

CLARENCE VALLEY COUNCIL

CONSULTANTS BRIEF

Q14/02

**EROSION PROCESSES STUDY AND
COASTAL ZONE MANAGEMENT PLAN
WHITING BEACH YAMBA**



November 2013

1.0	INTRODUCTION	5
2.0	STUDY AREA AND BACKGROUND	6
3.0	OBJECTIVES OF THE ENGAGEMENT	7
4.0	POLICY FRAMEWORK	8
4.1	NSW Coastal Policy 1997	8
4.2	Coastal Protection Act, 1979	8
4.3	Guidelines for Preparing Coastal Zone Management Plans	9
4.4	Adopted Sea level Rise Planning Benchmarks	10
5.0	PLAN CONTEXT	11
5.1	Healthy Rivers Commission Inquiries	11
5.2	Clarence Estuary Processes Study 2000 and Clarence Estuary Mgt Plan 2003	11
5.3	Council Management Plan	11
5.4	Other Plans and Strategies	11
6.0	MANAGEMENT GOALS AND ISSUES	11
7.0	AVAILABLE DATA AND REFERENCE DOCUMENTS	12
8.0	COMMUNITY CONSULTATION	12
9.0	SCOPE OF WORKS	13
9.1	Data Collection and Review	13
9.2	Beach Erosion/Estuary Processes Study – an assessment of the governing physical processes of sediment erosion, deposition and transport	14
9.3	Whiting Beach Coastal Zone Management Plan	15
10.0	DELIVERABLES	16
10.1	Reports	16
10.2	Hand-over of study materials	16
11.0	GENERAL CONDITIONS OF CONSULTANCY	16
12.0	RESPONSIBILITIES OF THE CONSULTANT	17
12.1	Preparation and Presentation	17
12.2	Format	17
12.3	Sub-consultant	18
12.4	Approval of Documentation	18
12.5	Errors – Deficiencies	18
12.6	Compliance with Legislation	18
13.0	FEES	18
14.0	RESPONSIBILITIES OF THE COUNCIL	19

14.1	Additional Information	19
14.2	Entry to Private Lands	19
15.0	QUOTATION FOR CONSULTANCY	19
16.0	SUBMISSION OF PROPOSALS	20
17.0	ASSESSMENT OF THE PROPOSALS	20
18.0	CONDITIONS OF ENGAGEMENT	21
18.1	General Conditions of Engagement	21
18.2	Failure to Meet Performance Criteria	21
18.3	Termination	21
18.4	Insurance	21
18.5	Sub-Consultants	22
18.6	Ownership and Copyright	22
18.7	Conflict of Interest	22
18.8	Certification	22
19.0	STATEMENT OF BUSINESS ETHICS	23
19.1	Confidentiality	23
19.2	Purpose of this Statement	23
19.3	What is the impact of Business Ethics?	23
19.3.1	ICAC Advice	23
19.3.2	Impact for Suppliers	23
19.3.3	Impact for Council Staff	24
19.4	How to Comply	24
19.4.1	Council	24
19.5	Council Staff and Councillors	25
19.5.1	Code of Conduct	25
19.5.2	Procurement and Tendering	25
19.6	Suppliers	25
19.6.1	General Requirement	25
19.6.2	Communication Requirement	26
19.6.3	What happens if I think there is a breach?	26
20.0	SELECTION CRITERIA	26
21.0	QUALITY OF SERVICE	27
21.1	General Quality of Service	27
21.2	Quality Assurance	27
21.3	Quality of Staff	27
22.0	TYPE OF CONTRACT	27
23.0	COSTING	27

24.0	ADMINISTRATION, REPORTING & TIMETABLE	28
25.0	CONTACT WITH COUNCIL	28
26.0	CORRECTIONS	28
27.0	PAYMENT AND COSTS	28
27.1	Goods and Services Tax	29
28.0	ACCEPTANCE OF CONDITIONS	29
29.0	WORK HEALTH AND SAFETY (WH&S)	30
30.0	CONFORMING PRICING SCHEDULE	30
	APPENDIX A	31
	APPENDIX B – ENGAGEMENT AGREEMENT	32
	APPENDIX C - THE SCHEDULE	44
	APPENDIX D RETURNABLE DOCUMENTS	45

1.0 INTRODUCTION

This brief relates to beach erosion on Whiting Beach, Hickey Island, Yamba NSW. Hickey Island is located in the Clarence River Estuary, just inside the main breakwall with Whiting Beach forming the northern side of Hickey Island. Hickey Island is located where, according to historians, Mathew Flinders anchored in what was thought to be a coastal embayment. Sand deposits formed Hickey Island over a number of decades following extension of the Clarence river sea walls in the early 1900's. Whiting Beach became a popular recreation destination for locals and visitors. Calypso Caravan Park is located nearby.

A management plan for Hickey Island was gazetted on 29/7/2007. A number of actions including upgrade of the carpark, access tracks and public toilet have been completed in recent years.

Sand accreted for a number of decades, however, for at least the last ten years Whiting Beach has been receding South. This has led to the loss of assets such as stairs and pathways over a number of years.

Given the value of Hickey Island and Whiting Beach to the community Clarence Valley Council has resolved to:

1. Investigate erosion and sedimentation processes.
2. Prepare a Coastal Zone Management Plan for Whiting Beach.

Council seeks to engage a suitably qualified and experienced consultant to undertake points 1-2. This brief provides background to the issue, and sets out Councils objectives and requirements for this project.

Council seeks completion of the erosion processes study and CZMP plan within 6 months of execution of the contract. To ensure quality control it is expected that the first stage being the data assembly and erosion processes study will be made available to the CVC Estuary Management Committee as a draft for comment. Once comments have been finalised and amendments made, then the next stage, being the erosion management plan can be commenced.

2.0 STUDY AREA AND BACKGROUND

The study area comprises the lower reaches of the Clarence River in the immediate vicinity of Whiting beach (Figure 1).

The entrance to the Clarence River is highly modified and bears little resemblance to the series of shoals that Mathew Flinders mistook for a coastal embayment prior to European Settlement. While the entrance to the river is obviously dynamic there appears to have been some changes to the dynamics that has seen a process of deposition on Hickey Island change to one of recession. There have been a number of changes to infrastructure that may have had some role in the change but this has not been modelled or investigated in any scientific way. Some of the changes include:

- different stages of rock wall construction
- provision of an additional opening in the middle wall to allow easier access for trawlers and larger vessels.
- dredging of a shipping channel parallel with middle wall in the early 1990s and again in 2008. (MHL Report No 1309)
- reconfiguration of the profile of the Iluka and Yamba seawalls by public works,
- dredging of the shipping channel further up the river and disposal of spoil off shore north of Iluka seawall,
- erosion of the end of Goodwood Island leading to a break in the landward end of the rock revetment wall that used to join to Goodwood Island
- general decline in most of the rock revetment walls in the lower estuary.

In 2008 30,000 cubic metres of sand was dredged from the shipping channel adjacent to middle wall. Approx 10,000 cubic metres of the spoil was placed onto the northern end of Whiting beach and 20,000 cubic metres was placed at the back of Turners beach.

In 2012 beach erosion started to impact on more strategic assets including sewer and stormwater mains. Geofabric bag armouring was undertaken along a small section at the eastern end of the beach. Works were undertaken utilising the emergency provisions of the Roads Act.

A detailed estuary processes study followed by an estuary management plan for the Clarence was completed in 2003. Further processes and investigation of the lower reaches of the Clarence river have been undertaken in recent years in conjunction with an under bore of the River by Country Energy and by consultants on behalf of Clarence Valley Council in regards ebb tide sewerage discharge for Iluka and Yamba Sewerage treatment plants.

It is anticipated that investigation and conceptual modelling of hydraulics and sediment and erosion processes will inform management of Whiting beach and generally provide a broader understanding of estuarine erosion and deposition processes within the lower estuary.



Figure 1. Whiting Beach

3.0 OBJECTIVES OF THE ENGAGEMENT

The principal objective of this consultant engagement is to study and model the processes effecting erosion and deposition of sediments within the Lower Clarence Estuary as they relate to Whiting Beach and to prepare a Coastal Zone Management Plan for Whiting Beach. Work is to be in accordance with, Guidelines for Preparing Coastal Zone Management Plans (OEH 2013), the NSW Coastal Policy, 1997, and the provisions of the Coastal Protection Act, 1979.

The consultants are to give detailed consideration to the processes operating in the Clarence catchment, coast and estuary that contribute to erosion/deposition within the lower estuary and specifically at Whiting Beach. The preparation of the plan will need to document strategies and specific action to achieve Councils objectives for Hickey Island.

The Coastal Zone Management Plan for Whiting Beach shall consider the following:

- The type, nature, extent and significance of estuary processes, their interactions and how they are affected by human activities;
- The need for remedial measures;
- Long-term consideration of hydraulic and sediment advection and dispersion processes as well as climate change impacts;

- Identification and assessment of management options;
- Identification of the most viable management option (s) to manage erosion;
- Preparation of concept plan for preferred management option(s) together with REF for that option.

The plan should have realistic actions which readily address issues and achieve desired objectives and goals. Although some complex issues may require additional studies and monitoring, the plan should not unduly address each issue by recommending further studies or plans. In this regard a pragmatic approach should be adopted that is cogniscent of estuarine dynamics, the low key nature of use and access at Whiting Beach and contemporary approaches for risk management.

