

CORPORATE & BUSINESS SYSTEMS

ATTACHMENT C

**2 BIRIPI WAY, TAREE OFFICE RELOCATION
INVESTIGATIONS UPDATE**

ORDINARY MEETING

6 FEBRUARY 2019



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& Associates Pty Limited**

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Ms Allison Anthony
Acting Manager, Property and Commercial Services
MidCoast Council
Breese Parade
PO Box 450
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23 January 2019

Dear Allison,

Probity Report: Retrospective review of the consultant engagement and land acquisition processes for the Office Relocation Project

In OCM's capacity as the Probity Advisor for MidCoast Council's (**Council**) Office Relocation Project (**the Project**), we have outlined in the report below the probity comments in relation to the retrospective review of the activities undertaken by Council to date on the Project. This includes the appointment of consultants, acquisition of land for the proposed Project and the status reporting to Council.

Background

Council acquired a site in Taree which has been identified as having the potential for the location of the new administration offices. Currently, Council operates its administration functions from various offices within the LGA including two offices in Forster and one in Taree following the amalgamation of three separate Councils and the assumption of MidCoast Water functions into Council. The Project is to undertake investigatory work to confirm the feasibility and appropriateness of the use of the acquired site in Taree for the centralisation of Council's administrative functions.

As part of the engagement of OCM as the Probity Advisor for the Project, Council is seeking a review of the activities undertaken by Council to date following the acquisition of the site at Taree. These activities include the following:

- Engagement of consultants to assist council with the delivery of the project
- Acquisition of the site in Taree which has been identified as the potential location of the new administration offices
- Status reporting and updates to Council as part of the overall governance framework for the project and consistent with the Office of Local Government Capital Expenditure Guidelines (December 2010).

Scope

In providing this advice and the review of the activities undertaken to date, we have had regard to the following principles of probity:

- Accountability and transparency of the process
- Fairness and impartiality in carrying out the process
- Management of actual, potential and perceived conflicts of interest
- Maintenance of confidentiality and security of documentation and information
- Achieving value for money in the prevailing circumstances.

In addition to the above, we will also have regard to the following:

- Local Government Act 1993
- Local Government (General) Regulation 2005
- Local Government Capital Expenditure Guidelines.

Summary

Based on the review of the records provided and the discussions with Council, we make the following summary comments on the activities undertaken by Council to date on the project:

- OCM did not identify any breaches of probity, including the tendering requirements identified in the legislation and relevant policies with regard to the engagement of the consultants for the Project, and reporting to council from an accountability perspective
- OCM did not identify any breaches of probity with regard to the acquisition of the site in Taree and the process to acquire the land was not inconsistent with the requirements identified in Section 55 of the Local Government Act 1993. Further, OCM is satisfied that Council took reasonable steps to ensure that the acquisition of the land considered value for money steps/checks
- Consistent with the requirements of the Capital Expenditure Guidelines, Council was kept informed of the project on a regular basis and at various milestones, as well as resolutions sought during the project as required under the Act. .

OCM did not identify any areas of probity risk which have not been appropriately identified, assessed and managed by Council to date on the project. However, we have provided some recommendations for Council to enhance the documentation in respect of some of the consultants selected and the reasons for the number of quotes identified in Council's Procurement Procedure not being obtained. We have also made some observations in relation to the identification and management of conflicts of interest with engaged consultants, where is not expressly identified in the consultancy agreements.

Probity analysis

As part of the scope of this engagement, OCM was requested to review the following:

- Engagement of consultants to assist council with the delivery of the project
- Acquisition of the site in Taree which has been identified as the potential location of the new administration offices
- Status reporting and updates to Council as part of the overall governance framework for the project and consistent with the Office of Local Government Capital Expenditure Guidelines (December 2010).

We have addressed each of these below.

