



Construction of a rain garden and Gross Pollutant Trap to filter stormwater before it flows in to Lake Munmorah is almost complete. The works are part of the Tuggerah Lakes Estuary Management Plan.

# Business Paper

EXTRAORDINARY MEETING

**30 June 2011**



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# MEETING NOTICE

**The EXTRAORDINARY MEETING  
of Wyong Shire Council  
will be held at the Gosford Regional Gallery and Arts Centre,  
36 Webb Street, East Gosford on  
Thursday 30 June 2011 at 7.00 pm,  
for the transaction of the business listed below:**

**OPENING PRAYER**

**ACKNOWLEDGEMENT OF COUNTRY**

**RECEIPT OF APOLOGIES**

## **1 PROCEDURAL ITEMS**

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## **4 CONFIDENTIAL ITEMS**

- 4.1 Central Coast Water Corporation - Appointment of Directors

## **5 QUESTIONS ON NOTICE ASKED**

At the conclusion of the meeting and at the discretion of the Mayor, Council may meet with staff in an informal, non-decision making mode for a period of no more than 30 minutes.

Michael Whittaker  
**GENERAL MANAGER**

## 1.1 Disclosures of Interest

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TRIM REFERENCE: F2011/00027 - D02648495

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Sonia Witt; TL Governance and Councillor Services

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 conflicts of interest in matters under consideration by Council at this meeting.***

## **1.2 Notice of Intention to Deal with Matters in Confidential Session**

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TRIM REFERENCE: F2011/00027 - D02648487

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Sonia Witt; TL Governance and Councillor Services

### **SUMMARY**

It is necessary for the Council to adopt a resolution to formalise its intention to deal with certain matters in Confidential Session. The reports are incorporated in the "Confidential" business paper which has been circulated to Councillors.

The Local Government Act, 1993 requires the General Manager to identify those matters listed on the business paper which may be categorised as confidential in terms of Section 10A of the Local Government Act, 1993.

### **RECOMMENDATION**

- 1 That Council consider the following matters in Confidential Session, pursuant to Sections 10A(2)(a) of the Local Government Act 1993:**
  - 4.1 Central Coast Water Corporation – Appointment of Directors**
- 2 That Council note its reason for considering Report No 4.1 as it contains personnel matters concerning particular individuals (other than Councillors) (Section 10A(2)(a)).**
- 3 That Council request the General Manager to report on this matter in open session of Council.**

Note: Explanation - Section 10A of the Local Government Act 1993 states:

*"2(a) personnel matters concerning particular individuals (other than Councillors),"*

## **2.1 Central Coast Water Corporation - Strategic Project Management Plan**

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TRIM REFERENCE: F2004/08792 - D02657151

MANAGER: Greg McDonald; Director Infrastructure Management

### **SUMMARY**

This report relates to the report to be presented to the Central Coast Regional Organisation of Councils meeting to be held on 30 June 2011 in relation to the Central Coast Water Corporation – Project Management Plan.

### **RECOMMENDATION**

- 1** *The Gosford Wyong Water Authority be dissolved on 14 July followed by the inaugural Board meeting of the Central Coast Water Corporation subject to appointment of the Directors.*
- 2** *The Strategic Project Management Plan be adopted as the framework for the implementation of the Central Coast Water Corporation.*
- 3** *The Strategic Project Management Plan referred to in B below evolve over the life of the project as issues emerge and decisions are made under a 'best value' approach.*

### **BACKGROUND**

The Central Coast Regional Organisation of Councils at its meeting to be held on 30 June 2011 will consider the report "Central Coast Water Corporation – Strategic Project Management Plan" which recommends to Gosford and Wyong Councils that:

- A** The Gosford Wyong Water Authority be dissolved on 14 July followed by the inaugural Board meeting of the Central Coast Water Corporation subject to appointment of the Directors.
- B** The Strategic Project Management Plan be adopted as the framework for the implementation of the Central Coast Water Corporation
- C** The Strategic Project Management Plan referred to in B above evolve over the life of the project as issues emerge and decisions are made under a 'best value' approach.

### **ATTACHMENTS**

*Nil.*

## **2.2 Central Coast Water Corporation - Service Level and Funding Agreement**

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TRIM REFERENCE: F2004/08792 - D02657240

MANAGER: Greg McDonald; Director Infrastructure Management

### **SUMMARY**

This report relates to the report to be presented to the Central Coast Regional Organisation of Councils meeting to be held on 30 June 2011 in relation to the Central Coast Water Corporation –Service Level and Funding Agreement.

### **RECOMMENDATION**

***That Council approve the Service Level and Funding Agreement for execution with the Central Coast Water Corporation.***

### **BACKGROUND**

The Central Coast Regional Organisation of Councils at its meeting to be held on 30 June 2011 will consider the report "Central Coast Water Corporation - Service Level and Funding Agreement" which recommends that Gosford and Wyong Councils :

**APPROVE** the Service Level and Funding Agreement for execution with the Central Coast Water Corporation.

### **FINANCIAL IMPACT STATEMENT**

The financial impacts are outlined in the Service Level and Funding agreement.

### **ATTACHMENTS**

*Nil.*

## **2.3 Response to the Mayoral Minutes - Consideration of Wyong Shire and Gosford City Councils Consolidation at the June CCROC Meeting**

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TRIM REFERENCE: F2010/00500 - D02648483

MANAGER: Michael Whittaker; General Manager

### **SUMMARY**

This report provides information for Councils consideration in response to the resolutions of both Wyong Shire and Gosford City Council earlier in 2011. Both Councils essentially resolved to consider the engagement of an external consultant to independently assess the potential outcomes of a proposed consolidation of the two Councils.

In order to assist Council this report includes, as an attachment a proposed Project Brief for an external consultant to address the Councils resolutions.

This type of project, if it is to proceed, will be emergent in its nature and overall scope. As a result the report also includes consideration of likely decision points for Council through the term of such a project.

### **RECOMMENDATION**

- 1 That Council receive the report on the Response to the Mayoral Minutes – Consideration of Wyong Shire and Gosford City Councils consolidation;**
- 2 Council consider whether to proceed with the engagement of an independent consultant to undertake the attached brief of works.**

### **BACKGROUND**

Gosford City Council (GCC) and Wyong Shire Councils (WSC), together form the region of the Central Coast. The Central Coast was officially recognised by the Australian Bureau of Statistics as a separate geographical region in October 2009.

The issue of possible amalgamations of NSW Councils has again been in the public arena as has also been the possible consolidation of Gosford City and Wyong Shire Councils.

In 2010 a number of documents were released that referred to the issue of Council mergers/ amalgamations /consolidations. The Central Coast NSW Business Chamber released its paper "10 Big Ideas to Grow the Central Coast" that included "Create a Single Central Coast Council." The Association of Consulting Engineers Australia (ACEA) also released the "ACEA Infrastructure Report" which proposed a Central Coast Regional Council including the Councils of Gosford and Wyong.



At the Gosford City Council meeting on Tuesday, 5 April 2011, the Mayor of Gosford City Council, presented a Mayoral minute, which raised the matter of Wyong Shire Council and Gosford City Council possibly consolidating. The resolution was passed unanimously and is detailed below.

At the Wyong Shire Council meeting on Wednesday 27 April 2011, the Mayor of Wyong Shire Council, presented a Mayoral minute recommending investigation of the outcomes of a potential consolidation. The resolution was passed unanimously and is also detailed below.