4.0 POLICY FRAMEWORK

4.1 NSW Coastal Policy 1997

The NSW Government adopted the Coastal Policy in 1997. The Policy has as its central focus the ecologically sustainable development (ESD) of the NSW coast. This is in recognition that the coast is a unique environment to be conserved and enhanced for its natural and cultural values while also providing for the economic, social and spiritual well-being of the community.

The Coastal Policy has nine goals as follows:

- Protecting, rehabilitating and improving the natural environment of the coastal zone
- Recognising and accommodating the natural processes of the coastal zone
- Protecting and enhancing the aesthetic qualities of the coastal zone
- Protecting and conserving the cultural heritage of the coastal zone
- Providing for ecologically sustainable development and use of resources
- Providing for ecologically sustainable human settlement in the coastal zone
- Providing for appropriate public access and use
- Providing information to enable effective management of the coastal zone.

Each of these goals are underpinned by objectives that are to be achieved by strategic actions.

The Coastal Zone Management Plan for erosion management of Whiting Beach shall accord with the goals and objectives outlined in the NSW Coastal Policy 1997.

4.2 Coastal Protection Act, 1979

The significant amendments to the Coastal Protection Act 1979 made in late 2010 relate to:

- specific matters that must be dealt with in CZMPs;
- certification of CZMPs by the Minister;
- facilitation of temporary emergency coastal protection works in coastal 'hotspots';
- allowing councils to levy a coastal protection service charge on land where the current or past landowners have voluntarily constructed coastal protection works;

- facilitation of Coastal Authorities and Authorised Officers with enhanced regulatory roles with respect to emergency coastal protection works and unauthorised material placed on beaches;
- significantly increased penalties for offences under the Act; and
- creation of the NSW Coastal Panel to advise the Minister.

Specifically, the Act (Part 4A, s. 55C) now directs that CZMPs must make provision for:

- (a) protecting and preserving beach environments and beach amenity, and
- (b) emergency actions carried out during periods of beach erosion, including the carrying out of related works, such as works for the protection of property affected or likely to be affected by beach erosion, where beach erosion occurs through storm activity or an extreme or irregular event, and
- (c) ensuring continuing and undiminished public access to beaches, headlands and waterways, particularly where public access is threatened or affected by accretion, and
- (d) where the plan relates to a part of the coastline, the management of risks arising from coastal hazards, and
- (e) where the plan relates to an estuary, the management of estuary health and any risks to the estuary arising from coastal hazards, and
- (f) the impacts from climate change on risks arising from coastal hazards and on estuary health, as appropriate; and
- (g) where the plan proposes the construction of coastal protection works (other than emergency coastal protection works) that are to be funded by the council or a private landowner or both, the proposed arrangements for the adequate maintenance of the works and for managing associated impacts of such works (such as changed or increased beach erosion elsewhere or a restriction of public access to beaches or headlands).

4.3 Guidelines for Preparing Coastal Zone Management Plans

The Guidelines for Preparing Coastal Zone Management Plans (OEH 2013) provide guidance to coastal Councils, their Contractors and coastal communities on the preparation of a CZMP. They have been adopted by the Minister for Climate Change and the Environment as guidelines under s. 55D of the Coastal Protection Act 1979, and coastal Councils are to prepare draft plans in accordance with these guidelines. These guidelines provide a framework for preparing a CZMP and specify the minimum requirements that are to be met when preparing a draft CZMP, in addition to the requirements in the Act.

The primary purpose of a CZMP is to describe proposed actions to be implemented by a Council, other public authorities and potentially by the private sector to address priority management issues in the coastal zone over a defined implementation period.

These issues include:

- managing risks to public safety and built assets;
- pressures on coastal ecosystems; and
- community uses of the coastal zone.

CZMPs should support the goals and objectives of the NSW Coastal Policy (1997) and assist in implementing integrated coastal zone management. The draft CZMP should be developed in accordance with Part 4A of the Coastal Protection Act 1979 and the

minimum requirements in these guidelines. A CZMP may address management issues in the coastal zone beyond these minimum requirements.

CZMPs should inform or assist with implementing other related council or public authority planning processes, management programs and strategies. Clear links should be made between CZMPs and these plans and programs. For example, CZMPs may include recommended strategic directions or actions to be considered in these plans and programs.

Coastal Management Principles have been developed to inform strategic considerations in coastal management, including the preparation of CZMPs. Relevant principles should be considered in evaluating potential coastal management actions and be reflected in draft CZMPs.

In addition, section 733 of the Local Government Act 1993 provides an exemption from liability for certain management actions by Councils and the State Government relating to flooding and coastal management, provided these actions were made in good faith. Under this section, Councils and the State Government are considered to have acted in good faith if the actions were undertaken substantially in accordance with the principles contained in the specified manual (in this case, Guidelines for Preparing Coastal Zone Management Plans).

4.4 Adopted Sea level Rise Planning Benchmarks

In February 2009, the NSW Government released its draft Sea Level Rise Policy statement and invited submissions from interested parties. The primary objective of the draft Sea Level Rise Policy Statement was to minimise the social disruption, economic costs and environmental impacts resulting from long-term sea level rise. To achieve these objectives, the NSW Government indicated it would:

- promote an adaptive risk-based approach to managing sea level rise impacts
- provide guidance to local councils to support their sea level rise adaptation planning
- encourage appropriate development on land projected to be at risk from sea level rise.
- continue to provide emergency management support to coastal communities during times of floods and storms
- continue to provide updated information to the public about sea level rise and its impacts.

A significant component of the draft policy was the incorporation of adopted sea level rise planning benchmarks. These benchmarks are an increase above 1990 mean sea level of 40cm by 2050 and 90cm by 2100.

The draft sea level policy has now been withdrawn by the NSW Government.

Clarence valley Council has adopted the sea level rise benchmarks and the erosion processes study and CZMP will need to allow for sea level rise based on the forecast benchmarks.

5.0 PLAN CONTEXT

There are a number of plans, strategies and initiatives developed, or under preparation, that are relevant in the preparation of the Whiting Beach Erosion Management Plan. Due recognition shall be given to all relevant material to ensure integration, consistency, efficiency and complementary decision making. Of particular importance are the following:

5.1 Healthy Rivers Commission Inquiries

The Healthy Rivers Commission has released its final reports of its inquiry Clarence River (HRC, 1999) North Coast Rivers (HRC, 2003) and Healthy Rivers for Tomorrow (HRC, 2003).

5.2 Clarence Estuary Processes Study 2000 and Clarence Estuary Management Plan 2003

The estuary Processes study and Plan was prepared by Manly Hydraulics.

5.3 Council Management Plan

Under Sections 402-406 of the Local Government Act 1993 each council is required to prepare and adopt a Management Plan. This Plan is the central tool by which council determines its strategic direction and policy implementation in the short to medium term.

There is an adopted Management Plan for Hickey Island that was gazetted on 29/7/2007.

5.4 Other Plans and Strategies

Other plans that should be considered to ensure integration and consistency include:

- Water Sharing Plans
- Urban Stormwater Management Plans
- Floodplain Risk Management Plans
- Coastline Management Plans
- National Park estate and Crown Reserves Plans of Management
- Clarence Valley Council Local Disaster Plan (DISPLAN)

6.0 MANAGEMENT GOALS AND ISSUES

Management issues are the prime drivers for the development of the Whiting Beach Coastal Zone Management Plan.

Council's objective is to maintain Hickey Island and more specifically Whiting Beach as a low key but multi use area for beach recreation, boating and fishing. Council would like to accommodate natural processes while maintaining and enhancing both natural and developed elements of Hickey Island and Whiting Beach.

More specifically Council would like to resolve the best way to:

- Provide continued use and access to Whiting Beach in a safe manner and
- Protect adjacent assets which consist of pathways, toilet and car park.
- Further understand the opportunities and constraints associated with existing and future uses of Hickey Island and Whiting Beach.
- Improve its understanding of the processes effecting erosion and sedimentation within the lower estuary generally.

7.0 AVAILABLE DATA AND REFERENCE DOCUMENTS

A preliminary list of known documents considered relevant to Whiting Beach and erosion management is shown below. Other information and data may be identified during the data assembly phase of the engagement.

- State of the Rivers and Estuaries Report 2001 and Stressed Rivers Assessment Report 1999.
- Upper North Coast Catchments – State of the Rivers and Estuaries Report – 2001 by Former Department of Land & Water Conservation of NSW Government.
- DECC’s multi attribute maps.
- Clarence Estuary processes Study 2000 Manly Hydraulics.
- Clarence Estuary Management Plan 2003 Manly Hydraulics.
- Hickey Island Plan of Management Reserve 1003009 CVC and NSW Department Lands July 2007.
- Environmental Impact Statement Iluka Sewerage Scheme June 2003 Ministry of Energy Utilities NSW Gov and Maclean Shire Council.
- Iluka Sewerage Scheme Ebb Tide Discharge WRL 2008 on going.
- Yamba Waters Coastal Engineering Study Public Works Department Report Number PWD83027 1984

8.0 COMMUNITY CONSULTATION

Community consultation is an essential component of the coast and estuary management process. A sound management plan depends largely on the knowledge, involvement and support of the local community. There is significant interest in options for erosion management of Whiting Beach. This consultancy does not involve open public consultation but input into processes and options for management of targeted sections of the community will be essential. Council will seek to undertake open public consultation once the processes study and management options are compiled.