Engagement of consultants

Key requirements for the consultant engagements	Consultant engaged	Documents reviewed	OCM comments and observations
<p>MidCoast Council's Procurement Procedure identifies the following requirements for the engagement of consultants and letting of contracts:</p> <ul style="list-style-type: none"> • For consulting services single source selection may be made up to the value of \$10,000 based on value for money and risk against a written brief. For consulting services above \$10,000 and up to \$20,000 a minimum of two quotes will be required. • For goods and services (including Consulting Services) between \$20,001 and \$150,000 per item or order total. Minimum of Three (3) written quotations against written Specifications or Drawings incorporating General Conditions of Contract, standard quotation terms and conditions or Service Agreement terms & conditions. <p>Local Government Act 1993</p>	First State Property Valuers	<p>Document provided by Council entitled <i>Office Relocation Investigation (2 Biripi Way) Summary of Appointment of Consultants (as at Jan 2019)</i> indicates the following:</p> <ul style="list-style-type: none"> • First State Property Valuers was engaged in October 2017 • The purpose of the engagement was to conduct an initial property valuation report of 2 Biripi Way, Taree prior to acquisition. A second report - valuing four existing properties was provided • Quotes not obtained due to <\$10k estimate • Actual cost: \$9,600 plus GST <p><i>First State Property Valuers. Valuation Report Instructed by Midcoast Council for Evidence of</i></p>	<p>Regarding Council Procurement Procedures re Goods & Services < \$10,000 (incl. GST):</p> <p>Council's Procurement Procedure notes that the thresholds for procurement are deemed to include GST. Therefore, the final contract value for the engagement was exceeding this threshold on the basis that the total cost of the engagement was \$10,560.00 (incl. GST). Council should ensure that there is a clear documented audit trail of the reasons for the threshold being exceeded without seeking more than one quote under the Procedure.</p> <p>Council should ensure that consultants engaged have the relevant provisions relating to conflicts of interest in the contracts/agreements.</p>

Key requirements for the consultant engagements	Consultant engaged	Documents reviewed	OCM comments and observations
<ul style="list-style-type: none"> Section 55 (1) (f) requires a tender process to be undertaken for a contract for the provision of services. Section 55 (3) states that contracts up to a certain value, as prescribed by the Regulation, are not required to undertake a tender process. The threshold for local government tenders is \$150,000. <p>ICAC Publication: Corruption Risks in the NSW Development Approval Process, Position Paper (September 2007):</p> <ul style="list-style-type: none"> The engagement of consultants is an area where Councils need to take steps to deal with possible conflicts of interest. Contracts can include provisions designed to manage conflicts of interest – for example, requiring conflicts to be declared or prohibiting the contractor to work on other contracts relating to the project for the term of the contract. 	<p>Atlas Urban</p>	<p><i>Value Purposes</i>. Report located within Late Report No.1 Extraordinary Council Meeting 2 November 2017.</p> <p>Document provided by Council entitled <i>Office Relocation Investigation (2 Biripi Way) Summary of Appointment of Consultants (as at January 2019)</i> indicates the following:</p> <ul style="list-style-type: none"> That this consultant was engaged by Council in November 2017 That this consultant was engaged to prepare initial test fit option That quotes were not obtained due to <\$10k estimate That the actual cost: \$7,024.99 plus GST. 	<p>Council should ensure that consultants engaged have the relevant provisions relating to conflicts of interest in the contracts/agreements.</p> <p>On information provided by Council, cost of engagement fell beneath the threshold of \$10,000. No requirement therefore to obtain more than one quote.</p> <p>No probity concerns identified in relation to the appointment of this consultant.</p>
	<p>Savills Project Management Pty Ltd</p>	<p>Quotation Record Form, incl. evaluation comments, approved on 27 November 2017. This document indicates that an RFQ was issued to four providers to prepare business case for office relocation assessment. Two quotes were received. Council has documented the reasons for not obtaining three quotes. Savills quotation was \$32k plus GST (plus variation totalling \$800 plus GST).</p> <p>Declaration signed by Savills (Marcus Paget Wilkes) dated 28 February 2018 indicating that the parties had agreed that terms set out in the <i>Hunter</i></p>	<p>Regarding Council Procurement Procedures re Goods & Services between \$20,001 and \$150,000 :</p> <ul style="list-style-type: none"> Savills quotation was > \$32k RFQ was issued to four providers to prepare business case for office relocation assessment. Two quotes were received but Council has documented reasons for not obtaining three quotes. <p>Regarding mitigation of Conflicts of interest (cf ICAC publication 2007):</p>

