

### **3.3 CPA/202187 - Tender for Contract - Tuggerah Lakes Monitoring, Evaluation, Reporting and Improvement Project - Saltmarsh Rehabilitation Monitoring Stage 2**

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TRIM REFERENCE: CPA/202187 - D02829261

MANAGER: David Ryan, Manager Estuary Management

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#### **SUMMARY**

This report outlines the evaluation and selection of tenders for Contract CPA/202187 – Tuggerah Lakes Monitoring, Evaluation, Reporting & Improvement Project – Saltmarsh Rehabilitation Monitoring – Stage 2

#### **RECOMMENDATION**

- 1 That Council accept the tender from Umwelt (Australia) Pty Ltd for the lump sum amount of \$170,990 (excl GST) for Contract CPA/202187 – Tuggerah Lakes Monitoring, Evaluation, Reporting & Improvement Project – Saltmarsh Rehabilitation Monitoring – Stage 2.**
- 2 That Council approve for Contract CPA/202187, a budget of \$194,710 (excl GST) that provides for a contingency amount of \$23,720 (excl GST), representing approximately 8% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.**

#### **BACKGROUND**

The Estuary Management Unit is responsible for implementing the Tuggerah Lakes Estuary Management Plan on behalf of Council using a combination of Federal Government grant funds (Caring for our Country), Stormwater Levy and Cluster Funding from the Holiday Parks. The Plan involves construction, maintenance and monitoring of a range of projects within the catchment to achieve improvements in water quality and foreshore ecology in the Tuggerah Lakes estuary.

The implementation works for the Tuggerah Lakes Estuary Management Plan include two types of saltmarsh rehabilitation, being active and passive rehabilitation. These works are being undertaken at numerous locations around the estuary with locations for rehabilitation prioritised by the *Saltmarsh Rehabilitation Strategy for selected sites in the Tuggerah Lakes estuary* (known as the *Active Saltmarsh Rehabilitation Plan*; Dickinson et al. 2008) and the *Passive Saltmarsh Rehabilitation and Management Plan* (Maunsell, 2009).

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In order to monitor the outcomes of the program of works undertaken under the grant funding, short, medium and long-term monitoring programs have been developed. The following elements of the medium term program are the subject of this contract:

- Active Saltmarsh Rehabilitation
- Passive Saltmarsh Rehabilitation
- Wrack accumulation in saltmarsh

Each element included in the overall medium and long term monitoring program will be guided by the methodology developed for monitoring elements of the Estuary Management Plan.

The objective of this contract is to determine the success, or otherwise of active and passive saltmarsh rehabilitation works planned for implementation as part of the “Caring for our Country” grant. The goal of the project is to provide accurate, replicable and scientifically robust data that is fit for purpose and allows Council to draw accurate conclusions about the outcomes of the active and passive saltmarsh rehabilitation programs.

This is the second stage of saltmarsh rehabilitation monitoring, the raw data collected during the first “Caring for our Country” contract period will be included in the dataset for this contract, allowing comparison of results since the inception of the Tuggerah Lakes Estuary Management Plan Implementation Program.

#### **Tender Process**

Tenders were invited by way of public invitation. Advertisements were placed in the Sydney Morning Herald on 27 September 2011 and the Central Coast Express Advocate on 28 September 2011. Tenders were also advertised on Council’s e-Tender website. The advertised closing date was 20 October 2011.

The invitation documents called for lump-sum tenders, based on a detailed specification.

The following addenda were issued to all prospective tenderers during the invitation period.

- 1 Revised methodology and instructions for costing additional wrack sampling (28 September 2011).
- 2 Clarification on extent of mapping required (17 October 2011).
- 3 Corrections to number of site in Attachment 3 (18 October 2011).

Tenders closed at Council Chambers at 2.00pm on 20 October 2011.

#### **EVALUATION OF TENDERS**

Tenders were evaluated by a panel of three staff members (one of which was from a unit other than the one managing the procurement process) using the following threshold and weighted criteria:

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Threshold Criteria:

- 1 Compliance with Tender documents, including lodgement of tender by specified time.
- 2 Ability to manage financial, environmental, operational and safety risk.

Weighted Criteria:

- 1 Assessed level of Local Content (MANDATORY)
- 2 Conformity with Brief / Specification
- 3 Proposed methodology / construction programme
- 4 The tendered price and structure; as well as any potential costs to Council that may be identified
- 5 Experience in the specific field
- 6 Conformity with Council's Sustainability Principles

The evaluation criteria and their weightings were documented in the Contract development Plan and approved by the Acting Director Environment & Planning Services prior to tenders being invited. The Contract Development Plan is available on file.

To assess tenders against the evaluation criteria, the panel used information obtained from the tender documents and related correspondence and referees.

The evaluation was conducted according to the following process.

- Assessment of receipt of tenders.
- Assessment of conformance of tenders.
- Detailed weighted evaluation of shortlisted tenders.
- Due diligence checks on preferred tenderers.
- Independent review of the tender selection process.

**Assessment of Receipt**

The following tenders were received and are listed in numerical order, from lowest to highest.

Tender No	Tender	Tendered Lump Sum (Ex. GST)	Status
1	Total Earth Care Pty Ltd	\$124,855.00	Submitted on time
2	Parsons Brinckerhoff Australia Pty Ltd	\$152,296.00 \$155,332.00 (adjusted)*	Submitted on time
3	Australian Laboratory Services – Water Resources Group	\$162,540.00	Submitted on time
4	URS Australia Pty Ltd	\$170,000.00	Submitted on time
5	Umwelt (Australia) Pty Ltd	\$170,990.00	Submitted on time
6	Eco Logical Australia Pty Ltd	\$176,996.00 \$180,438.00 (adjusted)*	Submitted on time

\* See Assessment of Conformance below.

### Assessment of Conformance – Threshold Criteria

The six tenders were assessed for conformance with the requirements of the tender documents. Details of that assessment are presented below.

Tender No 1 (from Total Earth Care) contained an inconsistency, in that the Deliverable #4 Final Report would be submitted after the date specified in the brief. Due to the tight deadlines required by the Caring for our Country funding this project is funded from, the tender was eliminated from further consideration.

Tender No 3 (from Australian Laboratory Services) requested specific departures from Council's Conditions of Contract. The departures were considered to be not acceptable to the tight contract Wyong Shire Council holds with the Australian Government for the Caring for our Council funding. The tender was eliminated from further consideration.

Tender No 4 (from URS Australia) requested the right to negotiate Council's Conditions of Contract. This was considered to be not acceptable given the tight contract Wyong Shire Council holds with the Australian Government. The tender was eliminated from further consideration.

The above tenders failed to meet Council's threshold criteria "Compliance with Tender documents" which has specific deadlines and terms of contract and were therefore eliminated from further consideration.

Tender No 2 (from Parsons Brinckerhoff), Tender No 5 (from Umwelt) and Tender No 6 (from Eco Logical) conformed to all requirements and were progressed to the next stage of evaluation. The tendered lump sum for Tender No 2 and Tender No 6 were adjusted to include the optional presentation of findings, this allowed equal comparison across all three tenders.

### Weighted Evaluation

Evaluation scoring was conducted in two stages i.e:

- 1 Prior to application of Council's Local Preference Policy to establish the **Most Competitive Offer**, and;
- 2 Following application of the Local Preference Policy for the assessment of Local Content to establish the **Preferred Offer**.

### 1 - Scoring - Pre-Application of the Local Preference Policy

To establish the **Most Competitive Offer**, Tenders were firstly scored against the weighted evaluation criteria (other than Local Content ), and are listed below in descending order of weighted evaluation.

Tender No.	Tender	Tendered Lump Sum (Ex. GST)	Weighted Evaluation Score (Pre application of Local Preference)
			Most Competitive Offer
5	Umwelt (Australia) Pty Ltd	\$170,990	82.5
2	Parsons Brinckerhoff Australia Pty Ltd	\$155,332 (adjusted)*	79.2
6	Eco Logical Australia Pty Ltd	\$180,438 (adjusted)*	76.1

The past experience in similar projects and knowledge of the Tuggerah Lakes estuary of Umwelt and Eco Logical ranked more highly than that of Parsons Brinckerhoff. All three companies showed good knowledge of the methodology, as outlined in the tender documents. Umwelt's cost for additional wrack sampling was significantly lower than those of Parsons Brinckerhoff and Eco Logical. The differences in scores in the non-price evaluation criteria were sufficient to balance the price advantage offered by Parsons Brinckerhoff. Tender No 5 from Umwelt was therefore the most competitive offer.

### 2 – Scoring Post Application of Local Preference Policy

Tenders were then assessed for Local Content in accordance with Council's Local Preference Policy to identify the **Preferred Offer**.

The application of the Local Preference Policy to this tender imposed the following criteria in relation to the financial impact in considering a Preferred Offer:

*(Refer to clause E.7 of policy)*

Policy Criteria	Criteria Applied to Tender Assessment
Category of Contract	Services
Method to Determine Financial Impact Limitations	5% above price component of Most Competitive Offer, with a maximum of \$25,000 applicable to this category of contract
Price Component of Most Competitive Offer	\$170,990
Financial Impact Limitation To Be Applied to Preferred Offer	\$8,549.50

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The following summarises scoring for the assessed value of Local Content. Tenders are listed in descending order of **Preferred Offers** following assessment.

Tender No	Tender	Tendered Lump Sum (Ex. GST)	Weighted Evaluation Score	Value Assessed of Local Content (Ex. GST)	Weighted Evaluation Score
			(Pre-application of Local Preference)		(Post application of Local Preference)
			Most Competitive Offer	Preferred Offer	
5	Umwelt (Australia) Pty Ltd	\$170,990	82.5	\$0.00	81.1
2	Parsons Brinckerhoff Australia Pty Ltd	\$155,332 (adjusted)*	79.2	\$0.00	79.2
6	Eco Logical Australia Pty Ltd	\$180,438 (adjusted)*	76.1	\$31,094.00	77.8

Following assessment of Local Content, there was no change to the order of ranking for tenders i.e. the most Competitive Offer of Tender No 5 from Umwelt (Australia) Pty Ltd was assessed as the Preferred Offer and was therefore progressed to the due diligence of evaluation.

**Due Diligence**

Due to the tight timeframes associated with the grant funding requirements, it was decided at the start of the weighted evaluation phase to subject all three tenders i.e. Tender No 2 (from Parsons Brinckerhoff Pty Ltd), Tender No 5 (from Umwelt (Australia) Pty Ltd) and Tender No 6 (from Eco Logical Australia Pty Ltd) to a financial assessment. This was done to ensure the information was available as soon as the weighted evaluation had been completed.

Following completion of the weighted evaluation phase, an in-house safety/environment system assessment and referee checks were undertaken on Tender No 5 (from Umwelt (Australia) Pty Ltd).

On the basis of the information provided by the tenderer, Council's independent financial assessor Kingsway Financial Assessments, and independent referees, it is considered that Umwelt (Australia) Pty Ltd possesses all of the technical, financial and managerial resources necessary to satisfactorily complete the works.

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Umwelt (Australia) Pty Ltd is a Toronto based contractor with a history of successfully completed contracts similar in nature and scope to the current works. The company has in place fully documented Occupational Health Safety and Rehabilitation Management and Environmental Management systems.

The amount tendered by Umwelt (Australia) Pty Ltd is within Council's pre-tender estimate and is considered to represent a reasonable price for the contract works.

## **RISK ASSESSMENT**

### **General**

When letting a contract various risks exist that may result in the final contract cost exceeding the initial contract sum. These risks vary depending upon the type of work being undertaken; for example, design work versus construction work; and the type of contract, for example Lump Sum versus Schedule of Rates.

Generally, the contract is structured to have the party best placed to manage the risk responsible for that risk outcome. Some risks are passed on to the contractor, with the cost of those risks reflected in the tendered price. Other risks are best managed by Council rather than the contractor, as they would inflate the tender price whether the risk eventuated or not. For this reason Council retains and is required to manage some risks. These are minimised by Council's contract administration processes. However, to manage these risks it is necessary to provide a contingency sum in addition to the tender price to allow for unforeseen additional works that may become necessary during the course of the project.

### **Contract Risks**

Contract risks include Generic Risks (generally found in most contracting situations) and Specific Risks leading to contract variations that have particular application to an individual contract. These major risks are summarised below for this contract.

### **Generic Risks**

These are risks that Council manages through its contract administration procedures and processes. Major generic risks and mitigation measures for this contract include:

- Contractor experiences financial difficulties or goes into liquidation, leading to additional project delays and costs. Mitigated through financial and referee checks before contract award and timely progress payments.
- Completion time exceeds target leading to delays and damage to Council's reputation. Mitigated through close supervision and prompt directions where required.
- Liability for injury and/or damage to people, property and the environment. Mitigated through on-going validation of contractor's insurances, safety and environmental management systems, together with close supervision including site audits.

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- Contract dispute over rights and obligations of the parties. Mitigated through use of Australian Standards General Conditions of Contract, which include dispute resolution mechanisms.

#### **Specific Risks Leading to Contract Variations**

The following are the major risks that Council bears in relation to this contract:

- Brief does not adequately cover all required work and additional investigations are found to be necessary during the consultancy. Mitigated by preparation of comprehensive Brief and peer review of documentation prior to inviting tenders.
- Quantities for work items under the contract are greater/lesser than pre-award estimates leading to variation claims by the contractor. Mitigated through the tender process by requiring specified rates for each work item under a Schedule of Rates arrangement with upper and lower control limits. Contract payments are then calculated by multiplying the actual quantity for each work item by the tendered rate. Actual quantities are confirmed by Council through measurement / survey prior to payment.
- Long periods of inclement weather delaying fieldwork. Adjustments to the fieldwork schedule will be discussed with the contractor in order to achieve the majority of the fieldwork whilst not affecting the date for project completion.

#### **Risk Contingency**

The above risks are considered to be Medium for this contract given the value of the contract and the nature of the work. Accordingly, it is recommended that a contingency sum of \$23,720.00 (excl GST) representing approximately 8% of the contract sum be approved.

Based on previous experience with contracts of this nature and analysis of the risks involved, it is estimated that there is a high probability that the contract budget of \$194,710.00 (excl GST), which incorporates the contingency allowance, will not be exceeded.

#### **BUDGET**

This engagement is of the nature of a one-off contract. Project funds of \$194,710.00 (exclusive of GST) are available from the Federal Government's Caring for our Country grant awarded to Council for implementation of the Tuggerah Lakes Estuary Management Plan. The tender sum is a fixed lump sum that may increase or decrease depending upon variation claims that may arise during the course of the works.

#### **TIME-FRAME**

The works are proposed to commence in early December 2011 and need to be completed by 10 June 2013. The end date is not negotiable as it is tied strictly to reporting requirements of the Caring for our Country grant.



### **APPROVALS**

To undertake the monitoring fieldwork the following licences are required:

Scientific Licence under section 132C of the National Parks and Wildlife Act 1974 – a licence under this section is already held by Umwelt (Australia) Pty Ltd

A permit under Part 7 of the Fisheries Management Act 1994 – a licence under this part of the act is already held by Wyong Shire Council to allow these works to proceed.

### **CONCLUSION**

Tender No 5 from Umwelt (Australia) Pty Ltd is the highest scoring tender and meets all of Council's requirements for this contract. On balance, this tender represents the best value-for-money for Council. It is recommended that the tender be accepted.

### **ATTACHMENTS**

*Nil.*

#### **4.1 Classification of Council Owned Land as Operational by Local Environment Plan**

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TRIM REFERENCE: F2011/01480 - D02661899

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MANAGER: Greg Ashe, Manager Economic & Property Development

##### **SUMMARY**

Proposal for Council to re-classify land by way of the Composite Land Environment Plan 2012. Enclosed is the list of Council properties put forward for Council to propose reclassification of Community Land to Operational land in accordance with s27 of the Local Government Act 1993.

##### **RECOMMENDATION**

- 1 That Council propose to re-classify the Council owned land listed in the enclosed Wyong Shire Council Land Classification Final Groupings to be Operational Land.**
- 2 That Council make the re-classification by way of including the Wyong Shire Council Land Classification Final Groupings in the 2012 Composite Local Environmental Plan in accordance with the Local Government Act 1993 s.27. and the Environmental Planning and Assessment Act 1979 No 203 s57 especially (public consultation).**
- 3 That Council make provision that, upon commencement of the revised Comprehensive Local Environment Plan, any lands listed in the Wyong Shire Council Land Classification Final Groupings categorised as public reserves, cease to be public reserves, and**
- 4 That Council note that the listed lands are, by operation of the Composite Local Environment Plan, discharged from any trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, pursuant to the Local Government Act 1993. (s30, Schedule 7.)**

##### **BACKGROUND**

The Local Government Act 1993 provides that all Council land must be classified and that there are two classifications "community" and "operational".

The Act allows the classification, or reclassification of public land, may be made by way a local environmental plan or by individual resolution of Council in specific circumstances – land acquired post 1993; Land dedicated under s.94 EP&A Act 1979 or Operational land being reclassified as Community land.

The Act does not define either classification. Chapter 6 determines Councils service functions, and goes some way, via introductory notes, to indicating, the possible make-up of operational land – namely that "land which facilitates the carrying out of Council's service functions."

## **4.1 Classification of Council Owned Land as Operational by Local Environment Plan (contd)**

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Wyong Shire Council owns land that is not currently classified for the purposes of the Local Government Act 1993 - as a Water Supply Authority.

Classification of land is prerogative of Council, subject to process compliance and the approval of the Minister.

Extensive briefings/workshops (5) have been conducted by staff with Council and Councillors have debated the topic in detail at the workshops. Considerable information of land parcels has been provided to Councillors

### **The Processes - Classifications**

Land classifications required in NSW are unique in Australia. First introduced in 1993, the introductory process allowed a 12 month period of grace for Council to determine the new classifications – notwithstanding the various conditions imposed. Any parcel not classified within that period automatically acquired a “Community” classification.

Council brought effect to its reclassifications by resolving to exhibit its proposal to classify operational land (711 parcels) on March 30<sup>th</sup> 1994. Submissions were considered and final adoption of 711 Operational classifications occurred May 25<sup>th</sup> 1994. Community classifications applied to the remaining 1004 parcels of land.

The current status of classifications within Wyong when measured against the use of land, indicates that Council may not have completed the classifications in 1994 in a manner consistent with the Act or the use to which land was, or may be, put. The absence of many Plans of Management for Community classified land and the state of land records were further strong indicators that the original classification process was flawed and/or incomplete.

The current land review has identified that WSC will need to considerably improve its management processes in respect to be confident that compliance with the Act, especially in respect of Chapter 6, Division 2 s.36-47F, is being achieved.

### **The Processes – Classification via the CLEP**

The Composite Local Environment Plan (CLEP) process is, for WSC, a once in twenty year opportunity to reconsider all classifications in the context of the current day and with the benefit of hindsight, for Council to apply foresight in determining classifications to take Council through the next twenty years.

Regardless of the CLEP vehicle or the individual resolution methods of change, changing classification of land is an extended process when the change is from Community to Operational. The reverse change is by way of a simple Council resolution. The difference between the two processes reflects the level of protection intended in respect of land set up for preservation as the public domain.

Resolving to change any number of classifications from Community to Operational, is just the first step in an extensive process that will engage other public agencies, the Minister and the community in a detailed consultation, submissions & approval process before any effect is brought to Councils initial step of resolution.

## **4.1 Classification of Council Owned Land as Operational by Local Environment Plan (contd)**

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Consultation with the community is expected to occur between mid-Feb and the end of March 2012 and will include document exhibition, a public hearing and direct consultation with individual or groups as required.

### **The Processes – Data requirements**

The initial step in the consultation/approval pathway related to classification change is to submit a land description list to public agencies. After that, the DoP, Minister and the community will require the following detailed information in respect of each parcel of land proposed for a change of classification:-

1. Contents
  - (i) Property demographics
    - Descriptions, areas, address other identifiers etc
    - DP No
    - Certificate of Title numbers and Torrens Reference
  - (ii) Land Register Data and classification status
  - (iii) Council's legal record
  - (iv) LGA Classification compliance
    - Public land sub-category check list
    - s94 check list
    - Exclusions from discharges check list
  - (v) Compliance with DoP Note PN09-003 – check list
  - (vi) Definition of Public Land Check list
  - (vii) Definition of Public Reserve Check list
  - (viii) Check list – Conditions imposed by s94 commitments
2. Aerial Map(s) marking out the property and including showing Lots/DPs/Zonings of neighbouring properties
3. D.P.(s) + Easement & Service (on plan)
4. Certificate of Title(s)

The likely common size of each information package is expected to be 10-12 pages with larger parcels needing 25-30 pages.

### **CURRENT STATUS**

For the purposes of classification, the staff review of all properties assessed each parcel on the basis of its contribution to facilitating the provision of Council's functions as set out in Chapter 6 of the Act.

At the commencement of the review, staff had listed 2405 parcels of land, 26 of which were incorrect/false listings which left 2379 property parcels to be reviewed for classification. Refer Table #1 below.

#### 4.1 Classification of Council Owned Land as Operational by Local Environment Plan (contd)

A further 163 parcels were unclassified however in accordance with the Act these parcels are actually automatically classified as Community but all are in use as operational water & sewer lands.

