

6. Twyford Hall options of future management

Twyford Hall is a significant Council facility which has been managed by a Section 355 Committee for some time. The current committee review identifies that changes to the management of the facility be recommended.

Group Manager, Community and Relationships

BACKGROUND

10 Council has been conducting a review of the operations of all of its committees constituted under section 355 of the NSW Local Government Act (1993). A number of significant issues have been identified that relate specifically to the Twyford Hall Committee that require timely reporting to Council.

Twyford Hall is located on land donated to the community of Merimbula and held in trust by the Council for this purpose. Twyford Hall has been managed by a Council Section 355 Committee since 1980, prior to which the land was managed under a private trust agreement. Over the years the committee has proven to be extremely active and has very entrepreneurial in its approach.

20 In 2004 Council took out a loan for the construction of two shops on site which have been let under a Council lease with the lease payments being used to repay the loan amount. The loan will be fully repaid in 2010 at which time the income from these rentals will be available to assist with the ongoing development of the Hall site and ongoing maintenance costs.

The Twyford Hall Committee currently has an approved Development Application for the construction on-site of an upgraded theatre and associated facilities. The Committee also have \$613,400 in bank accounts and have been very proactive in identifying funding and in utilising the facility to generate income. Council staff are also working with the Committee towards the lodging of a Jobs Fund application.

30 Throughout the Council committee review process, Twyford Hall has been dealt with as an individual case, along with Narira Village due to the unique nature of both these facilities. Staff have met with the Twyford Hall Committee on a number of occasions and identified a number of alternative models for future operation. The models have been discussed with Council's lawyers who have provided advice on the various options available.

Twyford Hall must be managed by Council in accordance with the *Local Government Act 1993* (the Act) and any requirements Council has as Trustee of the site. Section 35 of the Act provides that the land must be used and managed in accordance with:

- the plan of management applying to the land

- any law permitting the use of the land for a specific purpose or otherwise regulating the use of the land
- Division 2 Part 1 of Chapter 6 of the Act

40 Section 46 of the Act prevents the lease of community land except in accordance with a Plan of Management and public notification is required for any such lease, and Ministerial approval may be necessary if any objections are received or the term is in excess of five years.

Below are a number of options considered for the future management of Twyford Hall.

OPTION 1 - Twyford Hall remains a Section 355 Committee

As with all Council Section 355 Committees, Section 409(1) requires that all money and property received by a council must be held in the council's consolidated fund unless it is required to be held in council's trust fund. The current Committee review has been initiated following a detailed review of financial management of committees
50 commenced in April 2008. Council's lawyers have noted that if it has been the practice in the past for committees of the Council to hold, audit and account for committee funds, the Council has been, to that extent, acting in breach of s409 of the Act. The funds currently held by the Committee would need to be returned to Council for oversight and management with involvement by the Committee. This is not the preferred option of the Committee. Council staff believe that this model would be an onerous one for the Committee and staff due to the plans currently held by the Committee for redevelopment.

OPTION 2 - Twyford Hall moves to become an incorporated body and leases the Twyford Hall from Council to provide community and cultural events outlined in an adopted plan of management.

60 Confidential legal advice has been separately circulated to Councillors which outlines the review provided to Council by Lindsay Taylor Lawyers. Staff believe that a process could be put in place to establish an incorporated body, plan of management and lease which protects the community benefit of the centre and minimises risk to the Council.

There are a number of Council facilities that are currently managed through this model including the Eden Killer Whale Museum, Merimbula Museum and the Bega District Museum. Council also has agreements in place with private operators for the operation of pools and with Chambers of Commerce and SCT Ltd for Visitor Information Centres. A variety of lease/user agreements are also in place for pre schools and other
70 community activities.

OPTION 3 - Twyford Hall reverts to direct Council management.

This option would have considerable resource implications for the Council for which there is no current budget allocation. This would involve the appointment of centre management staff.

ISSUES

Legal

Separate legal advice has been circulated to Councillors. However to summarise:

- Council is currently not meeting its requirements under the Act for the management of funds held by Section 355 Committees and this needs to be addressed.
- A number of models for the future management of Twyford Hall have been reviewed and legal advice provided in relation to two – the Committee remaining as a Section 355 committee and lease to an incorporated body.

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Policy

Following the finalisation of the current committee review, updated policy and procedures will be prepared to encompass the new direction.

Asset

Twyford Hall is an important community and cultural asset. It is important that the current management issues are resolved and that a plan of management for the facility is developed, adopted by Council and the most appropriate management model implemented.

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Social / Cultural

As noted above the facility plays a critical role in contributing to the community and cultural life of the Shire. The work done by a committed group of volunteers to the upgrading and future development of this site at no cost to Council is to be commended.

Strategic

The support, continued involvement, recognition and development of volunteer management models is critical to the future of the Shire.

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Consultation

There has been considerable consultation with the current Section 355 Committee and with Council's lawyers to ensure the options being considered add value to the future development of a key Council and community asset.

Financial

There will be some legal costs associated with the establishment of an incorporated body and an appropriate lease/licence should Council resolve to move to this option.

The proposed model which sees the establishment of an incorporated body leasing the venue provides the avenue for this body to apply independent of Council for funding, to apply for tax deductibility status and to manage the site redevelopment.

110 Funds currently held by the Committee and to be recovered from the rentals of the shops would need to be formally granted to the committee through a separate funding agreement. This would provide additional surety to Council and the community about the proper allocation of these funds.

Operational Plan

The committee review is identified as a major project in the current operational plan and management of volunteers and committees is identified as an activity in the 2009-12 management plan.

CONCLUSION

120 Following considerable discussions, review of options and receipt of legal advice Council staff propose that the best model for the future development and management of Twyford Hall is through the establishment of an incorporated body for the specific purpose of the management of Twyford Hall to achieve the plan of management to be developed for the site. It is proposed that the Council's intent to enter into a lease with a body established for the purpose and a draft plan of management would also need to be advertised to ensure compliance with the Act.

RECOMMENDATION

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1. That Council advertise for 28 days its intention to enter into a lease with an incorporated body established for the purpose of managing and developing the Twyford Hall facility within the framework of a detailed plan of management for the site.
 2. That following closing of the advertising period, a report be prepared for Council outlining the detail of the:
 - Incorporation process
 - Management plan for the site
 - Proposed lease