A Council meeting will be held on 25 June 2019 in the Council Chambers located Elbow Street West Kempsey commencing at 9.00am
1 OPENING PRAYER

“Dear Lord, help us in our deliberations today so that our decisions will be for the greater good for the whole of Kempsey Shire - Amen”.

2 ACKNOWLEDGEMENT OF COUNTRY

“Council acknowledges that this meeting is being held on the traditional lands of the Dunghutti People”.

3 APOLOGIES AND APPLICATIONS FOR A LEAVE OF ABSENCE BY COUNCILLORS

That the apology submitted by Councillors for non-attendance at the meeting be accepted and leave of absence granted.

4 CONFIRMATION OF MINUTES

That the minutes of the ordinary meeting of Kempsey Shire Council dated 21 May 2019 be confirmed.

Attachments

1. draft-minutes-2018-05-21 [4.1.1 - 20 pages]

5 DISCLOSURES OF INTERESTS

That Councillors' declared interests be noted.

6 ITEMS PASSED BY EXCEPTION

The council or a committee of council may, at any time, resolve to adopt multiple items of business on the agenda together by way of a single resolution.

Before the council or committee resolves to adopt multiple items of business on the agenda together, the chairperson must list the items of business to be adopted and ask councillors to identify any individual items of business listed by the chairperson that they intend to vote against the recommendation made in the business paper or that they wish to speak on.

The council must not resolve to adopt any item of business that a councillor has identified as being one they intend to vote against the recommendation made in the business paper or to speak on.

RECOMMENDED:

That the recommendations contained in the following items be adopted:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>8.1</td>
<td>Local Traffic Committee Meeting held 4 June 2019</td>
</tr>
<tr>
<td>9.6</td>
<td>Verge and Eden Street Sporting Complex Masterplan</td>
</tr>
</tbody>
</table>
9.7 Proposed Road Closure off Maria River Road
9.8 Statement of Cash and Investments
9.9 Notice of Motions not Included
11.1 Legal Matters
11.2 Tender for Supply and Installation of Piling for Back Creek Footbridge
7 MAYORAL MINUTES

7.1 2019 LOCAL GOVERNMENT NSW ANNUAL CONFERENCE

Officer  Liz Campbell, Mayor
File No  F19/1720
Attachments  Nil

PURPOSE

To determine voting delegates and Councillor attendance at the 2019 Local Government NSW Annual Conference being held at The William Inglis Hotel, Warwick Farm from 14 – 16 October 2019.

RECOMMENDATION

1 That preliminary conference registration and accommodation reservations be made for the attendance of the Mayor and other delegates as nominated by Council.
2 That the two other voting delegates to the conference be determined.
3 That any other Councillors wishing to attend the conference be endorsed for registration.

BACKGROUND

This year’s Local Government NSW (LGNSW) Annual Conference (Conference) is from Monday 14 to Wednesday 16 October at the William Inglis Hotel, 155 Governor Macquarie Drive, Warwick Farm.

The Annual Conference is the main policy making event for the local government sector. It is council’s opportunity to submit motions for consideration and debate by delegates. Motions passed at Conference become Resolutions, which LGNSW takes forward on behalf of Council, as part of the LGNSW sector’s advocacy agenda.

As 2019 is a Board election year, voting for the LGNSW President and Director positions will also take place at this year’s Conference.

Registration – as a voting delegate

Voting delegates must be registered to attend the Conference and be registered as a nominated voting delegate. Council’s voting delegates names are to be provided to LGNSW no later than midnight (AEST) Friday, 20 September 2019.

This year the Conference will involve two types of voting and LGNSW is required to develop two separate rolls of voters:

1. voting on motions - To vote on motions, delegates must be an elected member of a council, county council, the Lord Howe Island Board (LHIB), Norfolk Island Regional Council (NIRC) or Related Local Government Body (RLGB) or an Administrator appointed in accordance with the Local Government Act 1993.
2. voting in the election for Office Bearers and the Board (Board election) - To vote in the Board election, delegates must be a Councillor of a council which is an Ordinary member.

Local Government NSW has issued Kempsey Shire Council three voting entitlements:
1. Voting on motions, and
2. Voting in the election for Office Bearers and the Board.

Motions
LGNSW members are invited to submit motions for possible debate at Conference from Monday 24 June via the online portal.

Deadlines
Members are asked to submit their motions by 12 midnight (AEST) on Monday 19 August 2019 to allow printing and distribution of the Business Paper before the Conference. In line with the LGNSW rules, the latest date motions can be accepted for inclusion in the Conference Business Paper is 12 midnight (AEST) on Monday 16 September 2019.

The below figures are an estimate only and are per Councillor to attend the Local Government NSW Conference.

