
WYONG SHIRE COUNCIL

REPORTS TO THE
EXTRAORDINARY MEETING OF COUNCIL
TO BE HELD IN THE COUNCIL CHAMBER,
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON WEDNESDAY, 30 JULY 2008,
COMMENCING AT 5.00 PM

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WYONG SHIRE COUNCIL

30 July 2008
To the Extraordinary Meeting of Council

General Manager's Report

358 Disclosures of Interest

F2006/02282 ED:MR

The provisions of Chapter 14 of the Local Government Act, 1993 regulate the way in which Councillors and nominated staff of Council conduct themselves to ensure that there is no conflict between their private interests and their public trust.

The Act prescribes that where a member of Council (or a Committee of Council) has a direct or indirect financial (pecuniary) interest in a matter to be considered at a meeting of the Council (or Committee), that interest must be disclosed as soon as practicable after the start of the meeting and the reasons for declaring such interest.

As members are aware, the provisions of the Local Government Act restrict any member who has declared a pecuniary interest in any matter from participating in the discussions, voting on that matter, and require that member to vacate the Chamber.

Council's Code of Conduct provides that if members have a non-pecuniary conflict of interest, the nature of the conflict must be disclosed. The Code also provides for a number of ways in which a member may manage non pecuniary conflicts of interest.

RECOMMENDATION

That Councillors now disclose any interests and reasons for declaring such interest in the matters under consideration by Council at this meeting.

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AMENDED REPORT

WYONG SHIRE COUNCIL

30 July 2008
To the Extraordinary Meeting of Council

General Manager's Report

359 Contracts Report by Internal Audit

F2007/01410 JS

SUMMARY

Internal Audit has prepared this report as requested on 23 July 2008.

RECOMMENDATION

- 1** *That the report be received and the information noted.*
- 2** *That Council continue to pursue current initiatives to strengthen its project management capabilities*
- 3** *That Council obtain the services of a suitably experienced consultant to undertake a review of Council's project management processes to further assist with the strengthening of its capability in achieving its objectives in this vital aspect of its operations.*
- 4** *That a report by the consultant on Council's project management processes together with recommendations for improvement be provided to Council via the Governance Committee.*
- 5** *That reports to Council on major projects highlight the potential risks and consequences in order to facilitate consideration of the nature of those risks and the adequacy of actions in place to mitigate them by both executive management and Councillors.*

BACKGROUND

Council at its meeting on 23 July 2008 resolved in part as follows:

"RESOLVED on the motion of Councillor BEST and seconded by Councillor EATON:

- 3** *That Council convene an extraordinary meeting of Council on 30 July 2008 to receive a report from its Internal Auditor detailing all significant contract variations over the last two years and to determine whether external Management Consultants should be employed to review Councils management and systems."*

At the request of Council, Internal Audit has undertaken a review of significant contract variations which have arisen in respect of contracts in the past two years.

Contracts Report by Internal Audit (contd)

Details of the variations in excess of \$100,000 and/or in excess of 5% of the original contract amounts (including contingency) for contracts in excess of \$150,000 have been analysed. Brief explanations for variances are provided in the Enclosure where it has been possible to obtain this information in the short timeframe available to prepare this report. Additional information may be provided prior to the meeting as data on closed contracts in particular has not been able to be adequately verified for the purposes of this report.

In the case of most significant variations information has already been provided to Council in the form of specific reports or briefings on individual projects or by way of finalised contract reports which have been issued for the period since October 2004.

Based on the data available from a total 535 contract population, 41 contracts (8%) had a variation of greater than \$100,000 or more over the original contract value plus contingency. Of the total population, 162 contracts had a variation of greater than 5% or more over the original contract value plus contingency. Compared to the original contract value, total variations on contracts amount to \$16.5m (6.3%) with allowance for contingency and \$22.7m (8.6%) without contingency. The below table provides a summary of the contracts examined:

