



**COONEY HARVEY DONEY**  
**LAWYERS & CONVEYANCERS**

PWH:GMB:60503  
746(333636)  
PJH

Appendix "J"

28 November 2006

Manager  
Administration  
Kempsey Shire Council  
Corner Elbow & Tozer Streets  
WEST KEMPSEY NSW 2440

<b>KSC RECEIVED</b>	
FOLIO .....	337059
28 NOV 2006	
FILE .....	796
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OFFICER .....	PJH

Dear Sir

**RE APPOINTMENT OF COUNCIL'S SOLICITORS**

Thank you for your letter dated 13 November, 2006.

We enclose herewith our Expression of Interest to be appointed as Solicitors to the Council.

We look forward to hearing from you in due course.

Yours faithfully  
**COONEY HARVEY DONEY**

  
**Philip Harvey**

Encl



46 Belgrave Street  
Kempsey NSW  
Telephone: **02 6562 6000**

PO Box 39 Kempsey NSW 2440  
DX 7160 Kempsey  
Facsimile: 02 6562 8722  
E-mail: phil@chdlaw.com.au  
ABN: 41 061 862 878

Partners:  
**Chris Cooney** Dip Law,  
Accredited Specialist - Property Law  
**Philip Harvey** B Ec, LLB  
**Nerryl Doney** Dip Law



**COONEY HARVEY DONEY**  
**LAWYERS & CONVEYANCERS**

**EXPRESSION OF INTEREST**

**APPOINTMENT AS SOLICITORS TO  
KEMPSEY SHIRE COUNCIL**



28 November 2006

In response to Council's letter dated 13 November, 2006, Cooney Harvey Doney hereby expresses its desire to be appointed as Council's Solicitors. We submit the following matters for Council's consideration.

## **BACKGROUND AND FIRM STRUCTURE**

Cooney Harvey Doney is a legal firm which practices and has three offices within the Kempsey Shire. Our principal office is situated at 46 Belgrave Street, Kempsey, and we have two branch offices at 5/7 Paragon Avenue, South West Rocks and 6 Main Street, Crescent Head.

There are three partners in the firm – Christopher Cooney, Philip Harvey and Nerryl Doney. We have an employed Solicitor, Matthew Shannon, and a support staff of nine legal secretaries and administration assistants. All members of the firm reside within the Kempsey Shire.

## **QUALIFICATIONS**

### **Chris Cooney**

Chris has been a resident of the Macleay Valley since 1964. He has a Diploma in Law from the Law Extension Committee of the University of Sydney. He is also an Accredited Specialist in Property Law. He has been admitted as a solicitor for twenty-nine years.

### **Philip Harvey**

Philip was born in Kempsey and returned to work in the Valley in 1981. He holds degrees in Economics and Law from the University of Sydney and has been practicing as a solicitor in the Macleay Valley for the past twenty five years.

### **Nerryl Doney**

Nerryl has a Diploma in Law from the Law Extension Committee of the University of Sydney. Before commencing work as a Solicitor in Kempsey in 1999, she was principal Solicitor with the Office of the Director of Public Prosecutions in Dubbo. Nerryl has been admitted as a solicitor for nine years.

### **Matthew Shannon**

Matthew joined the firm three years ago. He has a young family and lives at Crescent Head. He has been admitted as a solicitor for five years and holds degrees in Business and Law from the University of New England.

All of the solicitors in the firm regularly attend continuing legal education seminars in their area of practice, including local government and associated matters.

**Secretarial and administrative support staff**

We might be biased, but we believe that we have, across the board, the most experienced legal support staff of any firm practicing in the Shire. Some of our assistants have worked in this industry for over twenty five years and have gained a wealth of experience during that time.

**KNOWLEDGE AND EXPERIENCE RELATIVE TO LOCAL GOVERNMENT**

Our firm has gained considerable knowledge and experience relative to local government over the past twenty two years, during which members of the firm have been advising and acting on behalf of Kempsey Shire Council.