It is again clear that the classifications made in 1993 did not address the issue well. The use to which more than half of the parcels classified back then as “community” are actually in use facilitating the exercise of Council’s functions. Staff have not attempted to waste time researching the “why” of the 1993 classifications.

**Table 1 Current Classification Status**

Community	1258
Operational	958
Unclassified	163
Incorrect listings (Delete)	26
Total Holdings	2405

The following Table (Table #2) replicates the position arrived at following the five briefings, adjusted for the final minor inputs from the one councillor who requested changes.

**Table 2 Proposed Classification Changes by Group**

GROUP	DESCRIPTION	CLASSIFICATION EXISTING		CLASSIFICATION PROPOSED	
<b>CONFIRMED EXISTING USE</b>					
1.	Existing Community Use	Community	541	Community	541
2.	Existing Operational Use	Operational	918	Operational	918
<b>CONFIRMED USE CHANGES</b>					
3.	Operational-Community	Operational	40	Community	40
4.	Water and Sewer	Unclassified	163	Operational	163
5.	Drainage, Veg, Land	Community	195	Operational	195
6.	Road Reserves	Community	118	Operational	118
7.	Ind/Res. Zoned	Community	54	Operational	54
<b>DUAL OR MULTIPLE USE LAND</b>					
8.	Dual-Use Com. Halls	Community	12	Operational	12
9.	Dual-Use Amenities	Community	28	Operational	28
10.	Dual-Use Bowling	Community	4	Operational	4
11.	Dual-Use Band Hall	Community	1	Operational	1
<b>SINGLE USE WITH BUILDING SITUATED</b>					
12.	Sole-Use Recr. Activity	Community	34	Operational	34
13.	Sole-Use Pre-School	Community	7	Operational	7

#### 4.1 Classification of Council Owned Land as Operational by Local Environment Plan (contd)

GROUP	DESCRIPTION	CLASSIFICATION EXISTING		CLASSIFICATION PROPOSED	
14.	Sole-Use Emerg.Service	Community	13	Operational	13
15.	Sole-Use Other Clubs	Community	14	Operational	14
<b>PARKS PLAYGROUNDS &amp; RESERVES</b>					
16.	Parks Etc-Playing Fields	Community	73	Operational	73
17.	Parks Etc-Adjac'ts Single	Community	27	Operational	27
18.	Parks Etc – Playground	Community	30	Operational	30
19.	Parks Etc – Nth Sports	Community	14	Operational	14
<b>POTENTIAL DEVELOPMENT OPPORTUNITIES</b>					
20.	Potential Dev.- unused	Community	93	Operational	93
	<b>TOTAL</b>		<b>2379</b>		<b>2379</b>

The property review and its related investigations has been a time-consuming project to date and once the final picture emerged, it was an outcome that presented challenges in presenting to anyone not involved in the micro-detail.

Divergent views emerged on the meaning of the classification labels themselves demonstrating the weaknesses in the Act and its ambiguities.

An informed public consideration of the proposals during the CLEP process through to June 2012 has been handicapped by incorrect and untrue presumptions made by the media in respect of Council intentions related to how re-classified land may be used. Such mis-information will impose further costs on Council to ensure the community is correctly informed during the consultation phases.

Council has not made any consideration of how re-classified properties may be used for the best benefit of the community (other than existing uses) nor has it considered any related strategy or specific proposal. The Act requires Council to public consider and consult on changes of use, especially those where likely significant public interest will be raised.

#### THE PROPOSAL

It is proposed that the re-classifications summarised above and detailed in Enclosure 1, be implemented through the current C.L.E.P process for the primary purpose of ensuring that Council establishes a position of adaptability and flexibility for land that is employed in the facilitation of Council's functions as set out in the Local Government Act 1993 Chapter 6.

Classifications of land as Community that occurred automatically by default of the legislation, have translated into many parcels being classified without proper consideration of the use to which the land is employed. It is doubtful that "facilitation of Council's functions" as detailed by the Act, Chapter 6, has been considered in a balanced manner in that original process so the default classification prevailed.

It follows that the current or intended use of Council land can be considerably different than envisaged in 1994.

## 4.1 Classification of Council Owned Land as Operational by Local Environment Plan (contd)

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Operational classification (where appropriate) of Council land will impact on Council's ability to develop its use of land and respond in a timely, low cost manner to opportunities as they arise. Council has an obligation to ensure land is best employed on behalf of the community for community services and to maximise commercial returns where appropriate.

### OPTIONS

#### Community vs Operational

##### Community

Community Land as a classification does provide a protection against Councils squandering the rights of the community to enjoy the public domain in near perpetuity against the interests of those who might reap easy gain from exclusive commercial use.

Conversely it is a classification that represents a significant obstacle to Local Government elected representatives in their pursuit of putting Council's assets to work in the very interests of the very community they serve.

The requirements of the Act for the management of Community land are onerous and costly.

Sections 36-47F details the requirements for managing each parcel of land. The demanding list primarily consists of a Plan of Management being required for every parcel of land although one plan may apply to more than one parcel. The latter however, is constrained by additional requirements that render possible change to the plan being far more costly than is desirable.

The majority of the requirements for a Plan of Management are administratively excessive and thus, costly when measured against effective use of the community dollar.

##### Operational

Operational Land as a classification eliminates the cost of administration, delays resulting and offers Council adaptability and flexibility.

Council retains the accountability for decision-making and will consult on any significant change of use, especially those lands where public interest is more than just that of a self-interest group

#### Reclassification options

N.B. The property review conducted by staff has employed the available knowledge in respect of the current use of Council land. The parcels identified for classification change in the proposal represent their best efforts in identifying parcels that are used in the facilitation of Council's functions. It is possible that an alternate yardstick could be used other than Council's functions however no such "tool" is identified within the Act.

Council may consider choosing:-

1. The *Status Quo* of classifications - leaving 1258 parcels of land classified as Community by accepting that previous classifications are satisfactory for Wyong Shire 18 years after being established.

**4.1 Classification of Council Owned Land as Operational by Local Environment Plan (contd)**

2. *Adaptability and Flexibility* – i.e. Operational classification is applied to land used in the facilitation of Council functions resulting in a further 1798 parcels of land being classified as Operational and 581 Community.
3. *An Alternative Balance* of classifications that reflects a valid, new, but as yet unidentified principle(s) – resulting in clarity of why classifications are chosen.

**SUMMARY**

Detail of the review’s assessment of land being used for the facilitation of Council’s functions is shown in Table 2 above.

**Table 3 Proposed Outcome of land Reclassification via the CLEP**

<b>PROPOSED CLASSIFICATION</b>	<b>BEFORE CLEP</b>	<b>AFTER CLEP</b>
Community	1258	581
Operational	958	1798
Unclassified	163	0
Incorrect Listings	26	0
Total Holdings Listed	2405	2379
Deleted	26	0
<b>Total Holdings Actual</b>	<b>2379</b>	<b>2379</b>

**STRATEGIC LINKS**

**Wyong Shire Council Strategic/ Annual Plan**

The proposal has strong links across the entire plan by providing an improved capacity for Council to be adaptable and flexible in its consideration of opportunities and its pursuit of goals for the benefit of all the community.

**Long term Financial Strategy**

The proposal is material for enabling the use of Council land in development of new revenues.

**Asset Management Strategy**

The proposal will facilitate the implementation of the Asset Strategy through the provision of WSC’s capacity to be responsive to changing needs.

**Workforce Management Strategy**

Nil



**Link to Community Strategic Plan (2030)**

Nil

**Budget Impact**

Modernisation of WSC's land classifications via the CLEP process will impact expenditure by way of the cost of additional resources needed to complete the complex administrative processes – approximately \$80,000. There is allowance in the current budget.

If the proposal was not to proceed WSC will need to ensure Plans of Management are extensively reviewed and updated as required in addition to having to meet with significant costs any time a subsequent reclassification of a Community land parcel is considered.

These two costs are estimated to be significantly higher than the one off cost of change – and that will be on an annual basis. There is a major budget advantage accruing from the proposal in respect of operational costs let alone the revenue earning potential arising from Council have a flexible means of property management.

**Principles of Sustainability**

The proposal to provide council with greater flexibility and adaptability is heavily underlined by the Principles of Sustainability which emphasis future flexibility and responsiveness to change.

For example:-

- “..plan for the long-term and recognise shorter term needs..”
- “..our social and economic attributes as the basis of our planning and development.”
- “A sustainable Wyong Shire responds to future challenges by embracing innovation and acting timely and effectively”
- “..engaging with and listening to all facets of society, working together for the benefit of the whole.”
- “..collaboration and participation that encourages innovation, sharing of resources, engagement in decision making and shared accountability for all results..”

**CONSULTATION**

Extensive consultation has occurred with Council by way of five detailed briefings/workshops.

Considerably more consultation will occur with the community once the preparation of detailed property portfolios is completed for the CLEP process. It is a statutory requirement and an essential approach for a Council that is committed to listening to its community.

**GOVERNANCE AND POLICY IMPLICATIONS**

The impact of the proposal on governance issue in the future will be to significantly reduce the need for laborious, unproductive administration.

**CONCLUSION**

The CLEP is an ideal opportunity for Council to correct classifications. The opportunity does not arise again until the next CLEP is undertaken.

Reclassification will allow Council to introduce a significant measure of flexibility for the future.

An intensive staff review of all Council properties has been undertaken.

Councillors have indicated support for the approach taken but not reached agreement.

The proposal is for Council to formally proceed with the reclassification process. It is not a proposal to re-classify the lands *per se* – which can only occur after the LEP processes have been undertaken – especially formal public consultation.

**ATTACHMENTS**

- 1 WSC Land Classification - Final Groupings    Enclosure    D02841770

## **5.1 CPA/157337 - Supply and Construction of approximately 830m of DN 180mm Polyethylene Water Main along Pollock Avenue Wyong**

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TRIM REFERENCE: CPA/157337 - D02823366

MANAGER: Daryl Mann, Acting Manager Water and Sewer

AUTHOR: Rene Wesolowski, Project Officer

### **SUMMARY**

Evaluation and selection of tenders for Contract CPA/157337 – Supply and construction of approximately 830 metres of DN180mm polyethylene water main along Pollock Avenue, Wyong.

### **RECOMMENDATION**

- 1 That Council accept the tender from Arogen Pty Ltd for the total amount of \$361,405.00 (excl GST) representing the estimated combined cost of the schedule of rates amount of \$256,365 and the provisional items of \$105,040 for Contract CPA/157337 – Supply and construction of approximately 830 metres of Dn180mm polyethylene water main along Pollock Avenue, Wyong.**
- 2 That Council approve for Contract CPA/157337 a budget of \$416,405 (excl GST), that provides for a contingency amount of \$55,000.00 (excl GST), representing approximately 15% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.**

### **BACKGROUND**

The existing 100mm water main located on the southern alignment of Pollock Avenue comprises a combination of Asbestos Cement (A.C.) and Cast Iron pipe. The main has reached its operational service life and several failures have occurred. The main also needs to be upgraded to service future development within the area.

The proposed work comprises the supply and construction of approximately 830 metres of water main along the northern alignment of Pollock Avenue, between Kooindah Waters and Jenson Road. Council requires a suitably experienced Contractor to supply and construct a new water main in accordance with the Design Plans and meet the environmental requirements. The main will be constructed by Horizontal Directional Drilling (HDD) methods because of the environmental sensitivities of the work. There will be minor excavations for hydrant and main cock cut-ins to reconnect existing house services along the newly laid main.

## **5.1 CPA/157337 - Supply and Construction of approximately 830m of DN 180mm Polyethylene Water Main along Pollock Avenue Wyong (contd)**

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### **Tender Process**

Tenders were invited by way of public invitation. Advertisements were placed in the Sydney Morning Herald on 19 July 2011. Tenders were also advertised on Council's e-Tender website. The advertised closing date was 18 August 2011.

The invitation documents called for schedule of rate tenders, based on a detailed specification and design for the works.

A non-compulsory pre-tender meeting was held at Council's administration building on 5 August 2011 to allow tenderers to discuss aspects about the works.

The following addenda were issued to all prospective tenderers during the invitation period:

- 1 Issued on 8 August 2011, consisted of minutes of the pre-tender meeting, queries and responses and corrections to specification.
- 2 Issued on 10 August 2011, revised closing time was extended by one week to 25 August 2011.
- 3 Issued on 19 August 2011, revised closing time was extended by one week to 1 September 2011.
- 4 Issued on 25 August 2011, consisted of requests for clarification, items to be included with the submission of the Tender, corrections to the Technical Specification and the Schedule of Rates and corrections to the Request for Tenders and clarification.

Tenders closed at Council Chambers at 2.00pm on 1 September 2011.

### **EVALUATION OF TENDERS**

Tenders were evaluated by a panel of three staff members (one of which was from a unit other than the one managing the procurement process) using the following threshold and weighted criteria:

#### Threshold Criteria:

- 1 Compliance with Tender documents, including lodgement of tender by specified time.
- 2 Financial Capacity.
- 3 Quality.
- 4 Ability to manage environmental and safety risk.

#### Weighted Criteria:

##### Local Content

- 5 Assessed level of Local Content (MANDATORY).

## 5.1 CPA/157337 - Supply and Construction of approximately 830m of DN 180mm Polyethylene Water Main along Pollock Avenue Wyong (contd)

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### Others

- 6 Proposed methodology/construction programme.
- 7 The Tendered price and structure; as well as any other potential costs to Council that may be identified.
- 8 Experience in the specific field.
- 9 Past performance on similar scale and complex projects.

The evaluation criteria and their weightings were documented in the Contract Development Plan and approved by the Director Infrastructure Management prior to tenders being invited. The Contract Development Plan is available on file.

To assess tenders against the evaluation criteria, the panel used information obtained from the tender documents and related correspondence, referees, external advisors and presentations made by the shortlisted tenderers.

The evaluation was conducted according to the following process.

- Assessment of receipt of tenders.
- Assessment of conformance of tenders.
- Detailed weighted evaluation of shortlisted tenders.
- Due diligence checks on preferred tenderers.

### **Assessment of Receipt**

The following tenders were received and are listed in order of price, based on the tendered Schedule of Rates.

<b>Tender No</b>	<b>Tender</b>	<b>Tendered Total of Schedule of Rates (Ex. GST)</b>	<b>Status</b>
1	Rightline Plumbing & Civil Excavation Contractors Pty Ltd	\$247,712.00	Submitted on time
2	Arogen Pty Ltd	\$256,365.00	Submitted on time
3	EL Civil Engineering Pty Ltd	\$478,874.72	Submitted on time
4	Infrastructure Constructions Pty Ltd	\$548,852.49	Submitted on time
5	Ledonne Constructions Pty Ltd	\$815,620.00	Submitted on time

### **Assessment of Conformance**

Tenderer No. 1 (Rightline Plumbing & Civil Excavation Contractors Pty Ltd) submitted a quoted price with preconditions. The Tenderer did not submit the required tender schedule. The evaluation panel determined that the Tender did not meeting the Threshold Criteria and was non-conforming.

## 5.1 CPA/157337 - Supply and Construction of approximately 830m of DN 180mm Polyethylene Water Main along Pollock Avenue Wyong (contd)

Tenderer No. 2 (Arogen Pty Ltd) submitted all tender schedule and following clarification, was determined by the evaluation panel to be conforming.

Tenderer No. 3 (EL Civil Engineering Pty Ltd) submitted the Schedule of Rates and the “General Methodology of Construction – Drilling Plan”. However, the tender did not address all of the required items.

Tenderer No. 4 (Infrastructure Constructions Pty Ltd) submitted the Schedule of Rates, however the firm did not meet all requirements relating to methodology.

Tenderer No. 5 (Ledonne Constructions Pty Ltd) submitted the Schedule of Rates, however the firm did not submit the “General Methodology of Construction – Drilling Plan” in accordance with Addendum No. 4.

The table below summarises the conformance of each Tenderer. The tenders are listed in order of price.

Tender No.	Tender	Tendered Total of Schedule of Rates (Ex. GST)	Summary Conformance Comment
1	Rightline Plumbing & Civil Excavation Contractors Pty Ltd	\$247,712.00	Non Conforming. The Tenderer did not pass the threshold criteria
2	Arogen Pty Ltd	\$256,365.00	Conforming.
3	EL Civil Engineering Pty Ltd	\$478,874.72	Substantially conforming.
4	Infrastructure Constructions Pty Ltd	\$548,852.49	Substantially conforming.
5	Ledonne Constructions Pty Ltd	\$815,620.00	Substantially conforming.

As the Tender from Rightline Plumbing & Civil Excavation Contractors Pty Ltd was non-conforming, the Tender was excluded from further evaluation.

### Weighted Evaluation

Evaluation scoring was conducted in two stages i.e.:

1. Prior to application of Council’s Local Preference Policy to establish the **Most Competitive Offer**, and;
2. Following application of the Local Preference Policy for the assessment of Local Content to establish the **Preferred Offer**.

### 1 - Scoring - Pre-Application of the Local Preference Policy

**5.1 CPA/157337 - Supply and Construction of approximately 830m of DN 180mm Polyethylene Water Main along Pollock Avenue Wyong (contd)**

To establish the **Most Competitive Offer**, Tenders were firstly scored against the weighted evaluation criteria (other than Local Content ), and are listed below in descending order of weighted evaluation.

Tender No.	Tender	Tendered Total of Schedule of Rates (Ex. GST)	Weighted Evaluation Score (Pre application of Local Preference)
			Most Competitive Offer
2	Arogen Pty Ltd	\$256,365.00	62
3	EL Civil Engineering Pty Ltd	\$478,874.72	30
5	Ledonne Constructions Pty Ltd	\$815,620.00	19
4	Infrastructure Constructions Pty Ltd	\$548,852.49	18

**2 – Scoring Post Application of Local Preference Policy**

Tenders were then assessed for Local Content in accordance with Council’s Local Preference Policy to identify the **Preferred Offer**.

The following summarises scoring for the assessed value of Local Content. Tenders are listed in descending order of **Preferred Offers** following assessment. The Local Content Criteria did not materially alter the evaluation scores

Tender No.	Tender	Tendered Lump Sum (Ex. GST)	Weighted Evaluation Score (Pre-application of Local Preference)	Value of Assessed Local Content (Ex. GST)	Weighted Evaluation Score (Post application of Local Preference)
			Most Competitive Offer		Preferred Offer
2	Arogen Pty Ltd	\$256,365.00	62.2	\$0.00	62
3	EL Civil Engineering Pty Ltd	\$478,874.72	30	\$65,000.00	31
5	Ledonne Constructions Pty Ltd	\$815,620.00	18.8	\$0.00	19
4	Infrastructure Constructions Pty Ltd	\$548,852.49	18	\$0.00	18

## **5.1 CPA/157337 - Supply and Construction of approximately 830m of DN 180mm Polyethylene Water Main along Pollock Avenue Wyong (contd)**

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### **Due Diligence**

Tender No. 2 (from Arogen Pty Ltd) was subjected to a financial assessment, an in-house safety/environment system assessment and referee checks.

On the basis of the information provided by the tenderer, Council's independent financial assessor Kingsway Financial Assessments, and independent referees, it is considered that Arogen Pty Ltd possesses all of the technical, financial and managerial resources necessary to satisfactorily complete the works.

Arogen Pty Ltd is a Kurri Kurri based contractor with a history of successfully completed contracts similar in nature and scope to the current works. Several of its previously completed contracts have been with Council. The company has in place fully documented Occupational Health Safety and Rehabilitation Management and Environmental Management systems.

The amount tendered by Arogen Pty Ltd is approximately 76% of Council's pre-tender estimate price for the contract works.

### **RISK ASSESSMENT**

#### **General**

When letting a contract various risks exist that may result in the final contract cost exceeding the initial contract sum. These risks vary depending upon the type of work being undertaken and the type of contract.

Generally, the contract is structured to have the party best placed to manage the risk responsible for that risk outcome. Some risks are passed on to the contractor, with the cost of those risks reflected in the tendered price. Other risks are best managed by Council rather than the contractor, as they would inflate the tender price whether the risk eventuated or not. For this reason Council retains and is required to manage some risks. These are minimised by Council's contract administration processes. However, to manage these risks it is necessary to provide a contingency sum in addition to the tender price to allow for unforeseen additional works that may become necessary during the course of the project.

#### **Contract Risks**

Contract risks include Generic Risks (generally found in most contracting situations) and Specific Risks leading to contract variations that have particular application to an individual contract. These major risks are summarised below for this contract.

#### **Generic Risks**

These are risks that Council manages through its contract administration procedures and processes. Major generic risks and mitigation measures for this contract include:

- Contractor experiences financial difficulties or goes into liquidation, leading to additional project delays and costs. Mitigated through financial and referee checks before contract award and timely progress payments.



## **5.1 CPA/157337 - Supply and Construction of approximately 830m of DN 180mm Polyethylene Water Main along Pollock Avenue Wyong (contd)**

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- Completion time exceeds target leading to delays and damage to Council's reputation. Mitigated through close supervision and prompt directions where required.
- Liability for injury and/or damage to people, property and the environment. Mitigated through on-going validation of contractor's insurances, safety and environmental management systems, together with close supervision including site audits.
- Contract dispute over rights and obligations of the parties. Mitigated through use of Australian Standards General Conditions of Contract, which include dispute resolution mechanisms.