	Number of Contracts	Original Value \$M	Contingency \$M	Total Approved \$M	Amended Value \$M	Variance \$M	Variance excluding Contingency \$M
Open	205	202.7	6.2	208.9	219.1	10.2	16.4
Finalised	330	60.2	0.0	60.2	66.5	6.3	6.3
Total	535	262.9	6.2	269.1	285.6	16.5	22.7
						6.3%	8.6%
> 100K Variance							
Open	23	10.7	1.0	11.7	21.2	9.5	10.5
Finalised	18	13.5	0.0	13.5	18	4.5	4.5
	41	24.2	1.0	25.2	39.2	14.0	15.0
> 5% Variance							
Open	75	22.0	1.6	23.6	35.3	11.7	13.3
Finalised	87	19.0	0.0	19.0	25.3	6.3	6.3
	162	41.0	1.6	42.6	60.6	18.0	19.6

Contracts Report by Internal Audit (contd)

It should be noted that these numbers do not include several major contracts yet to be let including those associated with the Mardi to Mangrove (M2M) pipeline construction, other remaining water supply projects, Performing Arts Centre (PAC), Aquatic Centre, surf clubs, rehabilitation of closed landfills and Link Road. In addition some current contracts including the GHD and other professional services contracts are expected to significantly exceed current approvals. These projects will significantly increase the total value of contracts and are where the future significant risks are likely to arise. Separate reports on these contracts will be provided to Council in the near future.

It also should be noted that the reports from which the data has been extracted contain financial data exclusive of GST.

The procurement process is just one component of the project management process. Other equally important components include:

- Strategy setting
- Scope
- Time
- Cost
- Quality
- Communication
- Design and investigation
- Human resources
- Risk
- Integration

The extent of variations on contracts is just one indicator of the level of performance of project management within Council. Any consideration of the level of performance of Council on specific projects must consider the full picture as variations can arise from any of these components.

Both Councillors and management have vital roles to play in the success of the project management process. It is therefore important that a fuller review be undertaken of project management as all the components are integrated and all can equally influence the financial outcome of an individual contract. To this extent it is recommended that a suitably experienced consultant undertake a review of Council's project management processes to further assist with the strengthening of its capability in achieving its objectives in this vital aspect of its operations. It is important that such review examine the full spectrum of major project management processes within Council and that the engaged consultant has extensive experience in relevant construction projects.

Contracts Report by Internal Audit (contd)

The level of risks Council faces from projects currently underway cannot be underestimated. In particular the pipeline project is where the greatest exposures are likely to arise. Exposures on projects such as the PAC, Link Road and the others detailed above also cannot be underestimated. Exposures would be further increased if a Public Private Partnership arrangement was applied to some of the future projects such as the PAC or aquatic centre. Councillors and executive management should ensure that the risk management processes around these projects are operating very effectively. It has accordingly been recommended that future reports to Council on major projects highlight the potential risks and consequences in order to facilitate consideration of the nature of those risks and the adequacy of actions in place to mitigate them by both executive management and Councillors.

Council has been successful in many aspects of its project management processes. It is responding well to the abnormal challenges of securing the water supply while maintaining all services largely as business as usual. Importantly it is also recognising that it does need to improve in a number of other areas including strategic planning, asset management, human resources and project management. Governance processes within Council continue to be further strengthened and there is a noticeable cultural shift in terms of openness, transparency and accountability.

Examples where Council's project management processes have been successful include:

- Establishment of the Contracts and Special Projects Unit
- Implementation of a highly regarded contracts management systems and corporate templates
- Joint regional waste collection contract
- Development of WaterPlan 2050 to secure the water supply
- Hunter pipeline construction within an extremely tight timeframe
- Application of risk management processes to major projects eg PAC and M2M
- Engagement of a probity adviser for major projects
- Application of due diligence processes to the Performing Arts Centre project
- Addressing performance issues with external contract management providers
- Improved reporting on contracts and projects to Council.

All the above are a reflection of a growing maturity of Council in overall project management and specifically contract management processes.

Individual examples of projects where Council has not been so successful include:

- Link Road design
- Rehabilitation of Bateau Bay closed landfill
- Old Maitland Road
- Toukley Pool
- Professional services contracts.

Contracts Report by Internal Audit (contd)

Some of these contracts are actually not included in the contracts variations schedule as the issues are not necessarily reflected in variations of the contracts at this stage. Reasons for problems with these projects included:

- Poor design
- Time constraints driving the process to the sacrifice of design and investigation and quality
- Contract management skill shortages.

