



KEMPSEY
Shire Council

DIRECTOR CORPORATE AND COMMUNITY SERVICES REPORT

11th December 2007

DCCS16	APPOINTMENT OF COUNCIL'S SOLICITORS
	FILE: 746 PJH {Folio No. *}

SUMMARY:

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

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DESCRIPTION:

Council's practice is to appoint its solicitors on a 12 month basis.

In October 2006 Council resolved to call for expressions of interest from local law firms for appointment as Council solicitors.

Expressions of interest were received from: -

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

Following assessment of the submissions Council at its meeting on 12 December 2006 resolved: -

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

The use of a panel of solicitors allows Council to use specialist firms when necessary and to also use alternative solicitors from the panel when considered necessary.

Appointment for next 12 months

Each of Council's panel of solicitors has been written to regarding their interest in continuing to serve on the panel for the next 12 months. All have responded saying they are happy to serve as Council's solicitors. In regard to having a local principal solicitor both Cooney Harvey Doney and Wrights Legal have sought to be Council's principal solicitor.

Role of Principal Solicitor

By appointing a principal solicitor it was seen as a first point of contact for general legal work and allows this solicitor to become familiar with Council's issues. The alternative solicitors on the panel are then used for any matters deemed necessary including conflicts of interest cases or for specialist matters.

Cooney Harvey Doney have been Council's principal solicitors for the last term (and a number of years before that) and feedback from Council's officers is that their service has generally been good and thorough. Some delays have occurred on particular matters as can happen with most legal issues.

Some councils in the Mid North Coast group appoint a panel of solicitors with work shared amongst them rather than have one principal solicitor.

Cooney Harvey Doney are recommended again as Council's principal solicitor based on their experience with Council matters. While Wrights Legal seek to be given an opportunity to gain that experience it could be questioned whether the service level provided by Cooney Harvey Doney could be matched by them.

Fees for Service

The fees proposed to be charged for the next 12 months by the solicitors on the panel range from \$250.00 to \$300.00 per hour for Lawyer work. Cooney Harvey Doney have advised there would be no increase from their rate last year and are in the lower of this range. Their quoted hourly rate is lower than that of Wrights Legal.

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 work as Council's appointed public liability insurer and debt recovery firm will appoint own selected law firms to act on behalf of Council. Services related to public liability and debt recovery provided by these legal firms will be deemed as a separate service to that provided by Council's panel of solicitors.

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 legal services in 2007 - 2008 are:-

<i>Administration</i>	<i>\$36,800</i>
<i>Development Control</i>	<i>\$35,000</i>
<i>Rates Recovery</i>	<i>\$41,000</i>

Legal costs paid to the panel solicitors in the 12 months to 31st October 2007 were:-

<i>Cooney Harvey Doney</i>	<i>\$46,443</i>
<i>Barrister services (sourced by CHD)</i>	<i>\$16,753</i>
<i>Wrights Legal</i>	<i>\$ 620</i>
<i>Donovan Oates & Hannaford</i>	<i>\$ 908</i>
<i>Marsdens</i>	<i>\$ 2,759</i>
<i>Maddocks</i>	<i>\$ Nil</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.

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

▪ *Directors Review*

The recommendation is supported.

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 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 AND COMMUNITY SERVICES