### **COUNCIL RESOLUTIONS**

At their 5 April 2011 meeting Gosford City Council unanimously resolved the following:

- “A The provision of independent, comprehensive, objective, quality information on a possible merger/ amalgamation of GCC and WSC as the basis for extensive consultation be placed on the agenda of the next CCROC meeting.*
- B The information should include factors such as:
  - a. Examples of similarly sized Councils as an amalgamated GCC/WSC would be*
  - b. Examples of similarly sized Councils that have amalgamated*
  - c. The suggested make up of such an amalgamated Council*
  - d. The impact on residents and Councillors*
  - e. The process of how the senior management and elected representative positions would be divided up (especially the GM and the Mayor).**
- C The report come back to Council for workshopping prior to being placed on the agenda for consideration by CCROC.”*

At the ordinary meeting of 27 April 2011 Wyong Council resolved as follows:

*“RESOLVED unanimously on the motion of Councillor EATON:*

- 1 That Council note the Gosford City Council resolution of 5 April 2011, detailed below:
  - A. The provision of independent, comprehensive, objective, quality information on a possible merger/ amalgamation of GCC and WSC as the basis for extensive consultation be placed on the agenda of the next CCROC meeting.*
  - B. The information should include factors such as:
    - f. Examples of similarly sized Councils as an amalgamated GCC/WSC would be*
    - g. Examples of similarly sized Councils that have amalgamated*
    - h. The suggested make up of such an amalgamated Council*
    - i. The impact on residents and Councillors*
    - j. The process of how the senior management and elected representative positions would be divided up (especially the GM and the Mayor).***

- C. *The report come back to Council for workshopping prior to being placed on the agenda for consideration by CCROC.*
- 2 *That both Councils reassure staff that:*
- a *Consideration of the above report will be on the basis of a guarantee of job security for permanent award staff for five years after the proclamation of any new Council;*
- b *Any major restructure would be through extensive consultation and participation with the Unions.*
- c *Core numbers within the two Councils would be protected and movement of staff between the Central Coast Water Corporation and the amalgamated Councils be handled as internal applicants.*
- d *No employee would be financially worse off through permanent worksite/depot/administration building location changes.*
- e *There would be no forced redundancies for award staff and any downsizing to be through natural attrition.*
- 3 *That the Report takes into account:*
- a *The process and criteria detailed in Sections 218 and 263 of the Local Government Act (refer attached copies of these Sections).*
- b *In addition the report should examine the organizational outcome for:*
- *Governance and appropriate Councillor representation for the community;*
  - *Financial Sustainability; and*
  - *Community Engagement (local identity, local community sustainability etc).*
- c *The report should discuss an engagement strategy to ensure appropriate involvement of staff, Consultative Committee and stakeholders.*
- d *The report should include the results of a statistically valid poll of the residents of the Central Coast.*
- e *That the report also include a SWOT analysis*
- 4 *That, in the event of Gosford and Wyong Councils pursuing amalgamation, Council request the Minister to consider a referendum on this issue.*

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, VINCENT, WEBSTER AND WYNN

AGAINST: NIL”

Both council resolutions are contained as attachments to the proposed project brief if the Councils resolve to proceed with the procurement of such a study.

**THE PROPOSAL**

The preliminary overall objective of the project is to determine the best outcome for the Central Coast Community and the three organizations, namely: Wyong Shire Council; Gosford City Council; and the Central Coast Water Corporation in terms of building improved broad sustainability for service delivery, financial capacity and asset management.

The consultancy is proposed to assist the Councils to be better informed about the following:

- 1 Confirming what is the strategic direction that would underpin any consolidation decision, what are the challenges that any consolidation would need to address, and what are the critical success criteria for making the consolidation decision?

Wyong Shire Council in the Mayoral Minute identified a number of strategic challenges for the consideration of a potential consolidation of the two Councils:

- a. The establishment of the Central Coast Water Corporation means we are removing a significant percentage of the two councils existing operations. This merger will create a significant hole in the corporation structure of the two Councils, and as such all options must be considered to ensure the sustainable delivery of essential services to our community;
- b. Wyong Shire Council had a \$30M operating shortfall (30/6/2010), while this has been reduced to less than \$15M over the last twelve months there is still more work to do;
- c. The Wyong Shire Council Service Delivery review has adjusted the way we do business and resulted in \$8M in recurrent saving. A key outcome of this review was the need for Wyong Shire Council to better partner with Gosford City Council on service delivery;
- d. We have an asset renewal shortfall of nearly \$200M on our existing \$2B in assets, which means we are running their condition down;
- e. We have business feedback from the Business Chamber and other stakeholders that Council needs to strengthen the Central Coasts prominence in Australia;
- f. The capacity of our community to afford significant rate increases is limited;
- g. The reliance on rates as council's primary income is high and this income is pegged by State Government;
- h. The Central Coast community do not see themselves as Gosford or Wyong, they see themselves as Central Coast people.

The first step proposed in the draft project brief is to engage with the Community, Councillors, Staff, and key stakeholders such as the Unions, to further develop the strategic challenges above and refine the critical success criteria that would influence a decision on structural reform. It is also proposed to seek community feedback on this issue via statistically valid market research by asking the community what benefits would need to be realized to see them support such a proposal.

## **2.3 Response to the Mayoral Minutes - Consideration of Wyong Shire and Gosford City Councils Consolidation at the June CCROC Meeting (contd)**

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- 2 Applying analytical rigour to test and validate consolidation options and identify priorities for focus.

The consultancy, if it proceeds is proposed to allow informed, fact – based decision making prior to the two Councils making any decision. To do this the proposed methodology involves:

- Confirming the ‘as-is’ strategic position for both Councils, comparing and contrasting corresponding business operations (eg systems, processes, financials, organisational structures, suppliers etc);
  - Identify and evaluate different consolidation options that would suit the Central Coast Community;
  - Propose a preferred option based on the broad sustainability objective for the Councils ensuring the costs and benefits are clearly detailed; and
  - Develop a draft transitional action plan to achieve the desired merged state, including structures, resources, roles and responsibilities.
- 3 Recommending best value means to engage different stakeholders throughout the process to enable the community’s informed viewpoint on the process and the potential consolidation.

The draft brief attached is structured on a partnership approach to the consultancy. With this approach the two Councils will provide top level direction and decision making through a project control group, with independent advice prepared by the consultancy. Following receipt and consideration of the draft report the two Councils will decide the next step, if any.

This approach maximises value from the consultancy as they can focus objectively on critical business areas important to the community. The independent assessment also allows for proper engagement of Staff and Councillors from the two Councils. It also recognises that staff and Councillor expertise will be required to ensure the consultant is provided quality and accurate information to provide a platform for a robust and resilient report.

The attached draft brief details the specific scope for the proposed consultancy.

### **OPTIONS**

The Councils have the following options:

- 1 In partnership, utilising the attached draft project brief (with any amendments), to proceed to seek tenders for an external consultant to independently assess the cost and benefits of a proposed consolidation of the two Councils.
- 2 Not proceed with any further consideration of the matter.

### **Financial Implications**

It is expected that the completion of such a consultancy will require significant resources by a consultant firm, given the scope of the above Mayoral Minutes.

In addition to the financial costs of the potential study, council staff resources will also need to be redirected to manage and oversee the consultancy.

The report of any consultancy, if engaged, would need to consider the short and long term financial implications of any proposed merger for both Councils. It is proposed for the cost benefit analysis to be measured over a ten year horizon.

### **Principles of Sustainability**

The proposed overall objective of the project is to determine the best outcome for the three organizations, WSC, GCC and the CCWC in terms of building improved broad sustainability for service delivery and better outcomes for the community into the future.

Over recent years the gap between the cost of providing services to our community and our capacity to pay for them has steadily widened. The process of improving financial sustainability will involve looking creatively at the way we deliver all our services. Considering consolidation of the Councils should be objectively analysed if the review is to be complete. Irrespective of the decision on structural reform WSC and GCC will continue to work in partnership. The costs of any proposed change will need to be considered as part of the independent consultants report. Ultimately, our community must benefit from any changes we make to become environmentally, socially and financially sustainable – so we continue to have the capacity to deliver quality services in the future. Even when we've reached a sustainable financial position, every cent we can save by improved efficiency can be readily used elsewhere to benefit the Central Coast community.