The Consultant shall actively encourage input from the community and shall consider community comments and concerns throughout the course of the study. The Consultant is requested to document in its proposal an itemised community consultation program, including techniques, strategies and significant activities to fully target individuals and

organisations with detailed knowledge of the processes within the lower reaches of the river system.

The strategy shall include:

- Initial consultation with CVCEMC at the commencement of the study (inception meeting and presentation by consultant);
- Seeking data and information from the community;
- Presentation of the findings of the study to the CVCEMC;
- Consultation with key stakeholders;
- Public advertisements and media releases. Consultants should allow for one advertisement and one media release.

9.0 SCOPE OF WORKS

The Consultant shall prepare a sediment processes study and CZMP addressing erosion at Whiting Beach that is consistent with Part 4A of the Coastal Protection Act, 1979 and embraces the goals of the NSW Coastal Policy 1997.

Development of the Plan shall be undertaken in close consultation with the Clarence Valley Council and its Coast and Estuary Management Committee. The Office of Environment and Heritage shall provide technical guidance as required.

The scope of works incorporates a desktop research and literature review, analysis of historic air photographs and high detail hydrodynamic, entrance dynamic, sediment transport study of the lower estuary, river entrance and adjacent coast and marine areas.

The scope of works is as follows:

9.1 Data Collection and Review

Collection and review of existing data, including that held by:

- Clarence Valley Council
- Department of Environment and Climate Change (incl. Department of Natural Resources, Environmental Protection Authority & National Parks and Wildlife Service)
- Department of Urban Affairs and Planning
- NSW Maritime
- Department of Primary industries (NSW Fisheries)
- Roads and Maritime Services
- Community Interest Groups
- Local Historical groups
- Local newspapers
- Residents living along the creeks
- Local Aboriginal Land Council
- Any other sources of relevant information

The review should capture all relevant literature, plans, data and information relating to:

- Coastal process and interactions,
- estuary processes and interactions,
- historic and cultural values,
- historic, current and future use and access,
- built assets,
- ecosystem values,
- risks and hazards.

The first outcome of the engagement will be the documentation of significant findings as they relate to understanding erosion and deposition within the lower estuary and to current and future management of Whiting Beach. The quality, adequacy and usefulness of data should be discussed. The contemporary understanding from available information as well as, where possible the historical context that has led to the issue should be provided.

The review should identify data and knowledge gaps and discuss the relevance of this information in terms of proceeding with, and achieving the objectives of this project. Recommendations to gather further data to support the erosion processes study and CZMP will need to be justified.

A draft of the review should be made available to Council for review. 3 hard copies and an electronic copy of the draft document is required.

Note: The consultant will be liable for some search and copying fees.

9.2 Beach Erosion/Estuary Processes Study – an assessment of the governing physical processes of sediment erosion, deposition and transport

The second outcome of the engagement will be a report defining the existing condition of Whiting Beach and document the physical processes operating, their interrelationships and how human activities have changed them. It is anticipated that existing hydraulic and sediments advection and dispersion models for the lower estuary will be utilised to assist in understanding the processes at play. The study would include consideration of the following:

- climatic conditions
- entrance geology
- entrance opening mechanism
- shoaling and erosion patterns
- sources of sediments
- pathways for sediment transport.
- Internal Islands and training walls
- tidal process
- wave climate
- catchment and flood processes

The study would involve:

- An analysis of aerial photographs and historical data to determine sediment erosion and deposition.
- Assessment of estuarine sediments to determine origin.
- Field investigations.
- The processes for study include river hydraulics, sediment transport, coastal marine processes and circulation.
- Use of any existing models.

On completion of this section, a draft document is to be submitted to Council for review. The document will discuss and depict:

- The physical processes at play within the lower estuary,
- Factors that may be affecting erosion/sedimentation of Hickey Island and Whiting Beach.
- Past, current and future shoreline movement of Whiting Beach including an assessment of the rate of change. If possible a projection of shoreline change at 2050 and 2100 should be provided.
- Impacts of climate change and sea level rise should also be considered.
- Presentation of a conceptual model of sediment deposition and erosion for the lower estuary in the immediate vicinity of Whiting Beach.

Commencement of the subsequent sections will await written consent from Council.

3 hard copies and an electronic copy of the draft document is required.

9.3 Whiting Beach Coastal Zone Management Plan

The third outcome of the engagement shall be the production of a simplified Coastal Zone Management Plan addressing erosion of Whiting Beach with regard to:

- managing risks to public safety and built assets
- pressures on coastal ecosystems,
- community use and access of the coastal zone.
- future management and decision making;

The erosion management plan will:

- identify and rank issues of concern;
- defines management objectives that encompass the identified issues;
- presents potential management options including likely costs, benefits, constraints, opportunities and impacts;

- evaluates management options and their ability to achieve the desired objectives;
- make recommendations as to the preferred management option(s)
- document an implementation schedule which details actions, priority, timeframe and indicative costs
- A draft document shall be produced that will be subject to review and exhibition. Prior to public exhibition it will be subject to review and concurrence of Clarence Valley Council.
- Attention shall be given to presenting information in a clear written, graphical, diagrammatic, photographic and tabular form that can be readily understood by Council, Government agencies and the community.

The Consultant must take into account the effects of Climate Change, which requires a sensitivity analysis of foreshore habitats, structures and estuarine processes to sea level rise, warmer temperatures and changes to rainfall and drought patterns (reference: IPCC 2007 & CSIRO 2007). The erosion management plan shall utilise the information from the processes study together with additional studies, to define management options and impacts.

3 hard copies and an electronic copy of the draft document is required.

10.0 DELIVERABLES

10.1 Reports

The consultant shall supply the following documents:

Stage 1: A report being the collation and discussion of existing data/information (9.1).

Stage 2: A report on beach and estuary processes effecting Whiting Beach (9.2).

Stage 3: Draft Coastal Zone Management Plan for Whiting Beach (9.3).

Stage 4: Revised Draft Coastal Zone Management Plan for Whiting Beach (9.3).

10.2 Hand-over of study materials

At completion of the project the consultant is to hand over all study information and materials including; all data files, reports and papers, surveys, estuary processes mapping/modelling and shoreline recession mapping compatible with GIS.

11.0 GENERAL CONDITIONS OF CONSULTANCY

The consultant shall provide all necessary labour, expertise and equipment for carrying out the detail design service. The detail design services required shall include but not be limited to undertaking of all investigations, design calculations, consultation with relevant authorities, technical specifications, drawings for tender and construction, bill of quantities, cost estimates and all other technical documentation necessary for the full description of the project for tender as listed in Item 10 'Scope of Works'.

In addition the consultant shall allow for carrying out all ancillary activities implied and/or necessary for carrying out the complete service and undertake all necessary

consultation with relevant Government agencies, Council key staff, the public (where applicable) and all others necessary to complete the project, to the satisfaction of Council.

The Consultants are to allow for the abovementioned consultation in their Lump Sum Fee.

12.0 RESPONSIBILITIES OF THE CONSULTANT

The consultant shall include all labour, materials and equipment, office costs, secretarial and clerical work, overheads, stationery, printing, photocopying, postage and telephone costs unless specifically detailed in this brief as being the responsibility of the Council.

Utility/services information, if required, is to be obtained from relevant authorities/agencies at the consultant's own expense (if a charge applies).

12.1 Preparation and Presentation

The consultant shall prepare and present all information to Council in an electronic and hardcopy format.

The consultant shall accept full responsibility for all work undertaken as a requirement of this brief.

The electronic copy of the required documents shall be submitted in *.PDF and *.doc formats. Scanned correspondence shall be saved as *.jpg format and imbedded into both the word and acrobat documents. Images and figures shall not be skewed. Any photographs taken for the purposes of the report shall be placed in a separate electronic sub-directory in *.jpg format.

12.2 Format

The reports will be presented as a single document containing an executive summary, scope of work, all associated outputs including methodology adopted, results of technical investigations and assessment of strategies and options. All reports (draft and final) are to be provided in both hard copy and electronic forms. Electronic format of the report is to be provided as follows:

Text	MS Word and as per section 12.1
Diagrams	JPG
Maps	Shape files suitable for use in Arc View GIS
CADD	AutoCAD

All material must be supplied to Council in a form and on media that is readily compatible with Council's existing IT environment. Final electronic documentation must also ensure that any composite artwork is also supplied to Council on compatible media and broken down to constitute separately definable layers.

Council's IT environment is IBM compatible PCs, Microsoft software products, and Arc View GIS.

Format for hard copy is bound, A4 size in portrait mode, with drawings and diagrams no larger than A3 size where necessary. Maps and diagrams shall be capable of being photocopied in black and white while still conveying their information.

Five (5) bound copies of the final reports for each stage are required and one (1) unbound - suitable for photocopying (for each report). Four (4) copies of the final report (in Microsoft Word Document) on CD or DVD are required.

12.3 Sub-consultant

The responsibility for the preparation of the Processes Study and Coastal Zone Management Plan and the supervision of sub consultants and their integrity, effectiveness and suitability for the purpose rests with the consultant. The CVCEMC is relying upon the consultant's knowledge, skill and judgement to produce a finished product which is fit for its intended purpose.

