DIRECTOR LIVEABLE COMMUNITIES

2 THE BIGHT CEMETERY, WINGHAM - UPDATE 4

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Date of Meeting 16 December 2020

Authorising Director Paul De Szell - Director Liveable Communities

SUMMARY OF REPORT

This report provides both Council and the community with an update on the feedback provided in relation to the draft Conservation Management Plan and the revised Restoration Action Plan for The Bight Cemetery, Wingham.

SUMMARY OF RECOMMENDATION

That:

- 1. Council note the information provided in this report.
- 2. Council adopt draft 'The Bight Cemetery Conservation Management Plan" subject to the changes outlined in this report.
- 3. Council adopt the updated 'The Bight Cemetery Restoration Action Plan'.

FINANCIAL/RESOURCE IMPLICATIONS

Council's insurers have advised that all rectification works at The Bight Cemetery will be covered under Council's Insurance Policy.

Council will however be required to pay the excess on the policy which is \$12,500. The cost of the excess is proposed to be funded out of revoted unspent funds in the Cemetery operations budget. This means that there will be no decrease in the planned level of service in cemetery operations over 2020-21 as the current budget will not be affected.

LEGAL IMPLICATIONS

Nil

ATTACHMENTS

- A: 'The Bight Cemetery Conservation Management Plan'
- B: 'The Bight Cemetery Restoration Action Plan' (Updated)
- C: Summary of submissions
- D: Submissions received in relation to the draft 'The Bight Cemetery Conservation Management Plan' and 'The Bight Cemetery Restoration Action Plan'

Attachments A, B, C & D have been circulated to the Councillors and Senior Staff, however these attachments are publicly available on Council's website. The copy of attachment D on

the website has had the personal information redacted to protect the privacy of the members of the public providing submissions.

BACKGROUND

Council at its meeting of 11 September 2019 considered an initial update report in relation to the actions that have occurred and are proposed to occur at The Bight Cemetery, Wingham.

At this meeting Council resolved:

- 1. That the information provided in this report be noted; and
- 2. That Council endorse the actions identified in Annexure A to this report.

The actions identified in Annexure A to the report that were presented to Council on 11 September 2019 were in a tabular form which was updated with additional columns to highlight:

- a) at what stage the action will be undertaken; and
- b) the status of the action.

This was presented to Council on 27 November 2019.

This table is contained in Attachment B.

Also presented to Council at its meeting of 27 November 2019 was a Draft 'Restoration Action Plan for The Bight Cemetery', Wingham which was agreed to as a stage two action.

At this meeting Council resolved:

- 1. That the information provided in this report be noted.
- 2. That Council liaise with "The Blight of the Bight", community group, National Trust, Heritage Advisor and affected families prior to the formal adoption of the Draft "The Bight Cemetery Restoration Action Plan".
- 3. That information provided by Council in response to GIPA Application 20/20 be provided to Councillors via email by the next Council Meeting.
- 4. Council liaises with the families over the appointment of the stonemasons

At the Council meeting of 25 March 2020 a report on point two of the above resolution was presented.

This report discussed the feedback received on the draft 'The Bight Cemetery Restoration Action Plan' from Council's Heritage Advisor, Cemeteries and Crematoria NSW, Blight of the Bight community group, National Trust and family members.

At this meeting Council resolved:

- 1. Council note the information provided in this report.
- 2. Council engage an independent professionally qualified heritage consultant to prepare a Conservation Management Plan for The Bight Cemetery in accordance with the NSW Heritage Office guidelines and the National Trust Guidelines for Cemetery Conservation.

- 3. Information from the Conservation Management Plan for The Bight Cemetery (once adopted by Council) be used to update the Draft 'The Bight Cemetery Restoration Action Plan'.
- 4. The Draft 'The Bight Cemetery Restoration Action Plan' be updated as recommended in the body of this report.
- 5. Further to consultation with Council's Heritage officer and Heritage Reference group, a further report be provided to Council that includes a finalised Restoration Action Plan for The Bight Cemetery so that it can be adopted and works can proceed.
- 6. As a parallel process, Council undertake the assessment of all impacted headstones as a separate task.
- 7. Council split the repair and restoration into 2 sections (headstones less than 50 years and headstones more than 50 years old).
- 8. Council discuss assessments with families.
- 9. Council proceed with work for headstones less than 50 years old (in parallel with the development of the Conservation Management Plan) if deemed appropriate by Council's Heritage Officer.

