

**ITEM 9**

**ESTUARY MANAGEMENT COMMITTEE FOR LAKE ILLAWARRA**

With the closure of the Lake Illawarra Authority (LIA), a joint Estuary Management Committee involving Wollongong City and Shellharbour City Councils has been proposed as a mechanism for managing Lake Illawarra.

This report presents the preferred option for the role, function and structure of such a committee to effectively support the future management of the Lake. The report is being provided to both Wollongong and Shellharbour Councils for consideration.

## Recommendation

Council -

- 1 Endorse the establishment of the Lake Illawarra Estuary Management Committee in accordance with the proposed guiding principles;
- 2 Write to the Minister for the Environment seeking State Government financial support for the establishment and ongoing management of the committee and for the ongoing management of Lake Illawarra;
- 3 Prepare a report for Council in February 2014 to endorse the Lake Illawarra Estuary Management Committee Terms of Reference, nomination of Councillor representatives on this Committee and advertising for community representatives;
- 4 Note that an equivalent report and recommendations will be tabled to Shellharbour City Council's meeting on Tuesday, 10 December 2013.
- 5 Note that a separate report will be provided to Council on the proposed transfer of lands and assets from the Lake Illawarra Authority and associated financial implications to Council.

## Attachments

Lake Illawarra Authority Review Report extract – Review Recommendations

## Report Authorisations

Report of: Mike Dowd, Manager Infrastructure Strategy and Planning  
Authorised by: Mike Hyde, Director Infrastructure and Works – Connectivity, Assets and Liveable City

## Background

### Review of the Lake Illawarra Authority

The Lake Illawarra Authority (LIA) was established in February 1988 under the Lake Illawarra Authority Act 1987 for the purpose of improving the environment of Lake Illawarra, its foreshores and environs. Activities undertaken by the LIA included development works defined in the Act as –

*The improvement of Lake Illawarra and its foreshores and immediate environs, including:*

- a the removal of ooze, silt, sand, sediment, algae and weed growth*
- b the deepening of channels and bays and disposal of spoil,*
- c the construction of silt traps and nutrient filters at entry points of streams and drains,*
- d the landscaping of foreshores, including the planting and removal of trees and other vegetation,*
- e the provision of recreational facilities and amenities, including beaches, boat ramps, boatsheds, jetties, wharves, moorings and appropriately screened car parks, and*
- f the carrying out of land reclamation and works for the protection of the environment.*

The LIA had decision-making delegation to implement its priorities including planning approval powers under the Environmental Planning & Assessment Act 1979 and Construction Authority delegation under the Public Works Act 1912. The LIA was also provided dedicated budget by the State Government, supplemented by cash and in-kind contributions from Wollongong and Shellharbour Councils.

In June 2013 following a review of the LIA, the NSW State Government wrote to Council advising that it had decided to “close the Lake Illawarra Authority and return day to day management responsibility for lake issues to the City of Wollongong and City of Shellharbour”. One of the recommendations of the review which led to the Government’s decision was that a Lake Illawarra Estuary Management Committee be established. Specifically the review recommended the Government –

- 1 Support the establishment of a Lake Illawarra Estuary Management Committee consistent with other estuary management committees in NSW which:*
  - a has as its primary aim to steer the management of Lake Illawarra and associated land;*

- b will ensure that management of the Lake is consistent with the relevant legislation, presently the Coastal Protection Act 1979, and associated guidelines and regulations;*
- c comprises representatives from relevant local government areas (currently Wollongong City and Shellharbour City Councils) and relevant agency and community representatives;*
- d will complete an update of the LIA's 2006 Strategic Plan and thereby finalise an Estuary Management Plan that fully accords with current NSW Government policy guidelines; and*
- e monitors and reports on estuary health in keeping with the Estuary Management Plan.*

Other recommendations of the review relate to the transition process, land transfer and future land management responsibilities. A copy of the review recommendations is attached and the full Lake Illawarra Authority Review report is available on the NSW Government's website at:

[http://www.lpma.nsw.gov.au/about\\_crown\\_land/publications/exhibition\\_and\\_information/information2/?a=183211](http://www.lpma.nsw.gov.au/about_crown_land/publications/exhibition_and_information/information2/?a=183211).

## **Transition Period**

Following the Government's announcement to close the LIA, Shellharbour and Wollongong Councils sought urgent advice from the State Government regarding the implications of the closure and future management responsibilities for the lake. As a result, a Transition Committee was established comprising senior staff from the LIA, the Department of Trade and Investment - Crown Lands (DTI) and from Wollongong and Shellharbour Councils.

