

DIRECTOR LIVEABLE COMMUNITIES

2. THE BIGHT CEMETERY, WINGHAM – UPDATE 8

Report Author Paul De Szell - Director Liveable Communities

Date of Meeting 27 October 2021

Authorising Director Paul De Szell - Director Liveable Communities

SUMMARY OF REPORT

This report provides both Council and the community with an update on recent advice from Heritage section of the Department of Premier and Cabinet that has been received in relation to the Conservation Management Plan for The Bight Cemetery, Wingham.

SUMMARY OF RECOMMENDATION

That Council note the information provided in the report.

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 which have been transferred to an internal reserve.

LEGAL IMPLICATIONS

Council has sought legal advice (externally) in relation to several matters of interpretation of the Cemeteries and Crematoria Act 2013 and Council's Special Counsel has liaised directly with staff from Cemeteries and Crematoria NSW to assist in this interpretation.

ATTACHMENT

- A: Skeletal Remains – NSW Heritage Office – 1998
- B: The Bight Cemetery Conservation Management Plan - October 2021

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

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 in the above-mentioned report.

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.*

At the Council meeting of 16 December 2020 both Council and the community were provided 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.

At this meeting Council resolved 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'.*
4. *That Council acknowledge an error in the original report pertaining to the date in which the Heritage Reference Group received the information in relation to the draft CMP and The Bight Cemetery Restoration Action Plan.*
5. *That a letter be sent to families and contacts to update them.*

More recently, on 30 June 2021 both Council and the community were provided with a further update, which indicated that staff had continued to refine and correct the adopted Conservation Management Plan and confirmed the ongoing desire of staff to move forward and commence the restoration of the monuments and memorials which were laid over in July 2019.

The report also indicated that since the adoption of the Action Plan and Conservation Management Plan, staff had also been working through the advice provided by Cemeteries and Crematoria NSW (CCNSW) that was submitted in relation to the draft Conservation Management Plan and Action Plan for restoration (see Annexure A included in above report).

In particular, the last paragraph of the attachment to the advice received from CCNSW (Annexure A included in above report) states:

"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 of the holder's estate or their successors, with appropriate supporting documentation. That new holder can then give permission concerning any works to memorialisation of a grave. A cemetery operator cannot override that right. Beneficiaries of an estate may not necessarily be family members or those contacting Council. In addition, succession for those who pass away intestate is determined in accordance with intestacy rules set out in the Succession Act 2006".