

# Business Paper

EXTRAORDINARY COUNCIL MEETING

**11 April 2012**



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# MEETING NOTICE

The **EXTRAORDINARY COUNCIL MEETING**  
of **Wyong Shire Council**  
will be held in the **Council Chamber**,  
**Wyong Civic Centre, Hely Street, Wyong** on  
**WEDNESDAY 11 APRIL 2012** at **4.00 pm**,  
for the transaction of the business listed below:

**OPENING PRAYER**

**ACKNOWLEDGEMENT OF COUNTRY**

**RECEIPT OF APOLOGIES**

## **1 PROCEDURAL ITEMS**

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## **2 GENERAL REPORTS**

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

Michael Whittaker  
**GENERAL MANAGER**

## **1.1 Disclosures of Interest**

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TRIM REFERENCE: F2012/00026 - D02966627

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Jacquie Elvidge; Councillor Services Officer

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

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

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

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

### **RECOMMENDATION**

***That Councillors now disclose any conflicts of interest in matters under consideration by Council at this meeting.***

## **2.1 Exhibition of Draft Wyong Shire Council Strategic Plan 2012/16 (incorporating the Annual Plan and 4 year Delivery Plan)**

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TRIM REFERENCE: F2011/01862 - D02963052

MANAGER: David Jack, Director Corporate Services

AUTHOR: Kerryn Austen; Acting Manager Integrated Planning

### **SUMMARY**

This report presents a Draft Wyong Shire Council (WSC) Strategic Plan 2012/16 for Council's consideration and adoption for public exhibition and consultation in accordance with the Department of Local Government Guidelines.

### **RECOMMENDATION**

- 1 That Council adopt the Draft Wyong Shire Council Strategic Plan 2012/16 (the Draft Plan) for public exhibition.**
- 2 That Council receive submissions from the community and interested groups or stakeholders concerning the Draft Plan for consideration and possible inclusion in the final plan to be adopted by Council in May 2012.**
- 3 That Council notes that no loan monies will be required during 2012/13 to support the planned activities.**
- 4 That Council authorise the General Manager to make appropriate corrections in the Draft Plan to eliminate numerical inconsistencies and typing errors.**

### **BACKGROUND**

On 1 October 2009 the Local Government Act 1993 was substantially amended to introduce the Integrated Planning regime of strategic planning. Those amendments provided for the staged introduction of a new strategic planning regime. Wyong Shire Council is, under those transitional provisions, a "Group 3" Council and is required to implement the new Integrated Planning regime on 1 July 2012.

Organisational changes during 2010/11 created an opportunity for Council to implement the new planning format early with the first WSC Strategic Plan 2011-15.

The process of change in the planning methodology within WSC was major, combining the introduction of Integrated Planning with widespread organisational change.

**CURRENT STATUS**

The Strategic Plan 2012-16 incorporates all the elements required by legislation and the Integrated Planning Framework. Section 405 of the Local Government Act 1993 also requires Council place its draft plan on public exhibition for 28 days.

Staff have made further refinements to the document following an extensive preparation and engagement with staff and Councillors. It reflects directions set by Councillors, and incorporates feedback from Council staff and the community.

The Draft Plan is aligned with the Community Strategic Plan and provides an enhanced presentation of the services planned for the community and the resourcing strategies required to deliver the Annual Plan 2012/13 and the 4 year Delivery Plan 2013/16.

Council has recognised the importance of Information Technology as a key resource by including this additional item as an additional resourcing strategy to the requirements of the Act and the Guidelines.

The major components of the Draft Plan are:

- 4 Year Delivery Plan
- Annual Plan
- Major Projects
- Key Performance Indicators and Global Reporting Indicators
- Budget for both 2012/13 and projections for the following 3 years 2013/16
- Capital works (expenditure) program 2012/13
- Fees and charges 2012/13
- Asset Management Strategy (including an Asset Management Policy)
- Workforce Management Strategy
- Information Management Strategy
- Long Term Financial Strategy
- Statement of Revenue Policy

The single document has been designed as a one point of reference for all the Principal Activities to be undertaken by Council during 2012/13 through to 2016.

It identifies the assets, workforce and financial resources that will deliver these activities for 2012/13 and beyond and the Revenue Strategies that provide for Wyong Shire Council funding of services.

The Draft WSC Strategic Plan 2012-16 identifies how Council will continue to supply the community with diverse essential services under its 12 "Principal Activities" that no one else can do, should do, or is willing to provide (e.g. sewerage services, waste collection, information, regulatory services etc.).

It details Council's contribution to achieving the priority objectives identified as the community's longer-term outlook and expressed in the Community Strategic Plan. The Strategic Plan provides information to the community about the wide range of WSC's activities and services.