### **Specific Risks Leading to Contract Variations**

The following are the major risks that Council bears in relation to this contract:

- Design changes are required during construction. Mitigated by appropriate technical reviews by others to ensure design meets requirements. The Contractor (Arogen Pty Ltd) has also reviewed the design and confirmed that the design is achievable as part of the "General Methodology of Construction – Drilling Work Plan" submitted with their Tender documentation.
- Changes to regulatory design standards requiring project re-design. Mitigated by using latest information in tender documents and minimising delays in award of contract.
- Quantities for work items under the contract are greater/lesser than pre-award estimates leading to variation claims by the contractor. Mitigated through the tender process by requiring specified rates for each work item under a Schedule of Rates arrangement with upper and lower control limits. Contract payments are then calculated by multiplying the actual quantity for each work item by the tendered rate. Actual quantities are confirmed by Council through measurement / survey prior to payment.
- Testing of any material not meeting the specific immobilisation approval of Coal Tar Asphalt contaminated material. The Contract has allowed in its Provisional Items to cover costs for this process and may be required during the course works.
- Material not meeting the specific immobilisation approval, that is Coal Tar Asphalt Contaminated Soil, that the material to be disposed of to a statutory registered waste contamination facility. The Contract has allowed in its Provisional Items to cover costs for this process and may be required during the course works.
- Foundation improvement for the purposes of stabilising trench bedding. The Contract has allowed in its Provisional Items to cover costs for this process and may be required during the course works.
- Extra depth excavation and provision of granular fill for the purposes of unforeseen deeper excavations not in accordance with the design and the provision granular material as an alternative bedding material. The Contract has allowed in its Provisional Items to cover costs for this process and may be required during the course works.
- Supply and install geotextile membrane for the purposes of stabilisation of wet excavated trenches prior to laying bedding material. The Contract has allowed in its Provisional Items to cover costs for this process and may be required during the course works.

## **5.1 CPA/157337 - Supply and Construction of approximately 830m of DN 180mm Polyethylene Water Main along Pollock Avenue Wyong (contd)**

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- Supply and install ballast for the purposes of stabilising wet excavated trenches. The Contract has allowed in its Provisional Items to cover costs for this process and may be required during the course works.
- The potential cost of the Provisional Items, based on the rates submitted by Arogen Pty Limited is \$105,040. This amount is in addition to the tendered Schedule of Rates.

### **Risk Contingency**

The above risks are considered to be medium for this contract given its value and the nature of the work and the site. Accordingly, it is recommended that a contingency sum of \$55,000 (excl. GST) representing approximately 15% of the contract sum be approved.

Based on previous experience with contracts of this nature and analysis of the risks involved, the proposed risk allowance is reasonable.

### **BUDGET**

Project funds to accommodate this contract are available from the following source:

50% Loans and 50% Contributions from Section 64.

### **TIME-FRAME**

The project is anticipated to begin in December 2011 and is expected to be completed within 26 weeks

### **APPROVALS**

- Part 5 approval under the Environmental Planning & Assessment Act has been obtained.
- Dewatering in excavations for the duration of the Contract, approved by the Office of Water.
- Waste immobilisation of Coal Tar Asphalt Contaminated Material to be disposed of to Buttonderry Waste Facility, approved by the Environmental Protection Agency.

### **CONCLUSION**

Tender No. 2 from Arogen Pty Ltd is the preferred and most competitive tender. On balance, this tender represents the best value-for-money for Council. It is recommended that the tender be accepted.

### **ATTACHMENTS**

*Nil.*

## **5.2 CPA/200848 - Cancellation of Tender - Supply and Delivery of Cultivated Turf**

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TRIM REFERENCE: CPA/200848 - D02822690

MANAGER: David Witherdin, Manager Contract and Project Management

AUTHOR: John McCarthy, Purchasing Coordinator

### **SUMMARY**

This report recommends that no contract be awarded in relation to the tenders received for contract CPA/200848 for the Supply and Delivery of Cultivated Turf.

### **RECOMMENDATION**

- 1 That Council decline to accept any of the tenders received for contract CPA/200848 for the Supply and Delivery of Cultivated Turf in accordance with sub-clause 178 (1) (b), of the Local Government (General) Regulation 2005.**
- 2 That Council request the General Manager to invite new tenders for the Supply and Delivery of Cultivated Turf in accordance with sub-clause 178 (3) (b), of the Local Government (General) Regulation 2005.**

### **BACKGROUND**

Council uses approximately 35,000 m<sup>2</sup> of cultivated turf (kikuyu, couch and buffalo) per annum. The turf is used by various construction, maintenance and parks and gardens crews for the purpose of ad hoc remediation work. In total, Council's recurring requirement for turf is estimated at \$100,000.00 (excl GST) per annum.

Council's current contractors are Yarra Turf Supplies Pty Ltd, WE & G Keegan T/as Dooralong Valley Turf and GJ'S Landscapes Pty Ltd who have all successfully supplied Council's requirements over the last three years. Contract CPA/149745 for the Supply, Delivery and Laying of Cultivated Turf expires on 30 November 2011.

New tenders were called on the basis of a ranked panel arrangement as no individual entity has the capacity to supply all of Council's turf requirements. Council needs to take into account the current water restrictions and the need to be able to access a number of suppliers to ensure Council's need for turf (kikuyu, couch and buffalo) availability, quality and timely supply continue to be met.

### **TENDER PROCESS**

Tenders were invited by way of public invitation. Advertisements were placed in the Sydney Morning Herald on 23 August 2011 and the Central Coast Express Advocate on 24 August 2011 and electronically via council's eTenders portal. The advertised closing date was 15 September 2011.

**5.2 CPA/200848 - Cancellation of Tender - Supply and Delivery of Cultivated Turf (contd)**

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The invitation documents called for a Schedule of rates tender, based on a detailed specification.

Tenders closed at Council Chambers at 2.00 pm, on 8 September 2011.

**EVALUATION OF TENDERS**

Two tenders were received by the closing date and on time. No late tenders were received. Details of the tenderers only (in numerical order, from lowest to highest) are tabled below. Tendered amounts are listed in an aggregated context as disclosing details of the comparative bids in a public forum may prejudice Council's interests and that of the Tenderers when new tenders are called.

<b>Tender No</b>	<b>Tender</b>	<b>Estimated Annual Expenditure (excl GST)</b>	<b>Status</b>
1	Yarra Turf Supplies Pty Ltd	\$102,475.00	Submitted on time
2	WE & G Keegan T/as Dooralong Valley Turf	N/a	Submitted on time

The tender from WE & G Keegan T/as Dooralong Valley Turf was completed in full but with the exception of the price schedule. This schedule was submitted but contained no information. In the absence of having any price information to access, the tender was considered nonconforming and was eliminated from further consideration.

The tender from Yarra Turf Supplies Pty Ltd was fully conforming however they do not have the capacity to completely service this contract on their own. It is estimated that Yarra Turf Supplies Pty Ltd could service approximately 55% of Council's turf requirements.

Given that this outcome does not satisfy Council's procurement requirements it is recommended that no tenders be accepted and new tenders are called with the view of Council contracting to more than one supplier.

Should Council resolve to decline to accept any of the tenders, as recommended, sub-clause 178 (3), Local Government (General) Regulation 2005 requires that Council, by resolution, do one of the following:

- “(a) postpone or cancel the proposal for the contract,*
- (b) invite, in accordance with clause 167, 168 or 169, fresh tenders based on the same or different details,*
- (c) invite, in accordance with clause 168, fresh applications from persons interested in tendering for the proposed contract,*
- (d) invite, in accordance with clause 169, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract,*
- (e) enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender,*
- (f) carry out the requirements of the proposed contract itself. “*

In this instance, option 178 (3) “b”, is recommended.

**CONCLUSION**

In accordance with sub-clause 178 (3) (b) of the Local Government (General) Regulation 2005, a Council can accept or reject a tender. Given the current tender process has not resulted in a satisfactory outcome for Council, it is recommended that Council decline to accept any tenders and in accordance with Clause 178 (3) (b) invite new tenders.

**ATTACHMENTS**

*Nil.*

### **5.3 CPA/201014 - Detailed Design and Documentation for New Waste Cell 4.3 at Buttonderry Waste Management Facility**

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TRIM REFERENCE: CPA/201014 - D02813827

MANAGER: David Witherdin, Manager Contract and Project Management

AUTHOR: Norm Yeend; Project Manager

#### **SUMMARY**

This report deals with the evaluation and selection of tenders for Contract CPA/201014 – Detailed Design and Documentation for New Waste Cell 4.3 at Buttonderry Waste Management Facility.

#### **RECOMMENDATION**

- 1 That, Council accept the tender from GHD Pty Ltd for the lump sum amount of \$157,900.00 (excl GST) for Contract CPA/201014 – Detailed Design and Documentation for New Waste Cell 4.3 at Buttonderry Waste Management Facility.**
- 2 That Council approve for Contract CPA/201014 a budget of \$189,400.00 (excl GST) that provides for a contingency amount of \$31,500 (excl GST), representing approximately 20% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.**

#### **BACKGROUND**

Waste received at Council's Buttonderry Waste Management Facility (WMF), is placed into large excavated areas, with the walls and floors lined with impermeable membrane barrier material. The excavated areas are referred to as landfill "cells". As the waste within a cell is filled above the ground surface, it joins with adjacent previous cells to comprise a waste emplacement area.

The impermeable membrane barrier is designed to contain the base of the waste and prevent the leachate and gas generated from the waste from migrating into the underlying rock strata and groundwater. The leachate is collected from the base of the cell through a gravel layer and pipe system and pumped to leachate storage ponds, where it is aerated and disposed of by surface irrigation onto grassed surfaces of previous landfill emplacement areas.

This technique for construction and operation of landfill cells is in accordance with current industry best practice, EPA NSW *Solid Waste Landfills – Benchmark Techniques* and Office of Environment and Heritage (OEH) licence requirement for operation of Buttonderry WMF.

In October 2010, Council received approval from OEH to commence placement of waste into the then newly completed Cell 4.2B. Cell 4.2B has been receiving waste since that time and has an expected life of approximately three years, by which time the next new waste cell, Cell 4.3, will be required to be available to receive waste. Cell 4.3 will therefore need to be completed and approved by the OEH for the receipt of waste, by the beginning of 2014.

### **5.3 CPA/201014 - Detailed Design and Documentation for New Waste Cell 4.3 at Buttonderry Waste Management Facility (contd)**

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Attachment 1 shows the location of the new Cell 4.3 within Area 4, in relation to the current and future landfill cells and the earlier (existing) waste emplacement Areas 2 and 3. The design for Cell 4.3 has been identified in Council's Annual Plan for 2011-2012, under the Capital Works Program, Principal Activity 7 – Waste (Reference IM106).

Site survey, geotechnical, hydrogeological and other preliminary investigations for Cell 4.3 have been completed. Tenders have been invited for the detailed design and documentation of the works required for the construction of the new cell. The evaluation and selection of a tender for the professional services contract for that detailed design and documentation are the subject of this report.

#### **Scope of Work**

The scope of work forming the basis of the proposed engagement includes design and documentation for the following:

- Leachate water balance investigation to determine the size requirements for a new leachate pond;
- Acoustic investigation to assess noise mitigation requirements during construction;
- New landfill Cell 4.3 and the leachate barrier (liner) system;
- Leachate drainage layer, drainage system and collection well within the new cell;
- New leachate storage pond, including its leachate barrier (liner) system;
- Relining of two existing leachate storage ponds on the site;
- Pumps, delivery lines, and electrical supply for leachate collection and transfer from the new cell and transfer between leachate ponds;
- Site works for a new stockpile area to accommodate excavated spoil from the new cell;
- Extension of the site haul road from the new cell to the spoil stockpile;
- Stormwater management design to divert stormwater clear of the new waste cell.

Cell 4.3 will have approximately twice the excavated volume of the previous Cell 4.2B. The larger size will provide improved economy of scale for construction and will avoid the creation of a smaller, final cell in the northeast of the site, with a difficult and potentially uneconomical shape for construction and operation.

The scope of the design (and the subsequent required construction work) associated with Cell 4.3 will be greater than that required for recent past cells as a result of:

- The increased size of the new cell;
- The requirement for a new leachate pond as the increased landfilled area of the site requires more leachate storage;
- The requirement for a new spoil stockpile area as development of Area 4 of the site advances and space is required for landfilling operations;
- Extension of the internal site haul road (within the TransGrid easement in the north of the site) between the spoil stockpile and the active landfill area.

#### **Tender Process**

Tenders were invited by way of public invitation. Advertisements were placed in the Sydney Morning Herald on 13 September 2011 and the Central Coast Express Advocate on 14 September 2011. Tenders were also advertised on Council's e-Tender website. The advertised closing date was 6 October 2011.

### **5.3 CPA/201014 - Detailed Design and Documentation for New Waste Cell 4.3 at Buttonderry Waste Management Facility (contd)**

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The invitation documents called for lump-sum tenders, based on a Brief including a detailed scope of work.

A compulsory pre-tender meeting and site inspection were held at the Buttonderry WMF on 26 September 2011, to allow tenderers to become familiar with the scope of work and site conditions. Representatives of seven prospective tenderers attended and registered at the meeting and inspection.

The following addenda were issued to all prospective tenderers during the invitation period.

1. Amended details for the pre-tender meeting and alterations to the Brief (issued on 15 September 2011).
2. Minutes of the pre-tender meeting (issued on 26 September 2011).

Tenders closed at Council Chambers at 2:00 pm on 6 October 2011.

#### **EVALUATION OF TENDERS**

Tenders were evaluated by a panel of three staff members (one of which was from a unit other than the one managing the procurement process) using the following threshold and weighted criteria:

Threshold Criteria:

1. Compliance with the requirements of the tender documents.
2. Ability to manage environmental and safety risk.

Weighted Criteria:

1. Assessed level of Local Content (MANDATORY).
2. Tendered price and structure as well as any other potential costs to Council.
3. Recent past experience in the specific field.
4. Recent past performance in the specific field.
5. Conformity with the brief.

The evaluation criteria and their weightings were documented in the Contract Development Plan and approved by the Director Infrastructure Management prior to tenders being invited. The Contract Development Plan is available on file.

To assess tenders against the evaluation criteria, the panel used information obtained from the tender documents and referees.

The evaluation was conducted according to the following process.

- Assessment of receipt of tenders.
- Assessment of conformance of tenders.
- Shortlisting of tenders.
- Detailed weighted evaluation of shortlisted tenders.
- Due diligence checks on preferred tenderer.



### 5.3 CPA/201014 - Detailed Design and Documentation for New Waste Cell 4.3 at Buttonderry Waste Management Facility (contd)

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#### Assessment of Receipt

At the close of tenders, four tenders were received and are listed below in numerical order, from lowest to highest. All tenders were submitted on time.

Tender No	Tender	Tendered Lump Sum (Ex. GST)	Status
1	GHD Pty Ltd	\$157,900.00	Submitted on time
2	Opus International Consultants (NSW) Pty Ltd	\$186,694.00	Submitted on time
3	ARUP Pty Ltd.	\$243,200.00	Submitted on time
4	SEMF Pty Ltd	\$298,712.00	Submitted on time

#### Assessment of Conformance

Tenders were assessed for conformance with the general tender requirements, including the specification. Tenders No 1 (from GHD) and No 2 (from Opus) conformed to all requirements and were progressed to the next stage of evaluation.

Tenders No 3 (from ARUP) and No 4 (from SEMF) contained requests for minor amendments to some of the commercial conditions of contract. These proposed amendments were not substantial and as the tenders were substantially conforming, the evaluation panel agreed that both tenders could be progressed to the next stages of evaluation with the matters to be resolved with the companies prior to a final recommendation, should either company's tender be the preferred tender.

#### Shortlisting

Tenders were shortlisted against Weighted Criterion No. 2 – Price. Tender No 4 (from SEMF) tendered a price that was 23% higher than the closest priced tender and 89% higher than the lowest priced tender. Regardless of how it rated on non-price criteria, the substantial price difference would make it impossible for this tender to rate as the preferred option after a full weighted evaluation. This was confirmed by undertaking a test evaluation using a range of assumed possible scores for the weighted criteria for all tenders. The tender of SEMF was therefore eliminated to allow the panel to concentrate its assessment efforts on the remaining three tenders.

#### Weighted Evaluation

Evaluation scoring was conducted in two stages i.e:

1. Prior to application of Council's Local Preference Policy to establish the **Most Competitive Offer**, and;
2. Following application of the Local Preference Policy for the assessment of Local Content to establish the **Preferred Offer**.

### 5.3 CPA/201014 - Detailed Design and Documentation for New Waste Cell 4.3 at Buttonderry Waste Management Facility (contd)

#### 1 - Scoring - Pre-Application of the Local Preference Policy

To establish the **Most Competitive Offer**, Tenders were firstly scored against the weighted evaluation criteria (other than Local Content), and are listed below in descending order of weighted evaluation.

Tender No.	Tender	Tendered Lump Sum (Ex. GST)	Weighted Evaluation Score (Pre application of Local Preference)
			Most Competitive Offer
1	GHD Pty Ltd.	\$157,900.00	80.0
2	Opus International (NSW) Pty Ltd.	\$186,694.00	64.4
3	ARUP Pty Ltd.	\$243,200.00	57.1

Tender No. 1 (from GHD) is the most favourably priced tender. The company and its proposed project team members have extensive experience in design and documentation of new landfill cells and associated infrastructure for local government and the private sector, in NSW within the recent past. The company's recent past performance in the specific field, from enquiry of referee contacts was confirmed to be very good.

Tender No. 2 (from Opus) is less favourably priced. The company's nominated experience comprises landfill cell design for three New Zealand councils over a period of years up to the present. No landfill design in NSW was nominated. Only two of the project team have specific experience in design of landfills in New Zealand. Other members of the team have experience in some relevant related disciplines. On balance, the experience meets most essential requirements. Past performance on previous works (in New Zealand) was confirmed to be very good.

Tender No. 3 (from ARUP) is priced higher again. The company and several of the project team have sound experience in the design of landfill cells and related works in the United Kingdom and New Zealand. Other members of the project team have experience in related infrastructure and disciplines. No landfill design in NSW was nominated. On balance, the experience meets the essential requirements for the engagement. Referees nominated for relevant landfill design performance were all located in United Kingdom. The evaluation panel agreed to initially assign maximum assumed scores for performance, with referees in the United Kingdom to be contacted prior to final recommendation if the tender became the preferred tender. The preferred offer scores following evaluation were such that the contact was not required.

#### 2 – Scoring Post Application of Local Preference Policy

Tenders were then assessed for Local Content in accordance with Council's Local Preference Policy to identify the **Preferred Offer**.

### 5.3 CPA/201014 - Detailed Design and Documentation for New Waste Cell 4.3 at Buttonderry Waste Management Facility (contd)

The application of the Local Preference Policy to this tender imposed the following criteria in relation to the financial impact in considering a Preferred Offer:

Policy Criteria	Criteria Applied to Tender Assessment
Category of Contract	Services
Method to Determine Financial Impact Limitations	5% above price component of Most Competitive Offer, with a maximum of \$25,000 applicable to this category of contract
Price Component of Most Competitive Offer	\$157,900
Financial Impact Limitation To Be Applied to Preferred Offer	\$7,895

The following summarises scoring for the assessed value of Local Content. Tenders are listed in descending order of **Preferred Offers** following assessment.

Tender No.1 (from GHD) is from a company with a physical presence in the local area, in accordance with Clause C of Council's *Local Preference Policy – Procurement*.

Tender No	Tender	Tendered Lump Sum (Ex. GST)	Weighted Evaluation Score	Value of Assessed Local Content (Ex. GST)	Weighted Evaluation Score
			(Pre-application of Local Preference)		(Post application of Local Preference)
			Most Competitive Offer		Preferred Offer
1	GHD Pty Ltd.	\$157,900.00	80.0	\$157,900	90.0
3	Opus International (NSW) Pty Ltd.	\$186,694.00	64.4	Nil	64.4
2	ARUP Pty Ltd.	\$243,200.00	57.1	Nil	57.1

Following assessment of Local Content, there was no change to the order of ranking for tenders i.e. the most Competitive Offer of Tender no. 1 from (GHD Pty Ltd) was assessed as the Preferred Offer and was therefore progressed to the due diligence of evaluation.

#### Due Diligence

GHD Pty Ltd is an Australian based international company with a local office at Tuggerah. The company has a history of completed contracts for this Council similar in nature and scope to the current works, including the detailed design for the most recent landfill cell 4.2B at Buttonderry WMF. Work under that contract was completed to a high standard with documentation approved by OEH. The company has in place fully documented Occupational Health Safety and Rehabilitation Management and Environmental Management systems.

## **RISK ASSESSMENT**

### **General**

When letting a contract various risks exist that may result in the final contract cost exceeding the initial contract sum. These risks vary depending upon the type of work being undertaken; for example, design work versus construction work; and the type of contract, for example Lump Sum versus Schedule of Rates.

Generally, the contract is structured to have the party best placed to manage the risk responsible for that risk outcome. Some risks are passed on to the contractor, with the cost of those risks reflected in the tendered price. Other risks are best managed by Council rather than the contractor, as they would inflate the tender price whether the risk eventuated or not. For this reason Council retains and is required to manage some risks. These are minimised by Council's contract administration processes. However, to manage these risks it is necessary to provide a contingency sum in addition to the tender price to allow for unforeseen additional works that may become necessary during the course of the project.

