

COUNCIL RESOLUTION EXTRACT FROM MINUTES 24 AUGUST 2015

ITEM 1 – GLENIFFER BRAE CALL FOR PROPOSALS SUBMISSIONS

114 COUNCIL'S RESOLUTION – RESOLVED UNANIMOUSLY on the motion of Councillor Merrin seconded Councillor Brown that –

- 1 The outcomes of the Call for Proposals process be noted.
- 2 A review of the Botanic Garden Plan of Management and Gleniffer Brae Conservation Management Plan commence as a matter of priority.
- 3 Council receive an update report before the end of the 2015 calendar year.
- 4 The draft Plan of Management and Conservation Management Plan be reported to Council for endorsement prior to exhibition.
- 5 A draft Planning Proposal be prepared to add 'Function Centre' as a permissible use in the RE1 Public Recreation zone for the Gleniffer Brae site through a Schedule 1 amendment and referred to the NSW Department of Planning and Environment for Gateway determination prior. The exhibition of the draft Planning Proposal occur concurrently with the draft Botanic Garden Plan of Management.
- 6 Letters be sent to the Call for Proposals submitters advising them that a Tender process will be required and will be undertaken following the review of the Plan of Management and finalisation of the Planning Proposal.
- 7 In the interim period, the part of Gleniffer Brae not under lease by the Conservatorium of Music be authorised to be used for uses consistent with the current Plan of Management and planning controls.

Variations The following variations were accepted by the mover and seconder -

- *Councillor Kershaw - the addition of the words 'as a matter of priority' to Point 2; and,*
- *Councillor Crasnich - the addition of Point 3.*

ITEM 1 GLENIFFER BRAE CALL FOR PROPOSALS SUBMISSIONS

On 8 September 2014, Council resolved to undertake a Call for Proposals process to receive submissions from interested parties for the future use of the area at Gleniffer Brae not under lease by the Conservatorium of Music. The Call for Proposals process has now been completed. This report details the options available to Council as a result of that process and recommends Council prepare a draft Planning Proposal to add *Function Centre* as a permissible use on the site and commence a review of the Botanic Garden Plan of Management and the Gleniffer Brae Conservation Management Plan to progress suitable uses.

RECOMMENDATION

- 1 The outcomes of the Call for Proposals process be noted.
- 2 A review of the Botanic Garden Plan of Management and Gleniffer Brae Conservation Management Plan commence.
- 3 The draft Plan of Management and Conservation Management Plan be reported to Council for endorsement prior to exhibition.
- 4 A draft Planning Proposal be prepared to add 'Function Centre' as a permissible use in the RE1 Public Recreation zone for the Gleniffer Brae site through a Schedule 1 amendment and referred to the NSW Department of Planning and Environment for Gateway determination prior. The exhibition of the draft Planning Proposal occur concurrently with the draft Botanic Garden Plan of Management.
- 5 Letters be sent to the Call for Proposals submitters advising them that a Tender process will be required and will be undertaken following the review of the Plan of Management and finalisation of the Planning Proposal.
- 6 In the interim period, the part of Gleniffer Brae not under lease by the Conservatorium of Music be authorised to be used for uses consistent with the current Plan of Management and planning controls.

ATTACHMENTS

There are no attachments for this report.

REPORT AUTHORISATIONS

Report of: Renee Campbell, Manager Environmental Strategy and Planning
Authorised by: Andrew Carfield, Director Planning and Environment, Future City and Neighbourhoods

BACKGROUND

Gleniffer Brae is a site listed on the NSW State Heritage Register and adjoins the Wollongong Botanic Garden. In 2012, a draft Planning Proposal was considered by Council for the rezoning and reclassification of the site. The Planning Proposal was not progressed, and Council resolved to work with stakeholders to consider options for the future use of the site.

A stakeholder engagement process was undertaken to inform the values of the site to be considered in determining a future use and the outcomes reported to Council on 8 September 2014. Council resolved that:

- 1 *A Call for Proposals process, as outlined in the report, be undertaken to receive submissions from interested parties for use of the area not currently under lease by the Conservatorium of Music at Gleniffer Brae.*
- 2 *Submissions made in response to the Call for Proposals process must demonstrate how they address each key community value as documented in the report.*
- 3 *A further Council report be prepared detailing the outcomes of the Call for Proposals process and any associated costs and recommendations for Council's consideration.*
- 4 *The report referred to in Part 3, be subject of a Councillor Briefing Session before it comes to Council.*

The Call for Proposals was advertised in local newspapers and via Tenderlink, and closed on 17 March 2015. Three (3) proposals were received and have been reviewed and scored by the Assessment Panel.