DISCUSSION

This report discusses points 2-5 of Council's resolution of 25 March 2020 as follows.

- Point 2: Council engage an independent professionally qualified heritage consultant to prepare a Conservation Management Plan for The Bight Cemetery in accordance with the NSW Heritage Office guidelines and the National Trust Guidelines for Cemetery Conservation.
- Point 3: Information from the Conservation Management Plan for The Bight Cemetery (once adopted by Council) be used to update the Draft 'The Bight Cemetery Restoration Action Plan'.
- Point 4: The Draft 'The Bight Cemetery Restoration Action Plan' be updated as recommended in the body of this report.
- Point 5: Further to consultation with Council's Heritage officer and Heritage Reference group, a further report be provided to Council that includes a finalised Restoration Action Plan for The Bight Cemetery so that it can be adopted, and works can proceed.

Following this resolution Council underwent a formal procurement process which resulted in engaging Umwelt Pty Ltd to prepare a draft conservation management plan for The Bight Cemetery.

Umwelt Pty Ltd have qualified archaeologists with experience in undertaking conservation management plans for heritage cemeteries. Umwelt also engaged a local historian to research the history of the cemetery.

The Restoration Action Plan was updated to refer to the Conservation Management Plan as an overarching document in the restoration of the damaged headstones/grave markers.

The draft Conservation Management Plan and revised Restoration Action Plan were placed on formal exhibition through the Council website during October and November.

The draft Conservation Management Plan and revised Restoration Action Plan were also provided to all family members who have registered their interest in the process with Council since the damage took place in July 2019.

Council's Heritage Advisor and Heritage Reference Group were also consulted as per point 5 of the resolution.

In response, formal written comments were received from Council's Heritage Advisor, the Heritage Reference Group, Cemeteries and Crematoria NSW, The National Trust, The Tinonee Historical Society, the "The Blight of the Bight" community group, the Purfleet Taree Local Aboriginal Lands Council and 16 affected family members and members of the general community. Copies of these submissions are provided in Attachment D.

The remaining resolutions from the 25 March 2020 meeting (points 6-9) are addressed below:

Point 6: As a parallel process, Council undertake the assessment of all impacted headstones as a separate task.

Update: This work will be completed following the adoption of The Bight Conservation Management Plan and The Bight Restoration

Action Plan

Point 7: Council split the repair and restoration into 2 sections (headstones less than 50 years and headstones more than 50 years old).

Update: Following the meeting of 25 March 2020, Council's Heritage

Advisor provided guidance that indicated Council should not undertake any restoration, regardless of age, until the Conservation Management Plan was completed and adopted. As a result, this item has not been actioned, given the advice requested by part 9 of the resolution contradicted this item in the

resolution.

Point 8: Council discuss assessments with families.

Update: This will occur following the adoption of The Bight Conservation

Management Plan and The Bight Restoration Action Plan

Point 9: Council proceed with work for headstones less than 50 years old (in parallel with the development of the Conservation Management Plan) if deemed

appropriate by Council's Heritage Officer.

Update: Following the meeting of 25 March 2020, Council's Heritage

Advisor provided guidance that indicated Council should not undertake any restoration, regardless of age, until the Conservation Management Plan was completed and adopted.

As a result, this item has not been actioned.

CONSULTATION

On 15 October 2020, draft 'The Bight Cemetery Conservation Management Plan' and the revised 'The Bight Cemetery Restoration Action Plan' were provided by email to the 67 family members who had registered as having an interest in one of the damaged headstones, the Bight of the Blight Community Group, Council's Heritage Advisor, Cemeteries and Crematoria NSW, The National Trust and Council's Heritage Reference group.

In addition, a hard copy letter was sent to all those who had registered as having an interest to advise that the plans could be accessed through Council's website.

Both plans were also placed on Council's website for the advice of the general community, who were also invited to provide feedback. This was advertised via media release and our weekly newspaper advertisements. During this period there were 191 visits to the website page.