<table>
<thead>
<tr>
<th>Estimated Budget Costs per head</th>
<th>$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conference Registration (Early Bird)</td>
<td>900.00</td>
</tr>
<tr>
<td>Accommodation (4 nights @ $225 per night)</td>
<td>900.00</td>
</tr>
<tr>
<td>Meals</td>
<td>100.00</td>
</tr>
<tr>
<td>Return Flights (Port Macquarie to Sydney)</td>
<td>400.00</td>
</tr>
<tr>
<td>Airport Fares (Taxi)</td>
<td>200.00</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>2,500.00</strong></td>
</tr>
</tbody>
</table>

For more information on this event please visit the Local Government NSW website: https://lgnsw.org.au/events-training/local-government-nsw-annual-conference/voting-delegates-1

Councillors nominating for registration need to be mindful that cancellation penalties apply for the conference and accommodation. Councillors will need to check requirements if it becomes necessary for a registered delegate to cancel.
8 REPORTS OF COMMITTEES

8.1 LOCAL TRAFFIC COMMITTEE MEETING HELD 4 JUNE 2019

Officer                  Robert Fish, Director Operations & Planning
File No                  F19/1958
Attachments
1. Local Traffic Committee Minutes 4 June 2019 [8.1.1 - 11 pages]

PURPOSE

For Council to adopt the minutes of the Local Traffic Committee meeting held on 4 June 2019.

RECOMMENDATION

That Council notes the minutes and adopts the recommendations of the Local Traffic Committee meeting of 4 June 2019.

COMMENTARY

A copy of the minutes of the meeting of the Local Traffic Committee held on 4 June 2019 are attached.
9 REPORTS TO COUNCIL

9.1 KEMPSEY AIRPORT - NOISE MANAGEMENT PLAN AND FLY NEIGHBOURLY ADVICE

Officer Gayleen Burley, Manager Commercial Business
File No F18/2466
Attachments
1. TA G 1045 Kempsey Airport NMP FINAL REPORT 120619 Comb [9.1.1 - 118 pages]
2. TA G 1045 Kempsey Airport NMP FINAL REPORT Amendments 120619 [9.1.2 - 5 pages]
3. NMP Submission Response - Final 20190618 [9.1.3 - 9 pages]
4. NMP Submissions - Redacted [9.1.4 - 1011 pages]
5. OAR Submission [9.1.5 - 1 page]
6. NMP Engagement Timeline [9.1.6 - 3 pages]

PURPOSE

The purpose of this Council report is to:

1. Obtain Council endorsement for the Kempsey Airport Noise Management Plan (NMP) which provides a framework for managing aircraft generated noise at Kempsey Airport;

2. Obtain Council endorsement for additional noise abatement procedures (as outlined in the recommendations of this report) to be implemented at Kempsey Airport to mitigate noise impacts associated with circuit training operations in addition to what is proposed within the Noise Management Plan; and

3. Establish a Quadruple Bottom Line methodology for assessing the viability and feasibility of pilot training operations, particularly circuit training activity at Kempsey Airport, noting that the methodology:
   a. Requires a transparent and detailed assessment of benefits and impacts against four (4) key principles - economic, social, financial and environmental - prior to Council entering into any commercial agreements with a pilot training organisation;
   b. Provides Council with an agile assessment tool that takes into consideration potential changes in aviation technology and operations that may arise in the future; and
   c. Recognises that the airport is a valuable community asset that provides benefit to the entire Shire and every effort must be made to manage the airport in a way that provides for a financially sustainable asset into the future.

RECOMMENDATION

1. That Council acknowledge that the Airport has been operating in its current location being Sherwood Road, Aldavilla since 1936.

2. That Council acknowledge that it has a responsibility to manage the Airport as a valuable community asset to the benefit of the entire Shire.
3. That Council note the submissions received during the 12-week public exhibition period in relation to the draft Noise Management Plan (NMP) / Fly Neighbourly Advice (FNA) and the responses provided by The Airport Group and Council.

4. That Council note the amendments made by The Airport Group between the draft NMP/FNA and final NMP/FNA as a result of:
   a. community feedback gained through the public submission process; and
   b. the Office of Airspace Regulation’s submission on the draft NMP/FNA.

5. That Council adopt the Kempsey Airport NMP dated June 2019 subject to the following recommendations.

6. That Council proceed with the finalisation of the Fly Neighbourly Advice and:
   a. Place the draft FNA on public exhibition for 28 days; and
   b. Present the finalised FNA to a future Council meeting for consideration and adoption.

7. That prior to executing any agreement negotiated by Council staff with a pilot training operator to undertake circuit training at Kempsey Airport, a report to Council is presented:
   a. Demonstrating that an overall community benefit is achieved utilising the Quadruple Bottom Line assessment methodology as outlined in this report including appropriate environmental (including noise), social, financial and economic impacts; and
   b. With Council resolving to endorse the agreement.

8. That in the event a Development Application is submitted to Council involving a commercial pilot training operator undertaking circuit training activities within the Kempsey Shire then Council shall notify residences and business within a 2km radius of the airport in writing of the proposed development. For any such development application, Council as the landowner and operator of the Airport will undertake a Quadruple Bottom Line assessment as outlined in this report including appropriate environmental (including noise), social, financial and economic impacts.