## **2.1           Exhibition of Draft Wyong Shire Council Strategic Plan 2012/16 (incorporating the Annual Plan and 4 year Delivery Plan) (contd)**

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Wyong Shire Council previously had a substantial operating loss peaking with an operating shortfall of \$30 million in 2009/10 with the situation arising from a combination of many factors. Council is pleased to be producing a WSC Strategic Plan 2012-16 with an operating shortfall of \$10 million at the end of 2012/13. This change has occurred through tough decisions from Council representatives, senior staff and Council staff.

### **THE PROPOSAL**

The proposed Draft Strategic Plan 2012-16 has been formulated on the principal theme of addressing a robust pathway to financial sustainability\*.

***NB** \* Financial sustainability for WSC is defined as the organisation having an on-going ability for the next five years to fund its current level and/or chosen level of services; maintain its assets at optimal condition given the service levels required by Council and, have the ability to meet the financial impost of a significant unplanned event – e.g. major flooding.*

### **Major features of this Plan include:**

- Annual Plan and 4-Year Delivery Programme Budgets based on clear deliverables and affordability of services – i.e. living within the income available
- A recognition that the pathway from deficits to achieving financial break-even will take time however Council is clearly on the right track
- Recognition that achieving a desirable balance in the condition and functionality of Council's operating assets will also take time
- A reduction of the operating budget shortfall from \$30 million in 2009-10 to \$15 million in 2011-12 and \$10 million for 2012-13 with a projection of breakeven balanced budget for 2014-15
- A Capital Works budget 2012/13 of \$87.57m
- Increased spending on roads and bridges.
- Increased spending on essential services.
- Decreased spending of non-critical functions and activities
- Principal Activity and Service costs based on the “fully-absorbed” methodology to allow for transparent recovery of costs through income
- Acknowledgement of the impact from the establishment of the Central Coast Water Corporation
- A change in the general rate of 3.6% as struck by the NSW State Government
- Increased fees and charges (circa 6.4% overall) based on cost recovery and user-pays principles

### **Impact on the “Typical Residential ratepayer”**

The typical residential ratepayer has a property value of \$185,247 and water usage of 152KI per annum (which is the average residential demand for all residences). The increase for the typical residential ratepayer, as shown below, is \$135.89 per annum or approximately \$2.61 per week, based on continuation of existing rating structure.

**2.1 Exhibition of Draft Wyong Shire Council Strategic Plan 2012/16  
(incorporating the Annual Plan and 4 year Delivery Plan) (contd)**

The increase for the typical residential ratepayer, as shown below in Table 1

**Table 1: Impact of 2012-13 Budget on Typical Residential ratepayer**

| <b>Typical Ratepayer</b> | <b>2011-12</b>    | <b>2012-13</b>    | <b>Increase \$</b> | <b>Increase %</b> |
|--------------------------|-------------------|-------------------|--------------------|-------------------|
| <b>Average Valuation</b> | <b>\$198,693</b>  | <b>\$185,247</b>  | <b>-\$13,446</b>   | <b>-6.77%</b>     |
| General Rates            | \$838.55          | \$869.29          | \$30.74            | 3.67%             |
| Domestic Waste           | \$417.00          | \$460.00          | \$43.00            | 10.31%            |
| Stormwater Management    | \$25.00           | \$25.00           | \$0.00             | 0.00%             |
| Water Access             | \$157.53          | \$182.34          | \$24.81            | 15.75%            |
| Sewerage                 | \$450.31          | \$463.18          | \$12.87            | 2.86%             |
| Drainage                 | \$87.23           | \$89.72           | \$2.49             | 2.85%             |
| <b>Sub-Total</b>         | <b>\$1,975.62</b> | <b>\$2,089.53</b> | <b>\$113.91</b>    | <b>5.77%</b>      |
| Water Usage (157kl)      | \$310.86          | \$332.84          | \$21.98            | 7.07%             |
| <b>Total</b>             | <b>\$2,286.48</b> | <b>\$2,422.37</b> | <b>\$135.89</b>    | <b>5.94%</b>      |

**STRATEGIC LINKS**

**Wyong Shire Council Strategic/ Annual Plan**

The Draft Strategic Plan 2012-16 will go on public exhibition for a period of 28 days before being presented to Council for adoption.

**Contribution of Proposal to the Principal Activity**

The Draft Strategic Plan 2012-16 has incorporated and clearly identified the Principal Activity and the service to be conducted by Council under the 4 year Delivery Plan and the Annual Plan.

**Long term Financial Strategy**

The Long Term Financial strategy is included, as part the WSC Strategic Plan 2012-16.

**Asset Management Strategy**

The Asset Management Strategy is included, as part the WSC Strategic Plan 2012-16.

**Workforce Management Strategy**

The Workforce Management Strategy is included, as part the WSC Strategic Plan 2012-16.



### **Information Management Strategy**

The Information Management Strategy is included, as part the WSC Strategic Plan 2012-16

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

The Plan clearly shows what Council intends to do during 2012/13 and in the subsequent three years to achieve the community's priorities outlined in the Community Strategic Plan through specific service delivery while at the same time ensuring that there is "best value" provision of essential community services.