Follow up emails were also sent to remind all those who had received the draft plan of the submission deadline.

Submissions from family members, community members and other agencies:

While it was not expressly a resolution of the Council that family members and the wider community were to be consulted on the Conservation Management Plan and revised Restoration Action Plan, these documents were provided to these groups to provide ongoing transparency and consultation on the repair program.

Written advice and feedback has been provided by the following:

- Council's Heritage Advisor
- Council's Heritage Reference Group
- Cemeteries and Crematoria NSW
- The National Trust
- Tinonee Historical Society
- The Blight of the Bight community group
- Family members of those interred at The Bight Cemetery
- Members of the community

Submissions/comments were also received from 16 family and community members.

Copies of the submissions are provided in Attachment D.

The feedback from these submissions, the suggested changes to the plan as a result of the submission and the implications of the feedback are outlined below:

The items raised in these submissions addressed both the draft Conservation Management Plan and the revised Restoration Action Plan.

This feedback, along with responses and recommended changes to the documents, can be found as Attachment C.

Council's Heritage Advisor:

As per point 5 of the resolution of 25 March 2020 Council's Heritage Advisor has reviewed both the draft Conservation Management Plan and revised Restoration Action Plan and has indicated support for the Conservation Management Plan as it is fundamental to the heritage conservation of the cemetery going forward and is general strongly supported.

A suggestion was made to list the Conservation Management Plan as a separate item in the Restoration Action Plan. This has been implemented.

Council's Heritage Reference Group:

As per point 5 of the resolution of 25 March 2020 Council's Heritage Reference Group reviewed the draft Conservation Management Plan and revised Restoration Plan at a meeting held on 5 November 2020. The minutes of this meeting form part of Attachment D.

The main points raised by the reference group – and responses are tabled below:

Feedback	Response	Changes to plan		
Conservation Management Plan				
Recommended the CMP identify buffers near existing graves and around the boundary of the cemetery to protect against the risk of disturbing unmarked graves. CMP currently shows a track running over identified unmarked graves, vehicular paths should be formalised to avoid grave sites, marked or unmarked	Unmarked graves are an issue in all cemeteries, where the records of earlier or unauthorised burials are not recorded. As a result, a strict procedure is in place if human remains are unearthed in a cemetery and investigations are undertaken. These procedures are in place for all cemeteries in the MidCoast. While ground penetrating radar can be beneficial for identifying unmarked graves in cemeteries, it can be cost prohibitive. As a result, it is a process typically undertaken where cemetery records are very limited and human remains are being regularly unearthed, which is not the case at the Bight Cemetery. It was agreed that there are locations in cemeteries where there is an increased risk of uncovering unmarked graves, being next to existing graves (marked and unmarked) and around the boundary of the cemetery. It is proposed to amend the CMP to identify buffers in these locations to acknowledge that there is an increased risk of disturbing unmarked graves in these locations. A review of the formalised vehicle paths in the cemetery will be undertaken to ensure that they avoid grave sites, marked or unmarked (where known). A current track through an area identified as unmarked graves will be relocated. It is not possible to exclude tracks from all buffer areas as vehicles need to access the cemetery to undertake works.	Amend the CMP to show buffers next to existing graves (marked and unmarked) and around the boundary of the cemetery, where caution is required and vehicle movements are limited. Relocate the current track from the location where unmarked graves have been identified.		

