

# Direct engagement of NSW Soil Conservation Service to restore Bungawalbin Levee

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## Recommendation

That Council:

1. Endorse the direct engagement of the NSW Soil Conservation Service, as permitted under the *Local Government Act 1993*, to project manage and deliver the on-ground restoration of Bungawalbin Levee up to a value of \$6.5M (excl GST).
2. Authorise the General Manager to enter contract negotiations with the NSW Soil Conservation Service and sign the contract on behalf of Council.

## Key points

1. The NSW Soil Conservation Service has been identified as a suitable provider to manage and deliver the on-ground restoration of Bungawalbin Levee. Their involvement will provide much needed resources, capacity and expertise to maximise the chances of successful, on time delivery of the restoration works.
2. The NSW Soil Conservation Service can be directly engaged, saving on time and resources. Their engagement will also increase the value for money and maximise the benefit to the local community.
3. While the NSW Soil Conservation Service can be directly engaged, the value of the engagement (up to \$6.5M) is beyond the delegation of the General Manager, and Council approval is required to negotiate and award the contract with Soil Con.

## Background

Bungawalbin Levee is an earthen flood mitigation asset of Rous County Council (Rous), located between Woodburn and Coraki in the Richmond Valley Local Government Area (LGA), which was damaged in the catastrophic and major flooding in February and March 2022. Rous has been successful in obtaining \$6.9M from the Natural Disaster Relief Assistance Program (NDRA) which is part of the State and Commonwealth Government's Disaster Recovery Funding Arrangements (DRFA) to restore Bungawalbin Levee to its pre-2022 flood condition.

The project needs to be completed by 30 June 2026, with a possible extension available to February 2027 if required.

While securing \$6.9M to restore the levee is very positive, it is beyond the capacity of Rous to successfully deliver the on-ground restoration activities in the allocated timeframe. To complete the project within the allocated timeframe, management and delivery of the on-ground restoration activities needs to be outsourced.

### Benefits of directly engaging NSW Soil Conservation Service

The NSW Soil Conservation Service ('Soil Con'), which is a commercial business unit within the NSW Department of Regional NSW, has been identified as suitable provider of this work. Soil Con are well known to Rous and the mid-Richmond floodplain landowners through their recent successful delivery of the Northern Rivers Drainage Reset Program on behalf of the NSW

Reconstruction Authority. This recent work has highlighted Soil Con's ability to provide value for money and to maximise the benefit of funding for the local community. Further, Soil Con is already familiar with the Bungawalbin Levee, having completed an assessment of the levee toe/creek bank erosion in 2023. Soil Con have the expertise and capacity to deliver the required on-ground restoration of Bungawalbin Levee and can meet the allocated timeframe for completion.

As a statutory body representing the Crown, Soil Con can be directly appointed without a tender process.<sup>1</sup> Soil Con offers expert advice and practical solutions, and will work collaboratively with earthworks subcontractors to achieve positive outcomes for the levee asset and the nearby Bungawalbin Creek. Soil Con has proven experience in the region, and established relationships with earthworks subcontractors and materials suppliers, so that most of the grant funding will be injected into the local economy.

### Scope of proposed engagement

If Council supports the recommendation to directly engage Soil Con to project manage and deliver the identified works, more detailed contract negotiations are needed once the full scope of work/restoration activities have been confirmed.

This is due to the restoration project occurring with the following gateway milestones:

1. Rous led site investigations including comprehensive surveying of the levee and geotechnical investigation – currently underway with contractors engaged.
2. Rous led repair option assessment and prioritisation, along with detailed design and repair instructions – due for completion by July 2025 by contractors.
3. Proposed NSW Soil Conservation Service led delivery of the on-ground repair as identified and detailed in Gateway 2. Up to \$6.5M may be available to undertake the necessary on-ground repairs.

The exact repairs required to restore the levee will be determined, prioritised and costed during Gateways 1 and 2, and these will form the scope of works to be delivered by Soil Con. Gateways 1 and 2 are estimated to cost \$400,000 (excl GST). These will then be approved by NSW Public Works to ensure they are eligible under the NDRA program. Eleven (11) preliminary repair sites have been identified and endorsed by NSW Public Works and these are likely to represent the types of repairs required, which Soil Con have confirmed they are capable of delivering. Endorsing the direct engagement of Soil Con now, will mean no delay in undertaking the repair and allowing the project to be completed on time.

### **Finance**

The Natural Disaster Relief Assistance Program (NDRA) which is part of the State and Commonwealth Government's Disaster Recovery Funding Arrangements (DRFA) will provide all required funds to complete the restoration of Bungawalbin Levee. A Tripartite Funding Agreement between NSW Reconstruction Authority, NSW Public Works and Rous has been developed which will see the allocated funds pre-paid to Council in instalments across the life of the project. This will allow Council to maintain positive cash flow for this project and mean that adequate budget is available to engage Soil Con and undertake the identified restoration activities.

### **Legal**

Section 4B(2)(e) of the *Soil Conservation Act 1938* provides that Soil Con is a statutory body representing the Crown.

Section 55(3)(b) of the *Local Government Act 1993* provides that a council (including a county council) is not required to invite tenders before entering into a contract with a statutory body representing the Crown.

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<sup>1</sup> [Section 55](#)(3)(b) of the *Local Government Act 1993*.

Rous has the legal authority to directly engage Soil Con without first inviting tenders, however the value of the engagement (up to \$6.5M) is beyond the delegation of the General Manager, and Council approval is required to negotiate and award the contract with Soil Con.

### **Consultation**

Landowners and stakeholders with an interest in Bungawalbin Levee have not been consulted on this proposed engagement however it is anticipated they will be supportive and value the expertise and experience that Soil Con will bring. The proposed approach was developed through internal discussions between the relevant teams in Planning and Delivery, Operations and Governance and informed by preliminary discussions with Soil Con.

If Soil Con is engaged to deliver the restoration of Bungawalbin Levee, landowners along the levee will be advised and Rous will play a key role in the initial interactions and securing landowner access agreements.

### **Conclusion**

The direct engagement of the NSW Soil Conservation Service to manage and deliver the on-ground restoration activities has many benefits. Their involvement with the project will provide much needed resources, capacity and expertise to maximise the chances of a successful and on time delivery of the restoration works for this important community flood asset. Their engagement will also increase the value for money and maximise the benefit to the local community. The engagement of the NSW Soil Conservation Service follows on from their successful completion of other major programs on the floodplain, which has earned them the respect of local landowners.