

Chapter 5

Tumbi Creek

Introduction

5.1 On 24 June 2004 and 11 July 2004 then Parliamentary Secretary De-Anne Kelly approved two Regional Partnerships Program (RPP) grants to Wyong Shire Council for dredging work at the mouth of Tumbi Creek. Together these grants totalled \$1.496 million.¹

5.2 The grants received much media attention in late 2004 and early 2005. Questions were asked in both houses of the federal parliament regarding the probity of the grants and approval process. The Committee inspected Tumbi Creek mouth and the proposed dredge channel on 24 February 2005 and heard evidence from relevant parties at a public hearing at The Entrance on the same date.

5.3 This chapter examines the Tumbi Creek dredging project grants. It briefly describes the background and reasons for the proposed dredging and sets out the evolution of the project proposal. The chapter then examines the grant applications, assessment and approval process, including the roles of relevant key stakeholders.

5.4 The examination gives rise to a number of concerns about the administration of the RPP program, which are discussed throughout the chapter. Such concerns include: the appropriateness of the Tumbi Creek dredging grants according to the published program guidelines; the inadequacy of the grant applications; circumvention of the ACC review process; availability of alternative sources of funding; and probable political influence to expedite the assessment of the grants.

Background

5.5 Tumbi Creek is located within the jurisdiction of the Wyong Shire Council (the Council), on the New South Wales Central Coast. The creek is one of four freshwater courses entering into the Tuggerah Lakes.² Management of the lakes system has long been a priority for the region, with \$13 million allocated to lake restoration work by the New South Wales government in 1988.³ Tumbi Creek mouth itself has been dredged on three previous occasions, in 1974, 1986 and 1995.⁴

1 DOTARS, Revised RPP tables, received 11 May 2005.

2 Wyong Shire Council, *Snapshot of the Tuggerah Lakes Estuary Management Study*, February 2005, p. 5.

3 Councillor Graham, *Committee Hansard*, 24 February 2005, p. 4.

4 Mr Cathers, Director, Engineering Services, Wyong Shire Council, *Committee Hansard*, 24 February 2005, p. 12.

5.6 Siltation around creeks and inlets is the result of natural processes of erosion and deposition that occur in all estuarine environments.⁵ Mr John Asquith, Chair of the Central Coast Community Environmental Network, told the Committee that 'closure of these types of channels and their reopening in storm conditions is a natural cycle'.⁶ In the case of Tumbi Creek, Mr Asquith explained that sediment build up had been made worse by human activity. For example, increased population around the lake has increased the nutrient levels in the lake environment, contributing to build up of weeds and therefore the blocking of the creek mouth.⁷ Documents provided to the Committee by Wyong Shire Council also state that, 'the level of development in the catchment had increased both the volume and velocity of stormwater flows in the creek, leading to erosion and instability of sections of the creek banks and particularly the creek bed'.⁸

5.7 As a result of sediment build up, in late 2000 the entrance to Tumbi Creek became blocked, resulting in NSW Waterways removing navigation markers to the channel and closing it to boating access. At the same time, the Council closed the boat ramp at Tumbi Creek, with plans to improve an alternative boat ramp at Saltwater Creek.

Evolution of the project proposal

5.8 The proposed dredging project, put forward for grants under the RPP, is the culmination of a long history of proposals and research into options for handling siltation at Tumbi Creek mouth. A brief overview of this history is canvassed here.⁹

5.9 In response to community concerns, the Council considered the state of the creek in January 2001 and resolved to seek approval for minor excavation of the creek mouth channel. The New South Wales Department of Land and Water Conservation (DLWC) gave approval for this dredging work in August 2001. However, by that time the Council no longer considered minor dredging a viable option, due to the increased siltation which had occurred in the intervening period and further concerns about water quality and potential flooding.

5.10 In September 2001 the Council resolved to pursue a more extensive dredging option. This option involved dredging a new channel and spreading the dredge spoil

5 Wyong Shire Council, *Review of Environmental Factors, Maintenance Dredging at the Mouth of Tumbi Creek, Killarney Vale*, December 2004, p. 1.

6 *Committee Hansard*, Thursday 24 February 2005, p. 74.

7 *Committee Hansard*, Thursday 24 February 2005, p. 74.

8 Wyong Shire Council, *Review of Environmental Factors, Maintenance Dredging at the Mouth of Tumbi Creek, Killarney Vale*, December 2004, p. 2.

9 Chronology compiled from Wyong Shire Council, *Review of Environmental Factors, Maintenance Dredging at the Mouth of Tumbi Creek, Killarney Vale*, December 2004, pp 1-9.

across the lake bed. The estimated cost of this proposal was \$300,000. Various studies, information gathering exercises and negotiations were subsequently conducted in order to meet concerns raised by the *Review of Environmental Factors* associated with the proposal and to meet dredge licence requirements.¹⁰

5.11 Eventually, more than two years later, all matters had been resolved and in March 2004 the DLWC issued the Council with a dredging licence and concurred that dredging could commence.

5.12 In the intervening period, community concerns had been levelled at the proposal to dispose of the dredge spoil across the lake bed. Mr Ken Ticehurst, Federal Member for Dobell, addressed the Council on 10 December 2003 offering \$340,000 of federal funding towards the dredging, conditional on the dredge spoil being taken off site rather than spread across the lake. The offer was also conditional on the state government and the Council providing matching funding.¹¹

5.13 On 10 March 2004, one week after receipt of the dredging licence, the Council considered a rescission motion relating to the dredging and resolved not to proceed with the option to spread the dredge spoil across the lake bed. The Council called for a report on alternative options for opening the mouth of Tumbi Creek and the associated costs.¹²

5.14 Throughout this period, Mr Ticehurst continued to take an active interest in the dredging of Tumbi Creek and lobbied Council members to adopt a dredging option which involved disposing of the spoil off site. In a letter of 10 March 2004 to Cr Greg Best, then Mayor of Wyong Shire, Mr Ticehurst said:

In conclusion I would hope that Councillors support the rescission motion as our environment and our lakes are too precious to be dealt a blow by dumping 15,000 cubic meters of sludge and silt onto the lake floor.¹³

The RPP proposal

5.15 Ten alternatives for clearing the blocked creek mouth were put forward to the Council in a preliminary report. Five of these options involved again dredging the

10 Wyong Shire Council, *Review of Environmental Factors, Maintenance Dredging at the Mouth of Tumbi Creek, Killarney Vale*, September 2001.

11 Wyong Shire Council, *Review of Environmental Factors, Maintenance Dredging at the Mouth of Tumbi Creek, Killarney Vale*, December 2004, p. 8.

12 *Committee Hansard*, 24 February 2005, p. 6

13 Mr Ticehurst MP, Federal Member for Dobell, correspondence, 10 March 2004, in answers to questions on notice received 4 July 2005.

channel created by previous dredging works; the other five involved dredging a new channel on an alignment closer to the creek's natural watercourse.¹⁴

5.16 Committee members explored with Mr David Cathers, Council's Director of Engineering Services, the 'preliminary' nature of the report:

Senator O'BRIEN—Mr Cathers, can you explain what the report means when it says that the options are 'based on preliminary data and would require further investigation'?