9. That Council make a request to CASA / Airservices Australia for an En-Route Supplement Australia (ERSA) entry for Kempsey Airport to be made detailing the Noise Abatement Procedures relating to circuit training as follows:
   a. Local Aircraft Operators - Hours of Operation as follows:
      i. Monday – Friday (other than Public Holidays)
         1. 07:00 – 19:00 Australian Eastern Standard Time
         2. 07:00 – 22:00 Australian Eastern Daylight Savings Time
      ii. Saturday (Other than Public Holidays)
         1. 08:00 – 19:00 all year round
      iii. Sunday (Other than Public Holidays)
         1. 09:00 – 18:00 all year round
      iv. New South Wales Public Holidays
         1. 09:00 – 18:00, with the exception of Christmas Day.
   b. Visiting Aircraft Operators – Hours of Operation as follows:
      i. Monday – Friday (other than Public Holidays)
         1. 08:00 – 19:00 all year round.
      ii. Saturday – Sunday (Other than Public Holidays)
         1. Nil hours. None permitted on weekends.
iii. New South Wales Public Holidays

1. Nil hours. None permitted on public holidays in NSW.

c. Aircraft are required to climb to 500 feet above the aerodrome elevation prior to making the turn into the circuit
d. Transponders are to be turned on and operated in accordance with CAAP 166-01 V4.2 for all operations.
e. Engine ground runs and run-ups should be kept to the minimum time operationally required.

Note: the above proposed ERSA considerations are subject to feedback and consultation with CASA and may be altered in future. These considerations may also be subject to a risk assessment process prior to implementation.

10. That Council’s strategic planning activities are strengthened with the aim to minimise conflict between incompatible land uses surrounding the Airport and ensure that permissible uses are compatible with aviation activities and subsequent identified development standards are reflected in the Local Environmental Plan (LEP) and Development Control Plan (DCP).

11. That Council resolve to notate on section 10.7 planning certificates:
   a. for s10.7.2 – the applicable ANEF contour overlay constraints, as included in the planning scheme; and
   b. for s10.7.5 – the same as the s10.7.2 and, if applicable, a notation identifying the linear distance to the boundary of the airport land if it is within 2 kilometres.

12. That Council resolve to develop a draft Airport Master Plan, inclusive of ANEF contours which will be used to inform Council’s land-use planning instruments and present this to a future Council meeting for consideration prior to public exhibition.

13. That Council note that once ANEF contours are developed (in conjunction with an Airport Master Plan for Kempsey Airport) and adopted, clause 7.8 of the LEP regarding development in areas subject to aircraft noise would have effect.

14. That Council acknowledge the involvement of the Kempsey Airport Reference Group (KARG) in the development of the NMP and that in accordance with the KARG Terms of Reference that after finalisation of the FNA KARG has fulfilled the role, is thanked for its service and is disbanded.

BACKGROUND

The Kempsey Airport has been operating at its current location at Sherwood Road, Aldavilla since 1936. On 24 May 1993, the Commonwealth of Australia transferred the deed of ownership, management and operation of Kempsey Aerodrome to the Shire of Kempsey.

Whilst originally being constructed by the Department of Defence, over the years Kempsey Airport has predominately been utilised for general aviation (GA) and up until 2000 Regular Public Transport (RPT) passenger services.

In 2010, Kempsey Shire Council (KSC) along with Port Macquarie-Hastings Council (PMHC) and Greater Taree City Council (GTCC) signed a Memorandum of Understanding (MOU) to make better use of the available airspace in the region. The MOU was based on KSC working in partnership with
the general aviation community, GTCC and PMHC to promote and develop Kempsey Airport as a base for general aviation as part of an overall strategy to promote the establishment of a Mid North Coast Regional Aviation Centre of Excellence across the region.

Today, Kempsey Airport is a registered regional general aviation airport and home to a variety of general aviation users ranging from the local flying club to the Australian International Aviation College (AIAC). There are also several private users that are based at the airport. Other key tenants and/or users of the airport include:

a. Kempsey Flying Club
b. City & Country Charters
c. Macleay Aircraft Maintenance
d. SES
e. NSW Rural Fire Service
f. NSW Ambulance Services / Kempsey Hospital
g. Itinerant aviation users

Pilot training operations have been operating at Kempsey Airport in some form or another over the past 25+ years (since approx. 1991). Historically, Johnston Aviation Services would conduct pilot training operations for domestic students from Port Macquarie, with Kempsey Airport being used for diversion, soloist, and cross-country flights with circuits being performed from time to time.

Over time, Johnston Aviation transitioned to Arena International Aviation expanding into international pilot training and has now developed into Australian International Aviation College (AIAC) training both domestic and international students to become commercial pilots. AIAC is a member of the Hainan Airlines of China group of companies.

Perhaps the most important Kempsey Airport development in recent times was the decision by AIAC to develop a comprehensive flight training facility at the airport focused on cadet pilot training for Asian, in particular Chinese, airlines. The organisation looked to significantly expand operations at Kempsey Airport and on 8 December 2015 submitted a development application (T6-15-381) for temporary use of land and training rooms at Kempsey Airport. On 13 December 2016 a further development application (T6-16-444) was submitted for a permanent pilot training facility located within the Kempsey Airport aviation business park precinct to the value of approximately $18 million.