Key requirements for the consultant engagements	Consultant engaged	Documents reviewed	OCM comments and observations
		<p><i>Councils – Terms of Engagement for Consultants.</i></p> <p>Document provided by Council entitled <i>Office Relocation Investigation (2 Biripi Way) Summary of Appointment of Consultants (as at Jan 2019)</i> indicates the actual cost: was \$32,800 plus GST consistent with quotation and the variation.</p>	<ul style="list-style-type: none"> Declaration signed by Savills did not include, within the body of the proforma, a conflict of interest declaration. <p>However, the Hunter Councils – Terms of Engagement for Consultants at clause 9 which was signed by Savills achieves the same outcome.</p> <p>No probity concerns identified in relation to the appointment of this consultant.</p>
	Rider Levett Bucknall (RLB)	<p>Declaration entitled, <i>PROJECT: COUNCIL OFFICE RELOCATION ASSESSMENT – PRELIMINARY QS REPORT</i>. Signed by RLB on 15 November 2017. Declaration indicates that the service provider offers to provide (prelim QS report) in accordance with terms and conditions set out in <i>Hunter Councils – Terms of Engagement for Consultants</i>, emails from Council, service providers proposal and any subsequent agreement in writing between the parties.</p> <p>Letter from RLB Director (Mark Hocking) to Allison Anthony dated 13 November 2017 entitled: Midcoast Council – Relocation of Refurbishment of Existing Offices Preliminary Cost Estimate.</p> <p>Document provided by Council entitled <i>Office Relocation Investigation (2 Biripi Way) Summary of Appointment of Consultants (as at Jan 2019)</i> indicates quotes not obtained</p>	<p>Regarding Council Procurement Procedures re Goods & Services < \$10,000:</p> <ul style="list-style-type: none"> RLB estimate was < \$10k Actual cost was < \$10k Cost estimate / quote for consulting services obtained from one provider. <p>Regarding mitigation of conflicts of interest (cf ICAC publication 2007):</p> <ul style="list-style-type: none"> Declaration signed on 15 November 2017 contains a conflict of interest declaration. Also, the Hunter Councils – Terms of Engagement for Consultants at clause 9, which was signed by RLB, achieves the same outcome. (See OCM comments and observations regarding Savills Project Management Pty Ltd). <p>No probity concerns identified in relation to the appointment of this consultant.</p>

Key requirements for the consultant engagements	Consultant engaged	Documents reviewed	OCM comments and observations
	Montlaur Project Services Pty Ltd	<p>due the estimated cost being < \$10k. Actual amount was \$7,500.00 (plus GST).</p> <p>Request for Tender Evaluation Report. Tender title: <i>Project Manager Council Office Investigation</i>. Issue date 22 November 2017.</p> <ul style="list-style-type: none"> • recommendation was made for selection of Montlaur. • Evaluation Report was signed by all members of the Evaluation Panel on 12 January 2018. • recommendation was accepted and endorsed by General Manager Council on 12 January 2018. • submissions by tenderers, as summarised in this document, provided hourly rate only. <p><i>AS4122-2010 General Conditions of Contract for Consultants</i> signed by both parties (Montlaur and Council) and dated 20 February 2018.</p> <p>Council Resolution of 28 February 2018.</p> <p>Report dated 24 January 2018: Office Relocation Investigation</p> <p>Document provided by Council entitled <i>Office Relocation Investigation (2 Biripi Way) Summary of</i></p>	<p>Regarding Council Procurement Procedures re Goods & Services between \$20,001 and \$150,000:</p> <ul style="list-style-type: none"> • Request for tenders issued by Council on 22 November 2017 & closed on 15 December 2017 • Submissions from six Tenderers were received and assessed against evaluation criteria. • An Evaluation Panel of senior Council staff recommended appointment of Montlaur. <p>Regarding mitigation of conflicts of interest (cf ICAC publication 2007):</p> <ul style="list-style-type: none"> • There was no standard declaration by Montlaur included amongst the papers provided by Council <p>However, the contract signed by Montlaur (AS4122-2010 General Conditions of Contract for Consultants) at clause 19 confirms that the consultant, after making reasonable enquiries to ascertain whether a conflict exists, does not have a conflict. Further, that the consultant will inform the client should they become aware of a conflict.</p> <p>No probity risks identified in relation to the appointment of this consultant.</p>