### **Contract Risks**

Contract risks include Generic Risks (generally found in most contracting situations) and Specific Risks leading to contract variations that have particular application to an individual contract. These major risks are summarised below for this contract.

#### **Generic Risks**

These are risks that Council manages through its contract administration procedures and processes. Major generic risks and mitigation measures for this contract include:

- Completion time exceeds target leading to delays and potential cost to Council. Mitigated through close supervision and prompt directions where required.
- Contract amount exceeds approved budget. Mitigated through identification and management of risks, preparation of a detailed brief accurately reflecting the scope of work and diligent contract management.
- Contract dispute over rights and obligations of the parties. Mitigated through use of Australian Standards General Conditions of Contract, which include dispute resolution mechanisms and through employing sound and diligent contract management procedures.

#### **Specific Risks Leading to Contract Variations**

The following are the major risks that Council bears in relation to this contract:

- The quality of the design is sub-standard resulting in additional costs during the construction phase. Mitigated by appropriate technical reviews by others to ensure design meets requirements.
- Changes to regulatory design standards or statutory authority conditions requiring project re-design. Mitigated by using latest information in tender documents and minimising delays in award of contract.

### **5.3 CPA/201014 - Detailed Design and Documentation for New Waste Cell 4.3 at Buttonderry Waste Management Facility (contd)**

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- Brief does not adequately cover all required work and additional investigations are found to be necessary during the consultancy. Mitigated by preparation of comprehensive Brief and peer review of documentation prior to inviting tenders.

#### **Risk Contingency**

The above risks are considered to be Medium for this contract given the value of the contract and the nature of the work. Accordingly, it is recommended that a contingency sum of \$31,500.00 (excl GST) representing approximately 20% of the contract sum be approved.

Based on previous experience with contracts of this nature and analysis of the risks involved, it is estimated that there is a high probability that the contract budget of \$189,400.00 (excl GST), which incorporates the contingency allowance, will not be exceeded.

#### **BUDGET**

The proposed design contract will extend from the 2011/2012 financial year into the 2012/2013 financial year (see information under Time Frame below). Funding of \$120,000 has been provided in Council's Annual Plan for 2011-2012, under the Capital Works Program, Principal Activity 7 – Waste (Reference IM106). Additional funding of \$70,000 will be made available in the 2012/2013 budget to cover the remaining value of this contract.

The design contract forms part of the total project budget for design and construction of Cell 4.3. The current total project estimate for Cell 4.3, including project management, investigation, detailed design and documentation and all construction work is \$9,272,000. The construction estimate will be reviewed as part of the proposed design contract.

#### **TIME-FRAME**

The key dates relating to the detailed design and supply of the specified documentation are:

- Award contract - December 2011;
- Complete pre-design investigations & reports – February 2012;
- Supply draft design documentation – April 2012;
- Supply final design elements for OEH approval – May 2012;
- Applications to OEH and MSB – May 2012 (see note under Approvals below);
- Supply remaining final design documentation – July 2012
- Supply tender documentation – September 2012;
- Supply “for construction” documentation – November 2012.

#### **APPROVALS**

There are no approvals required for works under this design contract. However, approvals will be required for the construction work that will follow completion of the design. Those approvals are:

- Approval of the design by the OEH will be required before construction work on the new cell and leachate pond can commence. OEH require lodgement of documents for approval six months prior to the proposed commencement of construction of the proposed new cell.

### **5.3 CPA/201014 - Detailed Design and Documentation for New Waste Cell 4.3 at Buttonderry Waste Management Facility (contd)**

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- Approval by the Mine Subsidence Board (MSB) of a Building Application for the construction works will be required before construction can commence.
- Approval of TransGrid is required for those parts of the proposed works that will be within their easement at the north of the site.

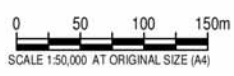
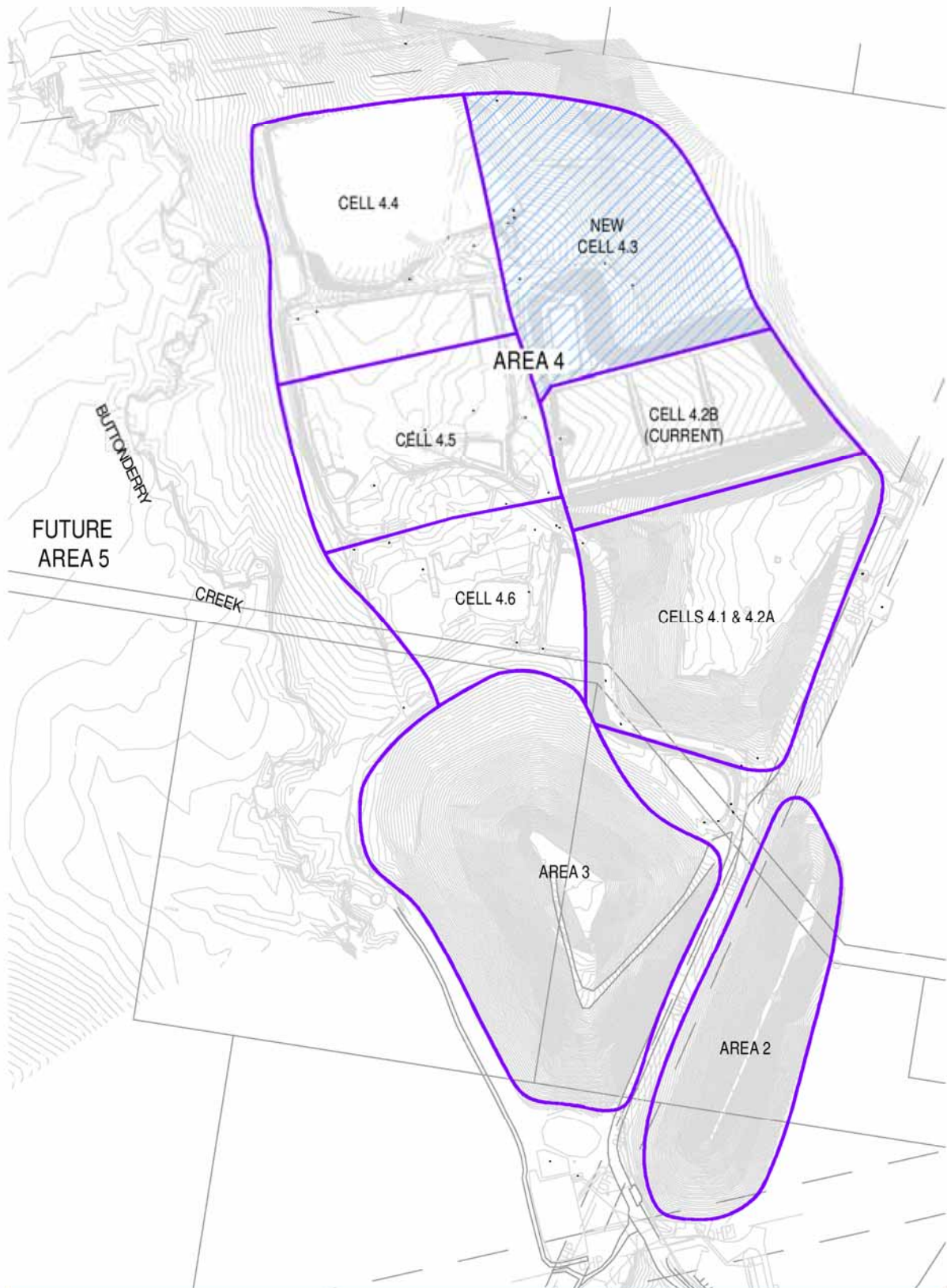
Development approval for the proposed construction work, under the Environmental Planning and Assessment Act, is covered by development consent No. DA 666/89 of October 1989. No further approval is required in this regard, although relevant assessments for impacts on threatened species and cultural heritage will be undertaken on the impacted areas to inform the design.

### **CONCLUSION**

Tender No 1 from GHD Pty Ltd is the highest scoring tender and meets all of Council's requirements for this contract. On balance, this tender represents the best value-for-money for Council. Sufficient funds are available to cover the cost of the proposed engagement. It is recommended that the tender be accepted.

### **ATTACHMENTS**

- 1 Figure 1 - Buttonderry Landfill Cell Arrangement D02813402



WYONG SHIRE COUNCIL  
BUTONDERRY LANDFILL  
AREA 4 DEVELOPMENT  
INDICATIVE  
CELL ARRANGEMENT

Job Number | 22-15783  
Revision | A  
Date | OCT 2011

Figure 01

## **5.4 CPA/202812 - Central Coast Water Corporation Cost Benefit Analysis Consultancy**

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TRIM REFERENCE: CPA/202812 - D02836586

MANAGER: David Witherdin, Manager Contract and Project Management

AUTHOR: Gary Kinney; Project Director

### **SUMMARY**

Evaluation and selection of tenders for Contract No CPA/202812 - Central Coast Water Corporation Cost Benefit Analysis Consultancy.

### **RECOMMENDATION**

- 1 That Council accept the tender from Pricewaterhouse Coopers for the amount of \$381,381.00 (excl GST) for Contract CPA/202812 – Central Coast Water Corporation Cost Benefit Analysis Consultancy.**
- 2 That Council approve a contract budget of \$440,000.00 for Contract CPA/202812 (excl GST) that provides for a contingency amount of \$58,619.00 (excl GST), representing approximately 15% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.**

### **BACKGROUND**

The Central Coast Water Corporation (CCWC) has been established by agreement between Gosford City and Wyong Shire Councils and the NSW Government in accordance with a Memorandum of Understanding (MOU). The MOU provided for a phased transfer of some or all of the Councils' Water Supply Authority business services and enabling functions to the CCWC, subject to the staged implementation procedure required under the Act and MOU. These requirements include undertaking a cost benefit analysis (CBA).

The MOU provides for a five stage approach to the establishment of the CCWC with an assessment of each phase (subsequent to Phase 1) being undertaken 15 months after the commencement of the current phase. The commencement of each subsequent phase would only occur on the basis of a positive cost benefit analysis (conditions prescribed within the MOU). Under this approach, the full transfer of functions could take up to 10 years (up to two years per phase, comprising 15 months from commencement to assessment and then planning for the next phase).

In February 2011, the Act was amended in accordance with the MOU. The Councils subsequently executed a Constitution and Voting Shareholders Agreement enabling the CCWC to be established.

After the Act was gazetted, in February 2011, both Councils resolved:



## **5.4 CPA/202812 - Central Coast Water Corporation Cost Benefit Analysis Consultancy (contd)**

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*That Council endorse in-principle a compressed timeframe for the transfer of all of the Councils water supply authority functions, responsibilities, assets and staff for commencement on 1 July 2013 noting the staged implementation procedure required under the Act and Memorandum.*

Phase 1 of the CCWC commenced in February 2011 with its establishment. In order to comply with the MOU, a CBA analysis for the next phase now needs to be undertaken. Further, in order to comply with the Councils' resolutions of February 2011, the CBA needs to address all five phases of the CCWC's implementation. The focus of the CBA is on the impact to the Councils and their rate payers/customers.

Tenders for the CBA have now been called and evaluated, as described in this report.

### **Tender Process**

A selective tender process was undertaken. The service providers requested to selectively tender were registered under the NSW Government Procurement Pre-Qualification Scheme: Performance and Management Services (the Scheme). The invitation documents called for lump-sum tenders, based on a detailed brief.

A compulsory pre-tender meeting was held at Gosford City Council on 12 October 2011 to provide further information on the background to the consultancy and the scope of work, as well as to allow tenderers to clarify elements of the work prior to submitting a tender.

The following addenda were issued to all prospective tenderers during the invitation period:

- 1 Attachments to the Brief (29 September 2011);
  - 2 Change in location of pre-tender briefing (6 October 2011);
  - 3 Minor amendments to the brief, pre-tender briefing slides and question responses (14 October 2011);
- 3 Responses to additional questions (19 October 2011).

Tenders closed at 2:00 pm on 25 October 2011.

### **EVALUATION OF TENDERS**

Tenders were evaluated by a panel of six senior staff members (three from Wyong Shire Council, two from Gosford City Council and one from the CCWC Project Team). Tenders were evaluated using the following threshold and weighted criteria:

Threshold Criteria:

- 1 Conformance with the requirements of the tender documents.

Weighted Criteria:

1. Proposed scope of analysis in response to the brief

#### 5.4 CPA/202812 - Central Coast Water Corporation Cost Benefit Analysis Consultancy (contd)

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2. Proposed methodology to be utilised
3. Tendered price and structure and potential costs to Council
4. Proposed schedule and ability to meet specified dates
5. Previous experience of the corporation and nominated staff.

Assessment of Local Content was not applicable to this tender. No service providers under the Scheme are local.

The evaluation criteria and their weightings were documented in the Contract Development Plan and approved by the General Manager prior to tenders being invited. The Contract Development Plan is available on file. In addition a detailed Tender Evaluation Management Plan was prepared and approved by all Evaluation Panel Members prior to the closing of tenders. Tenders were evaluated in accordance with the Tender Evaluation Management Plan.

To assess tenders against the evaluation criteria, the panel used information obtained from the tender documents, related correspondence and presentations made by the shortlisted tenderers.

The evaluation was conducted according to the following process.

- Assessment of receipt of tenders;
- Assessment of conformance of tenders;
- Preliminary weighted evaluation of tenders;
- Issue of clarification questions;
- Presentations and interviews with the highest ranking tenderers;
- Final assessment of conformance and weighted evaluation.

#### Assessment of Receipt

The following tenders were received and are listed in numerical order, from lowest price to highest price:

Tender No	Tender	Tendered Lump Sum (Ex. GST)	Status
1	Ernst & Young	\$244,600	Submitted on time
2	Pricewaterhouse Coopers (PwC)	\$381,381	Submitted on time
3	Deloitte Touche Tohmatsu (Deloitte)	\$391,710	Submitted on time
4	KPMG	\$1,282,200	Submitted on time

The pre-tender estimate for the work was \$400,000.

#### Assessment of Conformance

Tenders were assessed for conformance with the general tender requirements. Tender No 2 (from PwC), Tender No 3 (from Deloitte) and Tender No 4 (from KPMG) conformed to all general requirements.

## 5.4 CPA/202812 - Central Coast Water Corporation Cost Benefit Analysis Consultancy (contd)

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Ernst & Young (Tender No 3) did not attend the mandatory pre-tender briefing. The Evaluation Panel determined that this non-conformance was not material to the evaluation process. The tender also contained a number of commercial departures not in accordance with Council's contract conditions. Following clarification of these issues the departures were withdrawn.

As a result the Evaluation Panel determined that all tenders were conforming.

### Weighted Evaluation

#### Process

An initial weighted assessment of tenders was undertaken. From the initial assessment it was apparent that, due to the high price tendered by KPMG, it was not possible for KPMG to become the highest scoring tenderer irrespective of how high the tender scored in the other (non-price) weighted criteria and the outcomes of the clarification and interview process. As a result the Evaluation Panel resolved to not consider the tender from KPMG further.

All of the other three tenderers were included for further assessment and invited to a presentation and interview.

Clarification questions were then issued to the highest ranking tenderers, and these tenderers invited to attend a presentation and interview with the evaluation panel. Following review of clarification question responses and the presentations and interviews, the weighted evaluations scores were finalised.

#### Evaluation Scores

The final evaluation scores (as a score out of 100) for the weighted evaluation criteria, excluding price, are as follows:

Rank	Tender	Non-price tender score
1	PwC	84
2	Deloitte	79
3	Ernst & Young	58

In determining the costs to be included in the tender assessment, allowance was made for the likely additional costs to Council. Relative to the costs associated with the other tenderers, allowance was made in the costs of the Ernst & Young tender for:

- Additional Council staff effort associated with data gathering, manipulation and analysis to meet the Consultant's information needs; and
- Additional senior consultant time to meet the requirements of the Brief. It is noted in particular that Ernst & Young's CBA leader was only allocated 4 days to the project. This was assessed as being insufficient to meet the requirements of the Brief with respect to Council and stakeholder consultation and briefings, as well as attendance at fortnightly PCG meetings.

#### 5.4 CPA/202812 - Central Coast Water Corporation Cost Benefit Analysis Consultancy (contd)

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The final evaluation scores (as a score out of 100) for all weighted criteria, including price, and potential costs to Council are as follows:

Rank	Tender	Total weighted tender score
1	Ernst & Young	75
2	PwC	73
3	Deloitte	68

#### Discussion

Within the confines of accuracy of the evaluation process the scores of the two highest ranking tenderers, Ernst & Young (75) and PwC (73) are effectively equivalent. The Tender Evaluation Management Plan states:

*Tenderers with a difference in total scores of 2 or less will be considered equivalent. In the event that the Evaluation Panel is required to select the preferred Tenderer from a list of Tenderers with equivalent scores, the Evaluation Panel will select the preferred Tenderer on such other relevant factors as the Evaluation Panel determines relevant.*

The tender from Ernst & Young scored the lowest against all non-price criteria. Significantly the scores achieved by Ernst & Young for the “Scope of Analysis” and “Methodology” criteria fell below the benchmark 60% score for “meeting all essential requirements” set out in the Tender Evaluation Management Plan. The Evaluation Panel had significant concerns regarding the proposed methodology delivering the required outcomes for the Councils.

The high overall score achieved by the Ernst & Young tender is solely related to the tender price. Ernst & Young proposed to complete the work for approximately 220 hours less effort than PwC and approximately 320 hours less effort than Deloitte. It is worth noting that the tenders from PwC and Deloitte were within 5% and 2% of the pre-tender estimate respectively.

The Evaluation Panel was of the opinion that the methodology proposed by Ernst & Young, coupled with the relatively low hours of Consultant input, presented a high risk of the consultancy not producing an output suitable to the NSW Government and the Councils. It was further noted that the Ernst & Young day to day contact, being a person material to the success of the consultancy, did not attend the presentation and interview.

On the other hand, the tender submitted by PwC scored the highest against the non-price criteria. The methodology was robust and based on significantly more consultant input than Ernst & Young. In particular there was a significantly greater time allowance made for senior consultant resources.

The Evaluation Panel resolved that, on balance, the tender from PwC represented the best overall outcome for the Councils.

#### **Due Diligence**

Due diligence assessment formed part of the Scheme pre-qualification process. As such additional due diligence was not deemed necessary.

## **RISK ASSESSMENT**

### **General**

When letting a contract various risks exist that may result in the final contract cost exceeding the initial contract sum. These risks vary depending upon the type of work being undertaken; for example, design work versus construction work; and the type of contract, for example Lump Sum versus Schedule of Rates.

Generally, the contract is structured to have the party best placed to manage the risk responsible for that risk outcome. Some risks are passed on to the contractor, with the cost of those risks reflected in the tendered price. Other risks are best managed by Council rather than the contractor, as they would inflate the tender price whether the risk eventuated or not. For this reason Council retains and is required to manage some risks. These are minimised by Council's contract administration processes. However, to manage these risks it is necessary to provide a contingency sum in addition to the tender price to allow for unforeseen additional works that may become necessary during the course of the project.

### **Contract Risks**

Contract risks include Generic Risks (generally found in most contracting situations) and Specific Risks leading to contract variations that have particular application to an individual contract. These major risks are summarised below for this contract.

#### **Generic Risks**

These are risks that Council manages through its contract administration procedures and processes. Major generic risks and mitigation measures for this contract include:

- Consultant experiences financial difficulties or goes into liquidation, leading to additional project delays and costs. Mitigated through financial and referee checks before contract award and timely progress payments.
- Completion time exceeds target leading to delays and damage to Council's reputation. Mitigated through close supervision and prompt directions where required.
- Contract dispute over rights and obligations of the parties. Mitigated through use of standard contract forms, which include dispute resolution mechanisms.

#### **Specific Risks Leading to Contract Variations**

The following are the major risks that Council bears in relation to this contract:

- The Consultant is required to attend additional meetings and/or briefings. Mitigated by careful planning of meetings to maximise "back to back" meetings to reduce additional trips and by setting aside a contingency amount.
- The Councils do not provide the necessary information in a timely manner resulting in delays and/or additional consultant effort. Mitigated by the Executive of each Council championing the importance of the project, coupled with a contingency amount.

#### **5.4 CPA/202812 - Central Coast Water Corporation Cost Benefit Analysis Consultancy (contd)**

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- Key Council staff within the various business units do not make themselves available to meet with the Consultant or attend necessary workshops, resulting in incomplete information being provided to the Consultant and/or additional Consultant visits. Also mitigated by the Executive of each Council championing the importance of the project.
- Brief does not adequately cover all required work and additional investigations are found to be necessary during the consultancy. Mitigated by preparation of comprehensive Brief and peer review of documentation prior to inviting tenders.

#### **Risk Contingency**

The above risks are considered to be medium for this contract given the value of the contract and the nature of the work. Accordingly, it is recommended that a contingency sum of \$58,619.00 (excl GST) representing approximately 15% of the contract sum be approved.

Based on previous experience with contracts of this nature and analysis of the risks involved, it is estimated that there is a high probability that the contract budget of \$440,000.00 (excl GST), which incorporates the contingency allowance, will not be exceeded.