Mr Cathers—Yes. ...The reason why I included the comments that were based on preliminary information was that it was developed to, I guess, a concept level. We had some preliminary survey levels taken and the information was not good enough at that point in time to include in contractual documents.¹⁵

5.17 The Council considered the report at a meeting on 9 June 2004 and resolved to adopt Option 1, which involved dredging the creek on the new alignment and disposing of the spoil off site at a landfill tip. In the report, this option was ranked third of the ten proposals. Mr Cathers explained that the ranking was based on 'ecological impacts, social impacts etc'.¹⁶ He said that the ten new proposals were not ranked against the rescinded proposal, which had already been ruled out by the Council. Mr Cathers told the Committee that while the selected option was not, due to cost considerations, ranked the highest it was expected to have a longer impact than the cheaper options.¹⁷

The RPP applications

5.18 The first RPP application put forward by the Council in relation to Tumbi Creek was submitted the next day, 10 June 2004, without further development of the newly adopted dredge proposal.¹⁸ The application was predicated on a tri-funding

14 Wyong Shire Council, 'Appendix 5 Wyong Shire Council Report – June 9 2004 Dredging Options', in *Review of Environmental Factors, Maintenance Dredging at the Mouth of Tumbi Creek, Killarney Vale*, December 2004.

15 *Committee Hansard*, 24 February 2005, p. 6.

16 *Committee Hansard*, 24 February 2005, p. 6.

17 *Committee Hansard*, 24 February 2005, p. 7.

18 The Committee notes that, as with other RPP and SRP projects, it experienced significant difficulty obtaining correct date information regarding this funding application. The Committee was originally informed by DOTARS that applications made in relation to Tumbi Creek were submitted on 24 June 2004 and 11 July 2004 and approved on the 24 June 2004. After questioning by Committee members, questions raised in the House of Representatives and investigation by DOTARS, the Committee was advised that the first application was received on 10 June 2004 and approved on 24 June 2004 and that a further application seeking additional funds was received on 25 June 2004, formally confirmed by the Council on 1 July 2004 and approved on 11 July 2004.

arrangement, with the Council, state and federal governments each contributing \$680,000.

5.19 Mr Ticehurst had encouraged the Council to apply for RPP funding, inferring that the application should be lodged quickly. In a media release of 8 June 2004, Mr Ticehurst said:

The funds for Tumbi Creek are available in the *Regional Partnerships* programme of the Federal Department of Transport and Regional Services.

The appropriate application from Wyong Shire Council is awaited by the Department of Transport and Regional Services. Subject to Wyong Council resolving on Wednesday to formally apply, an application will be lodged with the Department of Transport and Regional Services.¹⁹

5.20 Unlike other RPP applications prepared by the Council, the Tumbi Creek dredging application was not prepared in consultation with the relevant ACC.²⁰ Instead the application was submitted directly to DOTARS' regional office. Mr Cathers told the Committee that he had been advised to send the application directly to DOTARS by Mr Graeme Hallett, an adviser to the Hon Jim Lloyd, Minister for Local Government, Territories and Roads.²¹

5.21 Subsequently, on 11 June 2005, DOTARS sent the application to the ACC for comment.²² However, the ACC's comments were not provided to the minister for consideration before the grant was approved. Dr Gary Dolman, Assistant Secretary, said:

There was an issue with this particular project, unfortunately, where the ACC advice was late in coming. So in this case the ACC recommendation was not provided.²³

5.22 The application was provided to the ACC on 11 June 2004. The Committee was informed that the ACC's comments were entered into TRAX on the 22 June 2004, that is, seven working days later, but were not stored successfully.²⁴ The ACC's comments were then emailed to DOTARS two days later on 24 June 2005.²⁵ The covering email sent to the ACC with the application clearly indicates that these were adequate response times:

For those projects that were developed in consultation with the ACC, comments should be sent to the Department within 10 working days.

19 Mr Ticehurst MP, *Media release*, 8 June 2004.

20 *Committee Hansard*, 24 February 2005, p. 41.

21 Mr Cathers, *Committee Hansard*, 24 February 2005, p. 41.

22 *Committee Hansard*, 24 February 2005, p. 93.

23 *Committee Hansard*, 24 February 2005, p. 107.

24 Dr Dolman, Assistant Secretary, *Committee Hansard*, 24 February 2005, p. 93.

25 *Committee Hansard*, 24 February 2005, p. 93.

However, ACCs are not required to meet this timeframe for projects they have not been consulted on.²⁶

5.23 Dr Dolman told the Committee that Parliamentary Secretary Kelly's office had twice requested that the department 'look at whether the project could be given some priority'.²⁷

5.24 DOTARS provided conflicting evidence as to when the grant was approved. Following the detection of errors in information already revised by the department, discussed in Chapter 1, DOTARS Secretary Mr Michael Taylor informed the Committee that the first application in relation to Tumbi Creek was approved on 24 June 2004.²⁸ This date was consistent with the information provided in revised tables. However, in answers to questions on notice later supplied to the Committee, Dr Dolman provided contradictory evidence, stating that 'Mrs Kelly approved the first grant for \$680,000 (GST incl) on 23 June 2004'.²⁹

5.25 Whether the grant of \$680,000 was approved on the 23 or 24 June 2004, this was a remarkably short response time when compared with other RPP projects.³⁰ A letter advising the Council of approval of the grant was sent from the parliamentary secretary on 2 July 2004.³¹ The funding was formally announced in a press release from Mr Ticehurst on 5 July 2004.

5.26 On the 25 June 2004, the Council submitted a second RPP application, this one directly to DOTARS' national office, seeking \$1.3 million. The covering letter accompanying the application stated:

Council is now seeking financial support from the Federal Government for two-thirds of the estimated cost of the project (\$1.36M), on the basis that the NSW Government has made no provision for funding of this work.³²

5.27 Wyong Shire Mayor Brenton Pavier told the Committee that he had discussions with Mr Hallett prior to the Council seeking the additional funding. He described the nature of the discussion as follows:

Mayor Pavier—It was to properly reflect, which was probably well known in the community, that the state government was not going to come to the

26 Mr Burdekin, DOTARS Northern NSW Regional Office, correspondence, 11 June 2005, in Central Coast ACC minutes and recommendations.

27 *Committee Hansard*, 24 February 2005, p. 99.

28 Mr Taylor, correspondence, 10 February 2005.

29 Dr Dolman, answers to questions on notice, received 23 September 2005, p. 4.

30 DOTARS, Revised RPP tables, received 11 May 2005.

31 Parliamentary Secretary Kelly, correspondence, 2 July 2004, in answers to questions on notice received 4 July 2005.

32 Mr Long, Manager, Open Space and Recreation, Wyong Shire Council, correspondence 25 June 2005, in answers to questions taken on notice received 10 March 2005.

party on its particular one-third and that we would try and seek an additional third.

Senator CARR—And what did Mr Hallett tell you?

Mayor Pavier—I think he said that he would go off to his various colleagues or take those representations back to whomever.³³

5.28 As discussed later in this chapter, state government funding was available for the dredging of Tumbi Creek, but not for the option which by this stage was preferred by the Council.

5.29 The second RPP application, for \$1.3 million, was not sent to the ACC for consideration.³⁴ This application was almost identical to the first, apart from the amount of federal money sought, and absence of state partnership funding. Presumably, the ACC's original comments therefore remained relevant. DOTARS witnesses refused to inform the Committee whether or not the ACC's advice on the first application was given to the minister to consider before approving the second grant:

Senator CARR—Was it applied to the second application on the 25th?

