



KEMPSEY  
Shire Council

## **DIRECTOR CORPORATE SERVICES REPORT**

10<sup>th</sup> October 2006

<b>DCS9</b>	<b>APPOINTMENT OF COUNCIL'S SOLICITORS FILE: 746 PJH</b>
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### **SUMMARY:**

To appoint Council's solicitors for the next 12 month term.



### **DESCRIPTION:**

Council's practice is to appoint its solicitors on a 12 month basis in October each year.

In 2005 Council appointed Cooney Harvey Doney of Kempsey as its appointed solicitor with a panel of alternative solicitors consisting of Donovan Oates and Hannaford, Marsdens Law Group and Maddocks Lawyers appointed on an as needs basis.

Having a panel of alternative solicitors allows other options where a conflict arises with clients of Cooney Harvey Doney or where more specialist services are required.

Cooney Harvey Doney have adequately served Council over the last sixteen (16) years and have again sought re-appointment. The conditions of appointment in this time have always been that they are to advise Council of any conflicts of interest with clients and that Council can then determine its alternative representation. Where expert Barristers are required they are sourced by Cooney Harvey Doney in consultation with Council. The costs of Barrister services are paid directly to the Barrister.

Cooney Harvey Doney's fee structure to serve as Council's appointed solicitor is \$250 plus GST per hour for general advices. This rate is below their normal commercial rate and is no increase from last year.

A rate has been sought from Donovan Oates and Hannaford, Marsdens and Maddocks for their services on an "as needed" basis and these are:-

Donovan Oates and Hannaford – up to \$350.00/hour.

Marsdens – up to \$270.00/hour.

Maddocks – up to \$270.00/hour.

## **Debt Recovery and Public Liability legal actions not included**

While the appointed firms will handle the majority of Council's legal matters, it does not include public liability cases or debt recovery as Council's appointed insurer Statewide Mutual or Council's debt recovery firm use law firms specialising in these areas.

## **REPORT IMPLICATIONS:**

- *Environmental*

*Nil*

- *Social*

*Nil*

- *Economic (Financial)*

*Council's legal costs are funded from its allocations for legal expenses. These allocations are separated into Admin legal expenses, development control, and rates recovery legal expenses. Estimating such costs is always going to be subject to fluctuations depending on the number of matters that are litigated. Legal costs incurred in rate recovery are passed on to the ratepayer. The budgets for 2006-2007 are:-*

<i>Administration</i>	<i>\$36,000</i>
<i>Development Control</i>	<i>\$21,616</i>
<i>Rates Recovery</i>	<i>\$41,000</i>

*Legal costs paid to the panel solicitors in the last 12 months to 30<sup>th</sup> September 2006 were:-*

<i>Cooney Harvey Doney</i>	<i>\$60,199</i>
<i>Barrister services (sourced by CHD)</i>	<i>\$40,182</i>
<i>Donovan Oates &amp; Hannaford</i>	<i>\$ 3,858</i>
<i>Marsdens</i>	<i>\$ 2,420</i>
<i>Maddocks</i>	<i>\$ 5,933</i>

- *Policy or Statutory*

*Council does not have a policy on its appointment of solicitors. The practice of this Council is for the appointment of solicitors to be referred to Council each year and the*

*appointment made for 12 months. Should Council elect make an appointment for a longer term, it would need to invite formal tenders. The Local Government (General) Regulation, section 163(2), provides that tendering is not required for a contract or service of an amount less than \$150,000. This is also in accordance with Council's policy M11:17 Purchasing of Goods and Services.*

*A 12 month appointment also allows for a formal review by Council of the service provided each year and is recommended.*

▪ *Directors Review*

*As per report.*

**RECOMMENDATION:**

**That Cooney Harvey Doney be appointed as Council's principal solicitors for the next 12 months and that a panel of alternative solicitors comprising Donovan Oates and Hannaford, Marsdens and Maddocks be appointed on an as needed basis.**

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**G B Snape**  
**DIRECTOR CORPORATE SERVICES**