12.4 Approval of Documentation

Draft documents submitted for review by Clarence Valley Council shall be signed by the consultant's principal nominated in the proposal to certify that the documents represent adequate professional presentation for the particular of the work. Final documents prepared by the consultant must be signed by the consultant's principal nominated in the proposal to certify that the documents have been prepared by competent professional staff and have been checked for accuracy, compliance with relevant regulations, the requirements of the brief and fully coordinated with all related documents.

12.5 Errors – Deficiencies

Any errors, ambiguities or deficiency, which becomes apparent during the commission, shall be referred to the consultant for correction or clarification in suitable form. The consultant shall not be entitled to an additional fee where the correction or clarification arises from the fault of the consultant.

12.6 Compliance with Legislation

The consultant should ensure that the documents produced under the commission comply with relevant Acts, Codes, Ordinances and Regulations. The consultant shall immediately advise Clarence Valley Council and obtain direction if the work requirements conflict with any such statutory requirement.

13.0 FEES

- The fees to be paid for the work described in the Brief shall be a lump sum nominated by the consultant in the proposal for the work. The lump sum is to include all fees for sub-consultants. The fees for sub-consultants shall be stated separately.
- The lump sum fee may only be exceeded if work additional to the extent of this brief is requested by Clarence Valley Council.

- Items not specifically mentioned in the brief but which are necessary for the satisfactory completion and performance of the work shall be executed by the consultant without adjustment to the nominated fees.
- No payment for additional work will be made in excess of the nominated fee unless the additional work is first authorised in writing by Clarence Valley Council. The fees shall be deemed to include all works and costs necessary to carry out the work set out in the brief.
- The lump sum fee submitted by the consultant shall be a true reflection of the cost of professional services to be provided. The lowest fees submitted will not necessarily be accepted.

14.0 RESPONSIBILITIES OF THE COUNCIL

The Council shall be responsible for providing all past, present and future records and files held, as necessary for carrying out the service. This includes GIS data such as cadastral, aerial photographs etc.

14.1 Additional Information

Council will provide readily available information that it has on record regarding the relevant planning and other design-related history. Including:

- GIS and Aerial Photography data sets as required
- Aerial photographs, photogrammetry and investigations by OEH
- ALS data

All data supplied by Council remains subject to copyright vested in Council or the data supplier who has licensed use of the data to Council. At the completion of the project, no digital copies of the data supplied by Council are to be retained by the consultant.

14.2 Entry to Private Lands

The consultant is to comply with Council's written instructions as to the procedure to be followed before entering private property for the purpose of gathering information and survey, as applicable.

15.0 QUOTATION FOR CONSULTANCY

The consultant is to submit a proposal for works outlined in this brief and must include the following:

- Company profile,
- Qualifications and previous similar experience of key-staff and any sub-consultants,
- A lump sum consulting fee,
- Fees for each component of the Project and detailed costing of the consultation (see Section 27),

- A timeline schedule of the key steps to be undertaken (including consultation) for the preparation of the study,
- Identification of any additional items resulting in consultancy fees that may be applicable,
- Rates for each staff member for pricing any additional work that may be required.

16.0 SUBMISSION OF PROPOSALS

The Consultant's proposal for the Erosion Processes and Erosion Management Plan for Whiting Beach is to detail activities proposed to undertake the work. The proposal is to be presented in two sections, with a stage for the review of the data collection and processes study and the second sections reflecting the final document including the study and plan. The proposal should also detail any community consultation that is to be undertaken in delivery of the final plan.

Proposals are to be submitted to:
The General Manager
Council
Locked Bag 23
GRAFTON NSW 2460

Proposals should be submitted in a sealed envelope clearly marked:
“Whiting Beach Erosion Processes Study and Coastal Zone Management Plan”
Q14/02

The closing date for submissions is: 3 pm, 10th February 2014

THREE (3) COPIES OF THE PROPOSAL ARE REQUIRED

17.0 ASSESSMENT OF THE PROPOSALS

The criteria to be used in selection of the successful consultant are those specified by the Australian Consulting Engineers Association (ACEA) in their Value Selection weighted point score system. Value Selection uses a value selection process so that both price and non-price attributes can be taken into account. This method objectively assesses ability and merit to provide a clear indication of the most appropriate consultant by balancing the 'value for money' constraints against the required standards and scope of the work.

The criteria for the selection of a consultant are shown below:

- Methodology and understanding of the brief;
- Program and ability to meet councils timelines;
- The quality of the Consultant's team in terms of demonstrated experience in the field. Of particular importance is the presence of sufficient depth of experience to cover the broad range of skills needed to undertake the coastline hazard study,

address the issues and formulate objectives and strategies. (Including previous experience in coast and estuary processes operating in the Lower Clarence)

- Community consultation skills and methods;
- Value for money;
- Relevant experience and understanding of the Government's Coastal Policy, the Coastline Management Manual and the Coastline Management Process.

18.0 CONDITIONS OF ENGAGEMENT

18.1 General Conditions of Engagement

The tasks as identified in the brief are based on Council's assessment of the study and plan requirements. The consultant may suggest any amendments required to achieve the design objectives during the course of each design.

Council shall ratify any proposed departure from the agreed scope of works before proceeding.

18.2 Failure to Meet Performance Criteria

If the consultant continues to fail to meet the contract performance criteria following a written warning from the Council then the consultant shall be given seven (7) days notice to show cause why the contract should not be terminated as per the General Conditions of Contract.

18.3 Termination

The consultants' commission to carry out the project may be subject to termination due to non-performance or inability to meet set deadlines. Letter of such termination, which will be final and not subject to further correspondence, will inform the consultant.

18.4 Insurance

Policies are to be sighted by Council prior to commencement of work. The consultant shall have the following insurances:

- \$5M professional indemnity, and
- \$10M public liability insurance.

On Site Public Liability

The consultant is responsible for taking out at least \$10 million public liability insurance giving cover to himself/herself, his/her employees and any agent engaged by Council for the duration of the work.

The consultant should also be aware of the obligations and liabilities under the "Occupational Health and Safety Act, 1983" and National Code of Practice pertaining to the Act.

Employees or Agents

Before commencing work under the commission, the consultant shall ensure that a suitable insurance policy is taken out giving cover to the consultant, the consultants employees and agents against any liability, loss, damage, costs and expenses arising at common law or under any statute as a result of personal injury to or death of any person employed by the consultant or the consultants agents in or about the work.

18.5 Sub-Consultants

The primary consultant may engage a sub-consultant for a specified part of the project subject to the written approval of Council. The primary consultant is responsible for the sub-consultant's work and compliance with the terms of the brief. The sub-consultant has no claim on Council for fees or expenses.

18.6 Ownership and Copyright

Ownership and copyright at all times shall be vested in the Council and any distribution whether for money or otherwise of the project deliverables should only be with the authority of the Council. The content of any studies conducted shall be confidential and shall not be made available to any third party without the authority of Council.

Council will have complete ownership of the content of the project and documentation and the reproduction and/or distribution of this material in part or full, is prohibited without Council permission.

Council may permit the consultant to utilise information gained in the course of the project for the purpose of learned papers or other publications provided that these are appropriately acknowledged and that confidentiality is respected.

18.7 Conflict of Interest

The consultant shall inform Council immediately of any matter connected with this brief, which could give rise to an actual or potential conflict of interest. This information will be treated as confidential.

18.8 Certification

All final documents prepared by the Consultant must be signed by the Project Director nominated in the consulting proposal to certify that they have been prepared by competent professional staff, checked for accuracy and comply with relevant regulations and the requirements of the brief.

19.0 STATEMENT OF BUSINESS ETHICS

Prior to the commencement of the study, the successful consultancy will be required to sign a formal declaration stating that they have read and fully understood the content and meaning of Council's formal Statement of Business Ethics. A copy of the Statement of Business Ethics is attached in APPENDIX A – STATUTORY DECLARATION ON STATEMENT OF BUSINESS ETHICS.

19.1 Confidentiality

Investigations and reports will remain confidential unless, or until, released by Clarence Valley Council.

19.2 Purpose of this Statement

This Statement of Business Ethics is intended to provide a clear understanding of mutual obligation. It helps set the ethical ground rules for all business dealings between Council and Suppliers. It applies to all Suppliers, including providers of goods and services, contractors, tenderer's and consultants.

It defines Council's ethical standards and establishes Council's expectation that all Suppliers will meet these standards. It also provides businesses dealing with Council with a degree of understanding of what to expect in such dealings.

This Statement aligns to Council's core values, primarily through the value of 'Openness and Accountability'. In keeping with this value, Council will endeavour to behave with integrity, transparency and fairness at all times.

This Statement of Business Ethics also explains what the consequences are for Staff, Councillors and Suppliers of not complying with the requirements of this statement.

19.3 What is the impact of Business Ethics?

19.3.1 ICAC Advice

It should be noted that the Independent Commission Against Corruption (ICAC) in NSW defines those people employed by Council as consultants or contractors to be "public officials". When employed by Council, consultants & contractors are subject to the jurisdiction of ICAC and are considered to be "public officials" for the purpose of the ICAC act.

In addition, any individual can be found corrupt by the ICAC (even if they are not a public official) if they try to improperly influence a public official or Council's honest or impartial exercise of its official functions.

Further information relating to the ICAC Act is readily available to all Suppliers (including tenderer's, contractors and consultants) at the ICAC web site www.icac.nsw.gov.au and copies of all relevant Council policies are also available at any time.