#### **BUDGET**

Funds for the consultancy are available within the budget allocated to the CCWC project team. The costs of the consultancy will be shared equally by Gosford City Council and Wyong Shire Council.

#### **TIME-FRAME**

The time frame for the consultancy is as follows:

- Draft report to be presented to the Councils in late January 2012.
- Workshops to be held with the elected representatives of each Council in early 2012 (separate workshops for Wyong Shire Council and Gosford City Council), followed by a joint workshop with the combined councillors.
- Final draft report to be presented to a meeting of the Central Coast Regional Organisation of Councils in late February 2012.
- Final report to be completed in mid March 2012.

#### **APPROVALS**

No approvals are required.

#### **CONCLUSION**

Tender No 2 from Pricewaterhouse Coopers is the equal highest scoring tender and meets all of Council's requirements for this contract. On balance, this tender represents the best value-for-money for Council. It is recommended that the tender be accepted.

#### **ATTACHMENTS**

*Nil.*

## **6.1 2011-15 Strategic Plan - September Quarter Review**

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TRIM REFERENCE: F2010/01472 - D02827763  
AUTHOR: Mellissa McKee, Corporate Planning Executive  
MANAGER: Cate Trivers, Chief Financial Officer

### **SUMMARY**

This paper reports on Wyong Shire Council's progress performance as measured against the organisation's Strategic Plan for 2011-2015. The report covers the period for the three months ended 30 September 2011 (Q1).

### **RECOMMENDATION**

- 1 That Council receive the Quarterly Review Report for the July – Sept (Q1) quarter of activity as set out in the WSC 2011-15 Strategic Plan.**
- 2 That Council note that Council's Responsible Accounting Officer has declared the financial position of Wyong Shire Council to be satisfactory.**
- 3 That Council approve budget variations as contained in the detailed report enclosure.**

### **BACKGROUND**

Council is required to review its progress each quarter in accordance with the Wyong Shire Annual Plan and s.203 of Local Government (General) Regulations 2005.

Council now prepares a 4-Year Strategic Plan incorporating the Annual Plan and reports on progress against it in terms of actual business performance against budget and against relevant Performance Indicators, Actions and Major Projects set out in the plan.

Council is still classified in "Category 3" of the Integrated Planning and Reporting Framework, but has produced a Strategic Plan to the standard required of "Category 2" Councils. As such, the Local Government Act requires Council to report quarterly on its performance and at least every 6 months on progress with respect to each Principal Activity set out in the Strategic Plan.

The quarterly report is presented in the necessary format and is considered to satisfy both requirements.

### **CURRENT STATUS**

The first quarter of 2011-2012 has seen Council's financial position continue to be challenged. With an original budget operating deficit of \$14.9m, Council faces significant challenges to achieve the 2011-2012 financial sustainability targeted reduction of a \$15.0m operating deficit.

Committed and works in progress commitments from 2010-2011 resulted in \$2.3m in operating carry-overs being brought forward, placing upward pressure on Council's targeted operating result. This combined with negative income trends has resulted in a significant Quarter 1 review of operating budgets to achieve a revised full year budget forecast of a (\$15.5m) operating short-fall, to 30 June 2012.

These adjustments will further tighten the budget but overall the majority of service levels can be maintained within the fiscal target, and ensure Council remains on track to reverse the operating short-falls and return to a break-even position by 2014-2015.

The detailed 2011 First Quarter Management and Budget report (Q1) is included as an enclosure.

It is typical to find that the first quarter of operations each year, is a quieter period of activity than other quarters due to the need to start new works, seal off the previous year's carry-overs and cope with winter weather.

The nature of the changes being made is now approaching a point where further refinements to the cost structure outside of those planned for years 3 & 4 are going to be very difficult to find if Council continues to add to the service levels without subtracting from elsewhere.

Although this report is for the period ending September, Council via the Chamber has approved a number of purchases, staff reports, project enhancements that have material cost implications which cannot be met by the current resources without a negative effect on the year-end projection.

The cumulative impact of changes approved since the beginning of the budget year is broadly estimated at to have a value of \$1m comprised of increased cash needed or diverted staff time and resources.

This estimate is made up of:-

<b>Item</b>	<b>Description</b>	<b>Estimated Impact \$</b>
1.	Increased Governance requirements – e.g. committees	65,000
2.	Additional Staff Reports	110,000
3.	Sponsorships and Promotions – e.g. SEGRA and Central Coast Bears	38,000
4.	Service variations	131,000
5.	Land Acquisition Palmdale Road	605,000
	<b>Total</b>	<b>949,000</b>

If these figures are realised in terms of actual costs the effect on the final result is obvious.

**Financial Implications**

Staff have proposed a number of variations that require Council approval and are outlined in the enclosed report. The cumulative impact is a operating gain of \$1.7m dollars in annual terms.

**Principles of Sustainability**

N/A



**CONSULTATION**

All departments were consulted and involved in the preparation of this report.

**GOVERNANCE**

Quarterly reporting of Council's financial and operating performance is mandatory.

**CONCLUSION**

All requirements of the relevant legislation governing management reporting have been met.

The Responsible Accounting Officer considers that Council's financial position is "satisfactory" – not withstanding that further management actions/decisions will be required to maintain that position.

The financial position represented by the report leaves no room for relaxation of tight budgetary controls, by all concerned.

**ATTACHMENTS**

- 1 Business Report Q1 - September 2011 (D02840539 - Distributed Under Separate Cover) Enclosure

## **6.2 2011-12 Strategic Plan Fees and Charges Amendments**

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TRIM REFERENCE: F2010/01472 - D02827799

MANAGER: Cate Trivers, Chief Financial Officer

AUTHOR: Mellissa McKee; Corporate Planning Executive

### **SUMMARY**

Council's 2011-12 Fees and Charges were adopted by Council on 22 June 2011. A number of amendments to the adopted Fees and Charges are required. This report seeks to adopt an amended Fees and Charges schedule for 2011-12, subject to the public exhibition of an amended document.

### **RECOMMENDATION**

- 1 That Council approve the inclusion of the amended 2011-12 Water and Sewer Fees and Charges as approved by the Minister for Water and published in the Government Gazette on 1 July 2011, as per attachment 1.**
- 2 That Council adopt the proposed changes to the Fees and Charges for 2011-12 as described in attachment 2 after an exhibition period, and;**
  - (a) That Council advertise the amendments referred to in (2) above for a period of 28 days as per Section 610F and 705 of the Local Government Act 1993.**
  - (b) That, subject to no objections, Council apply the proposed fees following the public notification period.**
- 3 That Council adopt the typographical and statutory amendments to the 2011-12 Fees and Charges as described in attachment 3.**

### **BACKGROUND**

Approval is sought to adopt a revised 2011-12 Fees and Charges document to include some amendments and additional fees and charges that were inadvertently missed or omitted during the adoption of the 2011-12 Fees and Charges in accordance with Section 610F of the Local Government Act 1993.

The proposed amendments include:

#### **Water & Sewer Charges (refer attachment 1)**

Council's adoption of the 2011-15 Council Strategic Plan on 22 June 2011 preceded the Minister's gazettal of the approved Water & Sewer Charges on 1 July 2011, requiring Council to adopt the fees as approved by the Minister. These fees have already been advertised and gazetted and this is for information that Council's Fees and Charges document will be updated to include the gazetted fees.

### **Amendments Requiring Public Exhibition (refer attachment 2)**

Council will need to give public notice of its intention to include the following amendments and additions to the 2011-12:

- **Group Fitness / Training Fees**

The adopted 2011-12 Fees and Charges includes a per season fee for Group Fitness / Training Fees, which covers a six month period. It has been identified that there are some users who would be interested in booking on a less frequent basis and therefore it is proposed to introduce a casual per session fee for the use of Council's open space facilities. The introduction of this fee is not expected to have a significant budget impact.

- **Penalty for unauthorised use of including but not limited to sportsgrounds, parks and reserves**

Introduction of a penalty for the unauthorised use of Council sportsgrounds, parks and reserves to act as a deterrent to unauthorised use of Council facilities.

- **Toowoan Bay Holiday Park**

A new fee at Toowoan Bay Holiday Park for electricity supply charge, to be charged at the applicable percentage rate as specified by Country Energy, also usage rate per unit as per rates set by Country Energy. At present only permanent residents are being charged for electricity usage. The proposal is to charge for electricity in lieu of the normal occupation fee increase.

Letters have been sent to affected customers advising them of this proposed change.

- **Fee for Referral to Design Review Panel**

Correction of misstatement of fee in adopted document. This amendment has no impact on budgeted revenue, as the correct fee amount was used when calculating the revenue budget.

- **Fees for amending a Construction Certificate when a Development Consent is amended by a section 96 application.**

This change links the level of work required to the fee and has no impact on the budgeted revenue as the proposed fee was used when calculating the revenue budget.

- **Fees for critical stage inspections, where Council has issued the Construction Certificate and is the nominated Principal Certifying Authority (PCA)**

The changes to these fees are required to align the fee structure to Council's business plans and adopted budget and have no impact on budgeted revenue in the Building Certification and Health Service Unit, as the proposed fees were used when calculating the revenue budget.

### **Typographical and statutory changes (refer attachment 3)**

#### **The following amendments do not require advertising and public exhibition:**

- Personal and group training fees; change of client numbers to more effectively align to the community user groups.
- Holiday Parks Explanation notes, inclusion of a standard page of explanation of fees charged, including definitions of holiday periods, that was omitted from adopted document.
- School Usage of Sportsground; clarification of the fees charged/not charged to schools.

- Maximum Interest on Overdue Rates & Charges, amended to reflect the rates approved and communicated by the Department of Premier and Cabinet (Local Government) post exhibition.
- Development Application Fees, More than \$10,000,000, correction of typographical error in adopted document.

**THE PROPOSAL**

To adopt a revised 2011-12 Fees and Charges document.

**STRATEGIC LINKS**

**Wyong Shire Council Strategic/ Annual Plan**

Council's 2011-12 Fees and Charges were adopted on 22 June 2011 as part of Council's 2011-2015 Strategic Plan.

**Budget Impact**

The proposed amendments to the 2011-12 Fees and Charges are of a minor nature and will have minimal impact on Council's budget. The Water and Sewer fees and charges approved by the Minister of Water were used in preparation of income estimates in the 2011-2012 Budget.

**CONSULTATION**

All departments were consulted and involved in the preparation of this report.

**GOVERNANCE AND POLICY IMPLICATIONS**

Council's Fees and Charges were adopted in accordance with relevant legislation.

**CONCLUSION**

Council's 2011-12 Fees and Charges were adopted by Council on 22 June 2011 and since that time a number of amendments have come to our attention. This report seeks to adopt an amended Fees and Charges schedule for 2011-12, subject to the public exhibition of an amended document.

**ATTACHMENTS**

1	Attachment 1 - Water and Sewer Fees and Charges 2011-12 as per Government Gazette	D02836774
2	Attachment 2 - Amendments to 2011-12 Fees and Charges that require public exhibition	D02836840
3	Attachment 3 - Minor Amendments to 2011-12 Fees and Charges	D02836841

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WYONG SHIRE COUNCIL  
Water Management Act 2000  
Statement of Charges for 2011/2012

IN accordance with section 501 (1) of the Local Government Act 1993 Council may make and levy an annual charge for the following services:

- Water supply services
- Sewerage services
- Drainage services

**WATER SUPPLY, SEWERAGE AND DRAINAGE SERVICE CHARGES**

Being constituted as a Water Supply Authority under the Water Management Act 2000 all of Council's water, drainage and sewerage charges are subject to approval by the Minister for Water following determination by the Independent Pricing and Regulatory Tribunal (IPART).

Water, drainage and sewerage charges for 2011/2012 are as per IPART's Water – Determination and Final Report - May 2009.

**Pension Rebates - Water and Sewerage Service Charges**

In accordance with Part 8, Division 5 of the Water Management (Water Supply Authorities) Regulation 2004 Council provides a reduction of 50% of the water service charges levied up to a maximum of \$87.50 and a further reduction of 50% of sewerage service charges levied up to a maximum of \$87.50. Of these reductions 55% is reimbursed by the New South Wales Government.

**WATER CHARGES**

The proposed charges for water supply are as follows:

**Water Service Charge – Metered Services**

Nominal Pipe/Meter Size (mm)	Total (\$)
20	157.53
25	237.59
40	584.49
50	904.71
80	2,291.33
100	3,573.22
150	8,020.73
200	14,247.25
250	22,252.71

The above charges incorporate the State Government's "Climate Change Fund" contribution of \$15.21 per property (subject to gazettal).

Charges for meters not specified above are calculated using the formula:  $(\text{Meter Size})^2 \times \$142.32 / 400 + \$15.21$ .

**Water Usage Charge**

All water consumed is proposed to be charged at the rate of \$1.98 per kilolitre.

**Water Service Charges Strata Title Properties**

It is proposed that where water usage to a residential strata titled property is measured through a common meter, each individual strata title lot be levied a service charge of \$157.53 (Inclusive of the Climate Change Levy of \$15.21). Water usage is to be apportioned and charged to the various lots in the strata plan in accordance with the schedule of unit entitlement and charges to the strata title owners at the rate of \$1.98 per kilolitre.

**Water Service Charges Retirement Villages**

It is proposed that where water usage to a retirement village is measured through a common meter only, the service charge is to be commensurate with the size of the meter. Usage consumed through the common meter is to be charged at the rate of \$1.98 per kilolitre.

**Water Service Charges Community Development Lot**

It is proposed that where water usage to a community development lot is measured through a common meter only, the service charge is to be commensurate with the size of the meter and this charge is apportioned to the various lots in the community development lot

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in accordance with the schedule of unit entitlement. Usage consumed through the common meter is to be apportioned and charged to the individual unit owners in accordance with the unit entitlement at the rate of \$1.98 per kilolitre.

#### Water Service Charges Company Title Dwelling

It is proposed that where water usage to a company title dwelling is measured through a common meter only, each individual company title dwelling be levied a service charge of \$157.53 (Inclusive of the Climate Change Levy of \$15.21). Water usage is to be charged to the owner of the company title building (within the company title dwelling) at the rate of \$1.98 per kilolitre.

#### Water Service Charges Vacant Land

It is proposed that a water service charge be levied on vacant land which is not connected to the water supply system but is reasonably available for connection to the water supply system at the rate of \$157.53 (Inclusive of the Climate Change Levy of \$15.21).

#### Nominal Service Size

Where water pressure requires larger sizes of pipes and meters a charge as assessed by Council will apply.

#### Water Fire Service

There is no charge for a separate Water Fire Service. Where a property has a combined fire and commercial service the property will be charged a Water Service Charge – Metered Service commensurate with the meter size.

#### Part Year Charges and Fees

For those properties that become chargeable or non-chargeable during the year a proportional charge or fee calculated on a weekly basis is applied.

### SEWERAGE SERVICE CHARGES

#### Residential Charges

##### Single Residential Properties Including Residential Strata Properties and Company Title Dwellings

It is proposed to continue the current charging structure based on a service charge for each residential property. The proposed charge is \$450.31 for each single residential property/lot/dwelling. There is no usage charge for this category.

##### Metered Non-Residential Charges

In the determination of Council's 1995/96 charges, the Independent Pricing and Regulatory Tribunal approved the introduction of a pay for use system of charging for sewerage based upon a service charge and a usage charge.

Non-Residential customers are those that do not meet the classification as a single residential customer. These include non strata titled residential units and Retirement Villages.

In line with this approval it is proposed to continue with this charging structure, as detailed below:

The maximum price for sewerage services to a non-residential property connected to the sewerage system is the greater of:

- The non-residential minimum sewerage charge; or
- The sum of the non-residential sewerage service charge commensurate with meter size and the non-residential sewerage usage charge.

#### Non-Residential Properties - Service Charge

Meter Size (mm)	Meter Charge (\$)
20	\$162.23 x discharge factor
25	\$253.48 x discharge factor
40	\$648.92 x discharge factor
50	\$1,013.93 x discharge factor
80	\$2,595.66 x discharge factor
100	\$4,055.71 x discharge factor
150	\$9,125.35 x discharge factor
200	\$16,222.85 x discharge factor
250	\$25,347.93 x discharge factor

A discharge factor is applied to the charge based on the volume of water discharged into Council's sewerage system.

Charges for meters not specified above are calculated using the formula:  $(\text{Meter Size})^2 \times \$162.23 / 400 \times \text{discharge factor}$ .

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**Non-Residential Properties - Usage Charge**

The price for sewerage usage charges is proposed to be 81.00 cents per kilolitre.

The usage charge is to be based on the estimated volume of metered water usage discharged into the Council's sewerage system. Metered water usage is to be multiplied by a discharge factor, based on the type of premises to estimate the volume of water discharged.

**Non-Residential Properties - Minimum Charge**

The proposed minimum amount payable for a non-residential customer is \$450.31

**Non-Residential Properties - Community Development Lots**

The proposed sewerage service charge for a community development lot is calculated by: the non-residential sewerage usage charge commensurate with meter size apportioned to the various lots in the community development lot in accordance with the schedule of unit entitlement.

**Nominal Service Size**

Where water pressure requires larger sizes of pipes and meters a charge as assessed by Council will apply.

**Sewerage Service Fees – Exempt Properties**

For all properties exempt from service charges under Schedule 4 of the Water Management Act 2000 it is proposed that a fee be charged, in accordance with Section 310(2) of the Act, of \$63.57 per annum for each water closet and \$22.51 per annum for each cistern servicing a urinal where installed.

**Sewerage Service Charges – Vacant Land**

It is proposed that the charge for sewerage services on vacant land which is not connected to the sewerage system but is reasonably available for connection to the sewerage system is \$337.74.

**Liquid Trade Waste Charges**

A summary of the trade waste policy outlining the property classifications and charges is as follows:

Premises are classified into the following classifications:

- Classification A is for low risk liquid trade waste. Is of low volume and/or strength and has standard non-complex pre-treatment requirements.
- Classification B is for medium risk liquid trade waste (<20kL per day) with prescribed pre-treatment requirements.
- Classification C is for high risk and large liquid trade waste dischargers which are not nominated as a Classification A or B discharger and/or involve a discharge volume of over 20 kL/day.
- Classification S is for acceptance of septic tank waste, pan waste and ship-to shore pump-outs into Council's sewerage system. Private pumping stations are also included in Category S

Categories for liquid trade waste pricing:

Pricing for Liquid Trade Waste discharges from the above classifications (excluding Classification S) is calculated based on the following three categories.

Category 1 Liquid Trade Waste Dischargers are those conducting an activity deemed by Council as requiring nil or minimal pre-treatment equipment and whose effluent is well defined and or relatively low risk to the sewerage system. The volume discharge to sewer is deemed to be low. Also included are Classification A or B activities with prescribed pre-treatment but low impact on the sewerage system.

Category 2 Liquid Trade Waste Dischargers are those conducting an activity deemed by Council as requiring a prescribed type of liquid trade waste pre-treatment equipment and whose effluent is well characterised. The volume discharged to sewer may be approved up to 20kL/day.

Category 3 Liquid Trade Waste Dischargers are those conducting an activity which is of an industrial nature and/or which results in the discharge of large volumes (generally over 20kL/day) of liquid trade waste to the sewerage system. Any Category 1 or 2 discharger whose volume exceeds 20 kL/day becomes a Category 3 discharger.

Category S Liquid Trade Discharges are those conducting an activity of transporting and/or discharging septic tank waste, pan waste and ship to shore pump-outs into the sewerage system. Private pumping stations are included in Category S however the septic waste Disposal charge does not apply.

