



**KEMPSEY**  
Shire Council

**DIRECTOR CORPORATE AND COMMUNITY SERVICES REPORT**

12<sup>th</sup> December 2006

**DCCS10 APPOINTMENT OF COUNCIL'S SOLICITORS  
FILE: 746 PJH**

**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 considering such appointment at its 10<sup>th</sup> October 2006 meeting Council resolved: -

*"That Council call for expressions of interest from local law firms for appointment as Council's solicitors."*

Expressions of interest were sought via advertising in the local paper and writing to each law firm with an office in the Shire inviting them to apply.

Expressions of interest were received from: -

- Cooney Harvey Doney Lawyers and Conveyances
- Sheridan Legal Pty Ltd
- Roger Wilkinson Solicitor
- Wrights Legal Commercial Lawyers

A copy of submissions received from Cooney Harvey Doney, Roger Wilkinson and Wrights Legal are attached at [\(Appendix J, Part 1, Part 2\)](#). Sheridan Legal Pty Ltd have requested that their submission be treated as confidential so this has been included for councillors only as [Confidential \(Appendix Ja\)](#).

**Assessment of Submissions**

Council's policy M11:17 Purchasing of Goods and Services has been used to formally assess the submissions against certain criteria. The following is a summary of the assessment scores.

	Cooney Harvey Doney	Wright's Legal	Sheridan Legal	Roger Wilkinson
Qualifications	60	60	40	40
Track Record	45	30	30	30

Local Govt experience	80	80	40	20
Time Performance	45	45	45	30
Price (points shown calculated by formula)	297	297	282	318
<b>TOTAL POINTS</b>	<b>527</b>	<b>512</b>	<b>437</b>	<b>438</b>

Cooney Harvey Doney score the highest points and have served as this Council's principal solicitor for some years and have a good working relationship with Council staff. The above assessment process shows that while Wrights Legal have qualifications and local government experience in their staffing, the track record (work competence, service delivery) of Cooney Harvey Doney is known to Council. The hourly rate quoted for general work was the same for both these firms.

Unless Council specifically wishes to appoint an alternative firm, it will be recommended that Cooney Harvey Doney be re-appointed for a further 12 months.

In 2005 when Council appointed Cooney Harvey Doney as its appointed solicitor it also resolved that a panel of alternative solicitors consisting of Donovan Oates and Hannaford, Marsdens Law Group and Maddocks Lawyers be appointed on an as needs basis. This allows Council to use these specialist firms when necessary. Donovan Oates and Hannaford have been used when a conflict of interest arises with any clients of Cooney Harvey Doney.

It is suggested that Wrights Legal be included with the panel of alternative solicitors as they are local and have Local Government experience.

### **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 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 wish to 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.*

*The assessment of expressions of interest has been made 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:**

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

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**G B Snape**

**DIRECTOR CORPORATE & COMMUNITY SERVICES**