



DIRECTOR CORPORATE AND COMMUNITY SERVICES REPORT

3rd February 2009

DCCS6	APPOINTMENT OF COUNCIL'S SOLICITORS
FILE: 746	PJH

SUMMARY:

Reporting on the appointment of Council's solicitors for the next 12 month term.

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DESCRIPTION:

Council's practice has been to appoint its solicitors on a 12 month basis and to appoint a principal solicitor or solicitors with a panel of other solicitors appointed on an as needed basis.

In December 2007 Council appointed its panel consisting of: -

Cooney Harvey Doney, Kempsey (Principal Solicitor)
 Wrights Legal, Kempsey (Principal Solicitor)
 Donovan Oates and Hannaford, Port Macquarie
 Marsdens Law Group, Cambelltown
 Maddocks Lawyers, Sydney

A 12 month appointment allows for an annual review of performance, Council input into the appointment and does not require formal calling of tenders which would be the case for say a three (3) year appointment due to the expenditure amount.

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 again sought to be Council's principal solicitor.

Role of Principal Solicitors

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. Council officers have endeavoured the share Council's legal work between the two principal solicitors over the last 12 months. The alternative solicitors on the panel are then used for any special matters deemed necessary including conflicts of interest cases or for specialist matters e.g. Marsdens for significant planning issues.

Fees for Service

The fees proposed to be charged for the next 12 months by the solicitors on the panel range from \$275 to \$300 per hour for Lawyer work.

Debt Recovery and Public Liability legal actions not included these services

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 (Statewide Mutual) and debt recovery firm (Persuasion Pty Ltd) appoint their 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.

Summary

The panel of solicitors has worked well over the last 12 months and it is recommended that the existing panel be re-appointed. Management staff have been satisfied with the service provided by the solicitors on the panel.

RECOMMENDATION IMPLICATIONS:

- *Environmental*

Nil

- *Social*

Nil

- *Economic (Financial)*

Council's legal costs are funded from its allocations for legal expenses. These allocations are separated into Administration legal expenses and Development Control legal expenses. Estimating such costs is always going to be subject to fluctuations depending on the number of matters that are litigated. The budgets for legal services in 2008-2009 are:-

Administration \$20,000

Development Control \$45,000

Legal costs paid to the panel solicitors in the 12 months, 1 January 2008 to 31 December 2008 were:-

<i>Cooney Harvey Doney</i>	<i>\$22,052</i>
<i>Wrights Legal</i>	<i>\$30,591</i>
<i>Donovan Oates & Hannaford</i>	<i>\$ 4,755</i>
<i>Marsdens</i>	<i>\$ 6,187</i>
<i>Maddocks</i>	<i>\$29,766</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*

As per report.

RECOMMENDATION:

That Council's panel of solicitors being:-

- **Cooney Harvey Doney Lawyers**
- **Wrights Legal**
- **Donovan Oates and Hannaford**
- **Marsdens Law Group**
- **Maddocks Lawyers**

be re-appointed for the next 12 month period with Cooney Harvey Doney and Wrights Legal being the principal solicitors.

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ACTING DIRECTOR CORPORATE AND COMMUNITY SERVICES