As shown in the below graph extracted from the attached Noise Management Plan (NMP), there has been a significant increase in aircraft movements, particularly training activities that has occurred since the submission of the two development applications. It should be noted that T6-15-381 has since expired and T6-16-444 was withdrawn by AIAC on 10 May 2018, thus there is no current development application approved or before Council for consideration associated with pilot training operations at Kempsey Airport.

Figure 1: Historical Aircraft Movements at Kempsey Airport by Financial Year (2013 - 2018)
The increase in pilot training activities by AIAC and corresponding development applications resulted in some sections of the Kempsey Shire community becoming concerned about the potential adverse impacts of increased pilot training operations, and in particular circuit training activities.

After a number of community information sessions regarding this matter, at its meeting on 18 April 2017, Council resolved to endorse a 10-step procedure for preparing a Noise Management Plan (NMP) to underpin a Fly Neighbourly Agreement (FNA) between Council and current airport users. The 10-step procedure for the preparation of the NMP/FNA and the current status of each of those steps is detailed in the following table:

**Table 1: 10-step procedure for preparing the NMP/FNA with current status**
On 15 August 2017, Council further resolved that an additional step be adopted to appoint a community group, now referred to as the Kempsey Airport Reference Group (KARG). KARG’s comprehensive involvement in the development of the NMP/FNA is detailed in attachment to this report.

With input from KARG, Council went to competitive market tender for the services of a suitably qualified and experienced consultant to develop a NMP and FNA for Kempsey Airport. The tender was awarded to The Airport Group (TAG) who were formally engaged by Kempsey Shire Council (KSC) in July 2018.

The objectives of the engagement were to:

- Undertake noise monitoring at various locations surrounding Kempsey Airport;
- Provide an overview of the outcomes of the noise monitoring;
- Review noise events in the context of Australian Standards;
- Review the noise impacts and identify noise management strategies; and
- Produce a NMP and FNA for Kempsey Airport.

In order to produce the NMP, noise monitoring was conducted at 17 locations surrounding the Kempsey Airport over an eight-week period. The first stage was four locations across a four-week period, and the second stage included monitoring at a source location (close to the runway centre) and an additional 12 locations across a four-week period with three separate locations each week in addition to the source monitor.

<table>
<thead>
<tr>
<th>Procedure Step</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>STEP 1: Report to Council seeking endorsement to enter into a FNA</td>
<td>Completed April 2017</td>
</tr>
<tr>
<td>STEP 2: Preliminary community consultation, including referral to the Office of Airspace Regulation (OAR)</td>
<td>Completed February/March 2018</td>
</tr>
<tr>
<td>STEP 3: Report outcomes of preliminary community consultation to Council to endorse the scope of NMP and FNA</td>
<td>Completed February 2018</td>
</tr>
<tr>
<td>STEP 4: Seek EOIs from suitably qualified consultants to prepare the NMP</td>
<td>Completed May 2018</td>
</tr>
<tr>
<td>STEP 5: Prepare a draft NMP and refer to OAR for comment</td>
<td>Completed February 2018</td>
</tr>
<tr>
<td>STEP 6: Report draft Plan to Council to endorse for public exhibition</td>
<td>Completed December 2018</td>
</tr>
<tr>
<td>STEP 7: Formal public exhibition of the draft NMP and draft FNA</td>
<td>Completed May 2019</td>
</tr>
<tr>
<td>STEP 8: Assess public submissions and consider any required amendments in response.</td>
<td>Completed June 2019</td>
</tr>
<tr>
<td>STEP 9: Report recommended NMP, including draft FNA to Council for endorsement</td>
<td>Subject of this Council report</td>
</tr>
<tr>
<td>STEP 10: Enter into FNA with Airport users</td>
<td>Post 25 June 2019 Council Meeting</td>
</tr>
</tbody>
</table>
The final Kempsey Airport NMP report (inclusive of the draft FNA) produced by TAG is attached to this report. The NMP has been developed based on the collation of objective data for a specific period of time at Kempsey Airport. This has been considered in the context of industry standard noise metrics and aviation and land use planning considerations. The report addresses the following key areas:

- The engagement approach, including the methodology, limitations and additional considerations;
- An overview of the Kempsey Airport and local environment;
- Legislative review;
- Noise monitoring and assessment results;
- Noise management strategies (both aviation and non-aviation);
- Conclusion and recommendations; and
- Draft Fly Neighbourly Advice (to be finalised once NMP has been adopted by Council).

On 4 December 2018, Council endorsed the draft NMP/FNA to be placed on public exhibition for a period of 12 weeks (subject to minor amendments being undertaken to the report). The draft NMP/FNA was placed on public exhibition from 5 February to 1 May 2019. Submissions were made via the following methods:

- Online via Your Say Macleay portal;
- Email to Council or Council staff/elected member;
- Hard copy posted to Kempsey Shire Council; and
- Hard copy delivered to Kempsey Shire Council Civic Centre.