19.3.2 Impact for Suppliers

By aligning business practices with Council's ethical expectations, Suppliers can expect to:

- Compete for business on an even playing field
- Establish practices, which put them in good stead in competing for works with other public sector agencies.

If Suppliers to Council do not comply with this statement, then the consequences may be as follows:

- Formal investigation for corruption or other offences
- Possible loss of work
- Termination of contracts
- Damage to reputation
- Loss of rights (such as loss of operating or trade licenses etc).

19.3.3 Impact for Council Staff

If Council staff do not comply with this statement, then the consequences may be as follows:

- Formal investigation
- Disciplinary action
- Dismissal
- Potential criminal charges

19.4 How to Comply

19.4.1 Council

Council aims to follow processes that are transparent and to act with impartiality, honesty and fairness and to be consistent in all measures.

Fairness means being objective, reasonable and even-handed. It does not mean pleasing everyone. Council will strive to be fair by ensuring that our processes are appropriate and demonstrate this by being open and accountable, wherever practicable. This does not mean that Council will always go to formal tender or that we will call for bids for items of low monetary value. Council will only deal exclusively with parties in exceptional circumstances and where we can demonstrate there are valid reasons for doing so, based on sound probity principles.

As a local government body, Clarence Valley Council has a commitment to ensure community funds are expended efficiently, effectively and economically and aims to attain “best value for money” in its business dealings with the private sector. “Best value for money” is determined by considering all the factors, which are relevant to a particular purpose, e.g.:

- Experience
- Quality
- Reliability
- Timeliness
- Service
- Initial & ongoing costs

It is important to note that “Best value for money” does not automatically mean the “lowest price”. It means the offer that is most advantageous to Council after considering the above factors.

19.5 Council Staff and Councillors

19.5.1 Code of Conduct

Council has a formally adopted Code of Conduct for its Staff and Councillors. The Code embraces the concept of integrity, ethical conduct and accountability throughout its organization.

As stated in the Code of Conduct:

"Staff and Councillors are expected to act in accordance with this Code of Conduct and to maintain the highest standards of ethical behaviour consistent with the positions they hold. Equally, Suppliers are expected to demonstrate the equivalent behavioural standards."

19.5.2 Procurement and Tendering

Staff and Councillors must abide by the law and all its policies, procedures and practices, particularly those related to Procurement and Tendering, including relevant legislation and codes of practice.

All Procurement and Tendering actions and decisions will be fully documented to a standard that will withstand scrutiny through an audit process. Please note that all pricing will remain confidential where it is considered that a commercial advantage may be gained/lost through disclosure.

All Council staff will be accountable for their actions and are required to act in the public interest and to always act with due care, integrity, transparency and fairness.

All Council staff are also expected to:

- Avoid conflicts of interest
- Treat all potential providers of goods & services equally
- Abide by the law
- Strictly comply with Council's adopted Code of Conduct, particularly in relation to incentives, gifts and benefits
- Disclose any conflict of interest, including related party employment.

19.6 Suppliers

19.6.1 General Requirement

Council requires all those with whom it deals in the provision of goods and services to observe the following principles:

- Act fairly, ethically and honestly in all dealings with Council
- Not to disclose confidential Council information
- Not to exert pressure nor influence on Council Staff that may cause them to waiver from Council's *Code of Conduct*
- To abide by relevant legislative processes and industry Codes of Practice in all procurement dealings
- To have respect for the obligation of Council staff to act in accordance with this Statement of Business Ethics
- Commit to not offer Council staff inducements or incentives such as money, gifts, benefits, entertainment or employment opportunities
- Ensure that all sub-contractors and other people employed by the supplier are aware of this statement and the consequences of breaching it.

19.6.2 Communication Requirement

As a general principle, all communication with Suppliers to Council should be clear, direct & accountable. Suppliers also have an obligation to ensure that their communication with Council abides by the above three principles, in order to minimise the risk of inappropriate influences being brought to bear on the business relationship.

There will be times where some communication needs to be strictly confidential for commercial-in-confidence or other reasons. This however should not preclude proper accountability and both parties should be able to explain the reasons for instituting specific communication protocols or keeping some communication confidential.

Public perception of inappropriate influence can be extremely damaging to the reputation of both parties, even if nothing has occurred. Therefore it is in the best interests of both parties to ensure that formal communication processes are observed at all times and that all communication supports Council's core values of integrity, transparency and fairness.

19.6.3 What happens if I think there is a breach?

If you are concerned about a possible breach of this statement, or about any conduct that could involve fraud, corrupt conduct, maladministration or serious and substantial waste of public funds, please contact Council's General Manager, or one of Council's Directors. Please be aware that if you do approach a Council Director with such a report, it is a requirement of ICAC that the Director must inform the General Manager immediately.

It should also be noted that once the General Manager is made aware of a possible breach as described above, that it is incumbent upon him or her to report this directly to the ICAC.

For Council staff, please refer to Council's policy titled "Corruption, Maladministration & Serious Substantial Wastage - Reporting Of" (C23) for more information on the processes that you are required to follow in the case of a possible breach of this statement.

20.0 SELECTION CRITERIA

An assessment of the proposals will be undertaken taking into account the following attributes:

Attributes	Weighting Factor
• Relevant experience of personnel (previous work of this type)	10%
• Track record (reputation for competence, capacity)	15%
• Technical skills (people, systems, specific attributes)	10%
• Management (organisation, financial stability, quality system)	10%
• Methodology (how project will be tackled, scope of work)	25%
• Time performance (realistic schedule, previous performance)	25%
• Lump sum fee	5%
TOTAL	<u>100%</u>

Proposals will be allocated point scores against each assessment criteria that will then be multiplied by the relevant weighting and summed to produce a total score.

21.0 QUALITY OF SERVICE

21.1 General Quality of Service

The service shall be carried out to industry best practice standards, shall comply with all Federal, State and Local Statutory Requirements, and to the complete approval of the Council.

The consultant must carry out all services in accordance with all the relevant standards, requirements specified in this Brief.

21.2 Quality Assurance

This project shall be a quality assured contract.

The consultant shall implement a Quality Assurance System for delivery of the service to the complete approval of the Council. A copy of the consultant's quality policy and quality certification shall be submitted with the tender.

The level of accreditation shall be second party.

21.3 Quality of Staff

All staff engaged by the consultant shall have all qualifications and experience necessary to legally perform their duties.

All staff engaged in delivery of the service shall be to the approval of the Council.

22.0 TYPE OF CONTRACT

This contract shall be a LUMP SUM. Refer to item 27 for pricing schedule.

A Schedule Of Rates shall be provided for assessment of tenders, progress payments and costing of additional works.

23.0 COSTING

Council has a budget of \$70,000 for the total processes study and coastal zone management plan project as outlined in this brief. Council can offer a range of assistance to the successful consultant to ensure efficient use of the project budget. For example, CVC can complete Steps 2 and 3 (see Sections 3 and 10.3 earlier). In addition, CVC has a range of data that would assist the review of issues and management options. Council can also assist by attending to advertising, mailing and administrative costs associated with the project as negotiated (see also Section 9). CVC and DECC are also negotiable on the consultation methods used for the project.

24.0 ADMINISTRATION, REPORTING & TIMETABLE

It is anticipated that the total project will take approximately 6 months to complete. Consultancy proposals are to provide a time line of the key activities outlined in the item 10 "Scope of Works" of this brief. The progress of the project is to be reported to each meeting of CVCEMC from the commencement of the project to the completion of the project. Progress details shall be in form of a written report, supported by an update of the agreed time lines. The agreed time line will be confirmed as part of Councils acceptance of the consultancy proposal. Proposed time lines should be provided for both options in terms of completing Stage 2 to 3 (see Section 3 and 10.3 earlier).

Any variation to this timeline must be detailed in the proposal submitted to council.

25.0 CONTACT WITH COUNCIL

The study is to be co-ordinated by Council's Rodney Wright, Environmental Services Coordinator:

Clarence Valley Council
Locked Bag 23
Grafton NSW 2460

Ph (02) 66450265
Fax (02) 6642 7647
Email rodney.wright@clarence.nsw.gov.au

26.0 CORRECTIONS

Any error, ambiguity or deficiency, which becomes apparent during the course of the design, shall be referred to the consultant for correction or clarification. The consultant shall not be entitled to an additional fee where the correction or clarification arises from a fault of the consultant.

The content of the report is the responsibility of the consultant and may not be amended without the agreement of the consultant.

27.0 PAYMENT AND COSTS

Council shall withhold payment of 10% of the project cost until Council has approved the final plan and all material identified in this brief has been provided to Council.

The Council shall not be obligated to make any payment unless it is satisfied that the work satisfies the requirement of the brief. Progress payments will be made upon receipt of an invoice from the consultant and satisfactory performance of the designated tasks as applicable.

The consultant shall be responsible and allow for in the price all his/her own costs for travel, accommodation and any other expenses.

Items not specifically mentioned in the brief but which are necessary for the satisfactory completion and performance of the work shall be executed by the consultant without adjustment to the nominated fees.

No payment for additional work will be made in excess of the nominated fee unless the additional work is first authorised in writing by Council. The fees shall be deemed to include all works and costs necessary to carry out the work set out in the brief.