### **Budget Impact**

The Plan provides for a sustainable pathway to an operating "break-even" point by 2014/15. Any departure from the planned expenditure programmes will have a negative affect on that target unless balancing (i.e. cost savings) strategies accompany changes in expenditure priorities.

### **Principles of Sustainability**

The Plan identifies the 10 Sustainability Principles on which WSC bases its operations. It has been formulated to clearly identify the services contributing to the sustainability's "quadruple bottom line" of the environment, economy, society and civic leadership. It pays particular attention to addressing issues impacting the long-term financial sustainability of Council.

## **CONSULTATION**

The Draft WSC Strategic Plan has been formulated through a process of extensive consultation with Councillors who have established strategic direction, provided leadership and set priorities through a series of workshops and briefings.

Council has held specific workshops on the proposed Capital Works Program as well as the draft Financial, Asset, Workforce and Information Management Strategies. Council Service Units and the Executive have contributed specific actions and formulated the budgets to maintain essential community services and deliver the priorities as set by Councillors.

Engagement with the community is planned throughout the exhibition period and will involve:-

- Familiarisation and consultation meeting with the committee members of Precinct Committees.
- Exhibition material provided for viewing at all Council offices
- Exhibition material (CDs) provided at all Council Child Care Centres
- Summary handout of the WSC Strategic Plan 2012-16 focusing on the highlights
- Website Information
- Media promotions

**GOVERNANCE AND POLICY IMPLICATIONS**

The WSC Strategic Plan 2012-16 is a significant milestone in implementing the integrated planning framework and providing an improved structured approach to civil leadership and governance.

The Strategic Plan provides a clear roadmap for activities and major projects. It identifies the assets, workforce and financial resources necessary to achieve its ambitious programs and provides a system for measuring and monitoring the results over the course of the Plan.

**MATERIAL RISKS AND ISSUES**

Formulation and adoption of Council's Strategic Plan 2012-16 provides clear direction for the upcoming financial year and beyond. The accompanying asset, workforce and financial strategies ensure that the resources are allocated on a priority basis and are available to maintain essential community services and provide programs for the forthcoming year. In so doing, it mitigates significant risks arising from ad hoc decision-making and provides long term direction.

**CONCLUSION**

Council has re-assessed its service priorities by Principal Activity and includes those changes in the Plan by way of matching expenditure intended for the coming years. Council is determined to ensure that it will only provide services within the available income – i.e. living within its means.

The Draft Plan is drafted to comply with the Act and the DLG Guidelines for Integrated Planning and Reporting.

The plan provides:

- Clear connectivity between the Community Strategic Plan and Council's activities.
- The activities of Council and the resourcing required to deliver specified services.
- Financial targets have been set toward achieving financial sustainability\*\* by 2015

It remains for Council to seek the opinion of the community before final adoption.

**ATTACHMENTS**

- |   |   |   |
|---|---|---|
| 1 | Wyong Shire Council Strategic Plan<br>2012/16 | <i>Enclosure (Distributed under separate<br/>cover)</i> |
|---|---|---|

## 2.2 Reconsideration of - CPA/205510 Wyong River Catchments Flood Study

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TRIM REFERENCE: CPA/205510 - D02966396

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Jacquie Elvidge; Councillor Services Officer

### SUMMARY

Resubmission of report - CPA/205510 Wyong River Catchments Flood Study.

### RECOMMENDATION

***That Council consider the award of tender for the Wyong River Flood Study as contained in the attached report, CPA/205510 Wyong River Catchments Flood Study.***

### BACKGROUND

Council, at its Ordinary meeting held on 14 March 2012, gave consideration to a report regarding CPA/205510 – Wyong River Catchments Flood Study.

Council resolved:

- “1 That Council accept tender no. 3 from BMT WBM Pty Ltd in the lump sum amount of \$156,260.00 excluding GST.
- 2 That Council approve a contingency amount of \$15,600 excluding GST representing approximately 10% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.”

A rescission motion was submitted which proposed to rescind the resolution adopted on 14 March 2012. The Rescission motion foreshadowed that the following motion would be moved if the rescission was successful:

*“That Council defer this matter pending advice on the effect on insurances and land values of including theoretical sea level rise into the study.”*

The rescission motion was adopted by Council on 28 March 2012 and the former decision to award the tender was reversed.

The subsequent motion to the seek advice on other matters was lost.

### CURRENT STATUS

As a result of there being no approval to proceed with the works and no other direction from Council for action, the matter is in abeyance until Council direction is given. The matter has been resubmitted to Council for consideration.

## **GOVERNANCE**

Section 372(5) of the Local Government Act 1993 states the following:

*“(5) If a motion to alter or rescind a resolution has been negatived, or if a motion which has the same effect as a previously negatived motion, is negatived, no similar motion may be brought forward within 3 months. This subsection may not be evaded by substituting a motion differently worded, but in principle the same.”*

This section prevents the same motion being put back to the Council (for a period of 3 months) after it has been negatived on two occasions.