Dr Dolman—I think we are getting into the area of advice to ministers.³⁵

5.30 The additional grant of \$680,000 was approved on 11 July 2004 and announced by the Prime Minister, the Hon John Howard, during a visit to Tumbi Creek on 26 August 2004 (three days before the federal election was called).³⁶ In a letter of 26 August, Parliamentary Secretary Kelly informed the Council that the additional funding had been approved.³⁷

5.31 The Committee was first led to believe by Mayor Pavier that neither he nor other members of the Council were aware of the Parliamentary Secretary's decision to approve the additional funding prior to receipt of her written advice.³⁸ However, documents later provided to the Committee show that on the 9 August 2004, Mr Hallett sent an email to a number of individuals including Mayor Pavier and Mr Ken Ticehurst, stating the following:

Dear people

At 9am on 26 August the full measure of Tumbi Creek funding will be announced at the site.

33 *Committee Hansard*, 24 February 2005, pp 30-31.

34 Mr Hale, Chairman, Central Coast ACC, *Committee Hansard*, 24 February 2005, p. 54.

35 *Committee Hansard*, 24 February 2005, p. 107.

36 Wyong Shire Council, *Reports to the ordinary meeting of council*, February 23 2005, p. 32.

37 Parliamentary Secretary Kelly, correspondence, 26 August 2004, in answers to questions on notice received 10 March 2005.

38 *Committee Hansard*, 24 February 2005, p. 38.

I recommend that we must make this announcement a little more professional than just standing on the jetty, speaking and moving off asap.

With a minister and parliamentary secretary present we must offer some sustenance and time to meet with the media and local residents.

I agree with Brenton that we should not seek WSC expenditure on this.

Therefore a Dobell campaign should fund a simple barbeque breakfast with juice, tea and coffee. We can either hire equipment or use a supporters.

We will punt on the fact that it won't rain.

Finally I recommend that an addressed letter of invitation go to residents who live near by the creek to come and hear an "important announcement" and share breakfast with Ken, the Mayor and Ministers.

Please advise your views so we can bed this down.

thanks

Graeme³⁹

5.32 As Mayor, Councillor Pavier was fully aware of the second grant application made by Wyong Shire Council, including the quantum of additional funding sought. Given that approval of the first grant had already been announced, and that Mr Hallett's email specifically referred to the 'full measure' of funding for Tumbi Creek, the Committee considers that Mayor Pavier was aware of the decision to approve additional funding prior to the parliamentary secretary's written advice.

5.33 The above email communication, in advance of formal advice regarding the additional grant approval, indicates the high degree of collaboration between the offices of the Mayor, the local federal member and the Minister for Local Government, Territories and Roads in relation to the Tumbi Creek RPP applications. As mentioned in the introduction to this report, a key term of reference for this inquiry concerns the nature and extent of the roles of various stakeholders, including politicians and their advisers, in the process of selecting successful applications. The Committee was therefore concerned to explore with witnesses the nature of the collaboration between various political stakeholders in relation to the Tumbi Creek project.

5.34 Mayor Pavier's statement, in sworn evidence, that he was unaware of the decision to approve the additional funding prior to receipt of written advice from the parliamentary secretary forestalled further questioning by Committee members. This effectively obstructed the Committee's examination of this issue at that time.

39 Mr Hallett, correspondence 9 August 2004, in answers to questions on notice, received 4 July 2005.

State funding

5.35 Concurrent with the above exchanges regarding federal funding for the dredging work, the Council was in communication with relevant state departments regarding state funding.

5.36 Evidence to the inquiry shows the New South Wales Government was committed to contributing funding towards the dredging of Tumbi Creek in line with the Council's original proposal. Mr Kerry Yates, Council's General Manager, said:

As recently as this month or last month, we received a letter from Grant McBride, the member for The Entrance, confirming that the money was still available for the original scheme – not for the scheme that is now favoured.⁴⁰

5.37 A copy of this letter provided to the Committee sets out the state government's position:

I am pleased to advise that following further representations to the Minister for Infrastructure and Planning, the Hon C Knowles, the State Government has re-committed to fund in equal partnership with Council the dredging of Tumbi Creek in accordance with council's original proposal, for which a licence had previously been issued by the Department of Lands.

As I have previously stated, the Federal funds committed to this project would be better expended on catchment management issues upstream rather than just treating the symptoms of poor catchment management over and over again.⁴¹

5.38 The state government did not support the revised proposal involving removal of the dredge spoil off site and was not prepared to co-fund this option. The state government's position on this matter was described in a letter from the Hon Craig Knowles to the Hon Grant McBride:

Committing to equally share funding for investigations and works estimated at \$2 Million without fully examining the alternatives, without having regard to other state-wide priorities and without having any input into the recommended option is not exercising due diligence with regard to the expenditure of public monies. I am also concerned that the council would consider the expenditure of over \$2 million on a remedial action that may need to be repeated in a few years and at more than one location.⁴²

40 *Committee Hansard*, 24 February 2005, p. 23.

41 Mr McBride MP, New South Wales Member for The Entrance, Minister for Gaming and Racing and Minister for Central Coast, correspondence, 7 February 2005, in answers to questions on notice received 10 March 2005.

42 Mr Knowles MP, New South Wales Minister for Infrastructure and Planning and Natural Resources, correspondence, undated, in answers to questions on notice received 10 March 2005.

Possible reallocation of grant monies

5.39 Heavy rain on 1 October 2004 flushed some sediment from the mouth of Tumbi Creek, making the passage navigable for small boats. A number of questions in the House of Representatives in February 2005 focussed on whether or not the Council subsequently sought to reallocate some of the RPP grant to other works upstream, and the advice given to the Council in that regard. In essence, these questions asked whether Minister Lloyd's office had advised the Council not to disclose the true state of the creek mouth so as to continue to receive the allocated federal funding, and by so doing, to defraud the Commonwealth.⁴³

5.40 The Committee explored with Council witnesses the matter of the possible reallocation of the RPP grant money. Councillor Robert Graham, Deputy Mayor, told the Committee:

I am not an engineer. I did not know how much spoil had been washed out, so the question I was asking the council was, 'How much has been taken out? A certain amount of money has been promised. Do we need all that money now and, if there is any left over – any residue – can we use it up the creek?' ...I asked whether there was going to be any residue from the money from the federal government and, if so, whether there was any chance that we could use some of that upstream to back up the river banks to stop the silt coming down...We got the answer back that there was only 1,000 cubic metres, so it is probably pretty much irrelevant.⁴⁴

5.41 Advice on the impact of the storms on the creek mouth was given to the Council in a presentation by Mr Cathers on 24 November 2004. Mr Cathers concluded that the heavy rainfall of 1 October 2004 moved about 1,000 cubic metres of silt, however the RPP funded project involved dredging 15,000 cubic metres and therefore further work was required. The presentation also noted that DOTARS had requested an update of the Council's intent following the opening of the creek mouth.⁴⁵

5.42 DOTARS' request appears to have been initiated by an email from Mr Hallett who, following conversations with Mayor Pavier, requested a statement from DOTARS about the conditions applying to the announced RPP grant. Mr Hallett's email said:

...I require a clear statement on behalf of the Commonwealth by DOTARS of the conditions that apply to the announced funding for the agreed works at Tumbi Creek for the dredging and removal to land fill of the spoil in Tumbi Creek.

43 *House of Representatives Hansard*, 9 February 2005, pp 47-54.

44 *Committee Hansard*, 24 February 2005, p. 20.

