement with illegal hunters.
- 8) Intelligence gathering and analysis, operational planning, and case management systems should be introduced.

¹² The current statutory Game Council Account to be renamed Game Licensing Account

- 9) A compliance training requirements policy and standard should be developed, including periodic re-certification of skills.
- 10) A compliance skills and training audit should be undertaken and a program implemented to address identified gaps. There should be an emphasis on stakeholder engagement, communications and hunter education.
- 11) Position descriptions for Game Managers should include a requirement to have, or to commit to obtaining, *Certificate IV in Government Investigations*, with staff responsible for investigations management being required to obtain a *Diploma in Government Investigations* (or equivalent).
- 12) The requirement of the current position description that Game Managers be experienced hunters should be reviewed.
- 13) No private firearms or other hunting equipment should be carried in any Division vehicle (including salary packaged vehicles) at any time (unless a confiscated weapon or by a Police Officer), and no employee should be in possession of a personal firearm at any time when on duty. These policies should be publicly advertised.
- 14) Consideration should be given to a no hunting policy on any day an officer is on duty.
- 15) Game Manager operational equipment should not include baton and handcuffs.
- 16) Arrangements should be made to store seized firearms and other weapons in a private or Police facility. The fact no firearms are stored at premises should be publicly advertised.
- 17) The staff hunting policy should be reviewed, simplified and clarified, noting the comments of this review.
- 18) The statutory function of representing the interests of hunters should not be carried out by government employees.
- 19) The licensing database should be transferred to the Government Licensing Service as soon as practical, but in the interim:
 - f. The licensing process and database should be reviewed for potential security risks.
 - g. Appropriate audit and tracking systems should be installed to mitigate against identified risks.
 - h. Security clearance should be required for any person accessing or working on the database including administrators.
 - i. An internal policy should be developed concerning the security of licensing data stored on PC's and laptops.
 - j. Additional training be provided to those required to access the database about their obligations on data privacy and protection.
- 20) Licensing practices and information be consolidated into a licensing policy and made available through the agency's website.
- 21) The transfer of Public liability insurance arrangements to TMF should be investigated before current insurance arrangements expire.
- 22) A delegations manual should be established and annually reviewed.
- 23) Pecuniary interest registers be established for each statutory body and other committee and electronic records of each entry be maintained on the records management system.
- 24) Arrangements be made for the public inspection of pecuniary interest registers, and the fee for public inspection be set at no more than \$30, the same level as a request for information under GIPPA.
- 25) The position descriptions for senior and specialist staff involved in developing education course material and delivering education courses be updated to require appropriate certificate or diploma level qualifications.
- 26) If staff are to continue to develop hunter education course material and they do not hold appropriate qualifications they should be encouraged to obtain them, and be required to do so within 3 years.

- 27) For clarity, policy objectives for game licensing should be clearly articulated and published in the strategic plan and each annual report. They should be clearly aligned with statutory objects and functions, and government policy.
- 28) The code of meeting practice should be updated and reviewed annually.
- 29) The frequency of reports of lost licences should be benchmarked with other agencies to minimise the risk of fraud.
- 30) The website should be redesigned to ensure information is well organised and readily accessible. For ease of use website information should be organised around key product areas: for example licensing, public land hunting, education, research, corporate, and general information.
- 31) An internal audit work plan should be finalised as a priority.
- 32) The enterprise-wide risk management framework should be completed and approved as soon as possible.
- 33) A compliance program should be developed as a priority.
- 34) Statutory compliance, for example with PPIPA, GIPPA, and the SRA need to be resolved through a series of internal audits under the compliance program.
- 35) Staff should be provided with access to an intranet which contains all policies, and organisational information and resources.
- 36) All staff and independents involved in recruitment panels should undergo merit selection training.
- 37) A secondary employment policy should be developed and implemented.
- 38) The services associated with the licensing, education, and enforcement functions of the *Game and Feral Animal Control Act 2002* should be delivered by an appropriate Department.
- 39) Additional functions should be delivered through the establishment of a **NSW Game Board**. The Game Board's functions would include:
 - h. Stakeholder engagement.
 - i. Representing the interests of hunters.
 - j. Promoting game and feral animal control.
 - k. Providing policy advice to government.
 - l. Advising the Minister on expenditure priorities from the Game Licensing Account¹³, including:
 - i. Establishing research priorities.
 - ii. Commissioning appropriate research.
 - m. Advising the Department on licensing, education and enforcement activities.
 - n. Ensuring a strategic plan is developed, implemented and monitored.
- 40) The Game Board would be advisory to the Minister and be subject to the control and direction of the Department. The Department would be responsible for executive support.
- 41) The Game Board would be funded from the Game Licensing Account for its activities.
- 42) Consideration should be given to setting funding at a percentage of total licence income.
- 43) Game Board membership should be no more than eight members, including the Chairperson.
- 44) All Game Board members should be appointed on merit, some should be independent of hunters, none should be from Government agencies.
- 45) The Game Board should meet at least 4 times each year.
- 46) The Game Board should maintain a register of its activities in representing the interests of licensed hunters and make that information available through an annual report of its activities.
- 47) Delivery of policy, legislation, and corporate services should be undertaken by the appropriate Department.