The Call for Proposals assessment panel assessed all proposals in accordance with the following assessment criteria and weightings as set out in the Call for Proposals documents:

- Demonstrate the extent to which your proposed use of the site will maintain or enhance the heritage values of Gleniffer Brae. Your proposal should include concept plans (if necessary) showing your proposed development/use in relation to the Manor House and surrounds – **12%**
- Demonstrate your financial capacity to maintain the financial viability of your proposal as outlined in a business plan – **12%**
- Demonstrate how your proposal will provide for community access to Gleniffer Brae – **12%**
- Demonstrate how your proposal will enhance tourism potential for Gleniffer Brae – **12%**
- Demonstrate how your proposal will be compatible with the existing users/tenants of Gleniffer Brae – **12%** Demonstrate how your proposal will add to and improve the security of Gleniffer Brae and the Botanic Garden – **12%**

- Demonstrate how your proposal will link to and integrate with the Botanic Garden – **12%**
- Specify what, if any, terms and conditions you are seeking as part of your lease/licence of the site including a rental offer, contribution to outgoings and any contribution that may be offered towards maintenance costs of area proposed to be occupied – **16%**.

Mandatory Requirements

- Acknowledgement that this site is classified as Community Land under the Local Government Act 1993 and any proposed lease or license will be subject to statutory advertising in compliance with Section 46 and/or 47 of the Local Government Act 1993.
- Acknowledgement of the current lease between Council and the Conservatorium of Music (CoM) for use of part of the site and the requirement that the CoM have rights and privileges under that lease.
- Acknowledgement that Council makes no warranty that the site will be suitable for the proposed use and that all works (including development applications) required to accommodate the proposed use will be at the proponent's costs.
- Acknowledgement that any new use may require development consent and an amendment to the Plan of Management and that these processes may take no less than 6 months.
- Acknowledgement that the site is listed as a site of State Significance on the NSW State Heritage Register.
- Acknowledgement that any commercial use that is not exempt under Section 46 of the Local Government Act 1993 may be subject to a second stage tender under Division 1 of Part 3 of the Act if the proposed term exceeds 5 years.

It is noted that these criteria were developed to align with the values of the site, identified through an extensive period of consultation with stakeholders, as detailed in the Council report of 8 September 2014.

As indicated above, three (3) proposals were received in response to the Call for Proposals. As these submissions contain information that is commercial in confidence, the proposals are discussed in a general nature below.

The uses proposed in the three proposals can be summarised as:

- volunteer run tours, functions and events with off-site catering and on-site office (not for profit use)
- premium restaurant and function centre (commercial use "A")
- off-site catered functions and events (commercial use "B").

The Call for Proposals assessment panel utilised a weighted scoring method for the assessment of proposals which allocates a numerical score out of 5 in relation to merit offered by the submissions to each of the assessment criteria as specified in the Call for Proposals documentation. The method then takes into account pre-determined weightings for each assessment criteria which provides for a total score out of 5 to be calculated for each submission. The submission with the highest total score is considered to be the submission that best meets the requirements of the Call for Proposals documentation.

Table 1 below summarises the results of the Call for Proposals assessment and the ranking of submissions.

TABLE 1 – SUMMARY OF CALL FOR PROPOSALS ASSESSMENT

Submission	Ranking
Commercial use “A”	1
Commercial use “B”	2
Not for Profit community use	3

PROPOSAL

Based on the evaluated criteria, the submission by Commercial Use “A” has been assessed as being the most meritorious by acknowledging all mandatory criteria and addressing the key community values of the site to the greatest extent; that is, it provided a better financial return on the asset which would assist in its long term maintenance and viability, would be expected to result in higher visitation and enhanced community access, and would allow for its promotion as an iconic Wollongong site.

However, as was highlighted in the mandatory criteria and acknowledged by all respondents, any commercial use that is not exempt under Section 46 of the *Local Government Act 1993* may be subject to a second stage Tender under Division 1 of Part 3 of the Act if the proposed term exceeds 5 years. It is reasonable to assume that in order to recoup significant initial set up and required capital costs and due to the nature of the wedding and function industry (with bookings 12-24 months in advance), that long term lease options will be required for between 10-20 years for most commercial operators. A Tender process is therefore required to facilitate a commercial use at Gleniffer Brae.