45 Mr Cathers, PowerPoint presentation to the Council meeting of 24 November 2004, in answers to questions on received 10 March 2005, and transcript of presentation tabled in the House of Representatives, 9 February 2005.

The commitment by the Howard Government to the electors of Dobell in partnership with Wyong Council is non negotiable. It is the position of Mr Ticehurst that the money be delivered as agreed for the works in the schedule of the agreement under *Regional Partnerships*.

The confirmation of the strict conditions of our partnership with Wyong Shire Council under this programme should therefore be stated for the information of Wyong elected councillors and senior officers, so there can be no doubt about the way forward to deliver the commitment on Tumbi Creek.⁴⁶

5.43 In correspondence to Council officers following the October storm, DOTARS' regional office staff had advised that 'if there is a cost saving, we may be able to re-direct funding to works consistent with the broader objectives of the project'.⁴⁷ In DOTARS' formal response, Dr Dolman stated that the funding allocated was for specific outcomes and that any changes to the project objectives would require a 'formal request by the Council for the consideration of the Parliamentary Secretary, Mr John Cobb'.⁴⁸ DOTARS' response also stated:

The Department is currently waiting for advice from Wyong Council regarding the implications of the recent removal of the blockage at the mouth of Tumbi Creek on the dredging project. A revised project schedule and costing will be negotiated with the Council.⁴⁹

5.44 DOTARS sought to ensure any savings created by the partial clearing of the creek were appropriately returned to the Commonwealth. Dr Dolman told the Committee:

The first thing we did is that we replied to that email which was passed on to council to make it clear that the objectives, or the outcomes, of the project were what we were funding and that we would not consider funding outside the project which had been agreed without a new application. We also made it clear that our expectation was that advice on any reduction in costs would be provided by the council back to DOTARS. We also indicated in that email that, given that we were paying two-thirds of the project because the state government had not contributed, our expectation was that any reduction in costs would initially come from our component of the project until a fifty-fifty situation had been reached.⁵⁰

46 Mr Hallett, correspondence, 17 November 2004, in answers to questions on notice, received 4 July 2005.

47 Mr Petrovsky, correspondence, 15 November 2004, in answers to questions on notice, received 4 July 2005.

48 Dr Dolman, correspondence, 22 November 2004, in answers to questions on notice, received 4 July 2005.

49 Dr Dolman, correspondence, 22 November 2004, in answers to questions on notice, received 4 July 2005.

50 Dr Dolman, *Committee Hansard*, 24 February 2005, p. 102.

5.45 While DOTARS' formal response regarding the conditions on the grant appears appropriate, the covering email sent by Mr Hallett when providing the advice to Wyong Shire Councillors raises serious concerns. Mr Hallett stated:

Any changes means [sic] less federal money, so the Wyong officials should keep their counsel on this if we want the total allocated by the PM for Tumbi Creek.⁵¹

5.46 Committee members questioned Mayor Pavier about this advice:

Senator O'BRIEN—Mr Mayor, when Mr Hallett told you in an email on 22 November that any changes meant less federal money so the Wyong shire officials should keep their counsel about the state of the creek mouth, what did you understand that to mean?

Mayor Pavier—I think that follows on with regard to some advice by DOTARS as well. I think that it is part and parcel of the email, and my understanding of that was that there is a due process that needs to be undertaken and you need to follow that process. Akin to drawing this conclusion, we have a development application process, and if there are negotiations between staff and an applicant for a development application that keeps changing, we would have a section 96, which deals with modifications. If you keep changing an initial application, staff would consider it to be a fresh application. Certainly in my mind, it was 'stick to your guns' and I was certainly of that view as well.⁵²

5.47 That Mayor Pavier chose to approach a ministerial adviser, rather than the funding department, for advice on the impact of the creek's partial clearance on the RPP grant further demonstrates the high degree of political collaboration evident in relation to this particular grant. That the mayor also thought it more appropriate not to alter ('stick to your guns') the terms of the Council's application despite changed circumstances than to follow the department's advice raises concerns about his approach to using public funding.

5.48 Mr Hallett's advice that Wyong officials should 'keep their counsel' despite the changed circumstances of the project was also highly inappropriate and possibly amounts to misconduct. Apparently with no authority from the relevant minister, Mr Hallett countermanded the department's advice, which stated that the department required advice from the Council as to the impact of the storm on the project, with a revised project schedule and costing then to be negotiated.

5.49 In a statement tabled in the House of Representatives on this matter Mr Hallett attempted to justify his advice in the following manner:

My clear intention, as indicated in the totality of the e/mail correspondence was to provide proper advice, having been asked by the Mayor, to WSC

51 Mr Hallett, correspondence, 22 November 2004, in answers to questions on notice, received 4 July 2005.

52 *Committee Hansard*, 24 February 2005, p. 36.

[Wyong Shire Council] about the future of the project if WSC decided to change the use of the designated RP funds.

I further was aware from the Mayor that during November 2004 that WSC officers were undertaking engineering surveys of the Tumbi Creek mouth to determine if the creek was now clear and flushed after the rains.

My intent was for WSC to provide to the Australian Government a professional engineering survey report as to the true state of the amount of spoil still to be removed after the rain.⁵³

5.50 It is difficult to reconcile Mr Hallett's email advising Council officials to 'keep their counsel on this' with the post hoc justification contained in his statement. Mr Hallett was in effect encouraging the Council to cover up a development that would have had an important bearing on a funding decision by the Commonwealth. Rather than acting appropriately to protect public money, Mr Hallett was clearly more intent on protecting the maximum amount of money that the Council could obtain.

5.51 Nonetheless, in response to questions in the House of Representatives regarding Mr Hallett's emails, Minister Lloyd said:

Firstly, I did not see the emails in question until yesterday afternoon when they were brought to this House. Secondly, neither my chief of staff nor I were consulted about the text of the emails before or after they were sent. Thirdly, I do not think that the Leader of the opposition checks a draft of every single email that is sent by his staff—and I am sure that no other member of parliament is in a position to check every email that is sent from their office.

Fourthly, while I have spoken to the staff member concerned and have indicated to him that the wording of the emails was inappropriate, the House should bear in mind that he sent with that two-line covering email the department's advice which made clear the purpose for the grants, that if the purposes of the grant were not to be met then that would affect the level of funding and that the project would not be revised to include outcomes beyond those agreed by Mrs Kelly without a formal request by council and reconsideration by the parliamentary secretary, the Hon. John Cobb. Mr Hallett has provided me with a statement on this matter which puts his handling of the issue into its proper context.⁵⁴

5.52 By limiting his censure of Mr Hallett's conduct to inappropriate 'wording' in the email, the minister's statement attempts to deflect attention from the intention of Mr Hallett's action which was to override the attached departmental advice. Mr Hallett's conduct in this instance also goes to wider concerns about the unchecked growth in the power of ministerial staffers, particularly the trend of staffers usurping

53 Mr Hallett, *Statement by Graeme Hallett on Tumbi Creek and the Regional Partnerships Grant*, House of Representatives tabled document, 10 February 2005.

54 Minister Lloyd MP, Minister for Local Government, Territories and Roads, *House of Representatives Hansard*, 10 February 2005, p. 46.

the role of departments by issuing directions personally on government programs and acting inappropriately as 'de facto assistant ministers'.⁵⁵

5.53 While Mr Hallett sought and passed on official departmental advice, the Committee considers that his actions in countermanding that advice constitute interference, if not outright subversion, of due process.