The original motion to adopt the Flood Study tender has been negatived once, by virtue of the rescission motion adoption. Should Council negative the motion again there would be no opportunity for the contract to proceed for another 3 months.

## **OPTIONS**

- 1 Council adopt the staff recommendation to accept the tender.
- 2 Council determine not to proceed with the study and therefore the tender.

## **CONCLUSION**

Council has rescinded its original decision to accept a tender.

Council has declined to defer the matter pending further investigation.

Council is required by LG Regulations (General) 2005, s.178 (1), to make an appointment or decline all tenders.

WSC has conducted a tender process which now remains unresolved.

A decision is required in order for staff to proceed with this matter.

## **ATTACHMENTS**

- 1 CPA/205510 - Wyong River Catchments Flood Study - March 14 2012 D02921902

14 March 2012

Director's Report

To the Ordinary Meeting

Infrastructure Management  
Department

### **3.4 CPA/205510 - Wyong River Catchments Flood Study**

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TRIM REFERENCE: - D02921902

MANAGER: Robert Fulcher, Manager Asset Management

AUTHOR: Shah Alam; Engineer Hydrology

#### **SUMMARY**

Evaluation and selection of tenders for Contract No. CPA/205510 – Wyong River Flood Study.

#### **RECOMMENDATION**

- 1 *That Council accept tender no. 3 from BMT WBM Pty Ltd in the lump sum amount of \$156,260.00 excluding GST.*
- 2 *That Council approve a contingency amount of \$15,600 excluding GST representing approximately 10% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.*

#### **ORDINARY MEETING HELD ON 14 MARCH 2012**

**RESOLVED on the motion of Councillor WYNN and seconded by Councillor GRAHAM:**

- 1 ***That Council accept tender no. 3 from BMT WBM Pty Ltd in the lump sum amount of \$156,260.00 excluding GST.***
- 2 ***That Council approve a contingency amount of \$15,600 excluding GST representing approximately 10% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.***

FOR: COUNCILLORS GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: COUNCILLORS BEST, EATON AND MCNAMARA

#### **BACKGROUND**

Wyong River catchment occupies a large area of 440 square kilometres and includes the following sub catchments: Wyong River, Cedar Brush Creek, Jiliby Creek, Deep Creek, Porters Creek, Mardi Creek and Tuggerah Creek. It drains a large proportion of the shire's area to Tuggerah Lakes. The catchment has a history of both mainstream and overland flooding. The catchment experienced major flood events in year 1949, 1964, 1990, 2004 and 2007.

Council has received a state government grant, on a two for one basis, for the year 2011-12 for this flood study.

This contract will see the preparation of a flood study suitable for preparing a floodplain risk management study and plan for this catchment. Council's intention is to complete this project within fifty two (52) weeks after the successful consultant receives the commissioning letter.

### **Tender Process**

Tenders were invited by way of public invitation and closed at Council Chambers at 2.00 pm, on 19 January 2012.

### **EVALUATION OF TENDERS**

Tenders were evaluated using the following threshold and weighted criteria by a panel of three staff members:

Robert Fulcher – Manager, Asset Management

Shah Alam – Engineer Hydrology

Michael Cantali – Project Manager, CPM Team 3

The panel benefited in its deliberations from expert technical advice provided by an officer from the Office of Environment and Heritage (the funding body).

### **Tender Assessment Criteria:**

The following criteria were used:

#### Threshold Criteria

1. The proposed methodology and work activities to meet the study purpose and requirements
2. The consultant's resources and expertise, including capability of the proposed study team and their experience in similar projects.
3. The consultant's ability to complete the Study within the stipulated time frame
4. The consultant's proposed budget, as well as resource allocations and hourly rates.
5. Compliance with Tender documents, including lodgement of tender by specified time.

#### Weighted Criteria

6. Relevant experience (10%)
7. Methodology (20%)
8. Time performance (20%)
9. Price (30%)
10. Conformity with Brief / Specification (10%)

Local Content

11. Assessed level of Local Content (refer Local Preference Policy – Procurement)

**(10% - fixed) this is a MANDATORY weighted criteria**

The evaluation criteria and their weightings were documented in the Contract Development Plan and approved by the Manager Asset Management prior to tenders being invited. The Contract Development Plan is available on TRIM (Document no. D02846286).