Also, in accordance with the Council resolution dated 4 December 2019:

- The draft NMP was submitted to the Office of Airspace Regulation (OAR) for review and feedback. A submission was received by email from OAR on 19 February 2019 and is attached to this report.
- A councillor workshop on the draft document was held during the Public Exhibition period on 28 March 2019.
- A community workshop was held on 28 March 2019 to answer queries from the community in relation to the draft NMP and FNA. A total of 18 registered members of the community attended the community information session. As the NMP is a multi-disciplinary complex document, a range of skills and expertise was harnessed to adequately respond to and address the concerns of the community relating to the NMP. Specifically, Council engaged expertise as follows:
  - Airport technical issues - TAG
  - NMP development process - KSC Commercial Business
  - Strategic Planning and Land use related matters (i.e. KLEP, DCP, SEPP33, EPA Legislation) - KSC Strategic Asset and Planning
  - Community engagement and public submissions - KSC Community Partnerships

In total 180 submissions were received from the public (excluding OAR submission). Five (5) of the submissions were duplicates and therefore 175 public submissions were reviewed and assessed in total. A redacted version (i.e. personal information has been removed from the submissions to maintain confidentiality), of the public submissions is provided as an attachment to this report. A breakdown of the submissions received is as follows:
Table 2: Breakdown of submissions received on draft NMP/FNA

<table>
<thead>
<tr>
<th>NMP Submissions by distance from the Airport</th>
<th>2km</th>
<th>5km</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of residences</td>
<td>547</td>
<td>2,314</td>
<td>13,647</td>
</tr>
<tr>
<td>Number of submissions in the area</td>
<td>91</td>
<td>134</td>
<td>175</td>
</tr>
<tr>
<td>Number of individuals who made at least 1 submission</td>
<td>72</td>
<td>108</td>
<td>144</td>
</tr>
<tr>
<td>Number of households who made at least 1 submission</td>
<td>45</td>
<td>67</td>
<td>90</td>
</tr>
<tr>
<td>Household submissions as % of residences in area</td>
<td>8%</td>
<td>3%</td>
<td>0.7%</td>
</tr>
</tbody>
</table>

Figures 2 and 3 below maps the above information to provide a pictorial view detailing the locations of residents whom made a submission against the draft NMP. Table 2, Figure 2 and Figure 3 clearly show that the majority of submissions came from residents who lived within close proximity to the Kempsey Airport. It is therefore feasible to conclude that the residences most affected by circuit training operations are those that live within close proximity to the Kempsey Airport (2km and to a lesser extent 5km from the Airport).

Figure 2: Number and location of submissions per individual – Kempsey Shire Council perspective
Figure 3 – Number and location of submissions per individual – Kempsey Airport perspective
Other key points to note regarding the public submissions are as follows:

- All 175 public submissions received were objections.
- There was no submission received during the public exhibition period from local or visiting aircraft operators.
- The objections fell into two (2) broad categories:
  - Objections to circuit training; and
  - Objections to process. Note: 'objection to process' means that submissions were made requesting an external third party be engaged to undertake the submission assessment process and provide recommendations to Council as opposed to this task being undertaken by Council staff.
- A range of objections referred to impacts of circuit training that are non-noise related (such as, but not limited to, negative impact on property prices, economic benefit, and Development Applications). Matters raised of this nature have been addressed in the Council report but not in the NMP report. Detailed responses to non-noise related matters raised in the public submissions are provided as an attachment to this report. The scope of the NMP is the management of aircraft noise only.
• Broad-scale support throughout the public submissions for the operation and development of Kempsey Airport for general aviation and regular public transport services (if the opportunity arises) – however there was clear objection throughout the submissions against ‘industrial scale’ circuit training (it should be noted that there is no recognised definition of ‘industrial scale’ circuit training).
• A number of submissions acknowledged that:
  o Council has a responsibility to manage the airport in a financially sustainable way.
  o Airport operations and activities were acceptable in 2015 (prior to flight training and circuit operations increasing at the end of 2015/beginning of 2016).

Given the quantity and detail provided within each of the submissions, Council has responded to the objections in two ways as detailed below:
  1. Addressing all 39 Save Kempsey Airport Action Group (SKAAG) issues/objections; and
  2. Grouping the remainder of the issues not addressed through the SKAAG responses into objection categories.

A consolidated but detailed response to the issues raised within the 175 objections is attached to this report.

Additionally, also attached to this report is the table of changes made by TAG between the draft NMP/FNA and the final NMP/FNA as a result of:
  a) Community feedback sourced through the public submissions; and
  b) The Office of Airspace Regulation’s submission.

KEY CONSIDERATIONS

Airservices Australia states that “circuit training is undertaken at most airports, particularly regional and general aviation aerodromes”. It is not feasible to rule out circuit training in its entirety as it would potentially impact on recreational general aviation users, as well as pilot training organisations, regardless of their intensity of operations (ie low, medium and high intensity operators). Further, Council needs to take a long-term view on this issue and not put in place restrictions that may over time be irrelevant. For example, changes in aviation technology (such as electric aircraft) could enable pilot training operations to occur without negative impacts in the future.