**Local Government Act 1993 and Regulations**  
**Environmental Planning and Assessment Act 1979**  
**Roads Act 1993**

We have advised Council extensively on matters arising under each of the abovementioned Acts and Regulations. Our work, both on behalf of Council and other clients involving matters outside the Shire, has seen us gain a sound working knowledge of these Acts and Regulations, as well as the practices and procedures involved. This has enabled us to provide quick and accurate advice to Council on a range of matters as they arrive.

**Appearances at various Courts**

We have appeared on behalf of Council in various Courts on numerous occasions over the years and, as a result, have a thorough working knowledge of the Court's operations and procedures. In addition to the Acts and Regulations mentioned above, we also have a sound knowledge of the Land and Environment Court Act and have appeared, and have instructed Counsel where necessary, on many occasions in that jurisdiction. Our appearances have included Class 1 Appeals, prosecutions under Classes 4 & 5, and providing advice in Class 6 matters.

We have also represented Council in commercial matters in the Supreme and District Courts, as well as undertaking prosecutions on behalf of Council in the Local Court. Where Local Court matters have been appealed to the District Court we have also acted in those appeals. Additionally, we have represented Council before the Administrative Decisions Tribunal and matters in the Industrial Relations Commission involving contractors to Council.

Our experience in appearances before the above Courts and Tribunals is not limited to our work on behalf of Council only. We have advised and appeared on behalf of many private citizens on local government matters outside the Shire involving other Councils.

**Conveyancing**

The partners of the firm have had extensive experience in relation to conveyancing matters. In addition, we note that Chris Cooney is the only Accredited Specialist in Property Law practicing within the Kempsey Shire. We also have extensive experience in leasing matters. We have, in the past, also prepared agreements on behalf of Council in relation to their role as managers of Crown Reserves within the Shire.

**FEE STRUCTURE**

If appointed as Council's Solicitors, we propose to charge out our work at the rate of \$250.00 per hour, plus GST. We note that this rate remains the same as previously charged to Council, which is a discount on our current charge out rate in commercial matters of \$330.00 per hour, plus GST.

Disbursements that we incur on behalf of Council would be charged out at cost with no mark up.

Fee scales in relation to conveyancing matters were abolished some time ago but, as a guide, we generally follow the 1993 Law Society Scale of costs in that regard.

From time to time in the past, we have been called upon by Council officers to provide quick over the telephone advice, which we have done at no charge. We would propose this practice continue.

**PERSONS RESPONSIBLE FOR PROVIDING LEGAL SERVICES TO COUNCIL**

The three partners of the firm would allocate the work amongst themselves according to their areas of expertise and call upon the assistance of our employed solicitor where necessary. As a general guide, however, Nerryl Doney and Chris Cooney would handle matters involving the Local Government Act, Roads Act and matters in the Land and Environment Court. Chris Cooney and Philip Harvey would handle conveyancing, leasing, contractual and commercial matters with Philip appearing where necessary in the District and Supreme Courts on these matters. Nerryl would handle the Local Court matters.

Given the number of solicitors within the firm, we believe that we are able to offer speedy and continuous service to Council and have the ability to "cover" for a solicitor when they are absent from the firm on other work matters or on holidays.

**SOURCING OF ANY LEGAL SERVICES THAT CANNOT BE PROVIDED BY OUR FIRM**

From time to time a conflict of interest may arise and, as has been our practice in the past in those circumstances, we would immediately advise Council and, of course, not act for Council or the other party in that case. We have found that in acting for Council over the past twenty two years, other than where there has been a conflict of interest, we have always been able to provide the legal advice and service to Council as requested by them.

Over the years, we have built a strong working relationship with a number of leading members of the New South Wales Bar and are able to access their services and assistance where required. These include barristers who are very experienced in all areas of law that applies to local government.

We have also established a rapport with a number of specialist firms who predominantly practice in one particular area of law. Whilst we have not needed to avail ourselves of such additional legal assistance in matters to date on which we have acted for Council, those

associations do exist and are available to us to provide the best possible service to Council when required.

**PROFESSIONAL INDEMNITY INSURANCE**

We confirm that we hold Professional Indemnity Insurance as required by the Law Society of New South Wales.