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 alphabetical order.

| Tender No | Tender   | Tendered Lump Sum (Ex. GST) | Status                               |
|-----------|--|-----------------------------|--------------------------------------|
| 1         | ADW Johnson Pty Ltd - Tuggerah                 | \$104,230                   | Submitted on time and then withdrawn |
| 2         | Arup Pty Ltd - Sydney                          | \$119,977                   | Submitted on time                    |
| 3         | BMT WBM Pty Ltd                                | \$156,260                   | Submitted on time                    |
| 4         | Cardno NSW Pty Ltd - Gordon                    | \$129,260                   | Submitted on time                    |
| 5         | Catchment Simulation Solutions                 | \$135,458                   | Submitted on time                    |
| 6         | GHD Pty Ltd - Tuggerah                         | \$119,742                   | Submitted on time                    |
| 7         | Henry & Hymas                                  | \$114,644                   | Submitted on time                    |
| 8         | Lyll & Associates Consulting Engineers Pty Ltd | \$129,990                   | Submitted on time                    |
| 9         | SMEC Australia Pty Ltd - Newcastle             | \$139,420                   | Submitted on time                    |
| 10        | WMAwater                                       | \$226,160                   | Submitted on time                    |
| 11        | Worley Parsons - North Sydney                  | \$97,490                    | Submitted on time                    |

\* See Assessment of Conformance below.

**Late Tenders:**

There was no late tender.

**Assessment of Conformance**

Totally conforming:

Tenders were assessed for conformance with the general tender requirements, including the specification. Tender No 3 (from BMT WBM Pty Ltd), Tender No 5 (from Catchment Simulation Solutions), Tender No 6 (from GHD Pty Ltd - Tuggerah), Tender No 7 (from Henry & Hymas), Tender No 8 (from Lyall & Associates Consulting Engineers Pty Ltd), Tender No 10 (from WMAwater) and Tender No 11 (from Worley Parsons - North Sydney) conformed to all requirements and were progressed to the next stage of evaluation.

Substantially conforming:

Tender No 2 (from Arup Pty Ltd - Sydney) proposed lower professional indemnity insurance of \$5,000,000 instead of the project's required insurance amount of \$10,000,000.

Tender No 4 (from Cardno NSW Pty Ltd - Gordon) proposed monthly progress payment instead of Council's preferred method of stage/milestone payment method.

Tender No 9 (from SMEC Australia Pty Ltd - Newcastle) proposed an alternative modelling approach for part of the catchment, which is not favoured by Council.

These tenders were also considered for the next stage of assessment and their departures from the tender/ brief specification were considered in the weighted assessments.

**Withdrawn:**

Tender No 1 (from ADW Johnson Pty Ltd - Tuggerah) has been withdrawn by the tenderer and that advice was confirmed by an email from the tenderer.

**Shortlisting**

Tenders were shortlisted against Weighted Criterion No. 9 – Price (30%).

Tender No 10 (from WMAwater) tendered an amount (\$226,160) that is 131% higher than the lowest priced tender (\$97,490). Regardless of how Tender No 10 rated on non-price criteria, the substantial price difference would make it virtually impossible for this tender to rate as the preferred option after a full weighted evaluation. Furthermore, at the rate offered in the tender, Council would need to reconsider the overall viability of the project from a funding point of view. The tender was therefore eliminated to allow the panel to concentrate its assessment efforts on the nine other 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 Rank |
|------------|---|-----------------------------|---|-----------------------------|
| 3          | BMT WBM Pty Ltd                                 | \$156,260.00                | 69.9  | 1                           |
| 5          | Catchment Simulation Solutions Pty Ltd          | \$135,458.00                | 67.3  | 2                           |
| 6          | GHD Pty Ltd - Tuggerah                          | \$119,742.00                | 66.2  | 3                           |
| 11         | Worley Parsons - North Sydney                   | \$97,490.00                 | 66.0  | 4                           |
| 2          | Arup Pty Ltd - Sydney                           | \$119,977.00                | 65.1  | 5                           |
| 7          | Henry & Hymas                                   | \$114,644.00                | 62.7  | 6                           |
| 8          | Lyall & Associates Consulting Engineers Pty Ltd | \$129,990.00                | 61.0  | 7                           |
| 4          | Cardno NSW Pty Ltd - Gordon                     | \$129,260.00                | 60.2  | 8                           |
| 9          | SMEC Australia Pty Ltd - Newcastle              | \$139,420.00                | 57.1  | 9                           |

**Tender No 11 (from Worley Parsons - North Sydney)** tendered the lowest price of \$97,490 excluding GST. The Tender No 11 allocated lowest time, approximately 577 hours, over a period of 49 weeks for completion of the project. It is unlikely that suitable outcomes of the project can be achieved within the stipulated time. After full weighted evaluation the Tender No 11 ranked 4.

**Tender No 6 (from GHD Pty Ltd - Tuggerah)** tendered an amount of \$119,742 excluding GST. The company has good experience for a range of similar projects. The Project Manager has 15 years of experience in the water industry, including good experience in hydrological and hydraulic modelling for similar projects. The hydrological/hydraulic modeller, who will play vital role in producing quality analysis and results of the project, has less experience. Approximately 517 hours are allocated for modelling, a key item of the project. The Tender No 6 includes local content of an amount of \$3,400.00 excluding GST. Accordingly the Tender No 6 ranked 3.

**Tender No 5 (from Catchment Simulation Solutions)** tendered the fourth highest price of \$135,458 excluding GST. The Project Manager has 10 years of experience in the water industry including extensive experience in hydrological and hydraulic modelling for similar projects but for small catchments. The hydrological/hydraulic modeller has approximately 9 years of experience in related projects.