27.1 Goods and Services Tax

“*Goods and Sales Tax (GST)*” means any tax on goods and/or services, including any value added tax, broad based consumption tax introduced in Australia.

“*GST Law*” includes an Act, order or regulation which imposes or otherwise deals with the administration or imposition of a GST in Australia.

Notwithstanding any other provision of this Agreement:

- (a) If a GST applies to any supply made by any party or in connection with this Agreement, the consideration provided or to be provided for that supply will be increased by an amount equal to the GST liability properly incurred by the party making the supply.
- (b) If the imposition of a GST or any subsequent change in the GST law is accompanied by or undertaken in connection with the abolition of a reduction in any existing taxes, duties or statutory charges (in this clause “*taxes*”), the consideration payable by the recipient of the supply made under this Agreement will be reduced directly or indirectly as a consequence of the abolition of or reduction in taxes.

Each party warrants that at the time any supply is made under this agreement on which GST is imposed, that party is registered under the GST law. If the other party requests written evidence of registration, the party claiming to be registered will promptly produce evidence satisfactory to the party seeking such evidence.

Any invoice rendered by a party to this agreement which seeks to recover an amount of GST payable by that party must conform to the requirements for a tax invoice (as that term is defined in the GST law). If requested to do so by the recipient of the supply, the supplier must provide a tax invoice within 14 days.

28.0 ACCEPTANCE OF CONDITIONS

Upon receipt of a letter of acceptance being offered to the preferred consultant, Council requires written confirmation from the preferred consultant of acceptance of the commission for the work in accordance with the conditions of engagement before work commences.

29.0 WORK HEALTH AND SAFETY (WH&S)

All works including site investigations shall be carried out in accordance with requirements of the WH&S Act and Regulations 2011.

30.0 CONFORMING PRICING SCHEDULE

This pricing schedule is to be completed for pricing of the deliverables required in this brief. Provision has been made for additional items and consultants are invited to list items that have not been described in this brief.

ITEM	QUANTITY	RATE	PRICE
Project Deliverables			
Inception Meeting			
Consultation			
Processes Study			
Coastal Zone Management Plan - Erosion			
Present process study and Erosion Management Plan to CVCEMC			
Provisional Items			
Field surveys			
Public/CEMC meeting(rate/hr)			
Total Lump Sum			\$
Additional Items			
List additional items as necessary		Ea.	
List staff hourly rates as necessary		\$/hr	

APPENDIX A
STATUTORY DECLARATION ON STATEMENT OF BUSINESS ETHICS

The Consultant must complete and submit this form with the quotation. All submitted information will be treated as confidential

I, _____ (Print name),

Of _____ (Tendering Organisation),

Do hereby solemnly declare and affirm the following:

1. I hold the position of _____, and am duly authorised by the consulting organization to lawfully proclaim the following and, after having made due inquiry believe the following to be accurate to the best of my knowledge.
2. The Consultant and their representatives have read and fully understand the contents and meaning of the Council Statement of Business Ethics as included as part of these contract documents.
3. The Consultant and their representatives agree to be bound by the standards of ethical behaviour as detailed in the Clarence Valley Council Statement of Business Ethics and will not exert pressure nor influence Council staff that may cause them to waiver from Council's Code of Conduct.
4. The Consultant and their representatives agree to have respect for the obligation of Council Staff to act in accordance with the Statement of Business Ethics.

I make this solemn declaration as to the matter aforesaid, according to the law in this behalf made, and subject to the punishment by law provided for any wilfully false statement in any such declaration.

Signature of Consultant: _____

Subscribed and declared at: _____

This: _____ **Day of** _____ (Year) _____

Before me: _____ (Print name)

Witness: _____ (Signature)

(Justice of the Peace or authorised person)

APPENDIX B – ENGAGEMENT AGREEMENT

AGREEMENT made the _____ day of _____ 2014
between:

1. **Clarence Valley Council, 2 Prince Street Grafton (*Principal*)**; and
2. **[name of Consultant]** of _____, (ABN *** ***) , (***Consultant***).IT IS

AGREED AS FOLLOWS:

1. DEFINITIONS

"Agreement" means this document including The Schedule and The Services.

"Contract Material" means all material brought or required to be brought into existence as part of, or for the purpose of, performing The Services, including but not limited to documents, equipment, information and data stored by any means.

"Fee" means the fee described in Clause 5.

"Intellectual Property" means all rights in copyright, patents, registered and unregistered trademarks, registered designs, trade secrets, and all other rights of intellectual property defined in Article 2 of the Convention Establishing the World Intellectual Property Organisation of July 1967.

"Services" means the services described in The Services.

2. ENGAGEMENT

The Principal engages the Consultant to provide the Services in accordance with this Agreement. The Principal is the person named in Item 1 of The Schedule.

3. CONSULTANT'S OBLIGATIONS

3.1 Professional Standard of Care

The Consultant must perform the Services in a diligent manner and to the standard of skill and care expected of a consultant experienced in the provision of the type of services required by the Principal in accordance with this Agreement.

3.2 Knowledge of Requirements of the Principal

The Consultant must use all reasonable efforts to inform itself of the requirements of the Principal and must regularly consult with the Principal during the performance of the Services.

3.3 Personnel

- (a) The Consultant must ensure that all personnel engaged by it in connection with the Services are appropriately qualified, competent and experienced in the provision of the type of services required by the Principal.
- (b) The Consultant must use its best endeavours to ensure that the persons named in Item 2 of The Schedule (or alternates agreed by the Principal) are engaged by the Consultant to undertake the work nominated in Item 2 of The Schedule.
- (c) The Consultant's responsibility for the performance of the Services and for the work and performance of its personnel is not altered in any way by this Clause 3.3 or by anything done in accordance with this Clause 3.3.

3.4 Discrepancies in Information

If the Consultant considers that information, documents and other particulars made available to it are inadequate or contain errors or ambiguities, the Consultant must give written notice as soon as practicable to the Principal detailing the errors or ambiguities.

3.5 Program or Plan

The Consultant must, by the time specified in Item 3 of The Schedule, submit to the Principal a program or Plan for the performance and completion of the Services within the time specified in Item 4 of The Schedule.

3.6 Timely Provision of Services

The Consultant must perform the Services expeditiously and in accordance with the program.

3.7 Delay

As soon as practicable after becoming aware of any matter which is likely to change or which has changed the scope or timing of the Services, the Consultant must give written notice to the Principal detailing the circumstances and extent or likely extent of the change or delay.

3.8 Alterations to Approved Documents

The Consultant must not make any substantial alteration to, addition to or omission from the plans, drawings, layouts, designs, specifications or other material previously approved, without the prior written approval of the Principal.

3.9 Principal's Materials

The Consultant must protect and keep safe and secure all materials and documentation provided by the Principal to the Consultant.

Upon discharge of this Agreement by performance or termination, the Consultant must promptly return to the Principal those materials and documentation.

3.10 Co-operation by the Consultant

The Consultant must liaise, co-operate and confer with others as directed by the Principal.

3.11 Obtain All Necessary Approvals

The Consultant must obtain all approvals, authorities, licences and permits which are required from governmental, municipal or other responsible authorities for the lawful implementation and completion of the Services, except where obtained by the Principal as set out in Item 5 of the Schedule.

3.12 Consultant's Relationship with the Principal

The Consultant must not act outside the scope of the authority conferred on it by this Agreement and must not bind the Principal in any way or hold itself out as having any authority to do so, except where authorised by this Agreement.

3.13 Confidentiality

The Consultant and its servants or agents must not, without the prior written consent of the Principal, at any time issue any statement or communication or make any representation directly or indirectly in connection with the Services or this Agreement to any person or entity not a party to this Agreement other than:

- (i) as necessary to perform the Services; or
- (ii) with respect to any matter already within the public domain.

3.14 Consultant's Representative

The person named in Item 6 of The Schedule will be responsible on behalf of the Consultant for all aspects of the Services and has the legal power to bind the Consultant in respect of any matters arising in connection with the Services. Any substituted representative must be notified promptly in writing to the Principal.

3.15 Additional Services

The Consultant may, at its own cost, obtain advice, services or assistance from others in connection with the Services, but will not be reimbursed those costs unless those costs are listed in The Schedule and the Consultant has obtained the prior written consent of the Principal to incur them.

3.16 Subcontracting and Assignment

- (a) The Consultant must not assign or subcontract any part of the Services without the prior written approval of the Principal.
- (b) An approval given by the Principal permitting the Consultant to subcontract any portion of the Services does not relieve the Consultant from its obligations and liabilities pursuant to this Agreement.

3.17 Statutory Requirements

The Consultant must ensure that all work done in connection with the Services complies with the requirements of all applicable legislation, codes and Authorities' requirements and all relevant Australian standards applicable to the Services.

3.18 Fitness for Purpose

Unless, or to the extent that, it is clear from the description of the Services that the Principal does not rely upon the skill and knowledge of the Consultant in providing the Services:

- (i) the Consultant must ensure that all work and documents produced by it are reasonably suitable in all respects for the purposes required by this Agreement;
- (ii) the Principal relies upon the skill and knowledge of the Consultant in providing the Services.

3.19 Conflict of Interest

The Consultant warrants that no conflict of interest exists at the date of this Agreement.

The Consultant must immediately inform the Principal upon becoming aware of the existence, or possibility, of a conflict of interest.

3.20 Security of Premises

The Consultant must comply with all directions, procedures and policies relating to occupational health, safety and security pertaining to the Principal's premises and facilities, when using them.