It is noted that the Not for Profit submission could be accepted without the need to go to Tender. Although this would reduce the time associated with a Tender process, this is not recommended as the assessment undertaken for the Call for Proposals process ranked the Not for Profit submission as the lowest submission.

In addition to the Tender process, implementing a future use will also require changes to the existing Plan of Management and planning controls for the site. This is discussed in more detail below.

MATTERS FOR CONSIDERATION IN DETERMINING AND IMPLEMENTING NEW USES AT GLENIFFER BRAE

2006 Plan of Management for Wollongong Botanic Garden (including Gleniffer Brae and Kooloobong Oval)

A Plan of Management is a document that provides a framework for the management and use of areas of community land. The plan enables management to proceed in an efficient and sustainable manner, helps reconcile competing interests, identifies priorities for allocation of available resources and facilitates public understanding. Periodic review of a Plan of Management also enables changing social, economic and ecological conditions to be taken into account as they arise and where necessary, the plan can be amended to reflect these changes. Under the *Local Government Act 1993*, community land is to be used and managed in accordance with a Plan of Management and other relevant legislation relating to the use of land such as the *Environmental Planning and Assessment Act 1979*.

In 2006 Council adopted the Plan of Management for Wollongong Botanic Garden (including Gleniffer Brae and Kooloobong Oval) to ensure that any future use of Gleniffer Brae and the Botanic Garden maximises and encourages community use of these facilities whilst at the same time conserving the historical significance of the site and retaining the general amenity of the area. Future development and management of Gleniffer Brae is guided by the Conservation Management Plan (Tropman and Tropman, 2001) for Gleniffer Brae, which is appended to the Plan of Management.

Both the Wollongong Botanic Garden Plan of Management and Gleniffer Brae Conservation Management Plan are due for review. At the time these documents were written, Council was managing weddings and functions at Gleniffer Brae as a short term casual use. This service ceased in 2009.

The Call for Proposals process which was predicated on identified key community values for the site, indicated that changes will be required to the Plan of Management and Conservation Management Plan to facilitate the types of uses proposed by respondents on an ongoing leasehold rather than short term casual license basis.

Currently, the only permissible use for the area within the Manor House not currently leased to the Conservatorium of Music is *"The holding of public and private functions and exhibitions in those areas unhatched in figure 2 and the courtyard. The granting of short term casual licence(s) for those purposes for a duration of no longer than 7 days."*

Based on the potential types of uses indicated in the Call for Proposals submissions, the permissible uses stipulated in the Plan of Management will require review. The Plan of Management review process will involve further stakeholder engagement and requires any proposed amendment to be exhibited for a minimum of 42 days for public comment with the results of the exhibition period to be considered in a further report to Council.

Wollongong Local Environmental Plan 2009 - Permissibility

An additional planning and approval consideration relates to the current RE1 Public Recreation zoning of the site. As noted, until 2009 Council was managing weddings and functions at Gleniffer Brae as a short term casual use. With the introduction of the Standard Template Wollongong LEP in 2009, "Function Centre" is now a defined use and is not permissible in the RE1 Public Recreation zone. All three proposals received during the Call for Proposals process identified functions as a use for the site. It is noted that there is a difference between holding functions in a building, as an ancillary use, and a function centre, where only functions are held. For example, someone may use an approved restaurant to hold a function, but the defined use of the building is as a restaurant.

If Council wishes to encourage the use of Gleniffer Brae for functions, noting this was a previous use until 2009 and that this use has been identified in the Call for Proposals process, a draft Planning Proposal could be prepared to allow "Function Centre" as a permissible use in the RE1 Public Recreation zone for this site, through a Schedule 1 amendment. This would add an additional use for this site only, and not amend the land use table for the RE1 Public Recreation zone across the City.

An alternative approach to facilitating a function centre on this site, is to utilise the Heritage Conservation Incentive Clause 5.10(10) in the Wollongong LEP 2009, as part of the assessment of a Development Application. The incentive provisions enable, notwithstanding the zoning of the site, for any purpose if the consent authority is satisfied that:

- a the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and
- b the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and
- c the consent to the proposed development would require that all the necessary conservation work identified in the heritage management document is carried out, and
- d the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and
- e the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

Council officers consider the most transparent and appropriate way to facilitate the use of the site as a function centre is to allow this use through a Schedule 1 amendment. Community feedback would be sought during the public exhibition of a draft Planning Proposal and considered before finalising the Planning Proposal.