### **CONSULTATION**

The draft project brief has a number of core elements and includes the requirement for a more detailed strategy from the consultant on how to engage different stakeholders throughout the process to enable Councillors, Staff, members of the Community and other key affected stakeholders to put forward their viewpoint on the process and the potential consolidation. In response to the Council resolutions the brief also includes provision for a statistically valid poll of Central Coast residents.

If Council endorses proceeding with the engagement of an independent consultant it is recommended that staff make contact with similar Councils or recently amalgamated Councils in Australia and New Zealand (Moreton Bay Regional Council, Sunshine Coast Regional Council and Auckland Regional Council) to be better informed by their experience of the process, lessons learnt and the extent of benefits realised by the process. As well as the Australian Centre of Excellence for Local Government.

### **GOVERNANCE**

The legislative process that provides the framework for Local Government reform is contained in the Local Government Act.

A probity plan will be prepared for the consultancy, should the councils choose to proceed with the draft project brief.

**CONCLUSION**

This report provides a suggested brief for the Councils to consider in response to the earlier Council resolutions proposing to seek an external consultant to independently assess the potential outcomes of a proposed consolidation of Gosford City Council with Wyong Shire Council.

**ATTACHMENTS**

- 1 Draft Project Brief Examination of the ~ Consolidation of Gosford City Council and Wyong Shire Councils V2.6 D02657172

## The Brief

Version 2.6: 23 June 2011

**Contract Title:** *Examination of the Potential for Consolidation of Gosford City and Wyong Shire Councils*

**Folder No:** CPA/196846

**All enquiries are to be directed to the Contact Officer.**

**Contact Officer:** To Be Advised

**Phone:**

**Email:**

**Address:**

**Backup Contact:**

**Phone:**

**This document specifies the professional/technical services required.**

**1:**

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# 1: GENERAL

## 1.1: INTRODUCTION

### BACKGROUND

Gosford City Council (GCC) and Wyong Shire Council (WSC), together form the region of the Central Coast.

The issue of possible consolidations of NSW Councils has again been in the public arena, as has the possible merger of Gosford City and Wyong Shire Councils.

In 2010 a number of documents were released that referred to the issue of Local Government reform on the Central Coast. The Central Coast NSW Business Chamber released its paper "10 Big Ideas to Grow the Central Coast" that included "Create a Single Central Coast Council." The Association of Consulting Engineers Australia (ACEA) also released the "ACEA Infrastructure Report" which proposed a Central Coast Regional Council including the Councils of Gosford and Wyong.

At the Gosford City Council meeting on Tuesday, 5 April 2011, the Mayor of Gosford City Council, presented a Mayoral minute, which raised the matter of Wyong Shire Council and Gosford City Council possibly consolidating. The resolution was passed unanimously and is detailed below.

At the Wyong Shire Council meeting on Wednesday 27 April 2011, the Mayor of Wyong Shire Council, presented a Mayoral minute recommending investigation of the outcomes of a potential consolidation. The resolution was passed unanimously and is detailed below.

Both resolutions refer to the Central Coast Regional Organisation of Councils (CCROC) to allow joint engagement and discussion by all Councillors. This is an association which has GCC and WSC as members. The associations' resolutions need to be adopted by the respective Councils to be implemented.

### COUNCIL RESOLUTIONS

At the 5 April 2011 meeting Gosford City Council unanimously resolved the following:

- A. *The provision of independent, comprehensive, objective, quality information on a possible merger/ amalgamation of GCC and WSC as the basis for extensive consultation be placed on the agenda of the next CCROC meeting.*
- B. *The information should include factors such as:*
  - a. *Examples of similarly sized Councils as an amalgamated GCC/WSC would be*
  - b. *Examples of similarly sized Councils that have amalgamated*
  - c. *The suggested make up of such an amalgamated Council*
  - d. *The impact on residents and Councillors*
  - e. *The process of how the senior management and elected representative positions would be divided up (especially the GM and the Mayor).*
- C. *The report come back to Council for workshopping prior to being placed on the agenda for consideration by CCROC.*

At the ordinary meeting of 27 April 2011 Wyong Council resolved as follows:

1 That Council note the Gosford City Council resolution of 5 April 2011, detailed below:

- A. *The provision of independent, comprehensive, objective, quality information on a possible merger/ amalgamation of GCC and WSC as the basis for extensive consultation be placed on the agenda of the next CCROC meeting.*
- B. *The information should include factors such as:*
  - a. *Examples of similarly sized Councils as an amalgamated GCC/WSC would be*
  - b. *Examples of similarly sized Councils that have amalgamated*
  - c. *The suggested make up of such an amalgamated Council*
  - d. *The impact on residents and Councillors*
  - e. *The process of how the senior management and elected representative positions would be divided up (especially the GM and the Mayor).*

2 That both Councils reassure staff that:

- a *Consideration of the above report will be on the basis of a guarantee of job security for permanent award staff for five years after the proclamation of any new Council;*
- b *Any major restructure would be through extensive consultation and participation with the Unions.*
- c *Core numbers within the two Councils would be protected and movement of staff between the Central Coast Water Corporation and the amalgamated Councils be handled as internal applicants.*
- d *No employee would be financially worse off through permanent worksite/depot/administration building location changes.*
- e *There would be no forced redundancies for award staff and any downsizing to be through natural attrition.*

3 That the Report takes into account:

- a *The process and criteria detailed in Sections 218 and 263 of the Local Government Act (refer attached copies of these Sections).*
- b *In addition the report should examine the organizational outcome for:*
  - *Governance and appropriate Councillor representation for the community;*
  - *Financial Sustainability; and*
  - *Community Engagement (local identity, local community sustainability etc).*
- c *The report should discuss an engagement strategy to ensure appropriate involvement of staff, Consultative Committee and stakeholders.*
- d *The report should include the results of a statistically valid poll of the residents of the Central Coast.*
- e *That the report also include a SWOT analysis*

4 That, in the event of Gosford and Wyong Councils pursuing amalgamation, Council request the Minister to consider a referendum on this issue.