3.21 Access to Consultant's Premises

The Consultant must, at all reasonable times and upon reasonable notice, permit the Principal access to the Consultant's premises in order for the Principal to inspect, discuss and assess material produced in connection with the Services.

3.22 Insurances

The Consultant must provide the Principal with proof of all insurance policies required to be maintained by the Consultant under this Agreement.

4. PRINCIPALS OBLIGATIONS

4.1 Provide Information

The Principal will as soon as practicable, or as required by this Agreement:

- (i) make available to the Consultant all relevant instructions, information, documents, specifications, plans, drawings and any other material and particulars; and
- (ii) answer queries made by the Consultant, relating to the Principal's requirements in connection with this Agreement.

4.2 Appoint a Representative

The person named in Item 7 of The Schedule, or any other person the Principal nominates in writing, will act as the Principal's Representative and will have authority to act on behalf of the Principal for all purposes in connection with this Agreement.

5. PAYMENT

5.1 Payment

In consideration of the provision of the Services the Principal will pay the Consultant the Fee calculated in the manner provided in Item 8 of The Schedule, subject to the conditions of this Agreement.

5.2 Right of Set-off

The Principal may deduct from amounts otherwise payable to the Consultant any amount due from the Consultant to the Principal in connection with the Services.

5.3 Effect of Payment of the Fee

Payment, in part or in total, of the Fee set out in Item 8 of The Schedule does not constitute an acceptance by the Principal of the Services and does not amount to a waiver of any right or action which the Principal may have at any time against the Consultant.

5.4 Reimbursable Expenses

The Principal will reimburse the Consultant the reasonable costs, expenses, fees or charges incurred by the Consultant limited to those items set out in Item 9 of The Schedule, provided that in all cases the Consultant has first obtained the Principal's prior written approval to incur or pay those costs, expenses, fees or charges.

5.5 Timing of Payment

- (a) At the times specified in Item 10 of The Schedule and upon Termination pursuant to Clause 11, the Consultant must lodge with the Principal a payment claim for the Services performed (and for approved reimbursable expenses, if any, incurred) during that period.
- (b) The Principal will make a payment within the time specified in Item 11 of The Schedule following the lodgement of the payment claim, but if the Principal has, within a reasonable time of receiving a claim, requested access to information under Clause 10.2, the time for payment will be extended by the number of days elapsing between the date of the Principal's request for access and the date access is granted.
- (c) If no time is specified in Item 11 of The Schedule, "28 days" is deemed to be the time specified.
- (d) Payment will be made having regard to the contract value of the Services performed to the time of the payment claim less:
 - (i) amounts already paid; and
 - (ii) amounts the Principal is entitled to deduct or set off.
- (e) Payment by the Principal will be made by Electronic Funds Transfer to a bank, building society or credit union account nominated by the Consultant. No payment will be due to the Consultant until details of the nominated account (name of financial institution, account name and account number) are notified in writing to the Principal. The Consultant shall promptly notify the Principal in writing of any change to the nominated account but the Principal will not be responsible for any payments made into a previously nominated account prior to notification of such change being received by the Principal.

5.6 Conditions Precedent

The Consultant is not entitled to any payment for Services performed under this Agreement until it has submitted:

- (a) the program in accordance with Clause 3.5; and

- (b) proof of insurance in accordance with Clause 3.22.

6. VARIATIONS

6.1 Instruction

The Principal may, on the recommendation of the Consultant or otherwise, instruct the Consultant in writing to vary the Services, so long as the variation is within the general scope of the Services.

6.2 Consequences of Variation or Proposed Variation

- (a) Before instructing a variation, the Principal may request the Consultant to provide a written estimate of the time, cost and programming effects of the proposed variation. A written estimate so requested must be provided by the Consultant within a reasonable time nominated by the Principal.

- (b) If:

- (i) a variation is instructed;
- (ii) no request has been made by the Principal under Clause 6.2(a); and
- (iii) the variation involves a change in the scope of the Services,

the Consultant must, as soon as practicable after the variation is instructed, provide the Principal with a written estimate of the time, cost and programming effects of the variation.

6.3 Variation Instruction Binding

The Consultant must comply with a written direction issued under Clause 6.1 except where Clause 6.2(b) applies.

Where Clause 6.2(b) applies, the direction is not binding until the Principal has:

- (i) received the Consultant's written estimate; and
- (ii) given written approval for the Consultant to proceed with the varied Services.

6.4 Valuation

Unless otherwise agreed, the value of a variation will be determined using the hourly rates set out in Hourly Rates for Variations - Returnable Schedules, where included. If Hourly Rates for Variations - Returnable Schedules is not included or does not include hourly rates relevant to the variation, reasonable rates and prices apply.

7. COPYRIGHT AND INTELLECTUAL PROPERTY

7.1 Vesting

- (a) Subject to Clause 7.1 (b), title to and Intellectual Property in or in relation to Contract Material (other than the Contract Material listed in Item 12 of The Schedule) vests upon its creation in the Principal. The Consultant must, upon request by the Principal, do all things necessary to vest that title or that Intellectual Property in the Principal.
- (b) If Intellectual Property in or in relation to Contract Material is not capable of being vested in the Principal under Clause 7.1 (a) because the Consultant itself does not own, and is unable at a reasonable cost to obtain ownership of, that Intellectual Property, the Consultant must ensure that the Principal is irrevocably licensed (whether by sub-licence from the Consultant or direct licence from the owner) to use that Contract Material or that Intellectual Property.
- (c) The Principal indemnifies the Consultant against any costs, claims, actions or expenses incurred by the Consultant as a result of any reproduction adaptation or commercialisation of any Intellectual Property or Contract Material vested in the Principal under this Clause, if that reproduction, adaptation or commercialisation is not expressly contemplated by this Agreement.

7.2 Delivery

On, or as soon as practicable after, the expiration or earlier termination of this Agreement, the Consultant must deliver to the Principal all Contract Material.

7.3 Limitations

The Consultant must ensure the Contract Material is used, copied, supplied or reproduced only for the purposes of this Agreement unless it has obtained the prior written approval of the Principal to do otherwise. While the Principal will not unreasonably withhold approval, it may attach any terms and conditions it considers appropriate.

8. PROPERTY DAMAGE AND PUBLIC RISK

The Consultant indemnifies the Principal from and against all actions, claims, costs, expenses and damages (including the costs of defending or settling any action or claim in respect of:

- (i) loss of or damage to property of the Principal; or
- (ii) personal injury (including death) to any person or loss of or damage to any property,

arising out of or by reason of anything done or omitted intentionally or negligently by the Consultant in respect of the Services.

The Consultant's liability to indemnify the Principal is reduced proportionally to the extent that an act or omission of the Principal or employees or agents (other than the Consultant) of the Principal may have contributed to the injury, damage or loss.

9. INSURANCE

9.1 Professional Indemnity Insurance

- (a) The Consultant must obtain and maintain a policy of professional liability and indemnity insurance which covers the Consultant's liability to the Principal in respect of the Services. The policy must be with an insurer approved by the Principal (which

approval will not be unreasonably withheld) and must be maintained for a period from the commencement of the provision of the Services until the expiration of the period nominated in Item 13 of The Schedule.

- (b) The policy must contain the following provisions:
 - (i) a minimum indemnity limit set out in Item 14 of The Schedule in the aggregate for the Services;
 - (ii) one automatic reinstatement provision, and
 - (iii) a description of the risk covered by the policy.

9.2 Workers' Compensation

The Consultant must ensure that a suitable insurance policy is effected prior to commencing performance of the Services and remains current for the duration of this Agreement, covering liability for loss, damage, claims, and all direct or associated costs and expenses arising at common law or under workers compensation insurance in respect of persons employed by the Consultant.

9.3 Public Liability

- (a) The Consultant must obtain a policy of public liability insurance which covers the Consultant's liability to the Principal and the Principal's liability to the Consultant in respect of the Services. The policy must be with an insurer approved by the Principal (which approval will not be unreasonably withheld), must be obtained prior to commencing the performance of the Services and must be maintained for the duration of this Agreement.
- (b) The policy must be:
 - (i) in the joint names of the Consultant, its sub-contractors and the Principal; and
 - (ii) for an amount not less than that stated in Item 15 of The Schedule in respect of any single occurrence.

10. INSPECTION OF RECORDS

10.1 Records

The Consultant must keep proper accounts, records (including information stored by computer and other devices) and time sheets in accordance with accounting principles generally applied in commercial practice in respect of its time charge billing, its reimbursable expenditure and fees and reimbursements payable to others properly engaged pursuant to this Agreement.

10.2 Access

The Consultant must, within a reasonable time of any request, give the Principal access to, or verified copies of, any information which may be reasonably required to enable any claim to be substantiated and verified.

11. TERMINATION

11.1 Termination by the Principal other than for Default by the Consultant

- (a) The Principal may terminate the whole or any part of the performance of the Services at any time, by written notice addressed to the Consultant.
- (b) The Consultant must, within the time specified in Item 16 of The Schedule after receipt of a notice under Clause 11.1 (a), cease work on the terminated Services.

As soon as practicable after ceasing work under this clause, the Consultant must lodge with the Principal a statement of the amount of the Fee (and any approved reimbursable expenses) claimed by the Consultant to be payable for Services performed to the earlier of:

- (i) the date of cessation of the terminated Services; and
- (ii) the date by which the Consultant was required to cease work on those Services.