**THE DETAILS OF ANY OTHER SERVICES OFFERED WHICH MAY BE OF INTEREST TO COUNCIL**

We have a sound knowledge of the provisions of the Land Acquisition (Just Terms) Compensation Act. We have had experience in this Shire acting for Council and also acting for private clients dealing with authorities other than Council, both within the Shire and outside, in relation to matters under this Act.

We can organize (and have done so in the past for Council) specialist speakers for either Council officers or Councillors on specific topics of interest and relevance. Additionally, we note that Chris Cooney has been for some fifteen years, a member of the Law Society of New South Wales Speakers Bureau and has delivered numerous addresses to public gatherings, commercial entities and not-for-profit organizations.

**SUMMARY**

We believe that the experience that our firm has gained over the past twenty two years in acting for Council has placed us in a position where we are able to provide Council with legal services that are prompt, accurate and in all the circumstances, cost effective. Over the years we have gained a wealth of knowledge and experience in matters relative to the local government and we are keen to continue the excellent relationship that we have had with Council.

We appreciate that, should we be appointed as Council's principal Solicitor, Council will retain the right to source alternative legal firms of its choosing when specialist law firms are required, or when a conflict of interest with clients occurs.

**COONEY HARVEY DONEY**



28 November, 2006



wrightsLegal

COMMERCIAL  
LAWYERS

26 November 2006

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FILE .....	746
OFFICER .....	PJA

PAGE 1 - 60  
DIRECTOR  
PATRICK D. DONOVAN Ec LLB  
Solicitor

NON SOLICITOR DIRECTORS  
GARY A. FERGUSON CA  
DOUGLAS F. CHEETHAM B COM FCA

59 Smith Street  
PO Box 681  
Kempsey NSW 2440  
Telephone 02 6566 2200  
Fax 02 6566 2255  
EMAIL: pdonovan@wrightslegal.com.au

WRIGHTS LEGAL SERVICES PTY LTD  
ABN 81 811 957 575

Kempsey Shire Council  
Cnr Elbow & Tozer Streets  
WEST KEMPSEY NSW 2440  
Attention: Patrick Hanrahan

Dear Sir

APPLICATION TO KEMPSEY SHIRE COUNCIL FOR  
APPOINTMENT AS COUNCIL'S PRINCIPAL SOLICITORS.

**Introduction.**

1. Wrights Legal Services Pty. Ltd. A.C.N. 097 197 129 practising as Wrights Legal Commercial Lawyers at 59 Smith Street, Kempsey NSW 2440 makes this application in response to the advertisement in The Macleay Argus of 7 November 2006, and Council's letter dated 13 November 2006.

2. The firm of Wrights Legal is a multi discipline practice providing legal and accounting services to the Macleay valley. In addition to the solicitors identified in this application other directors of Wrights Legal Services Pty. Limited are the Chartered Accountants Mr. Gary A. Ferguson and Mr. Douglas F. Cheetham.

**Qualifications.**

2. The qualifications of the solicitors who would be involved in providing legal services to Council are as follows:

(i) Patrick David Donovan is a solicitor of the Supreme Court of New South Wales and was admitted to practice on 2 July 1993. Mr. Patrick Donovan holds degrees of Bachelor of Economics and Bachelor of Law. Mr. Patrick Donovan is the principal solicitor of Wrights Legal.

(i) David Francis Donovan is a solicitor of the Supreme Court of New South Wales and was admitted to practice on 8 June 1956. Mr. David Donovan holds the degree of Bachelor of Arts. Mr. David Donovan acts as Consultant to Wrights Legal. Mr. David Donovan

consults with the firm advising as to legal issues and transaction management on a frequent and regular basis.

**Knowledge and experience relative to local government.**

3. The knowledge and experience of Mr. Patrick Donovan relative to local government is that which has been gained in the firm's general and extensive conveyancing and commercial work. Mr. Patrick Donovan has particular experience in issues of land use, town planning, land and strata subdivision and commercial land development. In addition Mr. Patrick Donovan has considerable Local Court experience in defence and prosecution of matters in that Court which experience is appropriate to any court proceedings brought by Council for breach of local government, planning or health provisions. Mr Patrick Donovan also has particular expertise in debt recovery, which is relevant to the recovery of unpaid Council rates.