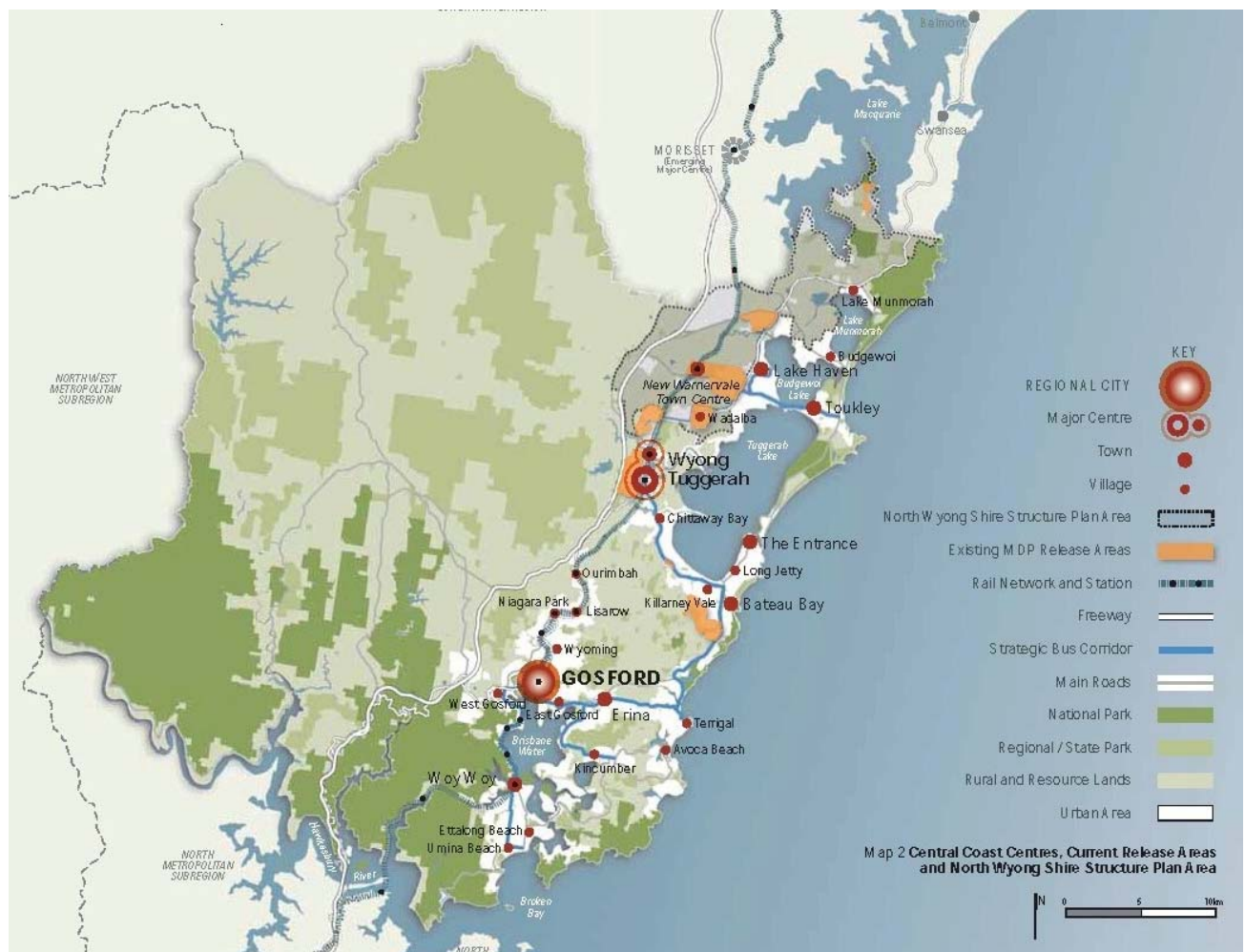
FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, VINCENT, WEBSTER AND WYNN  
 AGAINST: NIL

It is also important to note that the Central Coast Water Corporation (CCWC) has been established by agreement between GCC and WSC. The Corporation will provide to the Central Coast all water, waste water and drainage (to be finalised) services currently undertaken by the Councils as 'water supply authorities' in their respective Local Government Area. The Councils have agreed in principle to transfer staff and assets that form the council's water supply authority businesses to the Corporation on 1 July 2013.

The Corporation will become operational from 1 July 2011 and will be governed by a Board of Directors. The Councils will continue to provide water, waste water and drainage services until at least 1 July 2013. The decision to transfer the two Councils assets and staff to the CCWC is conditional on a cost benefit analysis demonstrating benefits to the Central Coast community and that no material costs arise to Gosford City Council or Wyong Shire Council. This project will need to address this key principle.

## 1.2: LOCATION

The Central Coast is located an hour North of Sydney:



Extract from the Department of Planning: *Central Coast Regional Strategy*

Some basic statistics of the two Councils are:

#### Wyong Shire Council

The Shire of Wyong covers 817 square kilometres It has a population exceeding 150 000 residents and has ten elected Councillors.

#### Gosford City Council:

The city of Gosford covers an area of 1,029 square kilometres. It has a population of approximately 170 000 residents and has ten elected Councillors.

### **1.3: PROJECT STRUCTURE**

The completed report will be the property of both WSC and GCC. The project will be jointly managed by GCC and WSC.

The project contact at WSC & GCC will be:

TBA

The project will be completed at the acceptance by the respective Councils of the final report following the CCROC meeting to be scheduled in December 2011.

The successful consultant is to provide independent advice and analysis to the two Councils via a Project Control Group (PCG) which will provide executive direction.

## **2: SCOPE OF CONSULTANCY**

### **2.1: CONSULTANCY OBJECTIVES**

The consultancy is to quantify any potential benefits and disadvantages of a Local Government consolidation on the Central Coast, and whether there is a net positive outcome that clearly supports the merger or not. From reading the consultants report it should be clear to a broad audience whether a consolidation Council creates a better opportunity to establish a more sustainable local government that focuses on the quadruple bottom line while delivering best value services over the medium to long term than what the two existing Councils could offer. The cost benefit analysis is to be measured over a ten year horizon.

The report needs to consider the formation and roll out of the CCWC and the impact that will have on the two Councils.

The overall objective of the project is to determine the best outcome for the sustainability of the three organizations, WSC, GCC and the CCWC in terms of acknowledging their fiscal responsibility to manage their infrastructure and environment while supporting our community achieve their aspirations.

The consultancy should also articulate and report on the long terms outcomes (10 years plus) of a 'do nothing' approach based on the acknowledgement that establishment of the CCWC is 1 July 2011 with full implementation currently scheduled for 1 July 2013.

The consultancy must meet the scope and intent of the resolutions of the two Councils.

## 2.2: SCOPE:

The consultant shall prepare as part of its tender submission a proposal detailing the scope of services offered. The proposal shall address all of the Council resolutions and other obligations within this scope and reflect the consultant's knowledge and experience in Local Government structural reform and broader organisational mergers or change processes. This detail must be submitted with the consultant's tendered lump sum price to undertake the services identified in the proposal.

In addition to the requirements identified in the resolutions of the two Councils, the following requirements are to be delivered as part of this consultancy:

### Establishment

- The first step proposed is to have targeted engagement of Councillors, Staff and key stakeholders, such as the Consultative Committee, Unions and key community/ business group representatives to further explore the strategic challenges detailed in the Mayoral Minutes, and refine the criteria that would influence a decision on structural reform.
- The outcome of this engagement is to establish:
  - Clear strategic objectives and details around the benefits/ costs that a consolidated council would be expected to achieve.
  - The principles for the implementation of any structural reform

### Consultation

In addition to the requirements identified in the Council resolutions there must be:

- Consultation with all Councillors, Wyong Shire Council as a group, Gosford City Council as a group and the CCROC.
- A Meeting is to be held with each of the Consultative Committees at the respective Councils.
- Consultation is to be undertaken with the Division of Local Government of the Department of Premier and Cabinet, the five State MPs, the three Federal MPs for the Central Coast and the NSW Business Chamber Central Coast.
- Allowance for other meetings or discussion with key stakeholders as the consultant sees fit should be detailed in the proposal.
- A Stakeholder Engagement Strategy for the project which includes the Community, Staff and the Media.
- Statistically valid market research of the community on this issue.

### Alignment

- The preparation of the findings must consider both Council's Community Strategic Plans and current Annual and 4 Year Delivery Plans.
- The CCWC establishment project plan and its implementation implications must be considered in the review and analysis.

## **Deliverables**

The draft and final report should include:

- A transitional action plan for any consolidation to assist the Councils to understand the resource and time implications of such a recommendation.
- The plan must include the expected costs and benefits for both Councils to implement any possible consolidation. The intent is for the transitional action plan to provide a framework for a more detailed methodology of tasks, eg options to integrate the existing service delivery models of the two Councils.
- A cost benefit analysis based upon a ten year period.

The consultant is to provide a tendered lump sum fee and is to clearly articulate any milestone components within their proposal..