The charging components associated with Category 1, 2, 3 & S are indicated below:

Liquid Trade Waste Discharge Category	Liquid Trade Waste Application Fee	Annual Trade Waste Fee	Re-inspection Fee	Liquid Trade Waste Usage Charge/ kL	Excess Mass Charges/ kg	Non-compliance Excess Mass Charges	Septic Waste Disposal Charge
1	Yes	Yes	Yes	No	No	No	No
2	Yes	Yes	Yes	Yes	No	No	No
3	Yes	Yes	Yes	No	Yes	Yes	No
S	Yes	Yes	Yes	No	No	No	Yes

NEW SOUTH WALES GOVERNMENT GAZETTE No. 65

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## TRADE WASTE CHARGES

Charge Component	Basis	Proposed Charge \$
Trade Waste Application Fee	<p>The application fee covers the cost of administration and technical services provided in processing an application on a scale related to the category into which the discharger is classified, and reflects the complexity of processing the application. It includes processing change of ownership of the discharger.</p> <p>The application fee for Category 2 dischargers covers the primary treatment device e.g. grease arrestor, with an additional fee for each subsequent treatment device.</p> <p>The application fee for Category 3 dischargers includes allowance for two site visits during the construction stage. Additional site visits will incur an extra cost.</p> <p>The Application Fee for Category S discharges covers the cost of administration and one inspection of the installation.</p>	Category 1 – 46.81 Category 2 – 59.58 Category 3 – 913.80 Category S – Residential 49.34 – Non-Residential 199.52
Annual Trade Waste Fee	This fee recovers the cost incurred by Council for administration and the scheduled inspections each year to ensure a liquid trade waste discharger's ongoing compliance with the conditions of their approval.	Category 1 – 81.87 Category 2 – 327.49 Category 3 – 550.12 Category S – Residential 43.88 – Non-Residential 89.12
Re-inspection Fee	Where non-compliance with the conditions of an approval has been detected and the discharger is required to address these issues, Council will undertake re-inspections to confirm that remedial action has been satisfactorily implemented. Council will impose a fee for each re-inspection. The re-inspection fee will be based on full cost recovery.	All Categories – \$76.76 per inspection
Trade Waste Usage Charge	The trade waste usage charge is imposed to recover the additional cost of transporting and treating liquid trade waste from Category 2 dischargers. Either one of two charges is applicable.	0.66/kL – Compliant pre-treatment equipment 14.06/kL – Non-compliant pre-treatment equipment.
Excess Mass and Non-compliant Excess Mass Charge	Excess mass charges will apply for the substances specified that are discharged in excess of the deemed concentrations in domestic sewage.	0.68 / kg 0.87 / kg 1.23 / kg 0.68 / kg 0.38 / kg
Biochemical Oxygen Demand Suspended Solids Total Oil and Grease Ammonia (as Nitrogen) pH Total Kheldhal Nitrogen Total Phosphorus Total Dissolved Solids Sulphate (as SO <sub>4</sub> )	<p>Non-compliant excess mass charges will apply for the substances specified that are discharged in excess of the Trade Waste Approval Limit.</p> <p>The nominated charges are applied in accordance with the formulas contained in Council's Liquid Trade Waste Policy.</p>	0.17 / kg 1.40 / kg 0.04 / kg 0.13 / kg

In addition to the substances listed above, the following excess mass charges will apply per kilogram of waste discharged in excess of the Liquid Trade Waste Policy Guideline Acceptance Limits. Non-compliant excess mass charges will apply for trade waste discharged in excess of the Liquid Trade Waste Approval Limit. The nominated charges are applied in accordance with the formulas contained in Council's Liquid Trade Waste Policy.

Substance	Proposed Charge \$	Substance	Proposed Charge \$
Aluminium	0.68 / kg	Manganese	6.91 / kg
Arsenic	0.68 / kg	Mercaptans	69.08 / kg
Barium	34.54 / kg	Mercury	2,302.80 / kg



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Boron	0.68 / kg	Methylene Blue Active Substances (MBAS)	0.68 / kg
Bromine	13.81 / kg	Molybdenum	0.68 / kg
Cadmium	319.83 / kg	Nickel	23.02 / kg
Chloride	No Charge	Organoarsenic compounds	690.84 / kg
Chlorinated Hydrocarbons	34.54 / kg	Pesticides general (excludes organochlorines and organophosphates)	690.84 / kg
Chlorinated Phenolics	1,381.68 / kg	Petroleum Hydrocarbons (non-flammable)	2.30 / kg
Chlorine	1.40 / kg	Phenolic compounds (non-chlorinated)	6.91 / kg
Chromium	23.02 / kg	Polynuclear aromatic hydrocarbons (PAH's)	14.06 / kg
Cobalt	14.06 / kg	Selenium	48.61 / kg
Copper	14.06 / kg	Silver	1.27 / kg
Cyanide	69.08 / kg	Sulphide	1.40 / kg
Fluoride	3.44 / kg	Sulphite	1.52 / kg
Formaldehyde	1.40 / kg	Thiosulphate	0.24 / kg
Herbicides/defoliant	690.84 / kg	Tin	6.91 / kg
Iron	1.40 / kg	Uranium	6.91 / kg
Lead	34.54 / kg	Zinc	14.06 / kg
Lithium	6.91 / kg		

## Septic Waste Disposal Charges (Category S)

In accordance with the provisions of Section 310(2) of the Water Management Act 2000 and Clause 6 of the Water Management (Water Supply Authorities) Regulation 2004, it is proposed the maximum fees for the period 1 July 2010 to 30 June 2011 be as follows:

SERVICE	Proposed Cost of Service
<b>Residential</b>	
Fortnightly effluent removal and disposal service	1,037.36 per annum
Additional effluent removal and disposal service	40.15 per service
Sudge removal and disposal services	
• Septic tanks with a capacity up to 2750 litres	291.01 per service
• Septic tanks exceeding 2750 litres or AWTS with one tank	377.55 per service
• AWTS with more than one tank	563.20 per service
• Sudge disposal only (collection organised by customer)	31.36 per kilolitre
<b>Non-Residential</b>	
Commercial effluent removal and disposal service	13.31 per kilolitre
Sudge removal and disposal services	
• Septic tanks with a capacity up to 2750 litres	291.01 per service
• Septic tanks exceeding 2750 litres or AWTS with one tank	377.55 per service
• AWTS with more than one tank	563.20 per service
• Sudge disposal only (collection organised by customer)	31.36 per kilolitre

Charge Component	Basis	Proposed Charge \$
Septic and Chemical Toilet Charges	Volume charges will apply for each kilolitre of waste specified, that is discharged to the sewerage system.	15.35 / kL

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## Chemical Closet Charges (Category S)

In accordance with the provisions of Section 310(2) of the Water Management Act 2000, and Clause 6 of the Water Management (Water Supply Authorities) Regulation 2004, it is proposed the maximum fees for the period 1 July 2010 to 30 June 2011 be as follows:

Type of Service	Proposed Cost of Service \$
Annual Fortnightly service	1,495.13
Each requested weekly special service	29.12

It should be noted that Trade Waste Charges apply in addition to Sewer service charges.

Where properties discharging Liquid Trade Waste become chargeable or non-chargeable for a part of the financial year a proportional charge calculated on a weekly basis is to apply.

## DRAINAGE SERVICE CHARGES

In its Determination of Council's 2009/10 charges, the Independent Pricing and Regulatory Tribunal approved the introduction of a drainage service charge.

## Residential Charges

## Single Metered Residential Properties

The proposed charge is \$87.23 for each single residential property/lot/dwelling. There is no usage charge for this category.

## Metered Non-Residential Properties

Non-Residential Properties are those that do not meet the definition of Residential Properties or Multi Premises Properties.

It is proposed to use the charging structure detailed below for Non-Residential Properties that are serviced by a water meter:

Meter Size (mm)	Meter Charge \$
20	87.23
25	136.30
40	348.90
50	545.16
80	1,395.62
100	2,180.65
150	4,906.47
200	8,722.61

Charges for meters not specified above are calculated using the formula:  $(\text{Meter Size})^2 \times \$87.23 / 400$ .

## Nominal Service Size

Where water pressure requires larger sizes of pipes and meters a charge as assessed by Council will apply.

## Multi Premises Properties

The proposed charge is \$65.42 for each Multi Premises property that is serviced by a common water meter or multiple common water meters.

## Multi Premises properties include;

- a) Strata Title lots
- b) Company Title dwellings
- c) Community Development lots
- d) Retirement Village units and
- e) a part of a building lawfully occupied or available for occupation (other than those described in paragraphs a) to d) above.

Multi Premises properties do not include hotels, motels, guest houses or backpackers hostels.

Service No.	Description	2011/2012 Charge
1	Conveyance Certificate <i>Statement of Outstanding Charges</i> a) Over the counter	17.82 No GST
2	Property Sewerage Diagram – up to and including A4 Size (where available) <i>Diagram showing the location of the house service line, building and</i>	

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	<i>sewer for the property.</i>	
	a) Certified	17.82
	b) Uncertified	17.82
		No GST
3	Service Location Diagram <i>Location of sewer and /or water mains in relation to a property's boundaries</i>	
	a) Over the counter	17.82
		No GST
4	Special Meter Reading Statement	54.64
		No GST
5	Billing Record Search Statement – Up to and including 5 years	17.82
		No GST
6	Water Reconnection	
	a) During business hours	36.83
	b) Outside business hours	152.06
		No GST
	Workshop Test of Water Meter	
7	<i>Removal and full mechanical test of the meter by an accredited organisation at the customer's request to determine the accuracy of the water meter. This involves dismantling and inspection of meter components.</i>	
	20mm	
	25mm	
	32mm	
	40mm	182.94
	50mm	182.94
	60mm	182.94
	80mm	182.94
		182.94
		182.94
		182.94
		No GST
8	Application for Disconnection – All sizes	30.87
		No GST
9	Application for Water Service Connection (all sizes) <i>This covers the administration fee only. There will be a separate charge payable to the utility if they also perform the physical connection.</i>	30.87
		No GST
10	Metered Standpipe Hire	
	Security Bond (25mm) .....	
	Security Bond (63mm) .....	376.60
	<i>These charges are refunded to the customer on return (in satisfactory condition) after completion of use.</i>	724.67
		No GST

## MISCELLANEOUS CHARGES

In accordance with the provisions of Section 310(2) of the Water Management Act 2000 and Clause 6 of the Water Management (Water Supply Authorities) Regulation 2004, it is proposed the maximum fees for the period 1 July 2010 to 30 June 2011 be as follows:

Service No.	Description	2011/2012 Charge
11	Metered Standpipe Hire Annual Fee Quarterly Fee Monthly Fee (or part thereof)	As per water service charge based on meter size. (pro-rata for part of year)
12	Standpipe Water Usage Fee All Usage	As per standard water usage charges per kilolitre.

13	Backflow Prevention Device Application and Registration Fee <i>This fee is for the initial registration of the backflow device</i>	62.96 No GST
14	Backflow Prevention Application Device Annual Administration Fee <i>This fee is for the maintenance of records including logging of inspection reports.</i>	Nil
15	Major Works Inspections Fee <i>This fee is for the inspection, for the purpose of approval, of water and sewer mains, constructed by others, that are longer than 25 metres and/or greater than 2 metres in depth</i>  Water Mains (\$ per metre) Gravity Sewer Mains (\$ per metre) Rising Sewer Mains (\$ per metre)	5.47 7.29 5.47 No GST
16	Statement of Available Pressure and Flow <i>This fee covers all levels whether hydraulic modelling is required or not.</i>	133.05 Incl GST
17	Underground Plant Locations Council assists in on-site physical locations <i>Customer to provide all plant required to expose asset.</i>  Council undertakes on-site physical locations <i>Council to provide all plant and labour to expose asset</i>	\$80.36 per hour for first hour or part thereof then \$19.59 per 15 minutes or part thereof  \$133.93 per hour for first hour or part thereof then \$33.32 per 15 minutes or part thereof  Incl GST
18	Plumbing and Drainage Inspection Residential Single Dwelling, Villas & Units Alterations, Caravans & Mobile Homes Commercial & Industrial Alterations Additional Inspections	162.04/unit 81.66 /permit 162.04 (plus 47.03/WC) 81.66 /permit 60.11 /inspect Incl GST
19	Billings Record Search – Further Back than 5 years	\$17.82 for the first 15 minutes or part thereof then \$11.87 per 15 minutes or part thereof No GST
20	Relocate Existing Stop Valve or Hydrant <i>Price exclusive of plant hire charges, material costs and traffic control where applicable</i>	\$121.76 per hour for first hour or part thereof then \$30.29 per 15 minutes or part thereof No GST
21	Provision of Water Services Application for water service connection fee is also applicable Meter Only (20mm) Short service – 20mm Long service – 20mm. Short service – 25mm Long service – 25mm Short service – 40mm Long service – 40mm	104.54 634.38 634.38 769.82 769.82 1,446.98 1,923.36

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	Short service – 50mm Long service – 50mm Larger services * * Provision of live main connection only. Price exclusive of plant hire charges, material costs and traffic control where applicable.	2,064.73 2,545.87 \$121.76 per hour for first hour or part thereof then \$30.29 per 15 minutes or part thereof. No GST
22	Water Sample Analysis For testing of standard water quality parameters (Private supplies)	81.66 incl GST
23	Raise / Lower / Adjust Existing Services (No more than 2 metres from existing location) 20mm service only – no materials Larger services or requiring materials	122.37 by quote No GST
24	Relocate Existing Services Short – 20mm Long – 20mm Larger Services (> 20mm)	308.87 481.14 by quote No GST
25	Alteration from Dual Service to Single Service 20mm service only	369.47 No GST
26	Disconnection of Existing Service	120.53 No GST
27	Sewerage Drainage Arrestor Approval Annual Inspection	99.79 30.29 No GST
28	Sewerage Junction Cut-in (150mm) <i>No excavation, no concrete encasement removal, no sideline, junction within property. Excavation provided by customer.</i>	300.56 Incl GST
29	Sewerage Junction Cut-in (150mm) with sideline less than 3m <i>No excavation, no concrete encasement removal, no sideline, junction outside property. Excavation provided by customer.</i>	314.81 Incl GST
30	Sewerage Junction Cut-in (225mm) <i>No excavation, no concrete encasement removal, no sideline, junction within property. Excavation provided by customer.</i>	703.29 Incl GST
31	Sewerage Junction Cut-in (225mm) with sideline less than 3m <i>No excavation, no concrete encasement removal, no sideline, junction outside property. Excavation provided by customer.</i>	742.48 Incl GST
32	Sewerage Junction Cut-in Greater than 225mm or where excavation or removal of concrete encasement required by Council <i>Price exclusive of plant hire charges, material costs and traffic control where applicable.</i>	\$133.93 per hour for first hour or part thereof then \$33.32 per 15 minutes or part thereof Incl GST

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29 June 2011

33	Sewer Main Encasement with Concrete Encasement inspection fee when construction is not by Council Construction by Council	101.57 by quote Incl GST
34	Sewer Advance Scheme – Administration Charge	265.28 Incl GST
35	Raise and Lower Sewer Manholes Raise manhole greater than 300mm <i>Price listed is the manhole adjustment inspection fee. Charge for actual physical adjustment is by quote.</i>	101.57 No GST
36	Supply of reticulated tertiary treated sewerage effluent Except when covered by individual agreement	0.99/kL No GST

Attachment 2 - Fees & Charges Amendments Requiring Public Exhibition					
Fee Description From	Fee Description To	Amount From	Amount To	Reason For Change	
	Group Fitness / Training Fee (1-9 clients) Casual Session (5 1/2 hours)	New	\$ 13.00	Introduction of casual per session fee.	
	Group Fitness / Training Fee (10-18 clients) Casual Session (5 1/2 hours)	New	\$ 25.00	Introduction of casual per session fee.	
	Penalty for unauthorised use of including but not limited to sportsgrounds, parks and reserves	New	\$ 420.00	Introduction of penalty for unauthorised use.	
Toowoomba Bay Holiday Park					
Storage					
Standard					
Option 1 (Includes up to 110 nights usage for 4 people per stay and continuous water)	No Change	\$ 4,820.00	\$ 5,000.00	A new fee at Toowoomba Bay Holiday Park for; Electricity supply charge, to be charged at the applicable percentage rate as specified by Country Energy, also usage rate per unit as per rates set by Country Energy. At present only permanent residents are being charged for electricity usage. The proposal is to charge for electricity in lieu of the normal occupation fee increase.	
Option 2 (Includes up to 180 nights usage for 8 people per stay and continuous water)	No Change	\$ 5,420.00	\$ 5,600.00		
Prime					
Option 1 (Includes up to 110 nights usage for 4 people per stay and continuous water)	No Change	\$ 6,270.00	\$ 6,500.00	A new fee at Toowoomba Bay Holiday Park for; Electricity supply charge, to be charged at the applicable percentage rate as specified by Country Energy, also usage rate per unit as per rates set by Country Energy. At present only permanent residents are being charged for electricity usage. The proposal is to charge for electricity in lieu of the normal occupation fee increase.	
Option 2 (Includes up to 180 nights usage for 8 people per stay and continuous water)	No Change	\$ 6,820.00	\$ 7,100.00		
9.12 Referral to Design Review Panel					
Medium Level of Service (Statutory Fee \$600 & Professional Services \$497.25 + 20 minutes with Panel)	Medium Level of Service (Statutory Fee \$760 & Professional Services \$497.25 + 20 minutes with Panel)	\$ 1,150.00	\$ 1,257.25	Misstatement of published document	
High Level of Service (Statutory Fee \$600 & Professional Services \$863 + 45 minutes with Panel)	High Level of Service (Statutory Fee \$600 & Professional Services \$863 + 45 minutes with Panel)	\$ 1,550.00	\$ 1,623.00	Misstatement of published document	

Fees for amending a Construction Certificate when a Development Consent is amended by a section 96 application. The fees for the CC are linked to the type of section 96 application and the classification of the						
Modification - Class 1&10	Delete		50% or maximum \$500	Delete		
Modification - Class 2 to 9	Delete		50% or maximum \$500	Delete		
	Modification - Section 96(1) - Council Error		New	Free		This change links the level of work required to fee.
	Modification - Section 96(1) - Applicant's Amendment		New	\$ 55.00		This change links the level of work required to fee.
	Modification - Section 96(1a) - Class 1 & 10 buildings		New	\$ 125.00		This change links the level of work required to fee.
	Modification - Section 96(1a) - Class 2 to 9 buildings		New	50% of original fees up to a max of \$250.00		This change links the level of work required to fee.
Fees for critical stage inspections. Where Council has issued the Construction Certificate and is the nominated Principal Certifying Authority (PCA)						
Class 1 & 10 Buildings						
	Up to \$20,000	\$	360.00	\$	390.00	Align Fee structure to Council's business plans
	\$20,001 to \$50,000	\$	480.00	\$	520.00	Align Fee structure to Council's business plans
	\$50,001 to \$100,000	\$	600.00	\$	650.00	Align Fee structure to Council's business plans
	\$100,001 to \$300,000	\$	720.00	\$	780.00	Align Fee structure to Council's business plans
	\$300,001 to \$500,000	\$	840.00	\$	910.00	Align Fee structure to Council's business plans
	\$500,001 to \$1,000,000		New		By Negotiation	Align Fee structure to Council's business plans
	Over \$1,000,000		New		By Negotiation	Align Fee structure to Council's business plans
	Inspection over and above the number of inspections in the service agreement		New	\$	130.00	Align Fee structure to Council's business plans
Fees for critical stage inspections. Where Council has issued the Construction Certificate and is the nominated Principal Certifying Authority (PCA)						
Class 2 to9 Buildings						
	Up to \$20,000	\$	360.00	\$	390.00	Align Fee structure to Council's business plans
	\$20,001 to \$50,000	\$	480.00	\$	650.00	Align Fee structure to Council's business plans
	\$50,001 to \$100,000	\$	600.00	\$	780.00	Align Fee structure to Council's business plans
	\$100,001 to \$300,000	\$	720.00	\$	1,040.00	Align Fee structure to Council's business plans
	\$300,001 to \$500,000	\$	960.00	\$	1,560.00	Align Fee structure to Council's business plans
	\$500,001 to \$1,000,000	\$	1,440.00	\$	1,820.00	Align Fee structure to Council's business plans
	Over \$1,000,000	\$	1,680.00		By Negotiation	Align Fee structure to Council's business plans
	Inspection over and above the number of inspections in the service agreement	\$	120.00	\$	130.00	Align Fee structure to Council's business plans
Separate to the standard fees for Construction Certificates, Complying Development Certificates, and Critical Stage Inspections, Council may negotiate Certification Fee Packages with Commercial Clients. Commercial Clients: are defined as Construction Companies/Builders that undertake significant works either in value (generally over \$500,000) or quantity (generally over 10 developments p/a) within Wyong Shire.						



Attachment 3 – Typographical and Statutory Fees & Charges Amendments				
Fee Description From	Fee Description To	Amount From	Amount To	Reason For Change
Fitness' Personal training fee (1-3 clients)	Group Fitness Fee (1-9 clients)	No Change	No Change	To more effectively align to the community user groups
Fitness' Group Training Fee' (3-18 clients)	Group Training Fee (10-18 clients)	No Change	No Change	To more effectively align to the community user groups
Holiday Parks Explanation notes. (See below)	No Change	No Change	No Change	Inclusion of a standard page of explanation of fees charged, including definitions of holiday periods (see below)
School Usage - Ground Only School Usage - Ground only in School Hours NB Excludes inter-school competitions	School PDHPE and sport lessons and school training sessions	Free	Free	The Council Strategic Plan 2011-15 clarified school usage to come into relative parity with our neighbouring Local Government Areas
	School matches/competition where there is no requirement for change facilities, toilets and bins	Free	Free	The Council Strategic Plan 2011-15 clarified school usage to come into relative parity with our neighbouring Local Government Areas
	Usage related to the Premier's Primary School Sport Challenge	Free	Free	The Council Strategic Plan 2011-15 clarified school usage to come into relative parity with our neighbouring Local Government Areas
	Community sport fee - Inter-school competition and tournaments - Sports development days aimed at school aged participants	Free	\$49-\$70 per day	The Council Strategic Plan 2011-15 clarified school usage to come into relative parity with our neighbouring Local Government Areas
Maximum Interest On Overdue Rates & Charges	No Change	9%	10.75%	Amended to reflect these rates approved and communicated by the Department of Premier and Cabinet (Local Government) post exhibition. (Refer below)
9.01 Development Application Fees				
More than \$10,000,000 – Base rate \$1,745 plus \$1.64 for each \$1,000 (or part of \$1,000) of the estimated cost	More than \$10,000,000 Base plus index – Base rate \$15,875 plus \$1.19 for each \$1,000 (or part of \$1,000) of the estimated cost	\$1,745.00 Base rate	\$15,875 Base rate + \$1.19 per \$1K	Misstatement of original published document

**2.9 HOLIDAY PARK FEES**

Prices quoted are maximums, discounts may be available depending upon vacancy numbers. Discounts are offered in accordance with industry best practices to ensure high levels of occupancy across the Holiday Parks.