A review was undertaken of the airports that specifically mention circuit training in their ERSA. The results show that:

• Approximately 72 airports specifically mention circuit training in their ERSA
  o 2 expressly prohibit circuit training – Tullamarine and Lake Macquarie (small privately-owned airport)
• Of the 70 airports who had ERSA entries regarding circuit training but permitted circuit training operations:
  o Approximately 41% have no restrictions on hours, days or public holidays – Allow 24/7 for local and visiting aircraft
  o Only 1 has any public holiday restrictions (being New Year’s Day and not between 09:00-11:00 on ANZAC Day)
  o For those airports with restricted hours, the majority have a spread commencing between 06:00 – 07:00 in the morning with circuit training ceasing at around 21:00 – 23:00 at night
Approximately 7 have differentiated week day to weekend hours

Assessing feasibility of Commercial Pilot Training Operations at Kempsey Airport

It is proposed that in the event that a pilot training operator requests to conduct operations utilising Kempsey Airport, a commercial agreement would only be executed where:

1. the pilot training operations demonstrate that an overall shire-wide benefit is achieved from the operation through the Quadruple Bottom Line assessment methodology; and
2. Council endorsement of the commercial agreement is obtained.

The methodology is based on the Cambridge Leadership Development QBL 4Ps principles of People, Profit, Planet and Progress and provides the basis for a comprehensive framework for developing measures of sustainable prosperity.

The application of the QBL principles to Kempsey Airport are defined in Table 3 as follows:

Table 3: Quadruple Bottom Line principles

<table>
<thead>
<tr>
<th>QBL</th>
<th>Kempsey Airport</th>
</tr>
</thead>
<tbody>
<tr>
<td>People</td>
<td>Social / Community benefit/impact resulting from commercial pilot training operations occurring at Kempsey Airport taking into consideration the extent of the impact to community ie suburb, village/township, shire.</td>
</tr>
</tbody>
</table>
| Profit | Financial benefit or impact to Council's financial bottom line derived from commercial pilot training operations occurring at Kempsey Airport.  
Note: Council management and staff time has not been taken into consideration as part of this assessment. |
| Planet | Environmental benefit/impact to the environment resulting from commercial pilot training operations occurring at Kempsey Airport.  
*Environmental impact = existing environmental impacts (excluding noise, which has been included in the social/community assessment) is currently unknown. Any proposed increased activity associated with investment may require a detailed environmental assessment. |
| Progress | Economic impact/benefit to the broader Kempsey Shire community resulting from commercial pilot training operations occurring at Kempsey Airport |

To provide context, the application of the Quadruple Bottom Line (QBL) assessment methodology is modelled against four (4) scenarios relating to circuit training operations at Kempsey Airport. The scenarios provide a sensitivity analysis for gauging when pilot training operations may trigger a benefit to the shire-wide community and hence when a commercial agreement may be deemed appropriate. The four (4) scenarios are as follows:

1. Current activity with no investment
2. Increased activity with no investment
3. Current activity with investment
4. Increased activity with investment

Each of the circuit training scenarios have been assessed utilising the QBL methodology and assessment scale provided below:
An assessment of each circuit training scenario against the QBL methodology is provided below in Tables 4 – 7. Table 8 provides a consolidated summary of each of the scenarios.

To be clear, whilst it is noted in the NMP that all areas monitored were “acceptable” with the exception of Area 8 which was deemed “conditionally acceptable” the public submissions received by a section of the community expressed experiencing adverse effects associated with pilot training operations and in particular circuit training activities. Therefore, any reference to ‘adverse impacts to a section of the community’ within the modelling of the four scenarios should be based on consideration of both the information received via the public submissions and the technical data recorded in the NMP.

The assessment of Scenario 1 (Table 4) shows that at the current level of activity, with the current revenue earnings and without any significant investment by a pilot training organisation, a section of the community will be adversely impacted with little to no economic benefit being realised to the residents of the Shire.

Based on scenario 1, Council should manage circuit training operations via the utilisation of methods available through the management of a public aerodrome such as Fly Neighbourly Agreements, fees and charges and ERSA restrictions. Council should not enter into a commercial agreement with a pilot training organisation based on the nil benefit to the broader community and adverse impact to a section of the community.

Table 4: Detailed QBL assessment - Scenario 1

<table>
<thead>
<tr>
<th>Scenario 1 – Current circuit training activity with no investment</th>
<th>Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Context</strong></td>
<td>Circuit training activities / movements being consistent with those recorded in the NMP</td>
</tr>
<tr>
<td><strong>Social / Community Impact</strong></td>
<td>Sections of the Kempsey Shire Community (particularly those within close proximity to the airport) are experiencing adverse impacts associated with aircraft noise being emitted from the commercial flight training operations at Kempsey Airport.</td>
</tr>
<tr>
<td><strong>Financial benefit (Airport)</strong></td>
<td>Fees and charges in accordance with the Conditions of Use agreement and lease agreement. Resulting in minimal financial benefit to the Kempsey Airport or KSC.</td>
</tr>
<tr>
<td><strong>Environmental Impact</strong></td>
<td>Environmental impact/s have not been assessed as part of this project and therefore cannot be measured at this point in time.</td>
</tr>
<tr>
<td><strong>Economic Impact (Shire)</strong></td>
<td>None or minimal investment made by the pilot training organisation. Students and staff reside outside of Kempsey Shire. Resulting in none to limited economic benefit to the Kempsey Shire community.</td>
</tr>
<tr>
<td><strong>OVERALL ASSESSMENT OUTCOME</strong></td>
<td>NIL BENEFIT</td>
</tr>
</tbody>
</table>

Similar to scenario 1, the assessment of Scenario 2 (Table 5) shows that with an increased level of activity, with the current revenue earnings and without any significant investment by a pilot training organisation...
organisation, a section of the community will be adversely impacted to a greater level with little to no economic benefit being realised to the residents of the Shire.