## **Other Outcomes**

- The report must undertake a SWOT analysis around a possible consolidation of the two Councils
- Explanation of the analysis underpinning the findings of any draft report.
- Presentation of the draft report and workshop with the elected representatives of both Councils.
- Presentation of the draft report and workshop with the senior staff of both Councils.
- Submission of the final report.
- The final report is to include a stand alone summary document for staff and public dissemination. This document should be clear and easily readable in its presentation, with any graphical information simply presented. Language utilised in the summary document should be plain English without reliance on technical terminology or acronyms.
- The report should also meet the criteria detailed in s263 of the Local Government Act.

## **2.3: METHODOLOGY:**

The methodology to be utilized by the consultant to undertake this project must be identified in the consultant's proposal.

## **2.4: RELEVANT INFORMATION**

Council information relevant to completion of the engagement will be provided to the successful consultant and is identified in Section 4 "Attachments". The consultant's proposal shall indicate any other information it deems to be required from the two Councils.

The consultant should also review and consider the recommendations from the following Major Public Enquiries undertaken into Local Government since 2000 and reports prepared on Local Government reform:

Commonwealth Grants Commission, 2001 (primarily a review of Financial Assistance Grants)

Hawker Report, 2003 (report of the House of Representatives Standing Committee on Economics, Finance and Public Administration Inquiry into Local Government and Cost Shifting)

South Australian Financial Sustainability Review report, 2005 (long term financial performance of South Australian Local Government)

Allan report 2006, (independent inquiry into the Financial Sustainability of NSW Local Government)

Queensland Size, Shape and Sustainability Review Framework 2006 (considering the long- run viability of Councils in QLD)

Western Australian Systemic Sustainability 2006 (financial sustainability of WA Councils)

Price Waterhouse Coopers report, 2006 (Viability of the Australian Local Government Sector)

Local Government Association of Tasmania review, 2007 (financial sustainability of Tasmanian Councils)

Queensland Local Government Reform Commission Report, 2007 (council amalgamation)

Productivity Commission Report, 2008 (revenue raising capacity of Councils)

Queensland Treasury Corporation Report 2008 (financial sustainability of Queensland Councils)

NSW Independent Pricing and Regulatory Tribunal review, 2009 (regulation of NSW council rates and changes)

Consolidation in Local Government: A Fresh Look, ACLEG 2011

Modernising Local Government: Local Government for the 21<sup>st</sup> Century. LGSA 2011

Collaborative Arrangements Between Councils: Survey Report, Division of Local Government, Department of Premier and Cabinet, June 2011.

## **2.5: CONSULTANCY PROGRAM AND DELIVERABLES**

The maximum period for the completion of the consultancy is four months. Tender submissions should include a draft project schedule, including task and resourcing allocation. Details of key staff allocated to the project and their professional expertise and experience should be included.

The final report is to be presented to the CCROC meeting in December 2011.

## **3:CONSULTANCY MANAGEMENT**

### **3.1: MEETINGS**

The nature and number of meetings deemed to be required by the Consultant, in addition to those specified in this Brief, are to be detailed in the submission.

It is expected regular written updates will be required to be presented to the PCG.

### **3.2: SAFETY DURING CONSULTANCY**

The submission should discuss the Risk Assessment process to be applied to the project activities and demonstrate that appropriate documentation is in place within the organisation to mitigate any unacceptably high risks.

### **3.3: QUALITY**

The format of the report is to meet the requirements of [Guidelines for Preparing Amalgamation Proposals](#) prepared by the Division of Local Government and clearly address the factors detailed in s 263 of the Local Government Act.

The final reports need to be of a high quality suitable for public release, it will be required to also be provided in an electronic form suitable for website download. When creating a PDF for placement on Council's website, please include an 'accessibility tag' for vision impaired readers utilising screen reader software, an MS Word format document will also be required for the website.

### **3.4: CONSULTANCY FEE**

The fee structure for this consultancy is a fixed lump sum. A separate fixed lump sum is to be tendered for the engagement and management of the independent statistically valid community survey.

The tender must also identify the hourly rates for the consultant's staff engaged on the contract, which will be used for the purposes of any variation to the services.

## **4: ATTACHMENTS:**

- Final Mayoral Minutes Gosford City Council, Wyong Shire Council. (Attachment 1)

NB: the following documents will be attached to the brief when it is released for tender. As these documents have previously been provided to Councillors they have been excluded for this draft.

- Gosford City Council:
  - The Draft Gosford 2050 plan
  - Delivery Program 2011/12 – 2015/16
- Wyong Shire Council:
  - Wyong Community Strategy 2030
  - Wyong Shire Councils Strategic Plan 2011/12 -2015/16
- Central Coast Water Corporation
  - Constitution
  - Voting Shareholders Agreement
  - Strategic Project Management Plan



## ATTACHMENT 1

## Extract from Wyong Shire Council – Ordinary Meeting 27 April 2011 Minutes

**2.1 Mayoral Minute - Consideration of Wyong Shire and Gosford City Councils Amalgamation at the June Central Coast Regional Organisation of Councils (CCROC)**

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Councillor Best left the chamber at 5.44pm and returned to the chamber at 5.45pm during consideration of this item.

Mr Ben Baker, representing the United Services Union, addressed the meeting at 5.15pm and retired at 5.35pm.

**RESOLVED unanimously on the motion of Councillor EATON:**

- 1 That Council note the Gosford City Council resolution of 5 April 2011, detailed below:**
  - A The provision of independent, comprehensive, objective, quality information on a possible merger/ amalgamation of GCC and WSC as the basis for extensive consultation, be placed on the agenda of the next CCROC meeting.**
  - B The information should include factors such as:**
    - **Examples of similarly sized Councils as an amalgamated GCC/WSC would be**
    - **Examples of similarly sized Councils that have amalgamated**
    - **The suggested make up of such an amalgamated Council**
    - **The impact on residents and Councillors**
    - **The process of how the senior management and elected representative positions would be divided up (especially the GM and the Mayor).**
- 2 That both Councils reassure staff that:**
  - a Consideration of the above report will be on the basis of a guarantee of job security for permanent award staff for five years after the proclamation of any new Council;**
  - b Any major restructure would be through extensive consultation and participation with the Unions.**
  - c Core numbers within the two Councils would be protected and movement of staff between the Central Coast Water Corporation and the amalgamated Councils be handled as internal applicants.**
  - d No employee would be financially worse off through permanent worksite/depot/administration building location changes.**
  - e There would be no forced redundancies for award staff and any downsizing to be through natural attrition.**
- 5 That the Report takes into account:**
  - a The process and criteria detailed in Sections 218 and 263 of the Local Government Act (refer attached copies of these Sections).**
  - b In addition the report should examine the organisational outcome for:**
    - **Governance and appropriate Councillor representation for the community;**

- **Financial Sustainability; and**
  - **Community Engagement (local identity, local community sustainability etc).**
- c The report should discuss an engagement strategy to ensure appropriate involvement of staff, Consultative Committee and stakeholders.**
- d The report should include the results of a statistically valid poll of the residents of the Central Coast.**
- e That the report also include a SWOT analysis.**
- 6 That, in the event of Gosford and Wyong Councils pursuing amalgamation, Council request the Minister to consider a referendum on this issue.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

## Extract from Gosford City Council – Ordinary Meeting 27 April 2011 Minutes

Minutes

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5 April 2011

**MATTER SUBMITTED TO COUNCIL BY INTER-DEPARTMENTAL AND ADVISORY COMMITTEES OF COUNCIL****CE/11/1 REPORT OF THE COASTAL AND ESTUARY MANAGEMENT COMMITTEE HELD ON 22 FEBRUARY 2011 (IR 9376249)**

Directorate: Environment and Planning  
Business Unit: Integrated Planning

**2011/162 RESOLVED** (Burke/Houston) that the recommendation of the Coastal & Estuary Management Committee be adopted.

**ITEMS STARRED FOR DISCUSSION**

The following items have been starred by Councillors or the Public for discussion or public participation.