Issues relating to the administration of RPP

5.54 The application, assessment and approval process for the Tumby Creek dredging grants demonstrates that proper administration of the RP program has been perverted for this project. Issues raised by this process include the appropriateness of the project for RPP funding given the published program guidelines, inadequacies in the funding applications, sidelining of the ACC assessment process and political influence to expedite the grant.

Appropriateness of the project for RPP funding

5.55 The aims of the dredging work raised several concerns about the eligibility of the project for RPP funding, which were the subject of lengthy discussion at the Committee's hearing. These concerns included whether the project provided value for money given the size of the grant sought, the limited number of direct beneficiaries and lack of project sustainability. Also of concern, given the published program guidelines, were the lack of necessary licence approvals required for the project and the possibility of alternative sources of funding. These concerns are discussed below.

Aims of the project

5.56 The RPP funding applications submitted by the Council describe the rationale for the project as follows:

- To return a valuable recreation asset to former functionality by re-opening the creek channel for boats
- To provide improved creek flushing and water quality, allowing swimming in the creek
- To reduce potential for flooding of nearby houses⁵⁶

5.57 Witnesses for the Council emphasised that flood mitigation was of primary concern:

Councillor Graham—One of the problems with it being blocked up is that the fish cannot get upstream to breed. Another, very important, thing is that

55 See Senate Finance and Public Administration References Committee, *Staff employed under the Members of Parliament (Staff) Act 1984*, October 2003, particularly chapter 2.

56 Wyong Shire Council, *Regional Partnerships Application Form*, 10 June 2004 in Central Coast ACC minutes and recommendations, and Wyong Shire Council, *Regional Partnerships Application Form*, 25 June 2004, in answers to questions on notice, received 10 March 2005.

there are about 10 or 20 homes that could be flooded if there were a big downpour...I have asked on several occasions in council whether if that did flood we would have a duty of care to open it up without getting all the permissions to alleviate the flooding.

Mayor Pavier—Certainly in my mind, if you want my tuppence worth, is that the flood situation for those 16 or 18 homes is paramount and recreational boaters would probably carry less weight. People swimming, quality of water—those are lesser weight factors. But certainly in my mind the flooding issue is paramount.⁵⁷

5.58 Mr Cathers clarified the extent of the flood risk created by the blocked creek, informing the Committee that 16 properties were potentially threatened in a one-in-100-year flood event. Of these, five houses were at risk of flood impact in habitable areas and a further three risked impact in non-habitable areas (such as laundries or garages).⁵⁸

5.59 The Committee received mixed evidence regarding the recreational use of the creek. As noted above, improved water quality to allow swimming in the creek was stated in the Council's application as one of the reasons for the dredging. However, Mr John Asquith, Chairman of the Central Coast Community Environment Network (CCCEEN), presented the view that the dredging would not bring the creek water quality up to the recreational standard required for swimming. Mr Asquith said:

...From what the council have told me, the removal of the spoil will not bring the water quality up to the recreational water guidelines, the ANZECC guidelines.⁵⁹ So it will improve water quality, there is no doubt about that, because there will be some dilution, but they have never claimed, in my discussions with them, that it will get it up to recreational standards.⁶⁰

5.60 The Committee also heard that Tumbi Creek was not a high use area of the Tuggerah Lakes:

CHAIR—...What would you say the level of usage of the creek is, particularly when it is dredged?

Mr Asquith—It is not particularly high. I have canoed along the creek a few times to have a look at it, and there have been some improvement works done to stabilise part of the banks. But there is not a lot of water usage, you might say—recreational craft or swimming. The more common activities are probably people looking at the creek from their houses or from parks, bike riding through there and feeding the ducks which, in itself, creates a lot

57 *Committee Hansard*, 24 February 2005, p. 11.

58 Mr Cathers, *Committee Hansard*, Thursday 24 February 2005, pp 13-14.

59 Australian and New Zealand Environment and Conservation Council (ANZECC).

60 Mr Asquith, Chairman, Central Coast Community Environment Network, *Committee Hansard*, 24 February 2005, p. 73.

of the water quality problems that occurred in the creek just there. It is not a high usage area of Tuggerah Lakes from what I have seen.⁶¹

5.61 The Committee also received mixed evidence regarding environmental reasons for the dredging. Mr Cathers told the Committee that improving water exchange, by allowing the creek to flow, was important for a number of ecological considerations including fish breeding.⁶² However, Mr Asquith told the Committee that the dredging was not necessary for environmental reasons. He said:

In terms of the impact on wildlife, fish and what have you, from my understanding of it and the explanations that I have had given to me, the closure of these types of channels and their reopening in storm conditions is a natural cycle. With regard to whether that is good or bad for wildlife, it will just swing the balance one way. One lot will gain like it is and another lot will gain when it is opened up. So that is just an ecological process.⁶³

5.62 Mr Asquith also stated that there was mixed scientific evidence about the environmental impact of spreading the dredge spoil across the lake bed.⁶⁴ He explained that CCCEN was against disposing of the spoil in the lake, not because of compelling scientific evidence about the environmental impact but because of the poor precedent and example it would set.⁶⁵

Value for money and sustainability

5.63 The Council's applications for RPP funding acknowledged that the project would not be self-sustaining:

The re-opening of this channel to improve recreational opportunities, reduce flooding potential and improve water quality is required about once or twice a decade from historical records.⁶⁶

5.64 During the hearing, Mr Cathers informed the Committee that following the proposed dredging, Tumbi Creek mouth would need to be dredged again within seven to ten years.⁶⁷

5.65 The Committee was concerned about the allocation of such a large grant to a short-term fix with limited beneficiaries, rather than a long-term solution, particularly

61 *Committee Hansard*, 24 February 2005, pp 70-71.

62 Mr Cathers, *Committee Hansard*, Thursday 24 February 2005, p. 14.

63 Mr Asquith, *Committee Hansard*, 24 February 2005, p. 74.

64 *Committee Hansard*, 24 February 2005, p. 78.

65 Mr Asquith, *Committee Hansard*, 24 February 2005, p. 78.

66 Wyong Shire Council, *Regional Partnerships Application Form*, 10 June 2004 in Central Coast ACC minutes and recommendations, and Wyong Shire Council, *Regional Partnerships Application Form*, 25 June 2004, in answers to questions on notice, received 10 March 2005.

67 Mr Cathers, *Committee Hansard*, Thursday 24 February 2005, p.12.

given that sustainability is an important feature of the RPP project viability assessment criteria. Committee members pursued these issues with Council witnesses:

Senator CARR—...It may well be, as people have put to us, that this is a very important project for the 16 properties on the creek and the eight houses that may be subject to flooding in a 100-year event. It is obviously very important to them but, given the amount of money involved, isn't there a question of priority for the lake management? Isn't that an issue that ought to be considered in the granting of moneys of this dimension?

Mayor Pavier—I can only reaffirm the council's commitment here. We are spending \$3 million annually on the lakes and we have resolved as a council, unanimously, to expend \$680,000 of our own general revenue fund towards this and we rate it highly. I am on record now saying that it is a high priority.⁶⁸

5.66 Mr Cathers advised the Committee that works were required upstream to provide longer-term solutions, but these had been given a lower priority in terms of applications for funding:

The problem we have got there requires a fix now, whereas the work we would be doing upstream would be providing a solution to a longer term problem. So it is a question of which do you deal with first. We would be seeking funding for the works upstream, in addition to the council expending its own money.⁶⁹

5.67 Mr Asquith expressed the view that the funding could achieve better value for money spent on other lake priorities. The following exchange is relevant:

Mr Asquith—From the position of the environment network, if there is \$2 million going to be spent on the lake—and we would be delighted to have \$2 million spent on improving various things around the lake—we would like to see it spent on the priorities, and they have been identified to a large extent. To me, the priorities are those things where you get the best value for the dollars you have got, where you get the best water quality and the best improvements.