The Tender No 5 has a good understanding of the scope of work and has a well described methodology to meet all requirements of the brief. Approximately 560 hours have been allocated for hydrological and hydraulic modelling, a key item of the project. The Tender No 5 has offered life time free use of the software that will be used in hydrological modelling. However such software will provide of limited benefit to Council in the future. After full weighted evaluation, the Tender No 5 ranked 2.

**Tender No 3 (from BMT WBM Pty Ltd)** tendered the second highest price of \$156,260 excluding GST. The company has extensive experience in a range of similar projects. The Project Manager has 17 years of experience in water industry including extensive experience in hydrological and hydraulic modelling for similar projects. The hydrological/hydraulic modeller has approximately 8 years of experience in related projects.

The Tender No 3 has a thorough understanding of the scope of work and has a well described methodology to meet all requirements of the brief. The proposed methodology and program are consistent and achievable to meet the required quality output. Approximately 668 hours have been allocated for hydrological and hydraulic modelling, a key item of the project.

In addition, the Tender No 3 has offered the creation and maintenance of a project based webpage for community consultation and for reporting project progression to stakeholders, throughout the project period. The advantage of such a facility would be substantial – stakeholders, including the community would be able to write and upload their responses directly to the webpage and to view the progress of the study. The cost for this attractive and efficient facility was factored into the tender price. This facility will reduce associated costs involved in community consultation that would be otherwise need to be carried out directly by staff anyway. None of the other tenders has offered such facilities within their tendered price. The tender No 3 has also offered a detailed project handover with a half (½) day training session to familiarise Council's staff with the key aspects of the project, including the technical details of the modelling aspects. The cost for such a comprehensive project handover has been factored in the tendered price. None of the other tenders has offered a similar type handover. After full weighted evaluation, the Tender No 3 ranked 1.

The tenders require professional services to develop a flood study. Each tenderer has offered a slightly different proposal to develop the study. Therefore, the tenders do not offer a price to provide exactly the same service to council. The ranking is based on the service offered to council and the associated price.

This ranking of tenders acknowledges that fact the most competitive offer is from the second highest priced tender. It reflects the panel's view that the second highest priced tender does offer the best value for money to council for the services proposed.

## **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.

| 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                           |  |
| 3         | BMT WBM Pty Ltd                                | \$156,260.00                | 69.9                                  | nil                                       | 69.9                                   |
| 5         | Catchment Simulation Solutions                 | \$135,458.00                | 67.3                                  | nil                                       | 67.3                                   |
| 6         | GHD Pty Ltd - Tuggerah                         | \$119,742.00                | 66.2                                  | \$3,371.00                                | 66.4                                   |
| 11        | Worley Parsons - North Sydney                  | \$97,490.00                 | 66.0                                  | nil                                       | 66.0                                   |
| 2         | Arup Pty Ltd - Sydney                          | \$119,977.00                | 65.1                                  | nil                                       | 65.1                                   |
| 7         | Henry & Hymas                                  | \$114,644.00                | 62.7                                  | nil                                       | 62.7                                   |
| 8         | Lyll & Associates Consulting Engineers Pty Ltd | \$129,990.00                | 61.0                                  | nil                                       | 61.0                                   |
| 4         | Cardno NSW Pty Ltd - Gordon                    | \$129,260.00                | 60.2                                  | nil                                       | 60.2                                   |
| 9         | SMEC Australia Pty Ltd - Newcastle             | \$139,420.00                | 57.1                                  | nil                                       | 57.1                                   |

Following assessment of Local Content, there was no change to the order of ranking for the preferred tender i.e. the most Competitive Offer of Tender No. 3 from BMT WBM Pty Ltd was assessed as the Preferred Offer and was therefore progressed to the due diligence phase of evaluation.

### Due Diligence

Tender No. 3 from BMT WBM Pty Ltd was subjected to an in-house safety/environment system assessment and financial and referee checks.

On the basis of the information provided by the tenderer and independent referees (Referee Check Document no D02921504, D02921407 and D02921892), it is considered that Tender No. 3 from BMT WBM Pty Ltd possesses all of the technical and managerial resources necessary to satisfactorily complete the project.

The amount tendered by BMT WBM Pty Ltd is 20% below the Council's pre-tender estimate and is considered to represent a reasonable price for the contract works.

## **PROCESS REVIEW**

This evaluation process and recommendations has been endorsed by the Contract Systems Co-ordinator.

## **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.
- 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 is the major risk that Council bears in relation to this contract:

- Changes to regulatory standards requiring additional flood modelling or revision to the existing model. Mitigated through the tender process by requiring specified rates for each work item under a Schedule of Rates arrangement. Variation amount will then calculated be based on the estimated hours required multiplied by the hourly rates presented at the time of tender. Variation will be approved by the Unit manager prior to progress with the additional work.