Promotional packages and incentives are offered throughout the year at different Holiday Parks. Promotions tend to involve consecutive day stays while incentives are offered in accordance with commercial practices. Please contact the free call central reservation centre on 1800 241 342 or alternatively [www.cchp.com.au](http://www.cchp.com.au) to determine the packages and incentives that are available.

Section 404 (5) of the Local Government Act states "The statement of fees and the statement of the pricing policy need not include information which could confer a commercial advantage on a competitor of the Council".

A new fee at Toowoomba Bay Holiday Park for; Electricity supply charge, to be charged at the applicable percentage rate as specified by Country Energy, also usage rate per unit as per rates set by Country Energy. At present only permanent residents are being charged for electricity usage. The proposal is to charge for electricity in lieu of the normal occupation fee increase. Please refer to attachment.

A new fee of \$40 for cabin guest who check out late.

A new late check out fee for powered tourist sites of - \$15.00 to 2pm & \$20.00 to 5pm, nightly tariff would be charged after 5pm.

**BOOKING PERIODS -****Peak Period:**

- Christmas Holidays 24 December 2011 to 14 January 2012 inclusive.
- Easter 5- 8 April 2012 inclusive.
- October long weekend 29 September- 1 October 2012 inclusive.

**Shoulder Period:**

- 1 September 2011 to 23 December 2011 inclusive. Excluding October Long weekend.
- 15 January 2012 to 20 April 2012 inclusive. Excluding Easter and Australia Day weekend.
- Queens Birthday Weekend 8-10 June 2012 inclusive.

**Off Peak Period:**

- All other periods other than Shoulder and Peak.

## **INTEREST ON OVERDUE RATES AND CHARGES**

In accordance with Section 566 of the Local Government Act 1993 and Section 356 of the Water Management Act 2000 Council charges interest on all rates and charges which

remain unpaid after they become due and payable. Interest will be calculated on a daily basis using the simple interest method.

The due dates for payment of rates and charges are as follows:

- If payment is made in a single instalment, the instalment is payable by 31 August 2011.
- If payment is made by quarterly instalments, the instalments are payable by 31 August 2011, 30 November 2011, 28 February 2012 and 31 May 2012.
- For water usage charges, the account is due 30 days after posting date.

The rate of interest applied to overdue rates and charges levied under the Local Government Act 1993 will be the maximum rate of 11% as specified by the Minister for Local

Government and published in the Government Gazette.

The rate of interest applied to overdue charges levied under the Water Management Act 2000 will be the rate of interest payable for the time being on an unpaid judgment of

the Supreme Court which is calculated according to Rule 36.7(1) of the Civil Procedure Act 2005 as;

(a) in respect of the period from 1 January to 30 June in any year—the rate that is 6% above the cash rate last published by the Reserve Bank of Australia before that period commenced, and

(b) in respect of the period from 1 July to 31 December in any year—the rate that is 6% above the cash rate last published by the Reserve Bank of Australia before that period commenced.

For the period 1 July 2011 to 31 December 2011 the rate is 10.75%, subject to change on 1st January 2012.

## **6.3 Annual Report 2010-11**

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TRIM REFERENCE: F2011/00030 - D02795123

AUTHOR/MANAGER: Daniel Smith; Manager Integrated Planning

### **SUMMARY**

Presentation of Council's 2010-11 Annual Report, incorporating 2010-11 Financial Reports, 2010-11 Management Plan Performance and 2010-11 State of the Shire Report.

### **RECOMMENDATION**

*That Council adopt the 2010-11 Annual Report (including enclosures).*

### **BACKGROUND**

Section 428 of the Local Government Act 1993 requires councils within five months after the end of each year (by 30 November), to prepare an annual report. The report must contain:

- A copy of Council's audited financial reports,
- Achievements with respect to the objectives,
- Performance targets set out in its Management Plan for that year,
- Council's audited financial statements and notes
- A report as to the state of the Shire (including environment ) and
- Other information as prescribed by the Act and Regulations.

A checklist of required information is included at the beginning of the Annual Report, indicating each separate requirement for the Annual Report under the legislation.

Council's Annual Report is attached. It incorporates Council's 2010-11:

- Audited Financial Reports and
- State of the Shire Report.

Council's 2010-11 Financial Reports and Management Plan have previously been reported and adopted by Council.

In accordance with the legislation, a copy of Council's 2009 -10 Annual Report and enclosures will be posted on Council's website and the Local Government Minister advised of the appropriate URL link to access the report on Council's website after adoption by Council.

This is the final year that the Annual Report will report on achievements in the (old format) annual "Management Plans".

In June 2011 Council endorsed the first Wyong Shire Council Strategic Plan (2011-15) which provides a more comprehensive and transparent document under the new format for "integrated planning" required by state legislation.

Wyong Shire Council, as a "Group 3" council under this new legislation will convert to the new format on 1 July 2012.

This Annual Report is an intermediate document meeting the requirements of the old legislation, but transitioning to the new format and terminology that comes fully into effect for Wyong on 1 July 2012.

### **State of the Shire Report**

The State of the Shire (SoS) report is part of the feedback loop to assess whether the community is moving towards its 20-year vision, as outlined in the Community Strategic Plan (2030) adopted on 22 June 2011. It is one of the corporate reporting responsibilities for NSW councils under the Local Government Act 1993.

The Report is intended to provide the community with a comprehensive analysis of the Shire, in terms of the environmental, community asset, people of the community and governance status, how it got that way and what is being done to address the issues.

Historically the legislation has required that the SoS report:

- Address the environmental sectors of land, air, water, biodiversity, waste and heritage;
- Provide, as a basis of comparison in subsequent reports, a statement outlining the condition of each environmental sector at the date of the report and make the relevant comparison with the equivalent statement in the last SoS report;
- Report on all major environmental effects and related activities, including management plans relating to the environment; special Council projects relating to the environment; and the environmental effects of Council's activities.

Under amendments in October 2009, future State of the Environment reports are to be integrated with a new state-wide "integrated planning" framework. This report, reflects the financial year of 2010-11 and therefore retains the more prescriptive structure of the previous reporting requirements and should be viewed as a transitional document.

The report builds on data reported in previous years. Each chapter has been generally constructed around the accepted standard of reporting known as the "State-Pressure-Response" model used by both Federal and State Governments in their respective State of the Environment reports.

The report is presented in four main chapters representing the “Quadruple bottom line” (and the new organisation structure) of:

- People;
- Assets;
- Environment; and
- Governance.

The report includes an assessment of the current state and predicted future trend for each environmental sector.

## **THE PROPOSAL**

This report seeks approval for the adoption of Council's 2010-11 Annual Report.

## **STRATEGIC LINKS**

### **Wyong Shire Council Strategic/ Annual Plan**

The Annual Report (2010-11) ... completed by 1 December 2011.

Section 428 of the Local Government Act 1993. This activity is part of Council's "Administration" Principal Activity as shown in the following table:

### **Contribution of Proposal to the Principal Activity**

The Annual Report is also marked as a requirement under the "Administration" Principal Activity.

### **Long term Financial Strategy**

The Annual Report contains the audited financial details of income and expenditure over the past 12 months and a financial summary, showing key income and expenditure areas for the past financial year in a format easily interpreted by the public. In this regard, it contributes to one of the four basic principles outlined in the Community Strategic Plan that states, “*There is fiscal responsibility*”

### **Asset Management Strategy**

The Report is based on achievements with respect to the old Management Plan format which did not include an Asset Management Strategy. The Report, however covers Council's activities to address asset management issues including preparation of an Asset Management Strategy and related plans.

### **Workforce Management Strategy**

As above, the Annual Report is based on the old Management Plan format which did not contain a Workforce Management Strategy although the report does cover the efforts of Council to improve and support its valuable workforce.

### **Link to Community Strategic Plan (2030)**

The State of the Shire report monitors progress and highlights those areas that are moving towards or away from the Community Strategic Plan (2030).

Presentation of an Annual Report is one of Council's primary avenues for communication with the public concerning what it has done to carry out all 12 of its Principal Activities and reporting on its performance for the financial year. In this regard, it contributes to another of the four basic principle outlined in the Community Strategic Plan that states "*Government is conducted with openness and transparency involving the community in decisions that affect it.*"

**Budget Impact**

The Annual Report has no impact on the budget.

**CONSULTATION**

There has been no public consultation nor is any required.

All departments were involved in the preparation of this report and the attached State of the Shire Report.

**GOVERNANCE AND POLICY IMPLICATIONS**

This document complies with legislative requirements for the Annual Report, audited financial statements and the State of the Shire (environment).

**CONCLUSION**

The 2010-11 Annual Report and state of Shire report have been produced to articulate Council's accountability to the Community, Councillors, State Government and staff.

The reports are compliant with the requirements of the Act.

There is no impedance to their adoption.

**ATTACHMENTS**

- |   |   |           |
|---|---|-----------|
| 1 | Draft Annual Report 2010-11 (D02834803 has been distributed as a separate item)             | Enclosure |
| 2 | Draft State of the Shire Report 2010-11 (D02838082 has been distributed as a separate item) | Enclosure |

## **6.4 2012-16 Delivery Plan Community Survey**

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TRIM REFERENCE: F2004/07006 - D02835916

AUTHOR: Cate Trivers; Chief Financial Officer

### **SUMMARY**

The adopted 2012-2015 WSC Strategic Plan identified Council's long term financial sustainability target of a break-even operating result by 30 June 2015, and that to achieve this Council would target an operating shortfall of \$10,000,000 in 2012-2013. Underpinning this there is a need to conduct community engagement and consultation to assess the communities' needs, service priorities, desired levels of service, and the preparedness to pay in order to achieve targeted annual reduction in services / service Levels.

### **RECOMMENDATION**

- 1 That Council authorise the General Manager to commence consultation with the community on the 2012-2016 WSC Council Strategic Plan including defining the Four Year Delivery Plan service levels and community priorities.**
- 2 That Council authorise the General Manager to engage an independent specialist to develop a Community Engagement Program and conduct a series of activities, including a Community Survey, in keeping with Council's Community Engagement Strategy, to determine the communities needs, service priorities, desired levels of service, and preparedness to pay for services.**
- 3 That the General Manager report back to Council the initial results of the community engagement in March to inform Council's prioritisation of services and capital to enable the finalisation of the 2012-2016 WSC Council Strategic Plan.**

### **BACKGROUND**

WSC is required to adopt the DLG's Integrated Planning and Reporting Framework from 1 July 2012 as part of the Group 3 Councils. To do this Council is required to have a Community Strategic Plan, Four Year Delivery Plan, Annual Plan, Long Term Financial Strategy (10 year) (LTFS), Asset Management Strategy and Workforce Management Strategy.

In 2010 Council implemented the framework as an initial step in complying with the requirements, however identified the need to further consult with the community on service levels and Council's long term financial sustainability. As part of this process Council timetabled programs for 2011-2012 to improve Council's financial position and inform Council's 2012-2016 Four Year Delivery Program priorities.

Council adopted the 2012-2015 WSC Strategic Plan on 22 June 2011 which included the Annual Plan and Four Year Delivery Plan, the Long Term Financial Strategy, Asset Management Strategy, and Workforce Strategy. The Long Term Financial Strategy identified



future operating short-falls which are financially unsustainable, and adopted an intervention strategy to reduce Council's operating deficits to break-even by 30 June 2015.

The Long Term Financial Strategy identified for 2012-2013 the introduction of a change to the rating structure to a minimum rate and reduction of Operating Deficit to \$10,000,000 (short-fall). The Long Term Financial Strategy also identified the investigation of a special variation in 2013-2014 to fund essential infrastructure subject to the assessment of service levels community needs.

## **CURRENT STATUS**

WSC has conducted significant consultation with the Community in the process of formulating and informing the Community Strategic Plan.

In 2008-2009 Council conducted a series of consultations with over 5,000 residents of Wyong Shire, information sessions and workshops with state government representatives and community reference groups that formulated priority objectives for how the Community could best improve the quality of life on the Central Coast over the next 20 years. The Community Strategic Plan was first adopted by Council in 2009, and updated in 2010.

In 2010 Council conducted a Service Delivery Review which focused on how Council could improve productivity for the operational service delivery process and resulted in a reorganisation of Council's internal resources. This resulted in identified savings / opportunities of \$900,000, and an on-going recurrent projected saving of up to \$7.6m per annum. To date as at the end August 2011, savings have been achieved including \$2.2m one-off and \$3.0m in recurrent savings. Council continues to review it's cost base and has been running internal innovation campaigns.

In 2011-2012 Council identified the following actions in the LTFS to improve Council's long term sustainability including:

1. Review of LEP and a review of land zonings as appropriate
2. Establish a property investment portfolio and review existing property assets to maximise investment potential and future income generation
3. Review and reduce operating costs including asset rationalisation
4. Target annual reduction in Services / Service Levels, maximise user pays where appropriate and ensure prices reflect the actual operating costs of each service

Consultation on items 1 and 2 has already commenced, item 3 is being actioned through the individual service unit business plans, and item 4 requires Council to consult with the community on service levels, community needs, priorities and willingness to pay.

## **THE PROPOSAL**

That Council develop a Community Engagement Program and engage an independent consultant with the necessary skills and experience to consult with the community on their service needs and expectations, priorities and preparedness to pay for changes in service levels, and report back to Council.

This Community Engagement Program will identify a series of consultations to occur with the community over twelve to eighteen months and provide information to inform the priorities in the 2012-2016 WSC Community Strategic Plan and to provide feedback to the community from the consultation.

The initial phase will include a Community Survey which provides a baseline for what the community values in service delivery and what their needs are. To ensure that the community outcomes are actionable by Council, this will include information on what different levels of service cost to provide and ask the community for feedback on what they are prepared to pay for different services.

As Council already has significant annual underfunding of recurrent expenditure (2010/11 Operating Deficit \$17.4m, 2011/12 Budgeted Operating Deficit \$14.9m), the challenge is to manage community expectations around what is affordable. This also represents the opportunity for the community to identify services they see as discretionary which Council should reduce to save costs / or divert money to more important services, and or cease.

## **STRATEGIC LINKS**

### **Wyong Shire Council Strategic/ Annual Plan**

The community consultation program will inform the 2012-2016 WSC Community Strategic Plan priorities.

### **Contribution of Proposal to the Principal Activity**

Council's services span all principal activities, with the potential of the community consultation impacting across the board. Due to unfunded issues it is expected that some services will increase, whilst others may decrease or alternate funding sources (eg user pays) be identified.

### **Long Term Financial Strategy**

Council's LTFS identifies the challenges facing WSC in meeting the current levels of service in a financially sustainable manner and the projected operating short-falls without Council intervention. To address this Council has adopted a four year strategy to return Council's financial position to an Operating break-even (before capital grants) by 30 June 2015.

Council's LTFS identified that;

"In 2011/12 Council will review Services and assets employed to maximise service delivery and economic outcomes for the community.

Long term financial sustainability is dependent on Council being able to meet daily operations (recurrent) expenditure within the Operating Income sources."

[*Wyong Shire Council Strategic Plan 2011-2015*, page 149].

Council's LTFS also adopted Financial Sustainability Targets to manage to an Operating Surplus and to achieve sustainability in asset management, through an adopted Building and Infrastructure Renewals ratio > 1.0 and an Asset Sustainability ratio of > 0.50 per year.

### **Asset Management Strategy**

The community consultation program will inform the 2012-2016 WSC Community Strategic Plan priorities which will impact on what assets council employs to provide services, and what level of maintenance / operations are required to meet community needs.

**Workforce Management Strategy**

The community consultation program will inform the 2012-2016 WSC Community Strategic Plan priorities and may impact on the long term workforce requirements for council.

**Link to Community Strategic Plan (2030)**

The community consultation program will inform the 2012-2016 WSC Community Strategic Plan priorities.

**Budget Impact**

Council's 2011-2012 Annual Budget includes a provision of \$30,000 for a Community Survey and \$20,000 resources to support the process through the ongoing implementation of the DLG's Integrated Planning and Reporting frameworks.

**CONSULTATION**

The subject of this report will form the basis of project brief and community consultation.

**GOVERNANCE AND POLICY IMPLICATIONS**

The results of the Community Survey will be to inform Council's Strategic Planning Framework.

**MATERIAL RISKS AND ISSUES**

Balancing community needs against Council's long term financial sustainability, to ensure that the community assets and amenity are maintained for future generations.

**CONCLUSION**

That Council authorise the General Manager to proceed with developing and implementing a community engagement program to provide information for decision making in the 2012-2016 Community Strategic Plan and that the initial results be reported back to Council's February planning workshops and to Council to assist in determining the prioritisation of Council's services, establish agreed service levels, and ensure the communities understanding of the costs of different service provisions.

**ATTACHMENTS**

*Nil.*

## 6.5 Draft Minutes - Wyong Shire Grants Committee Meeting - 10 November 2011

TRIM REFERENCE: F2008/02110 - D02776678

AUTHOR: Jacquie Elvidge; Councillor Services Officer

MANAGER: Lesley Crawley, Manager Corporate Governance

### SUMMARY

A meeting of the Wyong Shire Grants Committee was held on the 10 November 2011.

### RECOMMENDATION

- 1 ***That Council receive the draft minutes of the Wyong Shire Grants Committee Meeting held on 10 November 2011.***
- 2 ***That Council note the return of \$1,500 allocated to the San Remo Neighbourhood Centre under the Councillors Community Improvement Grant Programme.***
- 3 ***That Council allocate \$12,000 ( plus GST) from the Community Benefit Grants Program to the San Remo Neighbourhood Centre for the 2011-2012 GOATS Family Festival.***
- 4 ***That Council recommend to the applicant that community stalls at the GOATS Family Festival not be subsidised.***
- 5 ***That Council note the applicant's advice that the security component of the cost of the GOATS Family Festival, may be covered by sponsorship.***
- 6 ***That Council advise the applicant that a condition of funding is the recognition of WSC as a major sponsor of the GOATS Family Festival 2011-2012 event.***
- 7 ***That Council request staff to meet with representatives of the San Remo Neighbourhood Centre to review its financial acquittals for Council grants.***
- 8 ***That Council decline applications for the Sports Equipment Grants from the following organisations for the reasons detailed in table below:***

<i>Club/Applicant name</i>	<i>Total funds requested. (excl. GST)</i>	<i>Equipment</i>	<i>Why not accepted</i>
<i>Mackillop Catholic College</i>	<i>\$ 957.73</i>	<i>Various sporting equipment.</i>	<i>Applications where funding is the responsibility of another level of government and/or government department.</i>
<i>Pioneer Dog Training School Inc</i>	<i>\$ 3,818.20</i>	<i>Equipment Trailer</i>	<i>Ancillary equipment.</i>
<i>Shelly Beach Surf Lifesaving Club Inc</i>	<i>\$ 5,334.55</i>	<i>Nipper and Rescue Boards</i>	<i>Retrospective costs, i.e. equipment that has previously been purchased.</i>

9 That Council allocate \$44,833.81 plus GST from the 2011-12 Sports Equipment and Recreational Grant Program as follows:

Club/Applicant name	Total funds approved (excl. GST)	Equipment description
1st Wyong Scout Group	\$ 1,274.55	Hot water on demand' tent equipment, tarps, porta-potty, tent pegs. Ensuite pop-up tent, - first aid kit not approved as is ancillary equipment (\$245.45)
Bateau Bay PCYC	\$ 3,146.00	Netball posts and post pads
Berkeley Vale Rugby League and Sports Club Incorporated	\$ 1,602.50	Whistles and lanyards, power resister belt, fitness agility pole set and bag, a number of footballs (types and sizes), tackle bag (junior to senior set)
Coastal Lakes Indoor Bowls Association Inc	\$ 2,640.00	Indoor bowls mats / carpets
Golden Hind Women's Bowling Club (The Entrance Leagues Club)	\$ 784.80	Windssock for the greens corner, heavy yellow jacks, non-slip bowls mats
Killarney District Soccer Club Inc	\$ 1,364.64	Size 3 and 4 training balls
Killarney Vale AFC Inc	\$ 3,524.04	Footballs - variety of different types and sizes
Mannering Park Tennis 355 Committee	\$ 420.00	Tennis nets
Mingara Indoor Bowls Club	\$ 1,215.00	Orange indoor bowls (set of 8)
Mingara Men's Bowling Club	\$ 679.00	Set of Henselite Alpha bowls, bowls measure 30 metre tape, orbital measure extension.
Ourimbah United Football Club	\$ 1,380.00	Footballs
The Entrance Bateau Bay A.F.C.	\$ 640.00	Match and training balls
The Entrance District Cricket Club	\$ 1,450.00	Sandpiper super sopper (equipment to soak up rain to allow for early resumption of play and reduce injury risk)
The Lakes Surf Lifesaving Club	\$ 1,100.00	Hi-visibility fitted singlets - water safety
Titans Swimming Club	\$ 4,495.00	Dolphin wireless timing system
Toowoomb Bay Surf Lifesaving Club	\$ 11,618.18	Fibre glass nipper boards and foam nipper
Tunkuwallin Community Hall - 355 Committee	\$ 1,439.92	Table tennis table, bats and balls
Warnervale Rugby Club	\$ 4,000.00	Contact suits, hit shields, training cones, tackle bags in varying size ranges.
Wingers Softball Club Incorporated	\$ 2,060.18	Portable pitching machine, line up boards, triumph bat, typhoon bat, mystique bat, MV3 light bat, pack of batting helmets, junior catchers' gear, intermediate catchers' gear, women's catchers' gear, T-Ball bat.