RISKS AND CONTROLS FOR PROJECT MANAGEMENT

Council has in place a number of control process in order to manage its risks over project management. These include:

- Operational plans for each key operational unit of Council
- Regular contract systems audits
- Monthly financial reporting
- Monthly project reporting
- Internal audit

The operational plan for Contracts and Special Projects details a number of key risks, related controls and actions to mitigate those risks. Some of the more significant risks include:

- Delays leading to a blow-out of costs
- Unrealistic client expectation leading to the project failing to finish on time
- Aggressive contractor seeking variations leading to blow-out of costs
- Creeping scope leading to a blow-out of costs
- Poor specification/design leading to Project failing to achieve the required quality standards
- Insufficient funds because of the inadequate estimating and/or collection of Section 94 contributions leading to Project being stalled
- Unforeseen conditions leading to a blow-out of costs
- Inadequate investigations and/or contract documentation leading to blow-out of costs
- Poor project management leading to the project failing to finish on time.

An outcome of guidance from the General Manager, Directors and the risk assessment in the operational plan for Contracts and Special Projects has been the action to instigate an assessment of Council's overall project management capability and to undertake a training program for all key personnel involved in project management.

An initial assessment of Council's project management capability has already been undertaken. It has been assessed at the lower end of the maturity scale. People skills and tools have been assessed as better than process. This is clearly where focus needs to be in order to strengthen the overall project capability of Council. A more focussed review of project management processes around major projects however needs to be undertaken as this is where the major risks to Council exist.

Contracts Report by Internal Audit (contd)

The actions for the 2008/09 year identified in the draft Contracts and Special Projects Unit's Operational Plan include:

- Improve current project management skills and capabilities of staff by engaging a consultant to develop an improved project management system and processes including documentation and staged training of staff.
- Develop an estimating and contingency methodology.
- Develop a suitable tool to provide monthly reporting.
- Prepare and review on a quarterly basis a list of projects and the resources required to complete them with a 5-year time horizon. Implement tracking via a spreadsheet to include information on department's future projects, contacts and estimated project start date.
- Develop a process to ensure Risk Management issues are properly assessed and implemented in all projects. This is to include risk assignment (or allocation) where the risk is assigned to the party in the best position to control the risk.

The operational plan process is seen as significantly assisting with the continuing improvement of management practices specific to project and contract management.

Contract Management Systems Audit

An audit process has been developed by the Contract Systems Co-ordinator to conduct reviews of a selection of the contracts throughout the year. The reviews cover the administrative, governance and legal aspects of the contracting process and compliance with the requirements of the procurement manual. They are undertaken on a quarterly basis. Two contracts are reviewed each quarter. The processes that are audited are allocated with a risk rating related to the degree of conformance to the procedures with 1 being critical non-conformance and 5 being complete conformance.

The scope of the audits covers:

- Legislative requirements of the Local Government Act in regards to public tendering
- Internal systems, policies and procedures
- Completeness, accuracy and timeliness of records relating to the governance and legal aspects of contracting
- Financial outcomes
- Contractor performance management process.

Contracts Report by Internal Audit (contd)

Internal Audit

Internal Audit has recently conducted a review of the Contracts and Special Projects Unit. The report which is in the process of being responded to by management noted that the areas of more significant risk where management attention at an operational and/or corporate level needS to keep focussed on include:

- Increasing the effectiveness of long term strategic planning for infrastructure in order to minimise reactionary ad hoc decisions and better utilise available funding.
- Addressing the issues arising from the heavy reliance on the expertise of consultants and temporary contract staff to achieve the effective management of most of the major projects.
- Increasing need for management of the temporary professional services workforce.
- The number of capacity issues in related areas of Council which are impacting on the successful delivery of projects. In particular, the level of expertise at both the design and engineering level.
- The rise in the number of significant variations on major projects at both tender stage and contract stage.
- The potential for legal exposures under Council's current standard contract documentation.

A range of specific audit recommendations arising from the review have been made and management is in the process of responding to these.

Enclosure

List of Open and Finalised Contracts With Contingency