Senator O'BRIEN—Does that mean dealing with issues upstream rather than at the mouth?

Mr Asquith—Primarily dealing with issues upstream but also a lot of foreshore issues. On the western side of the lake there are a number of groups working there where there are a lot of stormwater outlets, a lot of erosion of the lake foreshore and so on. They could use \$2 million for a better long-term effect.⁷⁰

68 *Committee Hansard*, 24 February 2005, p. 27.

69 *Committee Hansard*, 24 February 2005, pp 12-13.

70 *Committee Hansard*, 24 February 2005, p. 77.

5.68 In light of the evidence to the inquiry, Committee members questioned DOTARS witnesses as to whether the dredging project met the RPP guidelines:

Senator O'BRIEN—Did the original application meet all the program guidelines?

Dr Dolman—Yes, they were assessed and it was found that they did meet all those guidelines.

Senator O'BRIEN—So it was value for money? Or don't you assess that?

Dr Dolman—As I said the other day in Canberra, the way that we assess that is to look at three specific things: outcomes for the community, partnerships and ongoing viability. It met all of those things and, yes, it was assessed as being value for money.⁷¹

5.69 It is difficult to reconcile DOTARS' assessment with the evidence provided to this Committee, which shows that the dredging project has a limited number of beneficiaries and lacks a sustainable outcome. While undoubtedly of short-term benefit to those living in the direct vicinity of Tumbi Creek, the Committee considers this to be a limited outcome for a substantial grant of almost \$1.5 million.

Licence approvals

5.70 The published RPP guidelines state:

Project proposals that can not obtain or have not yet obtained the relevant approvals or licences to progress will not generally be considered.⁷²

5.71 As noted in an earlier chapter, during the inquiry it became apparent that both this guideline and an earlier form of the guideline were published on DOTARS' website. The earlier version stated that 'projects that can not obtain or that are in the process of obtaining the relevant approvals or licences to progress' were not eligible for RPP funding.⁷³

5.72 While the Council was in receipt of a dredging licence for the works proposed initially, a licence had not been obtained for the dredging option proposed in the RPP applications, which involved removal of the spoil off site.⁷⁴ Council witnesses confirmed at the Committee's hearing that licences had not yet been obtained and the Council did not know if they would be granted.⁷⁵ According to the earlier version of the RPP guidelines, this circumstance would have made the Tumbi Creek dredging

71 *Committee Hansard*, 24 February 2005, p. 95.

72 DOTARS, *Submission 14*, Attachment D, Regional Partnerships Guidelines, p.7

73 DOTARS, *Regional Partnerships Guidelines*, www.regionalpartnerships.gov.au/guidelines.aspx, accessed 12 August 2005.

74 Wyong Shire Council, *Regional Partnerships Application Form*, 10 June 2004, p. 11, in Central Coast ACC minutes and recommendations.

75 Mr Cathers, *Committee Hansard*, 24 February 2005, pp 7-8.

project ineligible for RPP funding. The Committee was therefore concerned to know when the change to the guideline was approved by the minister. DOTARS undertook to provide the Committee with this information but to date, the information has not been provided. This is unsatisfactory and given the lengthy delay in responding, the Committee can only conclude that there is no adequate explanation.

5.73 The Committee heard that a number of issues would need to be addressed by the Council before state approvals were granted. These included methods for handling and treating the spoil to address potential acid-sulphate soils and ensuring adequate protection for foreshore saltmarsh habitats during the dredge and spoil removal works. Saltmarsh habitats are listed as threatened ecological communities under the NSW Threatened Species Act.⁷⁶

5.74 The Committee was advised that under the funding agreement between DOTARS and the Council, money would not be provided for the project until the Council obtained all necessary licence approvals.⁷⁷ Dr Dolman described the funding approval as 'a decision in principle to approve the project' conditional on the relevant state approvals being obtained.⁷⁸

5.75 At a public hearing in August 2005, nearly a year after the announcement of the additional grant, the Committee was told that state licences had not yet been obtained and therefore a funding contract had not yet been signed. Committee members explored this situation with DOTARS witnesses:

Senator O'BRIEN—So Tumbi Creek is coming to the point where we will either have to get the approval or the funding will have to be withdrawn.

Dr Dolman—That is essentially the case.

Ms Riggs—We will consider what advice we might give the minister about what his options might be.⁷⁹

5.76 Dr Dolman also noted that 'There is no set timetable written down in any program or documentation that talks about the time we would allow a project to try to meet the conditions'.⁸⁰ The Committee is concerned that latitude regarding project approval requirements has been deliberately incorporated into the RPP guidelines, with no consequent procedures for projects where licence approvals are not readily obtained.

76 Wyong Shire Council, *Review of Environmental Factors, Maintenance Dredging at the Mouth of Tumbi Creek, Killarney Vale*, December 2004, p. 23.

77 Mr Cathers, *Committee Hansard*, 24 February 2005, p. 16.

78 *Committee Hansard*, 12 August 2005, p. 65.

79 *Committee Hansard*, 12 August 2005, p. 66.

80 *Committee Hansard*, 12 August 2005, p. 67.

5.77 Also of concern, the Committee was informed that the full costs of the dredging project could not be determined until the state government's licence approval requirements were specified. Mayor Pavier said:

It was always my desire that the funding arrangements would be equally split across the three spheres of government. When that did not occur, the federal government picked up the two-thirds component. My understanding, and it would always be my desire, is that if the costs were to blow out we would certainly want to go back before the federal government to keep that one-third to two-third ratio in place. Our revenue base probably does not allow us to continue exponentially with some blow-out figures. I am sure inflation and those sorts of things are factored in but, by the time we get state government approval for this process, I just cannot predicate the costs.⁸¹

5.78 The Committee considers it would be totally inappropriate for federal funding to be viewed as an available revenue source to fill cost overruns for this or any other RPP project. The Committee also cannot accept that any valid assessment of the value for money of this project can have been conducted when the total cost of the project remained unknown.

5.79 The Committee notes the Council's hesitancy to invest money developing the dredging option and obtaining state licences prior to obtaining a funding commitment. Mr Yates told the Committee:

It is certainly not unusual for us to be making grant applications based on preliminary information without detailed design, because it is pointless spending a lot of money on doing detailed design when a grant might not be obtained or council might or might not decide to go ahead.⁸²

5.80 The Committee is aware that the current RPP guideline provides some latitude regarding licence approval requirements. However, given the size of the grant involved and the potential impact on the project budget of obtaining and complying with license approvals, the Committee considers that further assessment and development of the dredging option should have been undertaken prior to the announcement of federal funding for this project.

5.81 Subsequent to the Committee's final hearing with DOTARS, on 2 September 2005 the Council received a licence from the NSW Department of Lands for dredging and offsite disposal. The licence specified that the Council must provide further information and justification as to why the larger channel, involving dredging of 15,000 m³ of spoil was required. Alternatively, the licence permitted the Council to proceed with the Department of Lands' preferred and less costly channel alignment, requiring dredge and removal of 5,000 m³.⁸³

81 *Committee Hansard*, 24 February 2005, p. 43.