4.i Mr. David Donovan has extensive local government experience having been solicitor for Port Macquarie Hastings Council and the former Oxley County Council for many years when Mr. David Donovan practised in Port Macquarie as senior partner of Donovan Oates Hannaford of that town.

4.2 Mr. David Donovan's experience included extensive town planning advice and conduct of appeals; resumptions; easement acquisition; land subdivision advices; land development agreements as to public lands and subdivision contributions; appearing for Council in inquiries; submissions to Local Government Department for Council; general conveyancing; management and conveyancing for Council's own subdivisions and confutation with current Mayor on important/sensitive issues concerning Council's business.

4.3 If the appointment is given to Wrights Legal Mr. David Donovan will be available to regularly consult with the firm as to the conduct and management of Council's matters. Mr. David Donovan divides his time between his homes at South West Rocks and Bondi Junction.

**Fee Structure**

5.1 Council's general work will be billed on a time spent basis of two hundred and fifty dollars (\$250.00) per hour plus GST and disbursements. The hourly rate includes time spent by clerical and para legal staff and by Mr. David Donovan as consultant.



5.2 Routine conveyancing matters for Council will be billed at eight hundred and fifty dollars (\$850.00) plus GST and disbursement per transaction. If appropriate complex conveyancing matters may be billed at the hourly rate set out in para. 5.1 of this submission.

5.3 Wrights Legal will bear any fees payable to Mr. David Donovan for his consultancy services to the firm.

**Names of persons to be responsible for providing legal services to Council.**

6. These persons and Mr. Patrick Donovan and Mr. David Donovan.

**Sources of legal services not to be provided by Wrights Legal.**

7.1 On the hearing of appeals before the Land and Environment Court which may be held in Sydney it may be appropriate and cost effective for a junior barrister to be engaged or alternatively for a solicitor from a specialist local government legal firm in Sydney to act as Wrights Legal's agent in proceedings.

7.2 Barristers who may be appropriate for engagement for this purpose include Mr Hugh Stowe, Mr David Galpin, Mr Mark Ashhurst, and Mr Sean Docker. If a matter is of such importance and substance as to require senior counsel we would propose Mr. Stephen Austin Q.C.

7.3 As to specialist solicitors to act as agent for Wrights Legal as necessary we propose Messrs. Pike Pike & Fenwick who have a substantial local government practice. This firm has conducted work for a major client of Wrights Legal and are found most satisfactory.

**Professional Indemnity Insurance.**

8. Wrights Legal holds professional indemnity insurance cover with LawCover in the sum of \$1,500,000.00.

**Details of other services offered which may be of interest to Council.**

9.1 Wrights Legal will provide to Council for inclusion on a committee business paper a written report on the current status of each legal matter being dealt with by the firm. No charge will be made for the regular provision of this report.

9.2 With respect to the report on current legal matters referred to in para. 9.1 of this application Mr. Patrick Donovan offers to attend each Council meeting at a specified pre arranged time to answer any questions

from Council members on the matters currently being conducted and detailed in the legal report. No charge will be made for the regular attendance of Mr. Donovan for this purpose.

9.3 As mentioned in para. 2 of this application other directors of Wrights Legal Services Pty. Limited are the Chartered Accountants Gary A. Ferguson and Douglas F. Cheetham. The services of the accountancy arm of the practice are available to Council if and when required. These services would include general accountancy, superannuation advice, audit services, and payroll management & audit. Fees for the accountancy services of the firm would need to be negotiated as and when such services were required.

**Conclusion.**

10. If appointed Wrights Legal will value and respect the appointment. The firm will provide legal services to Council promptly, competently and with total confidentiality.

11. If required both of Mr. Patrick Donovan and Mr. David Donovan will attend on the Mayor and/or the Council to support this application and respond to any questions, which may arise with respect to this application.

We look forward to hearing from you.

Yours sincerely,  
WRIGHTS LEGAL

  
per PATRICK DONOVAN  
Solicitor Director