### **Risk Contingency**

The nature of the proposed contract is professional service involving technical study. The above risks are considered to be low for this contract given the value of the contract and the nature of the work. Accordingly, it is recommended that a contingency sum of \$15,600 (excl GST) representing approximately 10% 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 \$171,860 (excl GST), which incorporates the contingency allowance, will not be exceeded.

### **BUDGET**

Council has been awarded with a total Grants funding of \$260,000 under the 2011/12 Floodplain Risk Management Grants Scheme. The contract will be carried out in accordance with the NSW Floodplain Management Program with a 2:1 funding agreement for State: Local Government respectively.

A formal request will be made to NSW Office of Environment and Heritage (OEH) for approval of **\$114,575** excluding GST to complete this study within its approved grants program. Accordingly, Council will be required to contribute **\$57,285** excluding GST to complete this study. Funding has been allocated for this project in the 2011/2012 Asset Management Unit's annual budget. The contract will be carried out as task 1 under the project number -15416, which has been created for the Wyong River Catchment Flood Study.

### **TIME-FRAME**

BMT WBM Pty Ltd indicate that they are capable of completing the contract works within the designated time frame of 46 weeks from the date of engagement.

**CONCLUSION**

Tender No 3 (from BMT WBM 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**

- |   |  |           |           |
|---|--|-----------|-----------|
| 1 | Figure A2-Study Area   |           | D02865346 |
| 2 | Wyong River Catchment Flood Study Brief_Final  | Enclosure | D02865339 |
| 3 | Wyong River Catchment Flood Study - Submitted Proposal   |           | D02934675 |
| 4 | BMT WBM Proposal for Consultancy Services - Wyong River Catchment Flood Study (D02934667 - Distributed under separate cover) |           |           |

## **2.3 Strategic Plan 2012-2016 - Emergency Works**

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TRIM REFERENCE: CPA/203271 - D02965888

MANAGER: Gary Kinney, Project Director

AUTHOR: Tim Burch; Project Manager

### **SUMMARY**

This report details the background, costs, schedule and proposed tender process, to stabilise a badly eroded section of river bank on Wyong River, near Alison Road, Wyong, which has been deemed as requiring 'emergency works'.

### **RECOMMENDATION**

- 1** *That Council receive the report on Wyong River Streambank Rehabilitation.*
- 2** *That Council endorse the proposed tender strategy to undertake the works as a regulated open tender*
- 3** *That Council endorse to undertake the works as "emergency works" exempt from the Regulated Tendering Process under the provisions of s55(3)(k) of the Local Government Act 1993 in the event that further bank instability necessitates an acceleration of the tendering process*
- 4** *That Council endorse the General Manager approving a contract for the proposed works under delegation in the event recommendation 3 above is required*
- 5** *That Council approve the proposed project budget of \$2,195,000 (excl. GST), that provides for a contingency amount of \$350,000 (excl. GST)*

### **BACKGROUND**

A section of bank on Wyong River referred to as Site WY82 is proposed for stabilisation and rehabilitation works under the Estuary Management Plan (EMP). The site is immediately west of the bridge across Porters Creek, and is adjacent and visible from Alison Rd. EMPs objective for the project was to mitigate the loss of sediment at the site.

Numerous surveys, investigation and design options have been prepared for the site dating back to 2007. Since that time the bank has showed signs of continued erosion and bank failure including localised slumps/slides and soil tension cracking observed at the top of bank.

A Part V approval (LA/51/2010) was obtained in August 2010 to construct a timber revetment wall at the toe of the bank to prevent scouring of the toe, thought to be the primary cause of bank failure.

Last year, a new consultant (WorleyParsons) was engaged to review options to stabilise and rehabilitate the site having a broader consideration for the long term protection of Council's road and utility assets within metres of the top of the bank. WorleyParsons (WP) brief includes the preparation of a formal EIA and detail design documentation.

Utilities in this vicinity include Council and private water and sewer mains, Telstra cabling and a critical optical fibre (Nextgen) utility which is the main north/south connection between Sydney and Brisbane for emergency services/hospitals. Nextgen have informed Council if the utility were damaged that they would seek compensation from the responsible party in the order of \$200,000/min.

In early February 2012, two significant slides occurred at the site arising from heavy rainfall which caused the undermining of the existing pedestrian pathway/cycleway and exposure of Council owned utilities.

Jeffrey & Katauskas (J&K), the Geotechnical engineers who undertook the geotechnical investigation component for WP were asked by staff to inspect the site immediately and report on the immediate risks to persons and property. Their report dated 29 February 2012 is filed in Trim Doc: D02961697. A summary of the conclusions and recommendations from their report included:

- An "unacceptable risk" to property
- An "acceptable risk" to life
- The site be prioritised as requiring "emergency works" and the works be carried out as soon as possible
- Precautionary works to be implemented immediately including the provision of water filled barricades, pedestrian fencing and frequent monitoring of the site for signs of further movement/erosion.