**MAYORAL MINUTE****MM.6 MAYORAL MINUTE - CENTRAL COAST REGIONAL ORGANISATIONS OF COUNCILS AGENDA - MERGERS/AMALGAMATIONS (IR 9528901)**

Mayor: Laurie J Maher OAM

MOVED (Maher/Houston) that:

- A The provision of independent, comprehensive, **objective** and quality information on a possible merger/amalgamation of Gosford City and Wyong Shire Councils, as the basis for extensive consultation, be placed on the Agenda of the next Central Coast Regional Organisation of Councils (CCROC) meeting.
- B The information should include factors such as:**
- \* **Examples of similarly sized councils as an amalgamated Gosford/Wyong Council would be.**
  - \* **Examples of similarly sized councils which have amalgamated.**
  - \* **The suggested make up of such an amalgamated council.**
  - \* **The impact on residents and Councillors.**
  - \* **The process of how the Senior Management and elected representative positions would be divided up, particularly the General Manager and Mayor.**
- C This report come back to Council for workshopping prior to being placed on the agenda of the Central Coast Regional Organisation of Councils.**

On being put to the meeting the MOTION WAS CARRIED.

**2011/163 RESOLVED that:**

- A The provision of independent, comprehensive, **objective** and quality information on a possible merger/amalgamation of Gosford City and Wyong Shire Councils, as the basis for extensive consultation, be placed on the Agenda of the next Central Coast Regional Organisation of Councils (CCROC) meeting.
- B The information should include factors such as:**
- \* **Examples of similarly sized councils as an amalgamated Gosford/Wyong Council would be.**
  - \* **Examples of similarly sized councils which have amalgamated.**
  - \* **The suggested make up of such an amalgamated council.**
  - \* **The impact on residents and Councillors.**
  - \* **The process of how the Senior Management and elected representative positions would be divided up, particularly the General Manager and Mayor.**
- C This report come back to Council for workshopping prior to being placed on the agenda of the Central Coast Regional Organisation of Councils.**

**MATTERS SUBMITTED BY THE DIRECTOR - ENVIRONMENT AND PLANNING****ENV.23 SECTION 82A REVIEW OF DETERMINATION DA39292/10 APPLICANT ACONSULT LOT 2 DP 558926 HN 80 OAK ROAD MATCHAM CONVERSION OF EXISTING MACHINERY SHED FOR GUEST ACCOMMODATION (IR 9474578)**

Directorate: Environment and Planning  
Business Unit: Development

*The following item is defined as a planning matter pursuant to the Local Government Act, 1993 & Environmental Planning & Assessment Act, 1979.*

**MOVED (Strickson/Holstein) that *this matter be deferred to the Reconvened Meeting of 12 April 2011 at the request of the applicant.***

On being put to the meeting the MOTION WAS CARRIED with the following votes being recorded.

For the Motion: Councillors Maher, Burke, Freewater, Holstein, Houston, Scott and Strickson.

**2011/164 RESOLVED that *this matter be deferred to the Reconvened Meeting of 12 April 2011 at the request of the applicant.***

### **3.1 Regional Waste Management Framework**

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TRIM REFERENCE: F2011/01422 - D02648789

MANAGER: Greg McDonald, Director Infrastructure Management

AUTHOR: Elfi Blackburn; Coordinator Waste Management

#### **SUMMARY**

This report proposes for Wyong Shire Council (WSC) and Gosford City Council (GCC) to establish a Regional Waste Management Arrangement based on an Unincorporated Joint Venture Model to harness benefits offered through economies of scale, increasing efficiencies and reducing duplication.

#### **RECOMMENDATION**

- 1 That Council receive the report on the establishment of a Regional Waste Management Arrangement between Wyong Shire Council and Gosford City Council and as presented at the Central Coast Regional Organisation of Councils meeting of 30 June 2011.**
- 2 That Council continue to investigate the most appropriate model for a Regional Waste Management Arrangement between Wyong Shire Council and Gosford City Council and that further reports be prepared for the consideration of both Councils.**
- 3 That Council prepare a framework upon which the Regional Waste Strategy can be developed and that a report be prepared for Council's consideration once the framework for the Regional Waste Strategy has been completed.**

#### **BACKGROUND**

Wyong Shire Council (WSC) and Gosford City Council (GCC) have a long history of close collaboration in waste management and in offering regional waste and resource management services to the Central Coast community. Close collaboration between the two Councils and the subsequent delivery of regional programs has the potential for significant cost savings by creating economies of scale and increasing efficiency.

The current waste collection and recycling contract, for example, was procured as a joint initiative and resulted in substantial savings. In addition, the two Councils conduct regional household chemical collections and have delivered joint e-waste collections. The regional contract and joint promotion for these collections resulted in greater efficiencies and subsequently cost savings through reducing duplication.

The importance of continuing this collaboration between WSC and GCC was recognised by both Councils and is reflected in the WSC resolution of 8 June 2011 and in the GCC resolution of November 2010.

### 3.1 Regional Waste Management Framework (contd)

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WSC resolved in part that:

*“That Council endorse WSC and GCC continuing to work together to explore and provide regional waste programs to the Central Coast community.”*

GCC resolved in part that:

*“A further report being presented to Council reviewing the remaining life of the Woy Woy Landfill and Council’s future waste management option, including further discussions with Wyong Shire Council.”*

#### **PROPOSAL**

Clayton Utz has recently been engaged to provide advice on appropriate options for WSC and GCC to establish a Regional Waste Management Arrangement to formalise the relationship between the two waste units and to develop a framework that would allow the two Councils to closely cooperate in managing and delivering most waste services and initiatives to the Central Coast community.

A Regional Waste Management Arrangement is also necessary and pertinent to pursue the establishment of Alternative Waste Technology System (AWT) on the Central Coast. The Commercial Strategy developed for Buttonderry Waste Management Facility identified the need to establish an AWT and such a facility is also critical for GCC to ensure long-term access to waste disposal. The main drivers for establishing AWT systems are the exponentially increasing waste and sustainability levy, the need to meet ambitious waste reduction targets set by the NSW State Government, to maximise the life of existing landfills, increasing community concern about effects of landfill pollution and the loss of finite resources if landfilled.

GCC recent attempt to establish such facility has demonstrated that waste materials from both WSC and GCC are required to generate the critical mass required to ensure the viability of an AWT and for the Council’s to secure the benefits of economies of scale. Due to the considerable lag time required to establish an AWT as a result of complex development approval and procurement processes, it is critical that the development of an AWT commences without delay. In order for this process to be successful, a Regional Waste Management Arrangement is considered paramount.

Clayton Utz proposed four models for the establishment of the Regional Waste Management Arrangement which are:

- 1 Cooperation Model
- 2 Unincorporated Joint Venture Model
- 3 Statutory Corporation Model
- 4 Corporations Act Company Model

An overview of the various models including advantages and benefits are included in the attachment. Clayton Utz have recommended Option 2, the Unincorporated Joint Venture Model as the most appropriate framework for formalising the relationship between the waste units at WSC and GCC. Further advice on an arrangement between both Councils is currently being prepared and will be subject to further reports to both Councils.

### 3.1 Regional Waste Management Framework (contd)

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Under the Unincorporated Joint Venture Model, WSC and GCC would be required to sign a Joint Venture Agreement. This Agreement would set out the roles of each Council and their obligations in respect to the management, operation and funding of the waste services. Issues for inclusion in the Agreement may include:

- How waste assets such as the waste management facilities are to be deployed and funded.
- Apportioning responsibility between the Councils in regards to liabilities arising from the joint operation.
- Allocation of revenue/profits of the joint operation.
- Employment of jointly funded management and operating staff.

