

10 August 2023

██████████  
Director, Sector Performance and Intervention  
NSW Office of Local Government - Nowra  
Locked Bag 3015  
Nowra NSW 2541

By email only: [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au)

**Attention:** ██████████

Dear ██████████

### **Bioelektra Australia Pty Ltd**

1. Council refers to your letter of 16 May 2023 received on 17 May 2023.
2. Council also refers to its responses to you dated:
  - a. 9 June 2023 (**9 June Letter**); and
  - b. 7 July 2023 (**7 July Letter**).
3. Following the 7 July Letter, Council has now concluded its inquiries with the assistance of its external solicitors. This letter is an update as foreshadowed in paragraph 28 of the 7 July Letter.

### **Delivery Phase Bank Guarantee**

4. As set out in the 7 July Letter, Council did not receive the Delivery Phase Bank Guarantee (to the value of \$2,000,000) which the Contractor was required to provide under the Contract as a precondition to access to the site.
5. On the basis of a review of relevant documents and interviews with project staff conducted by Council's external solicitors, Council's external solicitors have concluded that:
  - a. In January 2022 and March 2022, Council staff requested that the Contractor provide the Delivery Phase Bank Guarantee as required under the Contract.
  - b. The Contractor advised the Principal's Representative's delegate at some time after March 2022, that the Delivery Phase Bank Guarantee was to be provided by its financier (Cerberus), however it would not be in a position to provide the



[Redacted]

Council considers that it has answered all of the matters raised in your correspondence. If you need further information about this matter, please contact [Redacted], City Performance on (02) 4429 [Redacted].

Yours faithfully

[Redacted Signature]

**Chief Executive Officer (Acting)**