## BACKGROUND

A meeting of the Wyong Shire Grants Committee was held on 3 November 2011. Minutes of that meeting are as follows:

**WYONG SHIRE COUNCIL**

**MINUTES OF THE  
WYONG SHIRE GRANTS COMMITTEE MEETING OF COUNCIL  
HELD IN THE GUESTHOUSE CONFERENCE ROOM  
WYONG CIVIC CENTRE, HELY STREET, WYONG  
ON 10 NOVEMBER 2011  
COMMENCING AT 4:30PM**

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**PRESENT**

Councillors D J Eaton (Chairperson), S A Wynn and General Manager's Representative - Manager Corporate Governance.

**IN ATTENDANCE**

Manager Community and Cultural Development, Manager Sports and Recreation Development and Councillor Services Officer.

**APOLOGY**

An apology was received from Councillor Matthews for her inability to attend the meeting.

**COMMITTEE RECOMMENDATION**

*That the Committee accept the apology and grant leave of absence to Councillor Matthews from the meeting.*

**1.1 Disclosure of Interests**

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**COMMITTEE RECOMMENDATION**

*That the report be received and advice of disclosure noted.*

**2.1 Confirmation of Minutes of Previous Meeting**

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**COMMITTEE RECOMMENDATION**

*That the minutes of the previous Wyong Shire Grants Committee Meeting held on 21 July 2011 and reconvened 10 August 2011 be accepted.*

**BUSINESS ARISING FROM THE MINUTES**

There was no business arising from the minutes.

**3.1 Sports Equipment and Recreational Grants 2011 - 2012**

**COMMITTEE RECOMMENDATION**

- 1 That Council allocate \$44,833.81 plus GST from the 2011-12 Sports Equipment and Recreational Grant Program as follows:

<i>Club/Applicant name</i>	<i>Total funds approved (excl. GST)</i>	<i>Equipment description</i>
<i>1st Wyong Scout Group</i>	<i>\$ 1,274.55</i>	<i>Hot water on demand' tent equipment, tarps, porta-potty, tent pegs. Ensuite pop-up tent, - first aid kit not approved as is ancillary equipment (\$245.45)</i>
<i>Bateau Bay PCYC</i>	<i>\$ 3,146.00</i>	<i>Netball posts and post pads</i>
<i>Berkeley Vale Rugby League and Sports Club Incorporated</i>	<i>\$ 1,602.50</i>	<i>Whistles and lanyards, power resister belt, fitness agility pole set and bag, a number of footballs (types and sizes), tackle bag (junior to senior set)</i>
<i>Coastal Lakes Indoor Bowls Association Inc</i>	<i>\$ 2,640.00</i>	<i>Indoor bowls mats / carpets</i>
<i>Golden Hind Women's Bowling Club (The Entrance Leagues Club)</i>	<i>\$ 784.80</i>	<i>Windssock for the greens corner, heavy yellow jacks, non-slip bowls mats</i>
<i>Killarney District Soccer Club Inc</i>	<i>\$ 1,364.64</i>	<i>Size 3 and 4 training balls</i>
<i>Killarney Vale AFC Inc</i>	<i>\$ 3,524.04</i>	<i>Footballs - variety of different types and sizes</i>
<i>Mannering Park Tennis 355 Committee</i>	<i>\$ 420.00</i>	<i>Tennis nets</i>
<i>Mingara Indoor Bowls Club</i>	<i>\$ 1,215.00</i>	<i>Orange indoor bowls (set of 8)</i>
<i>Mingara Men's Bowling Club</i>	<i>\$ 679.00</i>	<i>Set of Henselite Alpha bowls, bowls measure 30 metre tape, orbital measure extension.</i>
<i>Ourimbah United Football Club</i>	<i>\$ 1,380.00</i>	<i>Footballs</i>
<i>The Entrance Bateau Bay A.F.C.</i>	<i>\$ 640.00</i>	<i>Match and training balls</i>
<i>The Entrance District Cricket Club</i>	<i>\$ 1,450.00</i>	<i>Sandpiper super sopper (equipment to soak up rain to allow for early resumption of play and reduce injury risk)</i>

<i>The Lakes Surf Lifesaving Club</i>	\$ 1,100.00	<i>Hi-visibility fitted singlets - water safety</i>
<i>Titans Swimming Club</i>	\$ 4,495.00	<i>Dolphin wireless timing system</i>
<i>Toowoomba Bay Surf Lifesaving Club</i>	\$ 11,618.18	<i>Fibre glass nipper boards and foam nipper</i>
<i>Tunkuwallin Community Hall - 355 Committee</i>	\$ 1,439.92	<i>Table tennis table, bats and balls</i>
<i>Warnervale Rugby Club</i>	\$ 4,000.00	<i>Contact suits, hit shields, training cones, tackle bags in varying size ranges.</i>
<i>Wingers Softball Club Incorporated</i>	\$ 2,060.18	<i>Portable pitching machine, line up boards, triumph bat, typhoon bat, mystique bat, MV3 light bat, pack of batting helmets, junior catchers' gear, intermediate catchers' gear, women's catchers' gear, T-Ball bat.</i>

2 That Council decline applications from the following organisations for the reasons detailed in table below:

<i>Club/Applicant name</i>	<i>Total funds requested. (excl. GST)</i>	<i>Equipment</i>	<i>Why not accepted</i>
<i>Mackillop Catholic College</i>	\$ 957.73	<i>Various sporting equipment.</i>	<i>Applications where funding is the responsibility of another level of government and/or government department.</i>
<i>Pioneer Dog Training School Inc</i>	\$ 3,818.20	<i>Equipment Trailer</i>	<i>Ancillary equipment.</i>
<i>Shelly Beach Surf Lifesaving Club Inc</i>	\$ 5,334.55	<i>Nipper and Rescue Boards</i>	<i>Retrospective costs, i.e. equipment that has previously been purchased.</i>

### 3 2 Request for Funding - GOATS Family Festival 2011 - 2012

Ms Jillian Hogan, San Remo Neighbourhood Centre Representative, addressed the meeting at 4.57 pm, answered questions and retired at 5.28 pm.

#### COMMITTEE RECOMMENDATION

*That the Wyong Shire Grants Committee recommend to Council:*

- a That Council note the return of \$1,500 allocated to the San Remo Neighbourhood Centre under the Councillors Community Improvement Grant Programme.*
- b That Council allocate \$12,000 plus GST from the Community Benefit Grant Program to the San Remo Neighbourhood Centre for the 2011-2012 GOATS Family Festival.*
- c That Council recommend to the applicant that community stalls at the GOATS Family Festival not be subsidised.*



- d That Council note the applicant's advise that the security component of the cost of the GOATS Family Festival, may be covered by sponsorship.*
- e That Council advise the applicant that a condition of funding is the recognition of WSC as a major sponsor of the GOATS Family Festival 2011-2012 event.*
- f That Council request staff to meet with representatives of the San Remo Neighbourhood Centre to review its financial acquittals for Council grants.*

## **GENERAL BUSINESS**

The Manager of Corporate Governance requested feedback from Councillors regarding the grants review.

Discussions centered on the following points:

- Provision for disadvantaged children/ families
- Less grants requiring the approval of Council
- Grants to enable a more active community (with a focus on children and the elderly)
- Council to place a higher priority on culture
- Encouragement of participation for sporting and cultural events
- More specified grant categories
- Grant workshops to assist administrators with compiling grant applications

**THE MEETING** closed at 5.56pm.

## **ATTACHMENTS**

*Nil.*

## 6.6 Contract Variations and Finalisation - October 2011

TRIM REFERENCE :F2007/01410 D02831636  
AUTHOR: John McCarthy; Purchasing Coordinator  
MANAGER: David Witherdin; Manager Contracts and Project Management

### SUMMARY

This paper reports on variations, proposed variations, contract budget adjustments and finalisations to contracts which have a value greater than \$150,000.00 (excl GST).

The report covers contract variations processed in October 2011.

### RECOMMENDATION

- 1 That Council receive the *Contract Variations and Finalisation October 2011 report (Attachment 1 and 2)*.
- 2 That Council approve *additional expenditure above resolved estimates for the following contracts:*

<b>Contract Title</b>	<b>Contract No</b>	<b>Adjusted Contract Value (excl GST)</b>	<b>Additional Budget Approval</b>
<b><i>Provision of Environmental Management Services – Mardi to Mangrove Link Project</i></b>	<b><i>CPA/173398</i></b>	<b><i>\$216,909.00</i></b>	<b><i>\$30,000.00</i></b>

- 3 That Council note *the additional expenditures requested are within approved program budgets.*

### BACKGROUND

Contracts entered into by Council are awarded either by Council resolution or under delegated authority. The Local Government Act 1993 section 55 requires that Council must invite tenders before entering into a contract with an estimated value greater than \$150,000.00 (excl GST) and section 377 of the Act requires the acceptance of tenders which are required to be invited by Council under the Act to be by Council resolution.

Contracts of an estimated value less than \$150,000.00 (excl GST) are awarded under delegations made by Council to the General Manager or his/her delegate.

Contracts routinely require variations during the course of the contract due to unforeseeable circumstances, changes in design or changes in service demand on the finished product.

All contracts commonly include a contingency sum to cover unforeseen changes. It is generally expressed as a percentage of the contract value, being typically 10% of the contract value, but may vary between 5% and 30% or more depending upon the nature of the contract and the risks, or may be expressed as a specific dollar value.

Council develops contract estimates and risk based contingency sums as accurately as possible to allow the number of works undertaken in an annual program budget to be maximised, but some risk remains that programs may have to be materially curtailed if unforeseen costs exceed these estimates.

Variations to the contract that are within the Council approved contract budget (including contingency) are reported herein for Council's information. Council's approval is sought where variations are such that an increase in the approved contract budget is required.

**THE PROPOSAL**

The report for October 2011 seeks Council's formal approval for additional funding on 1 contract.

The variation relates to an increase funds request for Provision of Environmental Management Services for the Mardi to Mangrove Link Project.

Details of the variations are contained in Attachment 1.

**Summary for October 2011 period.**

Contracts with variations processed in October 2011	1
Contracts requiring increase to the contract budget estimate	1
Contract where current funds are sufficient to complete	0
Contracts finalised in October 2011	2

**OPTIONS**

The variations reported in Attachment 1 were required to ensure the reported contracts could be progressed in a timely and effective manner to deliver best value for Council and ensure compliance with the contract conditions.

**STRATEGIC LINKS**

Strategic links for the various contracts were identified in the initial assessment and approval reports for each contract.

**FINANCIAL IMPLICATIONS**

Increased expenditure is identified in the recommendation with the source of funds detailed in Attachment 1.

**PRINCIPLES OF SUSTAINABILITY**

This proposal applies good governance improving Council processes by being consistent and demonstrating a sound basis for the variation of contract estimates to ensure better outcomes for the community via appropriate allocation of resources.

## CONSULTATION

Consultation has occurred with all Contract Officers responsible for the management of contracts reported in Attachment 1.

## GOVERNANCE

These contract variations are reported to Council to ensure compliance with Section 55 of the Local Government Act and Part 7 - Tendering of the Local Government (General) Regulation 2005.

## CORPORATE RISKS

This report contributes to the mitigation of the following risks identified in Council's Risk Register:

Identified Risk	Rating	Actions to Mitigate
<b>Budget Control</b> Inadequate budget control that creates significant funding shortfalls leading to an inability to provide priority services. (shorter-term consequence)	Moderate	Monthly reporting of variations.
<b>Legislative Requirements</b> Council non-compliance with legislative requirements leading to penalties, civil claims and/or contractual disputes.	Low	- Monthly reporting of variations. - Local Government Act requirements in relation to Tenders.

## CONCLUSION

Variations detailed in this report that are within the approved contract budget (including contingency) are reported for Council's information.

Council's approval is sought where variations are such that an increase in the approved contract budget is required.

## ATTACHMENTS

- |                                      |           |
|--------------------------------------|-----------|
| 1 Contract Variations - October 2011 | D02832292 |
| 2 Contracts Finalised October 2011   | D02832289 |

## Provision of Environmental Management Services – Mardi to Mangrove Link Project

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value \$	(b) = (a) + Contingency Total Approved Budget \$	(c) Value of Variations Previously Reported \$	(d) Value of Variations For Reporting Period \$	(e) = (c) + (d) Total Value Of Variations \$	(f) = (a) + (e) Actual Contract Value \$	Source Of Funds	Expenditure to Date \$	
CPA/173398	N/a	Conacher Environmental Group	36,000.00	36,000.00	150,909.00	30,000.00	180,909.00	216,909.00	M2M Project	191,935.00	
Individual Variations for Reporting Period											
		Description	Value \$		Description						Value \$
Variation 5	Initial engagement for Environmental Services was expected to complement work being undertaken by NSW Public Works. During the course of the project NSW Public Works resources were not available and a variation to Conacher Environmental Group to provide this specialist knowledge was undertaken.		30,000.00								

Selective quotations were called for the provision of environmental project management services in Dec 2009. Five offers were received. Conacher Environmental Group were selected under delegated authority. Services provided by the consultant are ongoing due to a number of environmental assessments yet to be finalised.

Due to the knowledge and expertise brought to this position and the project knowledge gained since their engagement, the continued engagement to provide environmental project management services by Conacher Environmental Group is considered to be essential. Services will be finalised by late December 2011.

Budget increases are within the Mardi to Mangrove Link Project funding allocation.

Attachment 2  
Contracts Finalised October 2011

SIGNIFICANT CONTRACTS FINALISED – OCTOBER 2011							
Contract Number	Date of Council Award	Name of Contractor	Contract Description	Contract Price Type	Approved Expenditure Ex. GST \$	Final Contract Value Ex. GST \$	Comments
CPA/160331	27 January 2010	Master Electrical Contractors Pty Ltd	Proposed Upgrade to Floodlighting at Various Ovals in the Northern Region of Wyong Shire.	Lump Sum	810,000.00	786,213.30	Contract was delivered within budget expectations.
CPA/164633	14 October 2009	Robson Civil Projects Pty Ltd	Excavation and Lining of Cell 4.2B at Buttonderry Waste Management Facility	Schedule of Rates	5,000,000.00	4,152,632.41	Quantities of materials involved in construction were less than pre tender estimates. Also alternative cheaper materials were identified and approved for use, resulting in a substantial contract saving to Council.

## **6.7 Amendment to Facilities and Expenses Policy**

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TRIM REFERENCE: F2010/00542 - D02836871

AUTHOR/ MANAGER: Lesley Crawley; Manager Corporate Governance

### **SUMMARY**

Reporting a proposal to amend Council's Policy on Facilities and Expenses for Councillors to clarify entitlements in relation to Attendance at Conferences, Workshops, Seminars and Training Courses.

### **RECOMMENDATION**

- 1 That Council request the General Manager to amend the WSC Policy on Facilities and Expenses for Councillors as follows:**
  - (a) Clause D5 to read:**  
***"WSC will reimburse expenses for attendance at eligible conferences, seminars, workshops and professional development courses for each elected member including attendance at the annual NSW Local Government Association Conference."***
  - (a) Add a new Clause D6**  
***"WSC will reimburse expenses for three (3) attendances per Councillor, per financial year, at conferences, seminars, workshops and professional development courses, which consist of sessions conducted over two or more consecutive days."***
- 2 That Council request the General Manager to give formal public notice of its intention to amend its policy for the Payment of Expenses and Provision of facilities allowing 28 days for the making of public submissions.**
- 3 That Council adopt the amended WSC Policy on Facilities and Expenses for Councillors should no significant objection be received to the proposed amendment**

### **BACKGROUND**

Section 252 of the Local Government Act (the Act) requires councils to adopt or amend a policy annually for the payment of expenses and the provision of facilities to mayors, deputy mayors and other councillors. Mayors and councillors can only be reimbursed for expenses and provided with facilities in accordance with this policy.

The current WSC Policy for Facilities and Expenses for Councillors was adopted in 1988 and has been re-adopted annually and amended from time to time, since that year.

The Policy forms part of the WSC Annual Report to the Division of Local Government.

The Division of Local Government (DLG) has issued guidelines which state that the policy should make reasonable provision for the special needs of councillors to allow appropriate access to council premises and facilities, and to maximise participation in the civic duties and business of council.

The DLG guidelines recommend a policy should include clear provisions that assist in the equitable, transparent and accountable implementation of the policy and not permit the payment of general expense allowances.

The policy should include definitive limits for all expenses and facilities, where practical, and ensure a transparent approval process for all expenses and facilities, where practical, to avoid situations in which a councillor incurs and makes a claim for an expense considered to be outside the scope of the policy by the council.

Changes to a Facilities & Expenses Policy must be placed on public exhibition before adoption by Council, if the changes are deemed significant.

### **CURRENT STATUS**

Council's Policy on Facilities and Expenses for Councillors was adopted by Council on 14 September 2011.

The current policy limits attendance at conferences, workshops and seminars (events) to three per Councillor, per year, regardless of the length of time of the event.

The Policy also requires that no expenses will be paid for events that are:

- a) not relevant to Council business; or
- b) where expenses incurred would be directed towards any political fundraising event; or
- c) for any donation to a political party or candidates electoral fund; or
- d) for any other private or personal benefit.

The policy requires that authorisation for attendance at conferences will be by Council resolution or when impractical, by approval of the Mayor and General Manager Council provides approval for reimbursement of expenses for Councillor attendance at these events.

Increasingly these type of events are offered over shorter periods, are more readily available and of more relevance to the Civic duties of a councillor, and are more reasonably priced than in the past. Restricting Councillors to reimbursement of three per year of any type of event may inhibit a councillor from information that would assist them in carrying out their civic duties.

### **THE PROPOSAL**

It is proposed to amend the Policy to limit the reimbursement to individual Councillors for attendance at three eligible, conferences, functions, workshops training courses or seminars which consist of sessions that are conducted over two or more consecutive days and not restrict the number of attendances per councillor at eligible events of 1 day or less.



## 6.7 Amendment to Facilities and Expenses Policy (contd)

No changes are proposed to other clauses that identify the type of event or the process for approval. The proposed changes are summarised below:

Existing Clause	Proposal	Effect
D5  WSC will pay for attendance at a maximum of three conferences per year for each elected member and attendance at the annual NSW Local Government Association Conference.	Amend Clause D5 to read:  WSC will reimburse expenses for attendance at eligible conferences, seminars, workshops and professional development courses for each elected member including attendance at the annual NSW Local Government Association Conference.	Councillors may be reimbursed for any eligible event, subject to approval by Council.
NA	Insert New Clause  WSC will reimburse expenses for 3 attendances per Councillor, per financial year, at conferences, seminars, workshops and professional development courses, which consist of sessions conducted over two or more consecutive days.	Reimbursement for eligible events that are longer than one day (ie requiring accommodation) will be limited to 3 events per councillor, per financial year.

### STRATEGIC LINKS

#### Wyong Shire Council Strategic/ Annual Plan

Nil

#### Long term Financial Strategy

Nil

#### Asset Management Strategy

Nil

#### Workforce Management Strategy

#### Link to Community Strategic Plan (2030)

Nil

#### Budget Impact

Funding for the reimbursement of expenses and provision of facilities is provided under the WSC Annual Plan. The proposal is not expected to impact the current budget requirements.

#### Principles of Sustainability

Providing the elected representatives with appropriate resources and reimbursing actual expenses incurred whilst carrying out civic duties contributes to the effectiveness of the governing body to continue to operate in the best interests of the community.

**CONSULTATION**

In accordance with section 253 of the Act, Council must give public notice of its intention to adopt or amend its Policy for Facilities and Expenses for Councillors and allow at least 28 days for public submissions. It is intended to give this public notice in conjunction with another proposed amendment adopted by Council on 9 November 2011 regarding independent legal advice.

Councils must consider any submissions received and make any appropriate changes to the policy.

**GOVERNANCE AND POLICY IMPLICATIONS**

The Policy is made under the provisions of Section 252 of the Local Government Act. Review, amendment, re-adoption and reporting of the Policy is in accordance with Section 253 of the Act.

Section 254 requires that Council may not close to the public a section of a meeting which determines the adoption or amendment of this Policy.

Section 23A makes provision for the Director General of the former Department of Local Government to prepare, adopt or vary guidelines that relate to the exercise by a council of any of its functions. It also requires that a council must take the relevant guidelines into consideration before exercising any of its functions.

A Facilities and Expenses policy should also be consistent with the WSC Code of Conduct.

**CONCLUSION**

The existing Policy on Facilities and Expenses for Councillors was adopted in September 2011.

Councillors are entitled to receive reimbursement of actual expenses incurred as part of their duties and be provided with the appropriate tools and resources to carry out their function.

The proposed amendment is significant.

The proposed amendment will provide improved clarity for the community, councillors and staff regarding the attendance of Councillors at events related to Civic duties.

The proposed amendment is in accordance with the relevant guidelines issued by the DLG.

**ATTACHMENTS**

*Nil.*