Under this model the ownership of pre-existing waste assets and liabilities of each Council would remain with the respective Council. The main advantages of this model are:

- It is flexible due to the contractual nature of the arrangement.
- Provides certainty for agreed arrangements for resourcing and funding.
- It can be completed at low cost as it does not involve the formation of a legal entity.
- It can be implemented relatively quickly as consent from the Department of Local Government is not required.
- Can move to joint Council procurement and contracting.
- Can be more easily unwound if unsuccessful.

Once the structure for a Regional Waste Management Arrangement has been agreed to by both Councils, it is anticipated that the new entity would require the appointment of a Regional Waste Manager to oversee the entity and to coordinate the joint waste programs and the implementation of the Regional Waste Strategy via an appropriate organisation structure. Full details of the structure would be included in a report to the Councils when the details are known.

It will be recommended that Council continue to investigate the most appropriate model for a Regional Waste Management Arrangement between Wyong Shire Council and Gosford City Council and that further reports be prepared for the consideration of both Councils.

In addition to the investigation of the Regional Waste Management Arrangement, it is proposed that the Waste units of WSC and GCC commence the development of a Regional Waste Strategy. The purpose of this Strategy is to develop joint waste management objectives that would include short, medium and long term strategies and actions to ensure that a complete suite of waste services are delivered to the Central Coast community in a uniform and efficient manner. It will be recommended that Council prepare a framework upon which the Regional Waste Strategy can be developed and that a report be prepared for Council's consideration once the framework for the Regional Waste Strategy has been completed. The cost of the preparation of the framework can be funded in equal parts by WSC and GCC from existing budgets. The cost of the Regional Waste Strategy is not known at this stage, however funding advice would be included in subsequent reports to Council on this matter.

#### **FINANCIAL IMPACT STATEMENT**

The preparation of a framework upon which the Regional Waste Strategy can be developed can be resourced from within existing budgets on a 50:50 basis between the two Councils.

Adoption of the recommendations will not impact on Councils working funds.

**CONCLUSION**

In order to harness the benefits of economies of scale, ensure enhanced efficiencies, to reduce duplication and to allow the commencement of the process to establish a Regional AWT it is important that Council continue to investigate the most appropriate model for a Regional Waste Management Arrangement between Wyong Shire Council and Gosford City Council. In addition the development of a Regional Waste Strategy to ensure the delivery of uniform waste services and programs to the Central Coast community and to meet joint waste management objectives is recommended.

**ATTACHMENTS**

- 1 Options for Regional Waste Management Structure prepared by Clayton      D02656781  
Utz

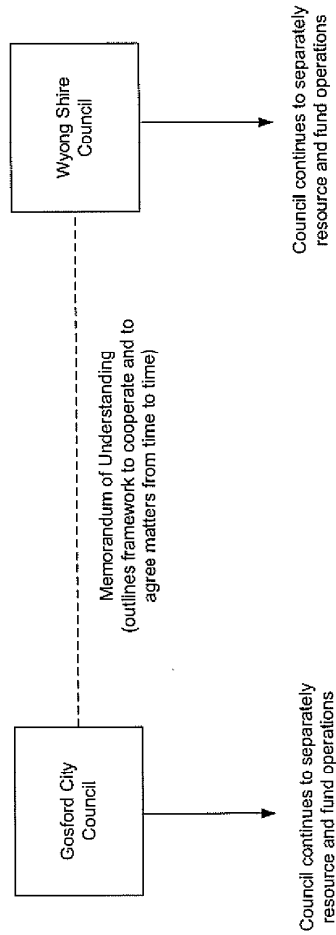


CLAYTON UTZ

Attachment A  
Summary of Legal Structures

CLAYTON UTZ

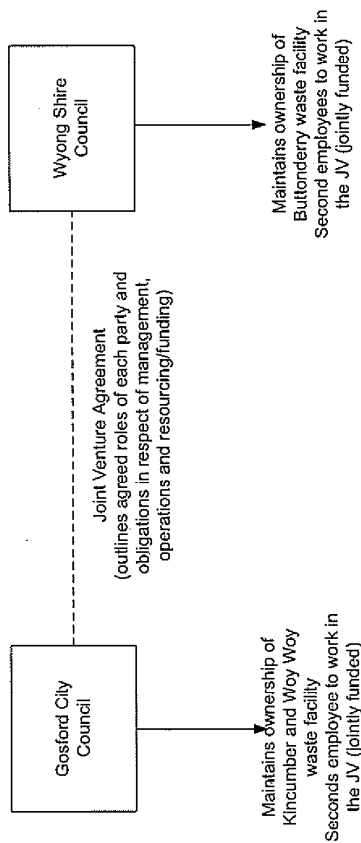
1 Option 1: Co-operation Model



Description	Advantages	Disadvantages
<p>This model would involve each Council entering into a binding arrangement that sets out a framework for cooperation and pursuing joint objectives. Under this model the Councils would not be committed to share resources or to otherwise jointly fund the waste management activities undertaken by the respective Councils. Alternatively, the Councils could agree from time to time the matters for which they would contribute resources or incur expenditure</p> <p>The arrangements under this model would be documented by a Memorandum of Understanding (MOU)</p>	<ul style="list-style-type: none"> <li>• Conservative approach that would not commit either Council to shared resourcing and funding</li> <li>• Maintains flexibility to proceed with other models in due course</li> <li>• Would not require the consent or support of third parties (eg, State Government or Minister for Local Government)</li> <li>• Easy to unwind if model is unsuccessful</li> </ul>	<ul style="list-style-type: none"> <li>• If the parties are able to agree the broad principles of shared resourcing and funding it would be preferable to agree these matters at the outset. An "agreement to agree" may lead to delays and subsequent disagreement</li> <li>• This model is unlikely to achieve management and cost efficiencies as in reality it would not result in any real changes to the current relations and dealings between the Councils as regards waste services</li> </ul>

CLAYTON UTZ

2 Unincorporated Joint Venture Model



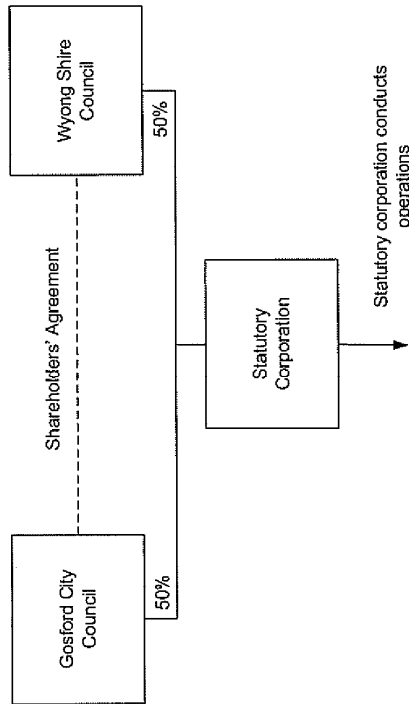
Description	Advantages	Disadvantages
<p>Under this model the Councils would contract with each other in respect of the joint management, operation and funding of waste management services to Central Coast residents</p> <p>These arrangements would be documented in and regulated by a Joint Operating, Management and Funding Agreement that sets out the agreed roles of each Council and its obligations in respect of the management, operation and funding of waste services</p> <p>Under this model, the pre-existing waste assets and liabilities of each Council would remain where they are. The contractual arrangements could govern matters such as:</p> <ul style="list-style-type: none"> <li>• how the assets (e.g. the waste management facilities) are to be deployed in the future and funded;</li> <li>• apportioning responsibility between the Councils as</li> </ul>	<ul style="list-style-type: none"> <li>• An unincorporated joint venture is an inherently flexible approach because of the contractual nature of the arrangements</li> <li>• Provides certainty in respect of agreed arrangements for resourcing/funding</li> <li>• Given that there is no new legal entity, it is not necessary to transfer assets, liabilities or employees to a new entity hence avoiding transaction costs of doing so (such as stamp duty) and IRE issues involved with transferring the employment of employees</li> </ul>	<ul style="list-style-type: none"> <li>• Having a stand-alone new legal entity (such as in Models 3 and 4 discussed below) can bring greater focus in terms of governance and accountability</li> <li>• On the basis that the arrangements are entirely governed by contract, the documentation can sometimes be more complex</li> <li>• Members of a joint venture may incur joint and several liability for the activities undertaken by the venture. Consequently, careful consideration will need to be given as to how to</li> </ul>