Boundary of active portion not clear on the ground or in the CMP – markers be placed in the cemetery to delineate the active portion of the site	A boundary survey will be completed prior to the start of any landscaping works and a means of identifying the boundary on site will be implemented.	Nil required
Gradings of significance — discussed at length and accepted the grades designed specifically for the Bight Cemetery and can differ in CMPs based on the heritage values of each cemetery, terminology generally acceptable to heritage practitioners. Not the role of the CMP to undertake detailed assessment on scope of works for each headstone. RAP needs to be amended to reflect the CMP timeframe of pre-1950s for involvement by a heritage stonemason.	The purpose of the CMP was to assess the historic, aesthetic and social/cultural significance of monuments in the cemetery in accordance with <i>The NSW Heritage Office:</i> Assessing Heritage Significance guidelines. The significant gradings used for Conservation Management Plans (CMP) relate to the relative heritage significance of each site. In the case of cemeteries, it relates to grave markers and items within the context of the cemetery. Table 6.2 (page 83) "Gradings of heritage significance definitions used in this CMP" includes the following gradings of significance: Exceptional, High, Moderate, Low, Neutral and Intrusive. A date range is also included alongside an explanation. The significance gradings are based on the physical fabric, age and the historical significance of the grave markers in the context of their local area, not age alone. The gradings of significance developed by the Heritage Council of NSW have been adapted for use in the CMP to be relevant to both ancillary elements/fabric and grave markers. The gradings of significance are in accordance with <i>The NSW Heritage Office:</i> Assessing Heritage Significance guidelines which state (page 11): "Different components of a place may make a different relative contribution to its heritage value. Loss of integrity or condition may diminish significance. In some cases it may be useful to specify the relative contribution of an item or its components. While it is useful to refer to the following table (Gradings of significance) when assessing this aspect of significance it may need to be modified to suit its application to each specific item." Council's Heritage Advisor has assessed the approach undertaken for the CMP and is satisfied that it meets the requirements of the relevant guidelines.	The RAP will be amended to align with the CMP
National Guidelines Agree the CMP references the current guidelines but needs to make reference to new and updated guidelines to ensure the CMP remains relevant. Proposed to amend the CMP	The National Trust advises that they may have guidelines available in sometime in 2021. Any plan should be developed on the basis of the current approved guidelines and practices, which is the case for this CMP. In recognition that new guidelines are impending, the CMP can be amended to make reference to 'new and updated guidelines', to ensure the CMP remains relevant to practices current at that time.	CMP amended to refer to not only existing guidelines but updated or new guidelines.

to refer to not only	
existing guidelines but updated or new	
guidelines.	

Cemeteries and Crematoria NSW:

Landscaping

Concerned about landscaping but have been informed there will be opportunity to comment on the plan when developed.

It is acknowledged that there are some concerns about the landscaping proposed. A Landscaping Plan will be drafted and circulated to the families and the Heritage Reference Group to review, prior to planting occurring. All proposed landscaping is to be carried out adjacent the cemetery and within road reserve. With regard to timing, the priority will be the commencement of restoration of the damaged headstones which will be undertaken ahead of the landscaping.

The development of a weed strategy is in relation to the ongoing maintenance of grave sites. To ensure that the strategy does not impact on the heritage integrity of the site, it will be reviewed by Council's Heritage Advisor

Amend the CMP to make reference to the development of a Landscaping Plan for the Bight Cemetery

Restoration Action Plan

- 1. CMP to be own action
- 2. Action to coordinate with National Trust should be reinstated
- 3. Remove the words 'while it is flowering' from Action 4
- 1. Agreed this has also been recommended by the Heritage Advisor
- 2. References to the National Trust have been removed from the plan. This is because *The Bight Cemetery Conservation Management Plan* is the over-arching document in relation to the heritage significance of the cemetery and therefore should be the tool used to guide the management of the repairs / restoration to be undertaken.

It is important to note that the National Trust is an independent community body that promotes the conservation of and access to Australia's unique natural, cultural and indigenous heritage. Advocacy is an important part of their activities to bring attention to important heritage issues.

While this is an important role in the community, there appears to be a perception that the National Trust is a statutory authority with a legislative responsibility which is not the case.

It should be noted that the National Trust has provided a submission for feedback (which forms part of Attachment D) and the items they have raised are addressed in the submissions and response table for the Conservation Management Plan.

Agreed – this has been actioned

RAP The is amended to include the CMP listed as own action and to remove the words 'while it is flowering' from Action 4

Cemeteries and Crematoria NSW have provided feedback on both the Conservation Management Plan and the Restoration Action Plan.

It should be noted that Cemeteries and Crematoria NSW, which sit within the NSW Department of Planning, Industry and Environment, are the statutory agency supporting and regulating the internment industry, assessing internment needs and developing planning strategies for cemetery space.

The feedback they have provided is tabled below with responses and suggested changes to the Conservation Management Plan for The Bight Cemetery.