Key requirements for the consultant engagements	Consultant engaged	Documents reviewed	OCM comments and observations
		<p><i>Appointment of Consultants (as at Jan 2019)</i> indicates:</p> <ul style="list-style-type: none"> Estimate for Initiation Phase - \$45,000 plus GST plus variations totalling \$3k plus GST (plus \$10k for change strategy) Estimate for Workplace Strategy - \$15k plus GST (negotiated down from \$20k) Actual cost: \$59,640 plus GST 	
	WMK Architecture	<p>Declaration entitled <i>PROJECT: MID COAST COUNCIL OFFICE RELOCATION</i>. signed by WMK on 4 April 2018 to provide services in accordance with the RFQ document entitled <i>Mid Coast Council – Architect Designer RFP</i>, the service providers quotation submitted on 26 March 2018 and any subsequent agreement in writing between the parties.</p> <p>Document dated 4 April 2018 <i>MidCoast Council Relocation Consultant Recommendation Architecture & Design</i>, addressed to Allison Anthony (Council). WMK quotation was \$33,500 plus variations totalling \$5,700 plus GST</p> <p>Document provided by Council entitled <i>Office Relocation Investigation (2 Biripi Way) Summary of Appointment of Consultants (as at Jan 2019)</i> indicates the actual cost was \$37,400 plus GST.</p>	<p>Regarding Council Procurement Procedures re Goods & Services between \$20,001 and \$150,000:</p> <ul style="list-style-type: none"> Montlaur conducted the Architecture & Design on behalf of Council A shortlist of six consultants was invited to submit proposals and were issued with RFP on 19 March 2018. RFP closed 26 March 2018. Three consultants declined to provide pricing; submissions from three consultants were subsequently assessed Montlaur recommended WMK and provided reasons in support of its recommendation. <p>Regarding mitigation of conflicts of interest (cf ICAC publication 2007):</p> <ul style="list-style-type: none"> Declaration entitled PROJECT: MID COAST COUNCIL OFFICE RELOCATION signed by WMK on 4

Key requirements for the consultant engagements	Consultant engaged	Documents reviewed	OCM comments and observations
	Slattery Consulting	<p>Document dated 17 April 2018 prepared by Montlaur entitled <i>Mid Coast Council Relocation Consultant Recommendation Quantity Surveyor, Services Engineer & PCA</i>. Document indicates that Montlaur issued RFP to shortlisted consultants in consultation with Council. Consultants were in three disciplines: Quantity surveyor; services engineer; Private Certifying authority. Slattery made a submission for Quantity surveyor contract. Slattery's quote was for \$13,800.</p> <p>Declaration signed by Slattery on 9 July 2018 entitled <i>PROJECT: MID COAST COUNCIL OFFICE RELOCATION INVESTIGATION</i> to provide services in accordance with the RFQ document 177905-1, the service providers quotation submitted on 3 April 2018 and any subsequent agreement in writing between the parties.</p> <p>Document provided by Council entitled <i>Office Relocation Investigation (2 Biripi Way) Summary of Appointment of Consultants (as at Jan 2019)</i> indicates the actual cost was \$13,900 plus GST.</p>	<p>April 2018 includes a conflict of interest declaration with no conflicts disclosed.</p> <p>No probity risks identified in relation to the appointment of this consultant.</p> <p>Regarding Council Procurement Procedures re Goods & Services between \$10,000 and \$20,000</p> <ul style="list-style-type: none"> • 3 x submissions were received re the Quantity surveyor RFP and vetted by Montlaur. • An evaluation matrix dated 17 April 2018 prepared by Montlaur shows the evaluation conducted for all RFPs • Slattery was recommended by Montlaur and reasons were provided by Montlaur in support of the recommendation. <p>Regarding mitigation of conflicts of interest (cf ICAC publication 2007):</p> <ul style="list-style-type: none"> • Declaration signed by Slattery on 9 July 2018 entitled <i>PROJECT: MID COAST COUNCIL OFFICE RELOCATION INVESTIGATION</i> includes a conflict of interest declaration. <p>No probity concerns identified in relation to the appointment of this consultant.</p>