As Gleniffer Brae is owned by Council and the draft Planning Proposal is a Council initiative, it is recommended that Council advise the NSW Department of Planning and Environment, that Council does not wish to utilise the delegation to finalise the Planning Proposal in this instance.

NSW Heritage Act Approval Requirements

It is also relevant to note that any proposed new use and any new resulting works including changes to the building or grounds, or any new development within the site's defined State Heritage Curtilage would require a Section 60 consent under the NSW Heritage Act 1977. This would be a complex process and require detailed consideration of heritage impacts, should such changes be required to facilitate a new use. As such, it is recommended in this report that the Conservation Management Plan be reviewed and updated concurrently with the Plan of Management to clearly define the community accepted parameters for any such development, prior to going to Tender.

In summary, the following actions would need to occur:

- A Review and amendment of the Wollongong Botanic Garden Plan of Management (including Gleniffer Brae Conservation Management Plan)
- The preparation of a draft Planning Proposal to make "Function Centre" a permissible use on the site
- Tender process to determine the preferred tenderer for the site
- A Development Application to allow the activity to occur (this would be undertaken by the successful tenderer)
- Heritage Council NSW approval under Section 60 of the NSW Heritage Act 1977 for the proposed use, and any changes proposed to the interior of the building or grounds.

The Call for Proposals process has been essential in clarifying for Council the types of uses that best satisfy the key community values for the site. This knowledge is required to facilitate required next steps to allow implementation of any new uses.

The Call for Proposal assessment process has indicated that having a viable and professional business underpin the future uses at Gleniffer Brae is the best way to maximise all community values to the greatest extent, and still incorporate various community/volunteer uses such as tours and information talks into these operations.

In view of the steps needed to facilitate future uses at Gleniffer Brae, Table 3 details a sequence of tasks and estimated timeframes:

TABLE 3 – TASKS, TIMEFRAMES AND RESPONSIBILITIES

Task	Estimated Timeframe	Responsibility
Prepare draft Botanic Garden Plan of Management and draft Gleniffer Brae Conservation Management Plan review, including consultation and preliminary public consultation (Council report required to endorse draft for exhibition)	Sept 2015 – May 2016	Council
Preparation of a draft Planning Proposal to allow “Function Centre” as a permissible use on the site, including Gateway determination. Noting that exhibition will occur with draft Plan of Management	Sept 2015 – May 2016	Council
Report draft Botanic Garden Plan of Management, draft Gleniffer Brae Conservation Management Plan review to Council prior to exhibition. Including Councillor Briefing	June 2016	Council
Exhibition of draft Botanic Garden Plan of Management, draft Gleniffer Brae Conservation Management Plan review, and draft Planning Proposal	June 2016 – July 2016 (42 days)	Council
Council Report on outcomes of the exhibition	September 2016	Council
If endorsed, finalise Planning Proposal and Plan of Management	October 2016	Council
Open Tender process, assessment and Council Report for decision	October 2016 – December 2016	Council
DA and Heritage approvals of approved use	2017	Proponent and Council
New use commences	2017/2018	Proponent

In view of the estimated timeframe for a new use to commence as outlined above, Council officers have considered ways to facilitate use of the site consistent with the Plan of Management and current planning controls in the interim. The permissibility of the following uses have been considered:

Possible Use	Permissible in RE1 zone	Permissible in PoM
Tours	Yes	Yes – if short term
"Themed" dinner parties (like murder mysteries) with capped numbers for a set price 3-4 course meal. Council takes bookings, and caterer provides dinner service	Yes	Yes – if short term

Possible Use	Permissible in RE1 zone	Permissible in PoM
Restaurant	Yes – with development consent	No
Take away food and drink" and "kiosk	Yes – with development consent	No
Information and education facilities – include Visitor Centre, Art Gallery, Museum	Yes	Yes – if short term
Lease to Conservatorium of Music	Yes – Education Establishment with development consent	No
Community Groups eg Friends of Wollongong Botanic Garden / National Trust etc for one-off special events	Yes	Yes

It is recommended that the part of Gleniffer Brae not leased by the Conservatorium of Music be authorised to be used for uses consistent with the current Plan of Management of the planning controls.