Summary of feedback	Response	Change to the CMP	
Conservation Management Plan			
Section 3.2 'State Legislation; on page 9 is missing reference to the Cemeteries and Crematoria Act 2013 and the Crown Lands Management Act 2013	To be included	Adjusted to include reference	
Section 7.5 'Owner's requirements' on page 95 incorrectly refers to The Bight Cemetery as being located on MidCoast Council owned land.	Council is the Crown Cemetery Operator of the land under the Cemeteries and Crematoria Act 2013	Adjusted to indicate ownership and Council responsibility	
Section 8.4 'Conservation and Maintenance' on page 99 also needs to note that as stated above under Section 46(1)(e) of the <i>Cemeteries and Crematoria Act 2013</i> a cemetery operator must leave any memorial to the deceased person lawfully erected at that site, with the permission of the cemetery operator, undisturbed (providing the interment right remains in force and the memorial is kept in good repair) until such time as the memorial may be disturbed in accordance with the Act unless disturbance at an earlier time is requested or authorised by the holder of the interment right.	To be included	Adjusted to include reference	
Restoration Action Plan – specificates desired outcomes and Council's res		cure A, The community's	
Item 7 – Cemeteries and Crematoria NSW expects Council to refer to them any relevant policies processes and procedures prior to adoption and implementation.	Agreed - This will form part of Council's process when we reach that stage.	No change	
Item 14 - Council should note that families saying they represent the families of the deceased interment right holder or those interred may not necessarily have the legal right to provide consent to works on monumentation on a grave. As noted above where a holder is deceased, the cemetery operator can transfer the interment right to the beneficiaries	Agreed - This will be factored into our practical administration of the repair program.	No change.	

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ALIGNMENT WITH COMMUNITY PLAN/OPERATIONAL PLAN

The development of a local community plan is in line with:

- Our community strategic plan, *MidCoast 2030: Shared Vision, Shared Responsibility*, value of 'our unique, diverse, and culturally rich communities' and 'a connected community' and strategies:
 - 2.2 Support the preservation and uniqueness of our history and cultural heritage in towns, villages and significant places
 - 6.1 Working together to promote and enhance community safety
- Our delivery program three-year focus areas of:
 - 2.2.3 Ensure our heritage is valued and conserved
 - o 6.1.7 Provide safe public areas

RECOMMENDATION

That:

- 1. Council note the information provided in this report.
- 2. Council adopt draft 'The Bight Cemetery Conservation Management Plan" subject to the changes outlined in this report.
- Council adopt the updated 'The Bight Cemetery Restoration Action Plan'.

Annexure A Issues raised in relation to The Bight Cemetery Restoration Action Plan

A number of submissions raised issues in relation to the revised Restoration Action Plan, the main themes and a response to them are below.

1. Text changes as per 25 March 2020 resolution

A number of changes to the Restoration Action Plan were endorsed at the 25 March 2020 meeting and were not reflected in the version of the Restoration Action Plan sent to families and made available on Council's website as part of the consultation on the Conservation Management Plan. This was raised in a number of submissions.

Response:

Changes endorsed at the March 2020 meeting have been implemented as per the below in the attached revised Restoration Action Plan.

Included in the principles of implementation listed on page two of the plan:

- All repairs will be undertaken in line with the advice of qualified heritage stone masons in the case of heritage headstones
- Subject to the advice of professional and suitably qualified stone masons, where the restoration
 of a headstone or surround/kerbing/ashlar requires new material it should be a like for like
 material and colour matched as close as possible
- The restoration seeks to restore the fabric of the cemetery to how it was before headstones were laid down in July 2019 as per the principles of the Burra Charter

Changes to items in the action plan.

- Item 4 replacement of the words 'while it is flowering' with 'at all times'
- Item 6 addition of words 'qualified heritage stone masons were appropriate'
- Item 8 addition of words 'The headstone will be inspected and assessed by a stone mason or heritage stone mason (as appropriate). This assessment will inform the individual scope of works to be prepared for each of the damaged headstones.'
- Item 9 Addition of words 'the scope of works is to be provided to the family for review'
- Item 11 Addition of words 'Repairs to be undertaken by a stone mason or heritage stone mason (as appropriate depending on the age of the monument)' and 'Council's Heritage Advisor will provide a monitoring and overseeing role of all documentation'
- Item 12 Addition of the words 'The photographic evidence of the repair works will include photos of the work being undertaken at various stages'.