Key requirements for the consultant engagements	Consultant engaged	Documents reviewed	OCM comments and observations
	Intelle Building Services	<p>Document dated 17 April 2018 prepared by Montlaur entitled <i>Mid Coast Council Relocation Consultant Recommendation Quantity Surveyor, Services Engineer & PCA</i>. Document indicates that Montlaur issued RFP to shortlisted consultants in consultation with Council. Consultants were in three disciplines: Quantity surveyor; Services Engineer; Private Certifying authority. Intelle made a submission for the Service Engineer contract. Intelle's quote was for \$36,000.</p> <p>Declaration from Intelle dated 26 June 2018 to provide services in accordance with the RFQ document MID COAST RELOCATION DD – BUILDING SERVICES PROPOSAL, the Service Providers quotation submitted on 3 April 2018 and any subsequent agreement in writing between the parties.</p> <p>Document provided by Council entitled <i>Office Relocation Investigation (2 Biripi Way) Summary of Appointment of Consultants (as at Jan 2019)</i> indicates the actual cost was \$40,500 plus GST.</p>	<p>Regarding Council Procurement Procedures re Goods & Services between \$20,001 and \$150,000:</p> <ul style="list-style-type: none"> Two submissions were received in response to the Services Engineer contract and vetted by Montlaur An evaluation matrix dated 17 April 2018 prepared by Montlaur shows the evaluation conducted for both RFPs Intelle was recommended by Montlaur and reasons were provided for the recommendation. However, reasons were not provided as to why only two quotes were obtained. Council procedures specify that for the procurement of goods and services between \$20,001 and \$150,000 at least three quotes must be obtained. <p><u><i>It is recommended that the reasons for this be documented, similar to the approach adopted for the engagement of Savills Project Management.</i></u></p> <p>Regarding mitigation of conflicts of interest (cf ICAC publication 2007):</p> <ul style="list-style-type: none"> Declaration from Intelle dated 26 June 2018 to provide services in accordance with the RFQ includes a conflict of interest declaration with no conflicts disclosed.
	Kudos Building Certification	Document dated 17 April 2018 prepared by Montlaur entitled <i>Mid Coast Council Relocation Consultant</i>	<p>Regarding Council Procurement Procedures re Goods & Services between \$10,000 and \$20,000</p>

Key requirements for the consultant engagements	Consultant engaged	Documents reviewed	OCMI comments and observations
		<p><i>Recommendation Quantity Surveyor, Services Engineer & PCA.</i> Document indicates that Montlaur issued RFP to shortlisted consultants in consultation with Council. Consultants were in three disciplines: Quantity surveyor; Services Engineer; Private Certifying authority. Kudos made a submission for the Private Certifying Authority contract. Kudos quote was for \$7,200 plus GST.</p> <p>Declaration from Kudos Building Certification dated 25 June 2018 to provide services in accordance with the RFQ document SOS6205 – 121 Manning River Drive, Taree, the Service Providers quotation submitted on 5 April 2018 and any subsequent agreement in writing between the parties.</p> <p>Document provided by Council entitled <i>Office Relocation Investigation (2 Biripi Way) Summary of Appointment of Consultants (as at Jan 2019)</i> indicates the actual cost of the engagement is to be confirmed.</p>	<ul style="list-style-type: none"> • Three submissions were received re the Private Certifying Authority RFP and vetted by Montlaur. • An evaluation matrix dated 17 April 2018 prepared by Montlaur shows the evaluation conducted for all RFPs • Kudos was recommended by Montlaur and reasons were provided by Montlaur in support of the recommendation. <p>Regarding mitigation of conflicts of interest (cf ICAC publication 2007):</p> <ul style="list-style-type: none"> • Declaration from Kudos Building Certification dated 25 June 2018 to provide services in accordance with the RFQ document SOS6205 contains conflict of interest declaration. <p>No probity risks identified in relation to the appointment of this consultant.</p>
	Knight Frank Newcastle	<p>Letter from Knight Frank (Nick Land & Sean Fox) dated 5 June 2018 to COUNCIL (Allison Anthony) presenting property disposal strategy and consultancy fee proposal. A fee of \$10,000 was proposed,</p> <p>Email to Knight Frank (Nick Lane) from Council (Allison Anthony) dated 5 June 2018 indicating that COUNCIL</p>	<p>Regarding Council Procurement Procedures re Goods & Services between \$10,000 and \$20,000</p> <ul style="list-style-type: none"> • Document provided by Council entitled <i>Office Relocation Investigation (2 Biripi Way) Summary of Appointment of Consultants (as at Jan 2019)</i> indicates that no quotations were