¹³ The current statutory Game Council Account to be renamed Game Licensing Account

- 48) The licensing system should be moved to the Government Licensing Service (GLS) to mitigate security risks and facilitate delivery through the more than sixty GACs across regional NSW. An alternative consideration would be for the licensing function to be delivered by the Firearms Registry.
- 49) Delivery of licensing services through rural Government Access Centres (GACs) should be explored.
- 50) Position descriptions for Game Managers should be reviewed with a particular focus on whether experience in hunting should continue to be an essential requirement, and whether there should be a greater focus on investigation and enforcement expertise.
- 51) Education programs should be focused on statutory functions.
- 52) Staff should be encouraged to gain broader government sector experience through secondments to other agencies and through appropriate training.
- 53) A policy framework be developed that lays out a policy on policies (e.g. development, approval, review and change) and brings together operational and organisational policies in a common, readily accessible, and searchable format, through an intranet available to all staff.
- 54) An Accounting Manual be prepared consistent with the requirements of the *Public Finance and Audit Act 1983*.
- 55) The draft Audit Plan prepared by IAB services be finalised, submitted for approval and implemented as soon as practical.

Document Library

1. Accredited Hunter Education Policy
2. Conservation Hunting Group Policy and Procedures 2010
3. Conservation Hunting Group Return Form
4. Compliance Strategy 2011-2013
5. Compliance Policy and Procedures OHS committee email Smith to Hogarth 22-10-2012
6. Compliance Policy and Procedures Manual 2005
7. Compliance policies and procedures:
 - a. Application of Penalties and Licence Suspension/Cancellation for Prescribed Offences undated
 - b. Chiller Inspection Report undated
 - c. Contemporaneous Note Taking Policy 2009
 - d. Compliance ODSE and Enforcement Kit Checklist undated
 - e. Compliance and Enforcement Kit Checklist 2012
 - f. Compliance Investigation Checklist
 - g. Compliance Operation/Patrol Planner undated
 - h. Compliance Operation/Patrol Planner 2008
 - i. Compliance Operation Patrol Report 2008
 - j. Deployment of Surveillance Cameras for Evidence Gathering Purposes Standard Operating Procedures undated
 - k. Digital Cameras for Surveillance Use undated
 - l. Electronic Surveillance Operation Planner undated
 - m. Electronic Surveillance Operation Report undated
 - n. Evidence Management Policy undated
 - o. Fieldwork and Remote or Isolated Work Policy 2010
 - p. Field Operations Policy 2009
 - q. Instructions for using the POI database 2010
 - r. Proforma forms
 - i. PF5 summary of offence
 - ii. PF9A record of seized goods
 - iii. PF20 statement
 - iv. PF25 return of seized goods
 - v. PF33 list of photographs
 - vi. PF34 list of exhibits
 - vii. PF35 list of witnesses
 - viii. PF39 affidavit for a search warrant
 - ix. P890 information in support of an application for disposal of property
 - x. R-Licence accreditation form undated
 - xi. Unnumbered application to the local court
 - xii. Unnumbered offence codes

