



By email: For the Urgent attention of all Councillors and General Manager

Re: Item 9, Ordinary Council Meeting 28 July 2015

398 Cabbage Tree Road, Williamtown

General Manager and Councillors

TRRA Inc is very concerned about the recommendation from staff to

1) Rescind the resolution determined by Council on 25 November 2014, Minute No. 309 (ATTACHMENT 1) described as follows:

"1) Consent to Assignment of the Agreement for Lease and Lease from Castle Quarry Products Pty Ltd to Benelli Holdings Pty Ltd.

2) Authorise the Mayor and General Manager to sign all relevant legal documentation."

3) Assign the Agreement for Lease to Williamtown Sand Syndicate Pty Ltd (WSS) (ABN 56 606 820 875)

TRRA Inc would challenge this statement in the background report of Glen Bunny – Property Services Section Manager - Corporate services attached to Item 9 for Ordinary Council Meeting 28 July 2015

“Following an Open Tender process, Council entered into an Agreement for Lease (AFL) with Castle Quarry Products Pty Ltd (CQP) on 15 July 2013 for the purpose of extracting sand from the site. A \$250,000 security deposit was provided by CQP to Council as required by the AFL, which also included a number of milestones to be met for the preparation, lodgement and approval of relevant applications and licences. CQP has met the agreed milestones and the Sunset Date of 14 July 2016 remains unchanged.”

There was an ‘**Open Tender**’ process for this lease and it was carried out in accordance with the Code of Practice for Procurement New South Wales Government and Council by a properly constituted evaluation panel, including senior Council staff and an independent mining expert. The recommendation from this panel was to award the lease to M Collins & Sons Holdings Pty Ltd, a reputable company with extensive mining experience that had been in operation since 1975.

The tender process had eight requirements for the tenderer to comply with and the Evaluation Panel had seven criteria to assess the tender and award points for compliance. The highest rating tenderer was to be accepted as the preferred tender. The preferred Tenderer with the highest point score was M Collins & Sons.



Castle Quarry Products tender was specifically referred to as inadequate and not satisfying the requirements of the tender documentation.

CQP was a company with no assets, no bank account and two employees and was part of a company that Council Staff and Councillors was well aware from previous Land and Environment proceedings in October 2008 to have operated a sand mine illegally and had dubious financial capacity.

Council considered this 'in confidence' and rejected all the tenders without a plausible reason given, and arranged an un-minuted workshop with Collins and CQP which resulted in CQP being awarded the lease, the only reason given in the press subsequently by the Mayor being a higher royalty, so it appears all the other requirements, including: "The Financial Capacity to undertake the project." were not even considered in this flawed process, and now the company has been liquidated.

We strongly dispute the assertion that this ended up being an open tender process, with the Mayor, himself a major sand miner, taking a major role and not even declaring a non-pecuniary interest despite submitting a tender and withdrawing it at the last minute!

The Council now wants to transfer this lease for a second time, under the same conditions that failed with Benelli Holdings to another shelf Company that could not possibly comply with the original tender evaluation requirements. All this will do is compound an already flawed process.

- TRRA demands that Council cancel the lease agreement with CQP because it never satisfied the requirement that it had "The Financial Capacity to undertake the project."
- Repeat the whole tender process under the original requirements and evaluation criteria and accept the preferred tenderer recommended by the evaluation panel as they should have done the first time.

Yours sincerely

Margaret Wilkinson
Hon Secretary
Tomaree Ratepayers and Residents Association Inc.

Prepared in consultation with TRRA Committee members