Key requirements for the consultant engagements	Consultant engaged	Documents reviewed	OCM comments and observations
		<p>were appointing Knight Frank in accordance with its proposal.</p> <p>Email from Council (Allison Anthony) to Knight Frank (Nick Lane) dated 4 September 2018 seeking services re 2 x additional properties.</p> <p>Email dated 11 September 2018 from Council (Allison Anthony) to Nick Lane (Knight Frank) indicating additional work was addendum to original engagement.</p> <p>A signed declaration from Knight Frank Newcastle dated 25 June 2018 to provide services in accordance with the proposal submitted to Council on 5 June 2018 and any subsequent agreement in writing between the parties.</p>	<p>sought due to assumption the work scope would not exceed \$10,000.</p> <ul style="list-style-type: none"> • However, subsequent to initial engagement on 5 June 2018, Council requested Knight Frank to conduct work in relation to two additional properties. • A rate of \$ /hr, capped at \$5,000 was agreed • Actual cost was \$18,900 plus GST. <p>Regarding mitigation of conflicts of interest (cf ICAC publication 2007):</p> <ul style="list-style-type: none"> • The declaration from Knight Frank Newcastle dated 25 June 2018 contained a conflict of interest declaration. <p>No probity risks identified in relation to the appointment of this consultant.</p>
	RSM Australia	<p>Document provided by Council entitled <i>Office Relocation Investigation (2 Biripi Way) Summary of Appointment of Consultants (as at Jan 2019)</i> indicates that:</p> <ul style="list-style-type: none"> • RSM has been engaged to conduct a peer review of Financing Strategy. • Quotes were not obtained due to the estimate being <\$10k estimate 	<p>Regarding Council Procurement Procedures re Goods & Services < \$10,000:</p> <p>On information provided by Council, cost of engagement fell beneath the threshold of \$10,000. No requirement therefore to obtain more than one quote.</p> <p>No probity concerns identified in relation to the appointment of this consultant.</p> <p>Council should ensure that consultants engaged have the relevant provisions relating to conflicts of interest in the contracts/agreements.</p>

Key requirements for the consultant engagements	Consultant engaged	Documents reviewed	OCM comments and observations
		<ul style="list-style-type: none"> The engagement commenced in December 2018 No costs have been incurred to date <p>There were no other documents provided by Council in connection with this engagement.</p>	
	Local Government Legal	<p>There were no engagement documents located for this consultant.</p> <p>Document provided by Council entitled <i>Office Relocation Investigation (2 Biripi Way) Summary of Appointment of Consultants (as at Jan 2019)</i> indicates that</p> <ul style="list-style-type: none"> Quotes not obtained due to <\$10k estimate Local Government Legal has an ongoing engagement with Council, providing general legal services Actual cost: \$9,867.30 plus GST. 	<p>Regarding Council Procurement Procedures re Goods & Services < \$10,000:</p> <p>Council's Procurement Procedure notes that the thresholds for procurement are deemed to include GST. Therefore, the final contract value for the engagement was exceeding this threshold on the basis that the total cost of the engagement was \$10,854.25 (incl. GST). Council should ensure that there is a clear documented audit trail of the reasons for the threshold being exceeded without seeking more than one quote under the Procedure.</p> <p>Mitigation of conflicts of interest (cf ICAC publication 2007) does not appear to be applicable to this exercise. It is assumed that this has been dealt with through the terms of Council's ongoing engagement with the consultant.</p> <p>No probity risks identified in relation to this consultant engagement.</p>
	FutureSpace	Document prepared by Montlaur dated 16 November 2018. Document is marked for the attention of Allison Anthony (COUNCIL). Document is entitled <i>Mid Coast Council Workplace</i>	<p>Regarding Council Procurement Procedures re Goods & Services between \$20,001 and \$150,000:</p>