The role of the transition committee was to address issues relating to –

- completion of LIA approved and funded works programs
- conversion of land tenures to DTI and Councils
- transfer of assets and documentation of associated financial implications
- reassignment of LIA staff and contract resources
- on-going environmental monitoring
- plan for giving effect to the Lake Illawarra Estuary Management Committee

Since August 2013, the Transition Committee has met fortnightly working through significant amounts of information and reports provided by the LIA in order to develop informed positions regarding the implications of the LIA closure. These implications can be broadly grouped into two groups; land management and estuary management.

## **LIA Land Management Activities**

Land management activities carried out by the LIA, to be transferred to Councils and DTI include the following –

- Breakwater maintenance (DTI responsibility)
- Foreshore clean-up (Councils)
- Maintenance of parks and associated infrastructure (Councils)
- Construction of new shared paths and parks (Councils)
- Construction and maintenance of stormwater treatment devices (Councils)
- Maintenance of jetties and over water structures (Councils via DTI licence)
- Management of King Street Wharf development area (To be negotiated)
- Maintenance, licencing and leasing of LIA buildings (Councils or DTI)

The specific considerations relating to land management matters resulting from the closure are complex and implications differ significantly between Wollongong and Shellharbour Councils. This will be the subject of reports provided separately to each Council following further analysis of information provided to date.

## **LIA Estuary Management Activities**

Estuary management activities carried out by the LIA, to be transferred to Councils and DTI include the following –

- Algae harvesting (not currently required)
- Monitoring and improvement of water quality (Councils to jointly manage)
- Lake / channel dredging (Councils to manage)
- Management of lake bed (DTI)
- Estuarine and foreshore habitat management works (DTI and Councils)

These activities extend across the full extent of the lake, which traverses both Wollongong and Shellharbour Local Government Areas (LGA). Whilst two-thirds of the lake body lies in the Wollongong LGA, its catchment is shared about equally by the two Councils. A joint Estuary Management Committee involving both Councils has therefore been suggested as a holistic way to manage the Lake in the future.

## **Estuary Management Committees**

The NSW Government administers an Estuary Management Program, which, over the years, has assisted local communities to develop and implement their own plans to restore and protect estuaries. This framework required the formation of an Estuary Management Committee to oversee the process, and it involved representatives from the local community, industry, environmental interest groups, researchers and State and Local Government.

While the formation of such a committee is no longer a requirement under the State Program, many Councils continue to retain these committees for strategic planning in estuary and coastal areas.

## Proposal

The establishment of the Lake Illawarra Estuary Management Committee requires matters relating to its areas of responsibility, delegation and budgetary control, membership and reporting requirements to be established. This report presents the proposed guiding principles for the Committee to enable a formal terms of reference to be developed and addresses each of these components and presents alternatives considered in forming this position.

### Areas of Responsibility

Both Wollongong and Shellharbour City Councils have existing management structures and consultative mechanisms in place for dealing with land management matters such as infrastructure maintenance and renewal, property management and cultural and heritage matters. These matters are usually not the normal business of an Estuary Management Committee.

The LIA has recently been updating the 2006 Estuary Management Plan for the lake to reflect current policy and on-ground conditions, but the work is not complete.

It is proposed that the Estuary Management Committee's primary responsibilities are –

- 1 To address matters relating to the protection and improvement of estuary health, through –
  - a review and update of the 2006 Lake Illawarra Strategic Plan; and
  - b development and periodic review of an Estuary Management Plan
  - c monitor the impact of management actions, and periodically review the strategic plan
- 2 Be consulted if there are potential estuary health impacts from infrastructure, property, or cultural and heritage management activities in the immediate surrounds of the Lake.

It is proposed that all infrastructure, property and cultural and heritage matters relating to the Lake that are being transferred to the two councils be managed by the respective councils' existing management structures. The Committee would only be consulted where infrastructure, property, and cultural and heritage management activities are likely to impact estuary health. This consultation could be facilitated by each Council providing their forward works programs in the immediate surrounds of the Lake to the Estuary Management Committee on an annual basis.