The precautionary works have been implemented and visual inspections of the site confirm a large tension crack midbank is continuing to open up. WP has been directed to complete the design ASAP to allow for engagement of a contractor to do the works.

### **CURRENT STATUS OF WORKS**

WP original design, submitted in early February 2012 (prior to recent slide events) included the installation of a sheetpile cut off wall at the top of bank for a distance of approximately 100m with a rock revetment wall provided for a less critical stretch of approximately 40m. WP advised recently that ongoing analysis confirmed that the form of the wall would now need to be modified to a continuous concrete pile wall to provide an acceptable factor of safety. WP also advised that further geotechnical investigation including the drilling of additional boreholes in the centre of Wyong River would be required before the design option and details could be finalised. These works and revised report are proposed to be completed by end of April, 2012.

WP have been requested to complete the design as soon as possible and advise of an expected completion date and additional cost.



Concurrent with WP design works, Nextgen were engaged at the end of February 2012, to physically confirm the location of their optical fibre utility to ensure there are no conflicts with the proposed design or construction. Nextgen has had issues locating the utility, specifically, the utility was never laid correctly by their sub contractor as there is no tracer wire or accurate mapping of where the utility was laid. Nextgen are in the process of looking at other options to locate which will likely involve open excavation.

### PROPOSED COSTS AND SCHEDULE

To allow works to proceed in the manner required to best mitigate the instability, the works will be staged to include the installation of the sheetpile/continuous pile wall in Stage 1, and completion of the rock revetment in Stage 2.

The current proposed budget for each stage is set out below. The estimates below are based on preliminary design and may be subject to considerable variation pending refinement of final design.

| <u>Stage 1 (Continuous Pile Retaining Wall)</u> |                  |
|---|------------------|
| Design, planning and construction including PM  | 1,605,000        |
| Contingency 20% (against uncommitted costs)     | 300,000          |
| <b>Total</b>                                    | <b>1,905,000</b> |
|   |                  |
| EMP Funding (Federal Government)                | 500,000          |
| R&S Funding                                     | 1,405,000        |

| <u>Stage 2 (Rock Revetment)</u>                |                |
|--|----------------|
| Design, planning and construction including PM | 240,000        |
| Contingency 20%                                | 50,000         |
| <b>Total</b>                                   | <b>290,000</b> |
|  |                |
| EMP Funding                                    | 0              |
| R&S Funding                                    | 290,000        |

To date, EMP has committed to providing \$500,000 of Federal funds under the Caring For Our Country program to the works. At a recent meeting between EMP and the Federal Government on 22 March 2012, to discuss the accelerated works program, the government verbally approved for these funds to be made available for Stage 1 on the provision that R&S complete the Stage 2 works. The Federal government has also provided verbal approval to provide a loan of \$400,000 in addition for Stage 1 works to be repaid in 12/13 by R&S.

The shortfall in funds (\$1,695,000) to complete the project will be identified in the Draft Strategic Plan 2012-2016 to be considered by Council at the 23 May 2012 Ordinary Meeting.

Opportunities to seek contributions from other utility providers, who have assets in the service corridor which could be or already are compromised (including water, sewer, Telstra and fibre optic), are also being actively pursued with letters sent to each from the Manager R&S.

As discussed above, WP anticipate completing their geotechnical investigation and design by end of April, 2012. Assuming the findings of the geotechnical investigation do not further delay the design process, a timeline to complete Stage 1 of the project follows. Note Stage 2 works which include the construction of the rock revetment and are not critical to the protection of the road and utility assets, are not shown, but would be completed sometime in 12/13.

- Additional geotechnical investigation (completion – end April)
- Finalise design, works specification and REF (completion – end May)
- Obtain new Part V Approval (mid June)
- Tendering & Approval (10 weeks – end August)
- Construction (end September 2012)

### **PROPOSED TENDERING STRATEGY**

It is proposed that a regulated open tender process be adopted.

In the event that further bank instability necessitates an acceleration of the tendering process it is proposed to utilise the tender exempt provisions within the *Local Government Act 1993* under s55(3)(k) for “emergency works”. Under this strategy a minimum of three pre-qualified contractors who have worked with Council previously, and are capable of completing the works will be approached for fee proposals, and a tender evaluation report will be prepared and submitted with a recommendation for award to the General Manager for approval under delegation.

### **CONCLUSION**

EMP streambank rehabilitation site WY82 on Wyong River at Alison Rd, Wyong has been assessed as requiring ‘emergency works’ to address the assessed unacceptable risk to Council (and other) utility and road assets in the immediate proximity adjacent to the top of bank.

It is proposed that a regulated open tender process be adopted.

It is recommended the project budget of \$2,195,000 (excl. GST) which includes a contingency amount of \$350,000 (excl. GST) be approved. The shortfall in allocated funds (\$1,695,000) to complete the project will be identified in the Draft Strategic Plan 2012-2016 to be considered by Council at the 23 May 2012 Ordinary Meeting.

### **ATTACHMENTS**

*Nil.*