Key requirements for the consultant engagements	Consultant engaged	Documents reviewed	OCM comments and observations
		<p><i>Strategy Recommendation</i>. Document indicates that Mountlaur actioned an RFP on behalf of Council for workplace strategist. Submissions received from three firms. Mountlaur recommended Futurespace.</p> <p>Futurespace's quote was \$70,300.</p> <p>Mountlaur's evaluation matrix of the submissions</p> <p>Declaration signed by Futurespace on 9 November 2018 to provide services in accordance with the RFQ entitled <i>Mid Coast – Architect Designer RFP</i>, the service providers quotation submitted on 9/11/18 and any subsequent agreement between the parties in writing. Terms and conditions set out in <i>Hunter Councils – Terms of Engagement for Consultants</i>.</p>	<ul style="list-style-type: none"> • Three submissions were received for workplace strategist • An evaluation matrix prepared by Mountlaur shows the evaluation conducted for all RFPs • Futurespace was recommended by Mountlaur and reasons were provided for the recommendation. <p>Regarding mitigation of conflicts of interest (cf ICAC publication 2007):</p> <ul style="list-style-type: none"> • Declaration signed by Futurespace on 9/11/18 to provide services in accordance with the RFQ contains a conflict of interest declaration with no conflicts disclosed. <p>No probity risks identified in relation to the engagement of this consultant.</p>
	O'Connor Marsden & Associates	Not subject to this review.	Not subject to this review.

Site acquisition

Key requirements for the purchase of the land	Documents reviewed	OCM comments and observations
<p>Local Government Act 1993:</p> <ul style="list-style-type: none"> Section 55 (3) (d) states that a tender process is not required for a contract for the purchase or sale by a council of land. <p>Tendering Guidelines for NSW Local Government 2009:</p> <ul style="list-style-type: none"> Section 3.1 states that Councils are encouraged to use tendering process in a number of different circumstances, including where the sale or purchase of land may be considered controversial, contentious or political <p>The Council Procurement Policy makes no reference to the acquisition of land being subject to a tender process.</p> <p>The Council Procedure for the Procurement of Goods and Services makes no reference to the acquisition of land being subject to a tender process.</p>	<p>LATE REPORT NO.1 EXTRAORDINARY COUNCIL MEETING 2 NOVEMBER 2017. Subject of report: Land acquisition – former Masters Home Improvement Site, Taree</p> <p>Author: John Dougherty, Manager Property & Commercial Services</p> <p>Date: 2 November 2017</p> <p>Council Resolution 244/17, Council Meeting 2 November 2017. This document indicates that Council resolved unanimously to purchase the site located at the corner of Manning River Drive and Birpi Way Taree.</p>	<p>This report examines the implications associated with the acquisition of the land, including: financial/resource, legal, budget, risk and community impact. There is no reference within this document to any tendering process being undertaken for the purpose of acquiring a site for Mid Coast Council; however, this is not a requirement under section 55 (3) (d) of the Local Government Act 1993 for the purchase of land.</p> <p>There is no indication within this report that the acquisition of this site was considered controversial, contentious or political (cf Section 3.1, Tendering Guidelines for NSW Local Government 2009)</p> <p>There is no reference within the Council resolutions to any tendering process having been undertaken for the purpose of acquiring the land. Nor is there a reference to any report having been submitted to Council for its consideration proposing a tendering process be undertaken.</p>

Status reporting and Capital Expenditure Guidelines

Governance and accountability requirements	Documents reviewed	OCM comments and observations
<p>Division of Local Government Department of Premier and Cabinet Capital Expenditure Guidelines 2010</p> <ul style="list-style-type: none"> Section 12 states Councils must put mechanisms in place to report on all aspects of the project. Minimum reporting requirements for all capital expenditure projects include: <ul style="list-style-type: none"> quarterly reporting to the council on the progress of the project quarterly reporting to the council on the costs and budget variances regarding the project. Where costs and budget variances are reported by line item, the report should also include the impact on the total project any issue that may have an adverse impact on the project (this may include monetary and non-monetary inputs and outcomes). The risk management plan may be relevant in this regard 	<p>Report – Office Relocation Investigation – 20 December 2017. Author: Acting General Manager (Steve Embry)</p> <p>Report – Office Relocation Investigation – 24 January 2018</p> <p>LATE REPORT NO. 2 ORDINARY MEETING 28 FEBRUARY 2018 regarding Officer Relocation Investigation by Acting General Manager (Steve Embry)</p> <p>Biripi Way Investigation Update – Briefing note dated 18 July 2018. Author: Acting General Manager (Steve Embry)</p> <p>Confidential memo – Biripi Way Update – July 2018. Author: Acting General Manager (Steve Embry).</p> <p>Confidential briefing note - Biripi Way Update –10 Aug 2018</p> <p>2 Biripi Way, Taree Office Relocation Investigations update, 31 October 2018.</p> <p>Confidential Briefing Note to Councillors from the Council's General Manager (Adrian Panuccio) dated 27 November 2018 regarding Biripi Way Investigation Update: Submission of Capital Expenditure Review Report to OLG.</p>	<p>It appears that, in relation to section 12 of the Capital Expenditure Guidelines, updates to Council are occurring at least quarterly. While there is a gap in the adjacent column from Feb – July 2018, given the stage of the project being the initial commencement of the project and the reporting to Council at key milestones of the project, nothing sighted by OCM during the review indicates that the reporting requirements in the Capital Expenditure Guidelines have not been met.</p>

