



LATE ITEM

Ordinary Meeting 23 June 2016

Held at Ballina Shire Council Chambers
40 Cherry Street Ballina

Table of Contents

11.	Civil Services Group Reports.....	1
11.9	Operating Lease - Tuckombil and Stokers Quarries	1
17.	Confidential Session.....	3
17.4	Tuckombil and Stokers Quarries - Lease to Lismore City Council - Terms	3

11.9 Operating Lease - Tuckombil and Stokers Quarries

11. Civil Services Group Reports

11.9 Operating Lease - Tuckombil and Stokers Quarries

Delivery Program Operations Support

Objective To report on an agreement in regards to the lease of Council's quarries.

Urgency

Clause 241 (3) of the Local Government (General) Regulation 2005 states that a council must not transact business at a meeting of the council unless adequate notice of the business has been given except where:

- a) a motion is passed to have the business transacted at the meeting, and
- b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency

At this matter relates to commercial negotiations regarding Lismore City Council's (LCC) lease for the operation of the Tuckombil and Stokers Quarries, with an urgent decision needed by Council as outlined in the confidential report, the recommendation is that Council deals with the following report and the confidential report related to this lease at the June Ordinary meeting.

Recommendation

That Council consider the open and confidential reports on the Operating Lease – Tuckombil and Stokers Quarries as a matter of urgency as a Council resolution is required to finalise the commercial negotiations currently taking place.

Background

LCC has proposed for some time to terminate the lease for the operation of the Tuckombil and Stokers Quarries. In response to the position of LCC, at the December 2015 meeting the Council resolved the following;

1. *The General Manager is authorised to accept the proposal from Lismore City Council, as per attachment one to this report, to terminate the lease for the operation of the Tuckombil and Stokers Quarries subject to the minimum royalty period being a maximum period of twelve months, or less if another operator is installed within that period.*
2. *That Council hold a briefing early in 2016 to assess the preferred management option being lessee or operating the quarry ourselves.*

This position was communicated in writing to Lismore City Council and their response was to reject our proposal.

11.9 Operating Lease - Tuckombil and Stokers Quarries

Following further discussions and a recent meeting this matter has now been negotiated and the terms of a proposed agreement are reported confidentially to Council.

Key Issues

- Commercial resolution of a dispute
- Risk / cost of any legal action

Information

In response to the earlier resolution a meeting with LCC was attended by the Group Manager Civil Services and our legal advisor, Ms Clarissa Huegill. Ms Huegill has summarised the outcomes from that meeting in a confidential advice, which is outlined in the confidential report.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Not Applicable
- **Economic**
This matter relates to a commercial lease Council has with LCC.

Legal / Resource / Financial Implications

This matter has legal implications to Council as it involves contractual negotiations.

Consultation

Consultation has been on-going with LCC.

Options

This report is for noting only as it provides an overview of the confidential report.

RECOMMENDATION

That Council notes the contents of this report regarding the operating lease with Lismore City Council, in respect to the Tuckombil and Stokers Quarries, including the reasons for the urgent consideration of this matter, with the confidential matters relating to this lease to be considered as part of the confidential session of this meeting.

Attachment(s)

Nil

17. Confidential Session

In accordance with Section 9 (2A) of the Local Government Act 1993, the General Manager is of the opinion that the matters included in the Confidential Business Paper, and detailed below are likely to be considered when the meeting is closed to the public.

Section 10A(4) of the Local Government Act, 1993 provides that members of the public are allowed to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

A brief summary of each of the reports recommended for consideration in confidential session follows:

17.4 Tuckombil and Stokers Quarries - Lease to Lismore City Council - Terms

Refer to Item 11.9 of this agenda.

RECOMMENDATION

That Council moves into committee of the whole with the meeting closed to the public, to consider the following items in accordance with Section 10A (2) of the Local Government Act 1993.

17.4 Tuckombil and Stokers Quarries - Lease to Lismore City Council - Terms

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as this report discusses commercial and legal information that is confidential.