As Scenario 2 has no attributed investment, Council should manage circuit training operations via the utilisation of methods available through the management of a public aerodrome such as Fly Neighbourly Agreements, fees and charges and ERSA restrictions. Council should not enter into a commercial agreement with the pilot training organisation based on the nil benefit to the broader community and increased adverse impact to a section of the community.

**Table 5: Detailed QBL assessment - Scenario 2**

<table>
<thead>
<tr>
<th>Scenario 2 - Increased circuit training activity with no investment</th>
<th>Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Context</strong></td>
<td></td>
</tr>
<tr>
<td>Increased circuit training activities / movements to what is stipulated to be the current situation within the NMP</td>
<td></td>
</tr>
<tr>
<td><strong>Social / Community Impact</strong></td>
<td></td>
</tr>
<tr>
<td>Sections of the Kempsey Shire Community (particularly those within close proximity to the airport) are experiencing adverse impacts associated with aircraft noise being emitted from the commercial flight training operations at Kempsey Airport. The affected residences are likely to experience increased disturbance with increased circuit training activity.</td>
<td>M-</td>
</tr>
<tr>
<td><strong>Financial Benefit (Airport)</strong></td>
<td></td>
</tr>
<tr>
<td>Fees and charges in accordance with the Conditions of Use agreement and lease agreement. Resulting in minimal financial benefit to the Kempsey Airport or KSC.</td>
<td>L+</td>
</tr>
<tr>
<td><strong>Environmental Impact</strong></td>
<td>Unknown</td>
</tr>
<tr>
<td>Environmental impact/s have not been assessed as part of this project and therefore cannot be measured at this point in time.</td>
<td></td>
</tr>
<tr>
<td><strong>Economic Impact</strong> (Shire)**</td>
<td>0</td>
</tr>
<tr>
<td>None or minimal investment made by the pilot training organisation. Students and staff reside outside of Kempsey Shire, resulting in none to limited economic benefit to the Kempsey Shire community.</td>
<td></td>
</tr>
<tr>
<td><strong>OVERALL ASSESSMENT OUTCOME</strong></td>
<td>LOW NEGATIVE IMPACT</td>
</tr>
</tbody>
</table>

The assessment of Scenario 3 (Table 6) demonstrates that at the current level of aircraft movement activity, with investment by a pilot training organisation, that there is potential for economic benefits to be realised for the residents of the Shire. Council as the landowner and Airport operator would assess the appropriateness of the pilot training operations, particularly circuit training activities through the QBL assessment methodology. Should the QBL assessment methodology demonstrate a positive benefit/impact is achieved from the investment associated with the pilot training operations then a commercial agreement may be negotiated, subject to Council endorsement.

It should be noted that the ‘investment’ may trigger a development application and should this be the case, then the ‘development’ would be required to comply with the legislated development assessment process providing further transparency (through mandated public notification and public exhibition requirements) and independent assessment to any proposed pilot training operations.

**Table 6: Detailed QBL assessment - Scenario 3**
Similar to that of Scenario 3, the assessment of Scenario 4 (Table 7) shows that at an increased level of aircraft movement activity, with investment by a pilot training organisation, there is potential for economic benefits to be realised for the residents of the Shire.

Council as the landowner and Airport operator would assess the appropriateness of the pilot training operations, particularly circuit training activities through the QBL assessment methodology. Should the QBL assessment methodology demonstrate a positive benefit/impact is achieved from the investment associated with the pilot training operations then a commercial agreement may be negotiated, subject to Council endorsement.

It should be noted that the ‘investment’ may trigger a development application and should this be the case, then the ‘development’ would be required to comply with the legislated development assessment process providing further transparency (through mandated public notification and public exhibition requirements) and independent assessment to any proposed pilot training operations.

**Table 7: Detailed QBL assessment - Scenario 4**
In summary, the assessment of the four (4) scenarios detailed in Tables 4 – 7 demonstrates that without significant investment by a pilot training organisation, circuit training operations alone do not provide sufficient benefit to the broader Kempsey Shire residents to warrant the negative impact to those whom reside within close proximity to the airport. As the level of investment increases so too does the potential economic benefit to the broader Kempsey Shire. It is at this point that Council may consider the feasibility of medium or high intensity pilot training operations at Kempsey Airport and hence enter into a commercial agreement (subject to detailed QBL assessment inclusive of economic, financial, social and environmental impact assessments and Council endorsement).