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Description	Advantages	Disadvantages
<p>regards liabilities arising from the joint operations;</p> <ul style="list-style-type: none"> <li>• allocation of revenues/profits of operations;</li> <li>• employment of jointly funded management and operating staff</li> </ul> <p>It should be noted that an incorporated joint venture is <u>not</u> a separate legal entity -it is effectively a contractual model for undertaking a joint venture. This means for example that any staff engaged in the joint operations would be employed by one of the Councils, however both Councils would agree to jointly fund the relevant employees' costs</p>	<ul style="list-style-type: none"> <li>• Would not require the consent or support of third parties (eg, State Government or Minister for Local Government)</li> <li>• Can move to joint Council procurement and contracting arrangements</li> <li>• Can be more readily unwound if unsuccessful</li> <li>• Could move to a corporatized model (i.e. Options 3 or 4) if successful</li> </ul>	<p>quarantine existing liabilities of the parties (eg, liabilities for current landfill remediation) and how to apportion liabilities in respect of the joint operations going forward</p>

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3 Statutory Corporation Model<sup>1</sup>



Description	Advantages	Disadvantages
<p>This is equivalent to the Central Coast Water Corporation model would involve the Councils requesting the NSW State Government to pass an Act of Parliament to establish a new statutory corporation (in which the Councils would each hold a 50% interest). The statutory authority would then be responsible for the operation of waste management services to Central Coast residents.</p> <p>A statutory corporation is a separate legal entity and rely upon the</p>	<ul style="list-style-type: none"> <li>Creates clearer governance, performance and accountability framework, with management reporting to a board and the board in turn being responsible to the Councils as shareholders for the corporation's performance.</li> <li>Clear ownership structure for assets,</li> </ul>	<ul style="list-style-type: none"> <li>Would require State Government support for the development of special purpose legislation to set up the new statutory authority.</li> <li>The other transaction steps will be more complex and give rise to other issues (e.g. industrial relations issues, etc.)</li> </ul>

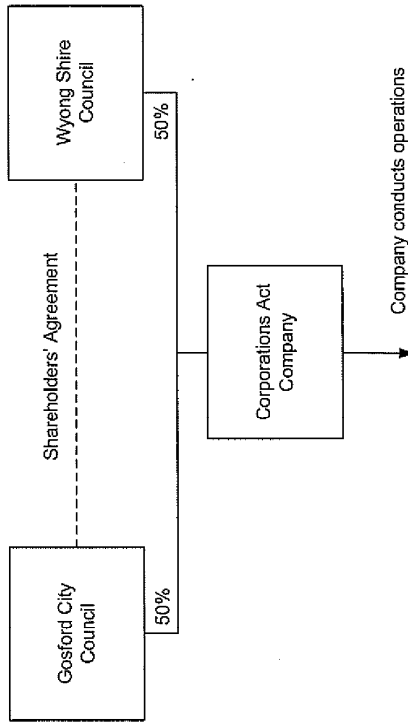
<sup>1</sup> An alternative way of delivering this Model would be to amend the Central Coast Water Corporation Act to enable CCWC to undertake waste functions.

CLAYTON UTZ

Description	Advantages	Disadvantages
<p>state legislation to provide for its governance and operation. There is no general power under the <i>Local Government Act</i> to form statutory authorities. Accordingly, special purpose legislation would need to be passed by the NSW parliament.</p> <p>The agreed arrangements between the Councils would be dealt with in the special purpose legislation, the Constitution of the Corporation and a Shareholders' Agreement entered into by the Councils.</p> <p>On the basis that a separate legal entity would be responsible for waste management services, careful consideration would need to be given to the governance arrangement for the entity (e.g. composition of the board of directors) and other transaction steps that may be required such as whether or not:</p> <ul style="list-style-type: none"> <li>(i) certain assets (eg. plant and equipment) would be transferred to the statutory authority;</li> <li>(ii) the landfill sites are transferred or leased to the statutory authority;</li> <li>(iii) third party contracts (e.g. the collection contracts with Thiess) are transferred to the statutory authority; and</li> <li>(iv) relevant Council employees are transferred to the statutory authority, etc.</li> </ul>	<ul style="list-style-type: none"> <li>• including new capital projects</li> <li>• The legislation could exempt the corporation from Corporations Act regulation.</li> <li>• Limited liability for the Councils as shareholders.</li> <li>• Can enter into procurement contracts covering both local government areas</li> <li>• The principal objectives and functions of the Corporation could be drafted broadly to enable it to take-on responsibility for the provision of other joint services in addition to waste</li> </ul>	<ul style="list-style-type: none"> <li>• Any proposal to establish a new corporation soon after CCWC will likely be treated with great suspicion/caution within the community - particularly around possible service charge increases, outsourcing/privatisation etc</li> <li>• It is likely that the statutory authority would need to apply for new Environment Protection Licences in respect of its activities (in replacement of the EPLs currently held by the Councils), although this could possibly be addressed in the legislation</li> <li>• More difficult to unwind if the model is unsuccessful</li> </ul>

CLAYTON UTZ

4 Corporations Act Company Model



Description	Advantages	Disadvantages
<p>This model would involve the Councils establishing a Corporations Act company limited by shares (in which the Councils would each hold a 50% interest). The company would then be responsible for the delivery of waste management services to Central Coast residents.</p> <p>The arrangements under this model would be regulated by a Constitution and Shareholders' Agreement.</p> <p>Similar to a statutory corporation, careful consideration would need to be given to the governance arrangement for the entity (e.g. composition of the board of directors) and other transaction steps that may be required.</p>	<ul style="list-style-type: none"> <li>No need for an Act of Parliament</li> <li>Subject to obtaining the Minister's approval, it is relatively simple to establish a Corporations Act company</li> <li>Clear ownership structure for assets, including new capital projects</li> <li>Creates clearer governance, performance and accountability framework, with management reporting to a board and the board in turn being</li> </ul>	<ul style="list-style-type: none"> <li>The approval of the Minister for Local Government to establish the company will be required under s358 of the <i>Local Government Act</i>.</li> <li>The company will be subject to full regulation and ongoing reporting obligations under the Corporations Act</li> <li>The other transaction steps will be more complex and give rise to other issues (e.g. industrial relations issues, etc.)</li> </ul>

CLAYTON UTZ

Description	Advantages	Disadvantages
	<p>responsible to the Councils as shareholders for the company's performance.</p> <ul style="list-style-type: none"> <li>• Limited liability for the councils as shareholders.</li> <li>• Can enter into procurement contracts covering both local government areas</li> <li>• The company will be exempt for income tax so long as the councils remain the only shareholders.</li> <li>• Greater flexibility if private sector investor sought to fund new infrastructure (eg. the grant of a concession to a private sector company under a public-private partnership model).</li> </ul>	<ul style="list-style-type: none"> <li>• Any proposal to establish a Corporations Act company will likely be treated with great suspicion/caution within the community -particularly around possible service charge increases, outsourcing/privatisation etc</li> <li>• It is likely that the company would need to apply for new Environment Protection Licences in respect of its activities (in replacement of the EPLs currently held by the Councils)</li> <li>• More difficult to unwind if the model is unsuccessful</li> </ul>