Additions/adjustments to the Restoration Action Plan:

- Insertion at item 5 of the development of a Conservation Management Plan as per request from Council's Heritage Advisor and Heritage Reference Group.
- Reference to The Bight Cemetery Conservation Management Plan has been included in the Restoration Action Plan in the principles, along with items 6 and 11, as the CMP is the document that is required to guide the work to be undertaken at the cemetery.
- Adjustment of stone mason to stone masons in various sections of the Restoration Action Plan to reflect the intent that multiple stone masons will be involved in the repairs
- The intent to liaise with families on the appointment of stonemasons has been removed from item 8, and included in the general principles
- Item 11, re-inclusion of original sentence into the action item, which had inadvertently been removed from the version provided to families and community for comment 'this would include documenting the materials used, certifying how the work complied with Australia Standard AS 4204-2019 'Headstones and Cemetery Monuments' and if this was not possibly why not'.

2. Removal of reference to the National Trust from the Restoration Action Plan

Submissions raised the removal of the reference to the National Trust from several items in the Restoration Action Plan, including:

- the principles of implementation, which indicated 'work will be undertaken in accordance with National Trust Guidelines' and 'headstones will be repaired in accordance with advice from the National Trust and qualified heritage stone masons'
- Item 5 of the Action Plan originally indicated Council would coordinate with the National Trust of Australia (NSW) in the assessment and restoration of headstones to ensure it is undertaken in a manner recommended by the National Trust. (This item has been replaced with reference to the CMP as per the first dot point in section above)
- The reference has also been removed from item 7, which previously said 'in developing each scope of work the advice received from the National Trust and the appropriate stone mason will need to be taken into consideration'.

Response:

References to the National Trust have been removed from the plan. This is because *The Bight Cemetery Conservation Management Plan* is the over-arching document in relation to the heritage significance of the cemetery and therefore should be the tool used to guide the management of the repairs / restoration to be undertaken.

It is important to note that the National Trust is an independent community body that promotes the conservation of and access to Australia's unique natural, cultural and indigenous heritage. Advocacy is an important part of their activities to bring attention to important heritage issues.

While this is an important role in the community, there appears to be a perception that the National Trust is a statutory authority with a legislative responsibility which is not the case.

It should be noted that the National Trust has provided a submission for feedback (which forms part of Attachment D) and the items they have raised are addressed in the submissions and response table for the Conservation Management Plan.

3. Reference to the gradings of significance in the Conservation Management Plan

The restoration action plan references the 'gradings of significance' of the Conservation Management Plan. A number of submissions made comment on the inclusion of these gradings in the Restoration Action Plan.

Response:

The Restoration Action Plan needs to reference the Conservation Management Plan as the guiding document for the repair of the cemetery. Discussion on the gradings of significance has been dealt with in the section of this report that deals with the Conservation Management Plan.

4. Reference to monuments older than and younger than 50 years

A number of submissions questioned the lack of reference to the splitting of repairs into the two programs of those older than 50 years and those less than 50 years as per the resolution of 25 March 2020 which stated 'Council split the repair and restoration into two sections (headstones less than 50 years and headstones more than 50 years old).

Response:

This resolution has been superseded by the gradings of significance developed for the Conservation Management Plan. The Conservation Management recommends that headstones pre-1950s should restored by a heritage stonemason. This identification of the trigger for involvement of a heritage stonemason was made based on a detailed heritage assessment undertaken for The Bight Cemetery, which was not available at the time of the Council resolution in March 2020.

5. Process for preparing detailed scopes of work

A query has been submitted regarding the process for having detailed scopes of work prepared for individual graves. The question has been asked if a scope of works is undertaken and then families decide which stone mason they use, or do families chose the stone mason to prepare the individual scope of works.

Response:

The process is that a scope of works is undertaken by a suitably qualified stone mason and then if the family choses to use another stone mason, that stone mason will have to repair the monument to the scope of works provided.

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