The statement must be accompanied by supporting information as reasonably required by the Principal.

11.2 Termination by the Principal for Default by the Consultant

If the Consultant:

- (a) becomes bankrupt, or insolvent, or enters into a scheme or arrangement with its creditors;
- (b) fails to carry out the Services with due diligence and competence;
- (c) without reasonable cause suspends the carrying out of the Services; or
- (d) commits a substantial breach of this Agreement,

the Principal may:

- (e) in the case of the default specified in Clause 11.2 (a), forthwith terminate this Agreement by written notice addressed to the Consultant; and
- (f) in the case of any other specified default, terminate this Agreement by written notice addressed to the Consultant if the Consultant fails to remedy the default within 14 days from the date of service of a notice by the Principal on the Consultant specifying the relevant default.

11.3 Termination by the Consultant

If the Principal:

- (a) becomes insolvent or enters into a scheme of arrangement with its creditors;
- (b) fails to pay the Consultant in accordance with this Agreement; or
- (c) commits a substantial breach of this Agreement,

the Consultant may:

- (d) in the case of the default specified in Clause 11.3 (a), forthwith terminate this Agreement by written notice addressed to the Principal; and
- (e) in the case of any other specified default, terminate this Agreement by written notice addressed to the Principal if the Principal fails to remedy the default within 14 days from the date of service of a notice by the Consultant on the Principal specifying the relevant default.

11.4 Consultant's Continuing Liability

Termination by the Principal will not release the Consultant from liability in respect of any breach of, or non-performance of any obligation pursuant to, this Agreement.

11.5 Effect of Termination

Termination of this Agreement by either party is without prejudice to any accrued rights or remedies of each party.

11.6 Adjustment of the Fee on Termination

- (a) If any of the Services are terminated pursuant to Clause 11.1, the Principal will pay the Consultant a reasonable amount for the Services performed by the Consultant to the date of termination and a further amount calculated in the manner set out in Item 17 of The Schedule, as adjusted by any additions or deductions in accordance with this Agreement in full and final satisfaction of any claim the Consultant has or may have.
- (b) If this Agreement is terminated pursuant to Clause 11.2, the Principal will pay the Consultant a reasonable amount for the Services performed by the Consultant to the date of termination, together with any adjustments and deductions for loss or damage suffered, or reasonably likely to be suffered by the Principal as a consequence of breach by the Consultant. The Principal may recover any short-fall from the Consultant as a debt due and payable.
- (c) If this Agreement is terminated pursuant to Clause 11.3, the Principal will pay the Consultant a reasonable amount for the Services performed by the Consultant to the date of termination together with the amount calculated in the manner set out in Item 17 of The Schedule in full and final satisfaction of any claim the Consultant has or may have.

12. DISPUTE RESOLUTION

12.1 Nomination

The Consultant and the Principal will endeavour to resolve any dispute speedily by negotiation. If a dispute between the Consultant and the Principal is not resolved by negotiation, then before either party has recourse to litigation, the party must submit the dispute to expert determination. If the Consultant and the Principal do not agree upon an independent expert ("Expert"), either may request the Chief Executive Officer of the Australian Commercial Disputes Centre to nominate an Expert.

12.2 Submissions

Within 14 days of acceptance by the Expert of the appointment, the claimant will submit in writing to the Expert the claim and all the evidence which the claimant wishes the Expert to take into account. Within 28 days thereafter the other party will submit in writing to the

Expert that party's response to the claim, particulars of any counterclaim and all the evidence which that party wishes the Expert to take into account.

12.3 Procedure

Copies of documents sent to the Expert must be sent to the other party at the same time. The Expert may meet with the parties jointly but not separately and may ask questions of the parties which must be answered orally or in writing as requested by the Expert.

12.4 Determination

As soon as possible the Expert must give the parties the Expert's determination in writing as to:

- (i) the respective rights and entitlements of the parties, and
- (ii) the amount or service if any which the Expert considers is due from one party to the other.

The determination of the Expert shall be made as an Expert and not as an Arbitrator and shall be final and binding on the parties except where the Expert's determination relating to a dispute is that one party shall pay to the other an amount, or carry out work, in excess of \$100,000. Such determination shall not be final and binding, provided either party gives notice to the other party of its dissatisfaction within 28 days of the determination being given.

12.5 Liability

The Expert will not be liable to the parties for negligence in the conduct of the determination.

12.6 Costs

The Principal and the Consultant will be jointly and severally liable to the Expert for the fees of the Expert. As between themselves, the Principal and the Consultant will each bear half the Expert's fee and each will bear their own costs of the determination.

12.7 Continuing Performance

Each party must continue to perform its obligations under this Agreement, notwithstanding the existence of a dispute.

13. NOTICES

- (a) Any notice given under this Agreement:
 - (i) must be in writing addressed to the intended recipient at the address shown in Item 18 of The Schedule or the address last notified by the intended recipient to the sender;
 - (ii) must be signed by an authorised officer of the sender; and
 - (iii) will be taken to have been given or made (in the case of delivery in person or by fax, cable or post) when delivered, received or left at the specified address.

- (b) If delivery or receipt of a notice occurs on a day on which business is not generally carried on in the place to which the communication is sent or later than 4.00 pm (local time), it will be taken to have occurred at the commencement of business on the next business day in that place.

APPENDIX C - THE SCHEDULE

Item 1	The Principal: (Cl. 2)	Clarence Valley Council
Item 2	Specified persons and job Category: (Cl. 3.3(b))	As nominated in the Consultant's Proposal and accepted by the Principal if applicable.
Item 3	Time by which Consultant must provide program or Plan: (Cl. 3.5)	Program to be provided with the Proposal
Item 4	Time to complete Services: (Cl. 3.5)	As nominated in the Consultant's Proposal and accepted by the Principal.
Item 5	Approvals obtained by Principal: (Cl. 3.11)	Not applicable.
Item 6	Consultant's Representative: (Cl. 3.14)	The Consultant Contact nominated in the Consultant's Proposal and accepted by the Principal.
Item 7	Principal's Representative: (Cl. 4.2)	Coordinator Environmental Services Name: Rodney Wright Address: Clarence Valley Council Locked Bag 23 GRAFTON NSW 2460 P: (02) 6641 7358 F: (02) 6642 7647 Rodney.wright@clarence.nsw.gov.au
Item 8	The fee: (Cl. 5.1)	The Fee shall be a Lump Sum Fee.
Item 9	Reimbursable items: (Cl. 5.4)	Not applicable
Item 10	Claim timetable: (Cl. 5.5(a))	Monthly on claim.
Item 11	Payment timetable: (Cl. 5-5(b))	28 days.
Item 12	Intellectual property not vesting in the Principal: (Cl. 7.1)	Nil.
Item 13	Currency of professional indemnity insurance: (Cl. 9.1(a))	At least up to the date of completion of the Services
Item 14	Quantum of professional indemnity insurance: (Cl. 9.1 (b) (i))	\$2,000,000
Item 15	Quantum of public liability insurance: (Cl. 9.3)	\$ 10,000,000
Item 16	Termination date/time: (Cl. 11.1(b))	As stated in the written notice under Clause 11.1(a).
Item 17	Percentage on termination: (Cl. 11.6(a), 11.6(c))	Nil.
Item 18	Notices: (Cl. 13)	For notices to the Principal, the address of the Principal Contact. For notices to the Consultant, the address of the Consultant Contact.

APPENDIX D RETURNABLE DOCUMENTS

RETURNABLE DOCUMENT 1

FEE PROPOSAL FORM

(MANDATORY)

The Consultant				
Address				
Consultant Contact Officer (block letters)				
Telephone				
Fax				
Hereby proposes to perform the services as set out in the Brief for:	PREPARATION OF A COASTAL ZONE MANAGEMENT PLAN FOR WHITING BEACH			
Engagement No:				
for the Lump Sum Fee of			\$	
in accordance with the attached project schedule dated:	/	comprising		pages
	/2012			
Date:				
Signed for the Consultant by:				
In the Office Bearer capacity of:				
Name (in block letters):				

RETURNABLE DOCUMENT 2

HOURLY RATES FOR VARIATIONS

The Service:	PREPARATION OF A COASTAL ZONE MANAGEMENT PLAN FOR WHITING BEACH
Engagement No :	Contract No.
Name of Consultant <i>(block letters)</i>	
A.C.N	

ROLE	NAME	HOURLY RATE

Date:	
Signed for the Consultant by:	
In the Office Bearer capacity of:	
Name (in block letters):	

RETURNABLE DOCUMENT 3

SCHEDULE OF FEES FOR PAYMENT FORM

CONFORMING PRICING SCHEDULE

This pricing schedule is to be completed for pricing of the deliverables required in this brief. Provision has been made for additional items and consultants are invited to list items that have not been described in this brief.

ITEM	QUANTITY	RATE	PRICE
Project Deliverables			
Inception Meeting			
Consultation			
Processes Study			
Coastal Zone Management Plan - Erosion			
Present process study and Erosion Management Plan to CVCEMC			
Provisional Items			
Field surveys			
Public/CEMC meeting(rate/hr)			
Total Lump Sum			\$
Additional Items			
List additional items as necessary		Ea.	
List staff hourly rates as necessary		\$/hr	