82 *Committee Hansard*, 24 February 2005, p. 9.

83 Wyong Shire Council, *Reports to the Ordinary Meeting of Council*, 14 September 2005, p. 28.

Other funding sources

5.82 The published RPP guidelines state that the following projects are not eligible for funding:

Applications seeking funds that are, or could be perceived as cost shifting, that is substituting or duplicating funding from other sources including government and the private sector.⁸⁴

5.83 As discussed above, state government funding was committed for dredging at Tumbi Creek, but not for the option preferred by the Council. Evidence to the inquiry suggests that by allocating funding to an option not supported by the state government, this RP grant is inconsistent with state planning priorities. In a letter to Senator Ian Campbell regarding the original offer of \$340,000 of federal funding, contingent on off-site disposal, the Hon Craig Knowles, NSW Minister for Infrastructure and Planning and Natural Resources, said:

I do not support the redirection of RFMP [Regional Flood Mitigation Program] funds to this project ahead of effectively four prioritised floodplain management projects elsewhere in the State...

To redirect these funds would devalue the well managed and transparent process under which floodplain management projects are prioritised in conjunction with the Floodplain Management Authorities of NSW.

The current proposal, the result of three years of co-ordination between Council and the State Government, involves the development of stringent guidelines for procedures and monitoring of the works. The methodology has a State wide significance and the results of the dredging will be properly evaluated and the efficiency of the work assessed for future projects.⁸⁵

No partner funding

5.84 Partnership funding is one of the key principles of the Regional Partnerships Program. The published program guidelines state:

Partnerships are a strong demonstration of support. Partnerships are established where individuals, private sector businesses, community/not-for-profit organisations, other organisations and any local, state and/or Australian Government agencies make a financial and/or in-kind contribution to your project.⁸⁶

84 DOTARS, *Submission 14*, Attachment D, Regional Partnerships Guidelines, p. 7.

85 Mr Knowles MP, NSW Minister for Infrastructure and Planning and Natural Resources, *Correspondence* 18 February 2001, in answers to questions on notice received 10 March 2005.

86 DOTARS, *Submission 14*, Attachment D, Regional Partnerships Guidelines, p. 4.

5.85 The RPP Internal Procedures Manual states as 'a rule of thumb' that, 'a contribution of 50% will generally be expected from applicants and their partners'.⁸⁷ The procedures manual gives the following examples of special circumstances where a contribution of less than 50 per cent may be acceptable:

- Projects servicing very small communities which have a low average income base and/or are remote
- Projects in areas suffering from economic decline and/or natural disaster or drought
- The applicant is a local council in a remote area with a low rate base, the majority of people have low incomes, and it can be demonstrated that the council has contributed as much as it is capable of, given the funding it receives from all sources.⁸⁸

5.86 The Committee notes that none of these provisos apply to the Tumbi Creek project and questions why the Government accepted a 30 per cent contribution from the Council in the second application. It is both unusual and inappropriate for federal funds to be used to 'top up' funding to RPP projects that have inadequate levels of partnership support.

Inadequacy of the RPP applications

5.87 The paucity of information included in the Council's RPP applications, particularly in terms of budget and project milestones, demonstrates serious deficiencies in the administration of this particular RPP grant. Comments made by members of the Central Coast Area Consultative Committee (CCACC) demonstrate the inadequacy of the Council's first grant application. In a note to Mr Peter Hale, Chairman of the ACC, the Executive Officer Mr John Mundy stated 'it is probably the worst application that I have seen'.⁸⁹ Mr Hale told the Committee it was the worst application he had seen, other than from small, voluntary community groups.⁹⁰

5.88 The following paragraphs review several areas in which the applications were demonstrably deficient: the project budget, timetable and performance measures.

Project budget

5.89 The project budget provided in the first application separated costs into only three identified items: consultant/contractors (\$1.47 million), landfill fees (\$250,000)

87 DOTARS, *Submission 14*, Attachment E, Regional Partnerships Internal Procedures Manual, September 2004, p. 25.

88 DOTARS, *Submission 14*, Attachment E, Regional Partnerships Internal Procedures Manual, September 2004, p. 25.

89 Mr Mundy, correspondence, 11 June 2004, in Central Coast ACC minutes and recommendations.

90 Mr Hale, Chairman, Central Coast Area Consultative Committee, *Committee Hansard*, 24 February 2005, p. 54.

and roads (\$320,000).⁹¹ The second application repeated these details, and provided a reference to a council report of 9 June 2004.⁹² However, that report compared the estimated overall cost of different dredging options rather than giving a detailed breakdown and evidence for the estimated cost of the proposed option.

5.90 While it is understood that the Council intended to contract out the dredging works, the RPP application should have provided sufficient information for an evaluation of the cost-effectiveness of the proposed project. The application form specifically requests that evidence of budgeted costs be provided (for example quotes, market comparisons, valuations).⁹³ No such evidence was included in the Council's applications.

5.91 DOTARS witnesses advised the Committee that in assessing the application further budget information was sought from the Council. DOTARS did not disclose the response received.

5.92 This Committee requested that Council representatives supply the precise costings for the project and received a two page estimate of costs. These estimates provided a further breakdown of cost items, including the assumed per unit costs of each item (for example, dredging costs at \$50 per cubic metre) and the basis for each estimate.⁹⁴

5.93 However, the total project cost estimate reflected the imprecise nature of the budget. After allowing a 20 per cent contingency in its cost estimate, the Council added an additional \$25,000 to its request, for the purposes of rounding out the total figure:

Sub-total	\$1,646,000
20% contingency	\$329,000
Total	\$1,975,000
Say	<u>\$2,000,000</u> ⁹⁵

The Committee is concerned that this sort of arbitrary approach to requests for public funds is apparently permitted under the Regional Partnerships Program.

91 Wyong Shire Council, *Regional Partnerships Application Form*, 10 June 2004, in Central Coast ACC minutes and recommendations.

92 Wyong Shire Council, *Regional Partnerships Application Form*, 25 June 2004, in answers to questions on notice, received 10 March 2005.

93 Regional Partnerships Application Form, in Central Coast ACC minutes and recommendations, p. 12.

94 Wyong Shire Council, *Tumbi Creek Dredging Project Estimate for Option 1*, in answers to questions on notice, received 10 March 2005.

95 Wyong Shire Council, *Tumbi Creek Dredging Project Estimate for Option 1*, in answers to questions on notice, received 10 March 2005.

5.94 From the limited budget information provided in the project applications, questions arose about a \$250,000 item listed as 'landfill fees'.⁹⁶ The Committee was advised that disposal of the dredge spoil would be exempt from the relevant state landfill levy. Therefore the Committee wished to be assured that the Council's budget did not include non-existent costs. The matter of disposal fees had also been raised with the Council by DOTARS when negotiating the funding contract.⁹⁷

5.95 Council witnesses explained that this cost item was actually for the costs associated with handling the material at the landfill site.⁹⁸ In the further budget information provided to this Committee the item was listed as 'Disposal costs at Buttonderry Waste Management Facility site', with the cost estimate relating to earthworks and materials handling at the landfill.⁹⁹ While the Committee is satisfied that this item therefore related to real costs, the listing of the item in the grant application as 'landfill fees' was misleading.