The alternative that the Committee also be responsible for infrastructure, property, cultural and heritage matters, although reflecting the current LIA responsibilities, is not considered desirable on the grounds that –

- these matters generally relate to site or area specific issues that are typically managed by Councils independently or collaboratively where sites or project cross LGA boundaries
- consideration of these matters would require additional resourcing or membership to the committee, significantly broadening its terms of reference
- the Committee would not have the planning powers or project delegation currently held by the LIA to oversee, prioritise or manage works associated with Council or DTI land or assets

## **Delegation and Budgetary Control**

The Committee/s level of delegation and budgetary position needs to be commensurate with the type of strategies that the committee could propose for dealing with estuary health matters, both in undertaking any additional studies considered necessary to refine the Strategic Plan and Estuary Management Plan and in delivering the resulting adopted priorities. These actions could include catchment planning controls, on-ground works, education and awareness raising, and monitoring, evaluation and reporting activities.

The implementation of the strategies proposed by the Estuary Management Committee might involve decisions and budgetary allocations from a State Government Agency, a single Council or from both Councils. Regardless of the level of delegation, the Committee will rely on the cooperation and integration of strategies with Council programs and priorities.

It is proposed that the Estuary Management Committee be delegated to –

- 1 Establish strategies for protecting and improving estuary health to be recommended to both Councils for adoption;
- 2 Prioritise a works program to implement actions to support the adopted strategies and plans, based on budgetary allocations provided by Agencies and Councils represented on the Committee.

It is proposed that the Councils and State Government Agencies allocate specific budgets to support the operation of the Committee and to deliver identified estuary improvement programs. It is proposed that initially (for 2014-15), a nominal allocation of \$150,000 annually, be made, based on a \$100,000 / \$50,000 split between Wollongong and Shellharbour Councils (based on the area of the Lake in each LGA).

Initially these funds would support continuation of the annual water monitoring in the lake (in association with additional grant funds from the Office of Environment and Heritage), planning activities (background studies, preparation of strategies, monitoring and evaluation) and could ultimately extend to on-ground biodiversity and estuary health improvement activities.

Additional funds would need to be sought from and committed by supporting State Government Agencies. Future funding requirements will be dependent on the agreed work programme of the Committee. The initial funding would enable water quality

testing to continue and also enable the engagement of a part time resource to coordinate the initial work of the Committee.

It is proposed that under this proposal, each Council would accommodate their share of the approved activities into their own business plans, and would need to allocate resources to manage the projects on behalf of the Committee. Any proposals above the \$150,000 limit would need to be referred to one or both councils for approval and budgetary allocation through their normal business planning processes.

The benefits and risks of the proposed model are –

Benefits	Risks
<p>Committee empowered to prioritise allocated funding to undertake strategic planning work without delay.</p> <p>Certainty in funding of Estuary health improvement activities on an on-going basis.</p> <p>Projects requiring major resource commitments can be rationalized against other council priorities.</p>	<p>Projects needing to be integrated into councils work programs could conflict with existing and/or competing priorities.</p> <p>Budget allocation decisions could be difficult if Committee consensus cannot be reached.</p>

The alternatives to the proposed model are to provide the Committee partial or full financial and planning delegation for Estuary health strategies and programs. This would make the Committee an autonomous fully or partially delegated and resourced independent body with –

- a delegation and dedicated budget (allocation to be decided by the two councils) to plan, approve and implement its priorities.
- b decision makers who can commit the necessary council resources to the work plan would have to be part of the Committee

In many ways, this model is commensurate with the former LIA. This option is not considered appropriate on a number of grounds; these being –

- for the Estuary Management Committee to exercise specific functions of Council it would require a Council resolution (from both Councils) pursuant to section 377 of the LG Act granting specific delegations. It would require allocation of significant Council resources (budget and staff) to support an autonomous body
- It could establish priorities and programs that conflicted with other Council programs.
- Assuming that only estuary health matters are to be the business of this committee, it is questionable whether the required executive level involvement from the councils is warranted and would be supported.

### **Committee Membership**

It is proposed that the Committee be a joint Committee involving Wollongong City and Shellharbour City Councils and comprise the following membership –

### Voting members

- 2 Councillors from each Council (Chair rotating between Councils)
- 1 Community member from each LGA
- 1 Senior Officer from the Office of Environment & Heritage

### Non-voting members

- 2 Senior Officers from each Council
- 1 Senior Officer from Department of Trade & Investment (Crown Lands)
- 1 Senior Officer from the Roads & Maritime Services.

It is proposed that Committee decisions would be made through consensus or majority vote with the Chair holding a casting vote.