Governance and accountability requirements	Documents reviewed	OCM comments and observations
<ul style="list-style-type: none"> o reporting capital works projects in council's annual report, which is considered to be best practice. • Section 7 indicates that Councils are required to notify the Division of all capital expenditure projects to which these Guidelines apply, prior to the commencement of the project. 	<p>Letter from Council's General Manager (Adrian Panuccio) to the Office of Local Government Executive Director Tim Hurst dated 26 November 2018. Letter submits Capital Expenditure Review Report for Council Office Relocation.</p> <p>Capital Expenditure Review Mid-Coast Council Proposed Office Relocation 2 Biripi Way, Taree, November 2018.</p> <p>Attached to Report are the following plans:</p> <ul style="list-style-type: none"> • Probity and Governance Plan • Risk Management Plan • Business/Management Project Plan • Procurement Plan 	<p>The report furnished to the Office of Local Government by Council in November 2018 appears to discharge the Council's obligations regarding section 7 of the Capital Expenditure Guidelines.</p>

Should you require further information in relation to this retrospective review, please contact either Sarah Mullins on 0413 443 374 or myself on 0408 078 498.

Yours sincerely,



Andrew Marsden
Director

Appendix A: Statement of Responsibility

MidCoast Council is responsible for the preparation, conduct and management of the procurement activities associated with the Office Relocation Project in accordance with the Local Government Tendering Guidelines, the Local Government Act 1993, the Local Government (General) Regulation 2005 and the Capital Expenditure Guidelines. This responsibility includes designing, establishing and maintaining processes and controls relevant to managing potential probity risks.

Our responsibility is to assist Council to identify, assess and manage probity risks related to the Office relocation project such that compliance with the Local Government Tendering Guidelines, the Local Government Act 1993, the Local Government (General) Regulation 2005 and the Capital Expenditure Guidelines is achieved in all material respects. The matters raised in this report are only those which came to our attention during the course of performing our work and are not necessarily a comprehensive statement of all risks that exist or improvements that might be made.

Materiality was considered in both our planning and completion of our work. Judgements about materiality are made in light of surrounding circumstances and are affected by the size and nature of a deviation, or a combination of both. Deviations from the Local Government Tendering Guidelines, the Local Government Act 1993, the Local Government (General) Regulation 2005 and the Capital Expenditure Guidelines are considered to be material if they, individually or in aggregate, could reasonably be expected to influence the decisions resulting from the process under review, or which could reasonably be expected to seriously affect the reputation of the Council in its commercial dealings.

Limitations

Any comments or conclusions reached in relation to the availability or sufficiency of information are based on the understanding and representation made by representatives of MidCoast Council as we are not able to qualitatively assess the value of such information from a technical perspective.

The comments or advice provided in this report do not provide an assurance as defined by the Australian Audit and Assurance Standards Board. We therefore have not expressed any form of audit or assurance opinion and none should be inferred from any comments in the report. Any use of words or derivatives of “opinion”, “verify”, “finding”, “conclude” (other than in the context of the overall conclusion expressed in the cover letter) or other similar words have their ordinary meaning.

This report does not represent legal or financial advice.

Statement on Use

This report is provided solely to MidCoast Council and should not be quoted in whole or in part without our prior written consent. We disclaim any assumption of responsibility for any reliance on this report to any person other than MidCoast Council, or for any purpose other than for which it was prepared. We disclaim all liability to any other party for all costs, loss, damages, and liability that the other party might suffer or incur arising from or relating to or in any way connected with the contents of our report, the provision of our report to the other party, or the reliance on our report by the other party.

Statement of independence

All professional personnel involved in this engagement have met the independence requirements of the Australian professional accounting bodies.