Timetable and outcomes

5.96 Question 14 of the RPP application form asks proponents how they will measure their project's outcomes. The question asks proponents to 'include information about timeframes, how outcomes will be measured and by who, and how they will be reported on'.¹⁰⁰ The Council's responses to this question failed to provide such details. In each of the applications, the performance measures were listed as:

Outcome	Performance measure
Improved access by boats	No. of boats using channel will be monitored
Improved water quality	Water quality testing will be done and fish stocks checked. ¹⁰¹

5.97 This information provides no indication of the scale of improvements that the project aimed to achieve. How many more boats were expected to use the channel? Did the Council expect that water quality would improve to agreed recreational standards? How often would testing be done? Where would the results be reported? It

96 Wyong Shire Council, *Regional Partnerships Application Form*, 10 June 2004 in Central Coast ACC minutes and recommendations, and Wyong Shire Council, *Regional Partnerships Application Form*, 25 June 2004, in answers to questions on notice, received 10 March 2005.

97 Mr Petrovsky, correspondence, 22 November 2004, in answers to questions on notice received 4 July 2005.

98 *Committee Hansard*, 24 February 2005, p. 32.

99 Wyong Shire Council, *Tumbi Creek Dredging Project Estimate for Option 1*, p. 1, in answers to questions on notice, received 10 March 2005.

100 Wyong Shire Council, *Regional Partnerships Application Form*, in Central Coast ACC minutes and recommendations, p. 14.

101 Wyong Shire Council, *Regional Partnerships Application Form*, 10 June 2004 in Central Coast ACC minutes and recommendations, and Wyong Shire Council, *Regional Partnerships Application Form*, 25 June 2004, in answers to questions on notice, received 10 March 2005.

is also notable that although flood mitigation was raised at the Committee's hearing as a principal reason for the dredging work, monitoring of flood risk was not included in the project outcome measures. It is difficult to see that any valid measures of the outcomes of this project were required in order for it to obtain funding approval.

5.98 Given the deficiencies in the grant application reviewed by the ACC, the ACC advised DOTARS that the proponent should be asked to supply further information in support of the application. The suggested information included: evidence that the project would allow the water in the creek to be used for recreational purposes; a feasibility study into use of the boat ramp and whether an alternative site would provide a more economical solution; and reports on how often the dredging would be required once carried out initially.¹⁰² The Committee did not receive evidence whether or not this information was sought or obtained by DOTARS.

5.99 It is inappropriate that applications with the paucity of budget detail and inadequate project implementation plans and performance measures described above were accepted by the Government. In the Committee's view, the dredging option required further research and development prior to funding approval. The Committee is further concerned that the inadequacy of the applications reflects undue haste in their preparation and submission, as a result of political influence to expedite the grants.

Bypassing the ACC's assessment

5.100 As noted above, the relevant ACC was not involved in the development of either of the Council's applications relating to Tumbi Creek, which were submitted directly to DOTARS' regional and national offices, respectively. DOTARS sent the first application to the ACC for comment, but did not supply the ACC's assessment to the minister when considering the first grant. The second application was not provided to the ACC and the department did not disclose whether the ACC's earlier advice was supplied to the minister when considering the second grant.

5.101 Evidence to the inquiry shows that the ACC had several concerns with the project. Overall, the ACC rated the project as 'Recommended and low priority'.¹⁰³ Two ACC members registered their support for the project and two stated that they did not support the project.¹⁰⁴ Mr Peter Hale, Chairman of the CCACC, expanded on the ACC's overall assessment:

Simply put, there had been so much publicity about it and it was obviously so important, particularly to the people in that area, that it deserved to get some rating to say that people wanted to do it. From the political

102 Central Coast ACC, correspondence, 24 June 2004, in Central Coast ACC minutes and recommendations.

103 *CCACC project synopsis and comments sheet*, p. 2, in Central Coast ACC minutes and recommendations.

104 Central Coast ACC minutes and recommendations.

perspective of council and government, it was an important project and that was fine, but it was very low priority.¹⁰⁵

5.102 Mr Hale also expanded on why the project was considered a low priority:

I think it was mentioned that there are five tributaries into the lake and a lot more drainage that runs into it. To me, Tuggerah Lake has a very serious problem. From Wyong council's point of view, I would agree that the lake itself has a very serious problem, but it is a lot greater than \$1.6 million worth. To me, it is a low priority because I do not see the effect of what the \$1.6 million will do.¹⁰⁶

5.103 Although the second application was not provided to the ACC, Mr Hale heard of the proposed increase in federal funding for the project and felt compelled to register his concerns with DOTARS. In a letter of 6 August 2004 Mr Hale wrote, 'I feel obliged to lodge my serious concerns as to the value of this project and possible political fallout both standing alone and in relation to other needed projects on the central coast.' He also said, 'This allocation will cause serious concern in our committee as to the validity of the Partnership program and could very well lead to a 'white board' type scandal'.¹⁰⁷

5.104 During the Committee's hearing, Mr Hale explained these comments as follows:

I think those words refer to a minister of a similar name, Kelly, but the issue was that we have had great difficulty in having projects funded and the system is always so stringent that on this occasion the \$680,000 was hard enough to credit, but when it was going to be announced that it was \$1.2 million it was disappointing to a committee that saw a lot of other things that could be funded that would benefit the whole of the community.¹⁰⁸

5.105 Dr Dolman advised the Committee that following Mr Hale's letter to the department he raised the concerns with Parliamentary Secretary Kelly.¹⁰⁹ However, by the date of Mr Hale's letter the decision to approve the additional grant had already been made.

5.106 The Committee has on several occasions been informed that ACC assessments form an important element of advice to the minister regarding funding decisions. Given the size of the grant sought, the content of the ACC advice and the public and political interest in the Tumbi Creek dredging project, the Committee finds

105 Mr Hale, *Committee Hansard*, 24 February 2005, p. 52.

106 Mr Hale, *Committee Hansard*, 24 February 2005, p. 50.

107 Mr Hale, Correspondence, 6 August 2004, in Central Coast ACC minutes and recommendations.

108 *Committee Hansard*, 24 February 2005, p. 53.

109 *Committee Hansard*, 24 February 2005, p. 101.

it unusual and unsatisfactory that the ACC's assessment was not provided in relation to the first application and possibly the second application. The Committee notes that by the department's own guidelines, to argue that the ACC comments were 'late in coming' and thus not provided is untenable and is undermined by the fact that DOTARS had another opportunity to provide the ACC's comments before the second grant was approved. This leads the Committee to the view that the funding decision was taken with undue haste, without proper assessment and endorsement and for political reasons.

Conclusions

5.107 The Committee considers that, while undoubtedly a galvanising issue for the local residents of the area, the Tumbi Creek dredging project would provide a very low return on an investment of almost \$1.5 million of tax payers' money when compared with the returns from numerous other projects funded through RPP.

5.108 The evidence available to this Committee does not explain why Minister Lloyd's office advised the Council officers to send the initial RPP application directly to DOTARS. Similarly, the reasons why the parliamentary secretary sought to have the project given priority are not available for scrutiny. Nevertheless, the poor quality of the RPP applications, lack of regard for the ACC's comments and remarkably short approval time indicate that the application, assessment and approval process was conducted with undue haste. The Committee considers that priority treatment for this project application resulted in the announcement of federal funding for a dredging project popular with the local community in the lead up to the 2004 federal election campaign, at the expense of transparent and accountable consideration of the project's merits and suitability for RPP funding.