### **Reporting Requirements**

It is proposed that the Estuary Management Committee would be required to submit an annual report of its achievements to the two Councils, the Office of Environment & Heritage and to the Department of Trade & Investment for information.

### **Committee Resourcing**

An officer from the Councils would need to be identified to coordinate and support the work of the committee. The host council (based on the current Chair) would be responsible for organising and holding the meetings determined. Administrative support for the committee will be necessary.

It is proposed that Wollongong and Shellharbour Councils alternate in the coordination and hosting roles on an annual basis in line with the rotation of the Committee Chair.

In addition to administrative support, the Committee will require support for the coordination and implementation of projects related to the work of the Committee. It should be noted that neither Wollongong nor Shellharbour Councils have resources available to provide this level of project management support. An additional part time position is required to support operation of the Committee and oversight of any established Estuary Management Programs.

## **Consultation and Communication**

The report has been prepared following consultation with members of the Lake Illawarra Authority Transition Committee, involving senior officers from Wollongong and Shellharbour City Councils, the Lake Illawarra Authority, and the Department of Trade and Investments – Crown Lands. Staff from the Office of Environment and Heritage have also been consulted in relation to the operation of Estuary Management Committees.

Within Wollongong Council, staff from the Environment, Strategy and Planning, Infrastructure Strategy & Planning and Finance Divisions have been consulted.

If Council adopts the recommendations in this report, further consultation will need to take place with Shellharbour City Council and the LIA Transition Committee to finalise the Committee Terms of Reference and enact the Council resolutions.

Following establishment of the proposed Estuary Management Committee, relevant senior and technical staff from Wollongong and Shellharbour Councils would need to meet periodically to discuss and manage any works or activities associated with the Committee to ensure effective coordination of information.

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## Planning and Policy Impact

Wollongong 2022 Community Goal and Objective – This report contributes to the Wollongong 2022 objective 1.2 “Our coastal areas and waterways are protected and enhanced” under the Community Goal 1 - We value and protect our environment. It specifically delivers on core business activities as detailed in the Environmental Programs Service Plan 2013-14.

### Ecological Sustainability

Establishment of a Lake Illawarra Estuary Management Committee directly supports the ecological sustainability of Lake Illawarra and its environs, directly supporting the environmental improvement and management programs of Wollongong and Shellharbour Councils and supporting State Agencies.

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## Risk Assessment

The largest risk potentially impacting on the effectiveness of a joint Estuary Management Committee is the lack of available funds to support the Committee and, moreover to fund estuary health improvement strategies and programs identified by the Committee.

This risk can only be mitigated and managed by –

- Councils allocating sufficient funds on a recurring basis; and
- Gaining commitments by the relevant State government agencies to provide ongoing financial support to the Councils (and thereby the Committee) under existing and future related funding programs. These agencies include –
  - o Office of Environment & Heritage – Estuary health programs
  - o Department of Trade & Investment – Crown lands management
  - o Roads and Maritime Services – Lake Navigation improvements

It is proposed that both Councils write to these agencies seeking their ongoing commitment to allocate funds to support the ongoing management of Lake Illawarra.

Other risks associated with the establishment of a joint Estuary Management Committee involving Wollongong and Shellharbour Councils include –

- Disagreements between Councils on committee matters, funding allocation, project priorities or related matters
- Insufficient resources allocated by Councils to operation of the Committee

- Community dissatisfaction with Committee membership, consultation, etc
- Committee members seek to influence land or property management issues directly managed by Councils

These risks can be managed and effectively mitigated through establishment and adherence to stringent Terms of Reference, commitment of identified resources by Council and by State Government agencies and constructive and coordinated communication between parties, particularly between Wollongong and Shellharbour Council senior staff and officers.

## Financial Implications

Adoption of the proposed Lake Illawarra Estuary Management Committee model will require initial allocation of the following Council resources in 2014-15.

- 2014-15 operating budget to support Committee operations and programs
  - o \$100,000 Wollongong City Council
  - o \$ 50,000 Shellharbour City Council
- There is an expectation that there will be a need for a baseline recurrent allocation to be made annually to the EMC in order for them to undertake their activities.
- Additional staff resource to support Committee and manage initiated activities would be funded from the annual recurrent allocation.
  - o LIA Project Officer (0.6 FTE) Wollongong City Council

It is proposed that Wollongong Council's contribution to funding the Committee would be sourced from the existing allocation to Lake Illawarra works, previously used to fund Council's contribution to the Lake Illawarra Authority.