- s. Guide to Using UHF Communications in State Forests undated
 - t. Instruction for Using Persons of Interest Database 2010
 - u. Mandatory Reporting-In System Standard Operating Procedures
 - v. Night time Compliance Standard Operating Procedures undated
 - w. Prosecutions Standard Operating Procedures undated
 - x. Risk Management Policy for Law Enforcement Operations 2005
 - y. Seizure of Goods Standard Operating Procedures undated
 - z. Surveillance Camera Use Policy 2013
8. Crisis and Emergency Management Procedures draft 2011
 9. Financial Delegations Authority to Incur Expenditure 2003/2006/2008/2013
 10. Game Council Motions and Delegations in relation to the Committee of Management 2002
 11. Game Council NSW Code of Meeting Practice 2004
 12. Hunter Managed Conservation Hunting Group Policy and Procedures 2011
 13. Industry and Related Agencies Support Policy 2004
 14. Job Evaluation for Business Manager Mercer 2008
 15. Job Evaluation for CEO Mercer 2009
 16. Job Evaluation for Communications Manager¹⁴ Mercer 2010
 17. Job Evaluation for Communications Officer Mercer 2011
 18. Job Evaluation for Executive Support Officer and Administrative Assistant Mercer 2012
 19. Job Evaluation for Game Manager Mercer 2008
 20. Job Evaluation for Licensing and Booking Administrator Mercer 2009
 21. Job Evaluation for REACH Officer Mercer 2010
 22. Job Evaluation for Senior Customer Services Officer Mercer 2009
 23. Job Evaluation for Stakeholder Services Manager Mercer 2011
 24. Legislation
 - a. *Game and Feral Animal Control Act 2002*
 - b. *Game and Feral Animal Control Regulation 2012*
 25. Licence Holder Survey Report 2012
 26. Licence Management System Screen Dump Example 2013
 27. National Survey of Recreational Hunters 2012
 28. Organisational Structure 2013
 29. Policies of the Game Council Division
 - a. Cash Float Policy and Procedure undated
 - b. Code of Conduct – NSW DPI 2006
 - c. Contemporaneous Note Taking Policy 2009
 - d. Corporate Credit Cards Conditions of Use 2013
 - e. Crisis and Emergency Management Procedures 2102 (e)
 - f. Dealing with Difficult Stakeholders Policy and Procedure
 - g. Ethnic Affairs Priority Statement 2009-10
 - h. Equal Employment Opportunity (EEO) Policy 2010
 - i. General Correspondence Policy 2010
 - j. General Purchase Guidelines undated
 - k. Gifts and Benefits Policy

¹⁴ Now Communications and Marketing Manager

- l. Grievance Procedures – Interim Guidelines 2011
- m. Information and Information Systems Statement of Responsibility 2010
- n. Internet and IT Resources Policy 2012
- o. Inventory and Asset Control Procedures undated (e)
- p. Media, PR and Issues Management Policy undated
- q. Mobile Telephone Usage Policy undated
- r. Motor Vehicle Policy
- s. Personnel Training and Accreditation Qualifications 2010
- t. Portable and Attractive items Policy 2013
- u. Prevention of Harassment Policy 2010
- v. Procurement Policy 2010
- w. Public Interest Disclosure (PID) Policy 2012
- x. Records Management Policy 2010
- y. Refund Policy 2010
- z. Regional Office Contacts undated
- aa. Risk Management Policy 2010
- bb. Risk Management Policy for Law Enforcement Operations 2005
- cc. Security Policy 2010
- dd. Staff Hunting Policy 2010
- ee. Staff Smoking Policy 2012
- ff. Staff Travel Policy 2013
- gg. Work Hours Policy 2012
- hh. Working from Home Policy 2012
- ii. Workplace Health and Safety Policy 2013
 - i. Occupational Health and Safety Policy 2005 (superceded)
 - ii. Occupational Health and Safety Management Systems 2005
 - iii. PPE Checklist 2011
 - iv. State Forest Compliance Patrol Quad Bike OH&S Risk Analysis 2010
 - v. Workplace Hazard Assessment 2010
- jj. Workplace Surveillance Policy 2012
- 30. PPIPA Training Statement of Completion Example
- 31. Public Benefit Assessment 2012
- 32. Review of *Game and Feral Animal Control Act 2002* June 2008
- 33. Treasury Internal Audit and Risk Management Policy Letter of Exemption
- 34. Written Permission (Proforma Example)

Bibliography

- ASX 2010. *Corporate Governance Principles and Recommendations*.
- COLLIER, B. 2002. The role of ASIC in corporate governance. *Corporate Governance Summit*
- COMMISSION-OF-AUDIT 2012. NSW Commission of Audit Final Report. Sydney: NSW Government.
- NSW-AUDITOR-GENERAL 2011. NSW Auditor General's Report Volume Two 2011 Corporate Governance Early Warning System. *In: GENERAL, A. (ed.)*. Sydney: NSW Government.
- NSW-TREASURY 2009. NSW Treasury Internal Audit and Risk Management Policy. *In: TREASURY, N. G. (ed.)*. Sydney.
- SPARROW, M. K. (ed.) 2000. *The Regulatory Craft*.
- STANDARDS-AUSTRALIA 2003. Good Governance Principles.
- STANDARDS-AUSTRALIA 2006. Compliance Programs.
- UHRIG, J. 2003. Review of the corporate governance of statutory authorities and office holders. *In: ADMINISTRATION, C. D. O. F. A. (ed.)*. Canberra
- WA-COMMERCE Compliance Strategy. *In: COMMERCE, W. A. D. O. (ed.)*.