CONSULTATION AND COMMUNICATION

As reported to Council on 8 September 2014, a comprehensive community engagement process occurred in the lead up to the formal Call for Proposals process. The outcomes of this consultation are reflected in the key community values which became assessable criteria to score submissions. The Call for Proposals process has been conducted by Council Officers and observed by an independent community member.

However to progress any future use at Gleniffer Brae, there will be further opportunities for community consultation. It is recommended Council commence the review of the Botanic Garden Plan of Management and preparation of the draft Planning Proposal, with both processes allowing for further community feedback.

PLANNING AND POLICY IMPACT

This report contributes to the delivery of Wollongong 2022 under the objective 'Residents are able to have their say through increased engagement opportunities and take an active role in decisions that affect our city' (Community Goal 'We are a connected and engaged community').

It specifically delivers on core business activities as detailed in the Botanic Garden and Annexes Service Plan 2015-16 ('Facilitate the future uses of Gleniffer Brae').

OPTIONS

There are numerous options available to Council as a result of the Call for Proposals process, as outlined in the following table:

TABLE 4 – OPTIONS

ISSUE	DISCUSSION
Timing of Plan of Management and Conservation Management Plan Review: a) Before; or b) Concurrent with tender	It is considered prudent to review the permissible uses and conservation strategies prior to going to tender. This will give transparency and certainty to all stakeholders, including tenderers.
Lease for type of usage: a) Commercial with community access (tender); or b) Not for Profit (no tender required)	The Call for Proposals process has ranked commercial uses as meeting all criteria to a greater extent than Not for Profit.
Facilitate the use of the site as a 'Function Centre' through a) A Schedule 1 Amendment to enable a site specific additional use; or b) Use of the Heritage incentive provisions	The most transparent and appropriate way to facilitate the use of the site as a function centre is to allow this use through a Schedule 1 amendment to the Wollongong LEP 2009.

FINANCIAL IMPLICATIONS

The review of the Botanic Garden Plan of Management (including the Gleniffer Brae Conservation Management Plan) and the preparation of the draft Planning Proposal can be funded from existing operating budgets, and will primarily involve staff time.

CONCLUSION

By following the recommendations of this report, Council will progress with implementing a suitable new use for those areas at Gleniffer Brae not currently under lease to the Conservatorium of Music.

Call for Proposals for Use of Part of Gleniffer Brae – Assessment Spreadsheet

	Commercial Use “B”		Not for Profit Community Use		Commercial Use “A”							
	Score (0-5)	Result (Score x %)	Score (0-5)	Result (Score x %)	Score (0-5)	Result (Score x %)						
Criteria 7 - Demonstrate the extent to which your proposed use of the site will maintain or enhance the heritage values of Gleniffer Brae. Your <i>Proposal</i> should include concept plans (if necessary) showing your proposed development/use in relation to the Manor House and surrounds												
Weighting 12%	3	0.36	3	0.36	3	0.36						
Criteria 8 - Demonstrate your financial capacity to maintain the financial viability of your proposal as outlined in a business plan												
Weighting 12%	1	0.12	1	0.12	3	0.36						
Criteria 9 - Demonstrate how your proposal will provide for community access to Gleniffer Brae												
Weighting 12%	3	0.36	3	0.36	3	0.36						
Criteria 10 - Demonstrate how your proposal will enhance the tourism potential for Gleniffer Brae												
Weighting 12%	3	0.36	2	0.24	4	0.48						
Criteria 11 - Demonstrate how your proposal will be compatible with the existing users/tenants of Gleniffer Brae												
Weighting 12%	3	0.36	3	0.36	3	0.36						
Criteria 12 - Demonstrate how your proposal will add to and improve the security of Gleniffer Brae and the Botanic Garden												
Weighting 12%	4	0.48	3	0.36	5	0.60						
Criteria 13 - Demonstrate how your proposal will link to and integrate with the Botanic Garden												
Weighting 12%	4	0.48	4	0.48	4	0.48						
Criteria 14 - Specify what, if any, terms and conditions you are seeking as part of your lease/licence of the site including a rental offer, contribution to outgoings and any contribution that may be offered towards maintenance costs of area proposed to be occupied												
Weighting 16%	4	0.64	3	0.48	5	0.80						
TOTALS		3.16		2.76		3.80						