In addition to these recurrent implications, adoption of programs approved and established by the proposed Committee may result in the need for additional resources and operational or capital funds to be allocated to approved projects. These would be the subject of separate business proposals considered by the relevant Council. Where these relate to the construction or replacement of assets, whole of life analysis of the implications of the proposal will be carried out to ensure financial sustainability.

## Conclusion

A joint Estuary Management Committee involving both Wollongong and Shellharbour City Councils is considered the most appropriate mechanism for future management of Lake Illawarra, following the State Government's decision to close the Lake Illawarra Authority.

It is proposed that the Estuary Management Committee be established based on the following principles as detailed in this report –

- 1 The Estuary Management Committee's primary responsibilities are –

- a To address matters relating to the protection and improvement of estuary health, through –
    - i review and update of the 2006 Lake Illawarra Strategic Plan;
    - ii development and periodic review of an Estuary Management Plan;
    - iii monitor the impact of management actions, and periodically review the strategic plan
  - b Be consulted if there are potential estuary health impacts from infrastructure, property, or cultural and heritage management activities in the immediate surrounds of the Lake.
- 2 All infrastructure, property and cultural and heritage matters relating to the Lake that are being transferred to the two councils be managed by the respective councils' existing management structures.
- 3 The Estuary Management Committee be delegated to –
- a Establish strategies for protecting and improving estuary health to be recommended to both Councils for adoption;
  - b Prioritise a works program to implement actions to support the adopted strategies and plans, based on budgetary allocations provided by Agencies and Councils represented on the Committee.
- 4 Councils and State Government Agencies allocate specific budgets to support the operation of the Committee and to deliver identified estuary improvement programs on the following basis -
- a initially (for 2014-15), a nominal Council allocation of \$150,000, be made, based on a \$100,000 / \$50,000 split between Wollongong and Shellharbour Councils (based on the area of the Lake in each LGA).
  - b Additional supporting funds be sought and provided by relevant State Government Agencies
- 5 The Committee be a joint Committee involving Wollongong City and Shellharbour City Councils and comprise the following membership –
- a Voting members
    - 2 Councillors from each Council (Chair rotating between Councils)
    - 1 Community member from each LGA
    - 1 Officer from the Office of Environment & Heritage
  - b Non-voting members
    - 2 Senior Officers from each Council
    - 1 Officer from Department of Trade & Investment (Crown Lands)
    - 1 Officer from the Roads & Maritime Services
- 6 Committee decisions would be made through consensus or majority vote with the Chair holding a casting vote.

- 7 Wollongong and Shellharbour Councils alternate in the coordination and hosting roles on an annual basis in line with the rotation of the Committee Chair.

Successful achievement of strategies and programs identified by the Committee will require Council resources and financial commitments from Councils and from State Government agencies.

## Extract from Lake Illawarra Authority Review Report, Crown Lands, May 2013 – Page 17 “Recommendations”

### Recommendation

In order to maintain the outcomes of the LIA into the future, the recommendations of this review are as follows:

1. Support the establishment of a Lake Illawarra Estuary Management Committee consistent with other estuary management committees in NSW which:
  - a. has as its primary aim to steer the management of Lake Illawarra and associated land;
  - b. will ensure that management of the Lake is consistent with the relevant legislation, presently the Coastal Protection Act 1979, and associated guidelines and regulations;
  - c. comprises representatives from relevant local government areas (currently Wollongong City and Shellharbour City Councils) and relevant agency and community representatives;
  - d. will complete an update of the LIA’s 2006 Strategic Plan and thereby finalise an Estuary Management Plan that fully accords with current NSW Government policy guidelines; and
  - e. monitors and reports on estuary health in keeping with the Estuary Management Plan.
2. The Department of Trade and Investment – Crown Lands should prepare a Lake Illawarra Transition Plan that addresses any outstanding issues and specifies transitional funding arrangements that will support the Lake Illawarra Estuary Management Committee.
3. The Department of Trade and Investment – Crown Lands should become the managing authority for the entrance breakwalls.
4. The Department of Trade and Investment – Crown Lands should consult with Wollongong City Council on arrangements for the future management of the King Street development area.

As a result:

- The operation of the LIA will be discontinued by repealing the Lake Illawarra Authority Act 1987 and allowing Wollongong City and Shellharbour City Council to resume management of the Lake in keeping with practices elsewhere in NSW; and
- The land owned by the LIA, being largely the bed of the Lake, will revert to being Crown land consistent with other estuaries in NSW.