**Table 8: Summary of circuit training scenario QBL assessments at Kempsey Airport**

<table>
<thead>
<tr>
<th>Scenario 1 – Current circuit training activity with no investment</th>
<th>Scenario 2 – Increased circuit training activity with no investment</th>
<th>Scenario 3 – Current circuit training activity with investment</th>
<th>Scenario 4 – Increased circuit training activity with investment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Social/Community Impact</td>
<td>Financial Benefit (Airport)</td>
<td>Environmental Impact*</td>
<td>Economic Benefit</td>
</tr>
<tr>
<td>L-</td>
<td>L+</td>
<td>UNKNOWN</td>
<td>0</td>
</tr>
<tr>
<td>L-</td>
<td>L+</td>
<td>UNKNOWN</td>
<td>0</td>
</tr>
<tr>
<td>L-</td>
<td>L+</td>
<td>UNKNOWN</td>
<td>0</td>
</tr>
<tr>
<td>L-</td>
<td>L+</td>
<td>UNKNOWN</td>
<td>0</td>
</tr>
</tbody>
</table>

Managing Pilot Training Operations (specifically circuit training activity)

As the owner and operator of Kempsey Airport, Kempsey Shire Council has a number of land-based mechanisms available to effectively manage commercial pilot training operations at Kempsey.
Airport. However, it should be noted that Council does not control airspace and this aspect of regulation is primarily the responsibility of the Civil Aviation Safety Authority (CASA).

Council will manage pilot training operations via the following multi-pronged approach:

1. Noise Management Plan and Fly Neighbourly Advice

The overriding document for managing noise associated with operations at the Kempsey Airport is the NMP and subsequent FNA. These documents provide the scientific and technical data required to manage aircraft noise.

Subject to the NMP being approved Council will:
   a. proceed with the finalisation of the Fly Neighbourly Advice;
   b. Place the draft FNA on public exhibition for 28 days; and
   c. Present the finalised FNA to a future Council meeting for consideration and adoption.

It is noted however that compliance with the FNA relies on individual operators voluntarily complying with the agreement and that the FNA is not in itself enforceable.

2. En-Route Supplement Australia (ERSA)

Council proposes, subject to CASA approval, to implement the following ERSA entry for Kempsey Airport be made detailing the Noise Abatement Procedures relating to circuit training as follows:

   a) Local Aircraft Operators - Hours of Operation as follows:
      i. Monday – Friday (other than Public Holidays)
         1. 07:00 – 19:00 Australian Eastern Standard Time
         2. 07:00 – 22:00 Australian Eastern Daylight Savings Time
      ii. Saturday (Other than Public Holidays)
         1. 08:00 – 19:00 all year round
      iii. Sunday (Other than Public Holidays)
         1. 09:00 – 18:00 all year round
      iv. New South Wales Public Holidays
         1. 09:00 – 18:00, with the exception of Christmas Day.

   b) Visiting Aircraft Operators – Hours of Operation as follows:
      i. Monday – Friday (other than Public Holidays)
         1. 08:00 – 19:00 all year round.
      ii. Saturday – Sunday (Other than Public Holidays)
         1. Nil hours. None permitted on weekends.
      iii. New South Wales Public Holidays
         1. Nil hours. None permitted on public holidays in NSW.

The different hours between the local and visiting aircraft operators reflect that local aircraft operators potentially provide a valuable economic contribution, service or recreational activity to the local Kempsey Shire community.

In the context of this report:
• “local aircraft operator” is defined as any aircraft operator that has a tenancy agreement in place with Kempsey Shire Council for a building structure located at Kempsey Airport, or is a resident or is a business operating in Kempsey Shire.

• “visiting aircraft operator” is defined as an aircraft operator that does not have a tenancy agreement in place with Kempsey Shire Council for a building structure located at Kempsey Airport, or is not a resident or is not a business operating in Kempsey Shire.

c. Aircraft are required to climb to 500 feet above the aerodrome elevation prior to making the turn into the circuit

d. Transponders to be turned on and operated in accordance with CAAP 166-01 V4.2 for all operations.

e. Engine ground runs and run-ups should be kept to the minimum time operationally required.

Note: the above proposed ERSA considerations are subject to feedback and consultation with CASA and may be altered in future. These considerations may also be subject to a risk assessment process prior to implementation.

3. Published Fees and Charges

Council recognises the importance for the fee structure for pilot training activities to commensurately compensate for the utilisation of the airport assets.

Any pilot training organisation whom cannot demonstrate that their activities achieve an overall benefit to the community through the Quadruple Bottom Line methodology, will be charged the published rate in accordance with the Kempsey Shire Council’s Schedule of Fees and Charges.

Further Council, through its contracted third party provider, will review the utilisation of the Kempsey Airport specifically associated with circuit training activities and should it be required will escalate the charge if/when needed in order to manage circuit training activities and compensate for utilisation of airport assets.

Further, as part of the Integrated Planning and Reporting framework, Council has a legislative requirement to review fees and charges annually and place them on public exhibition for a period of 28 days prior to Council endorsement. Additionally, Council has the ability to amend fees and charges at any time throughout the year provided the stated fee/charge has been placed on public exhibition for 28 days and are endorsed by Council. Council will monitor the effectiveness and appropriateness of the circuit training fees and modify accordingly if required.

4. Landowner’s and Airport Operator’s Consent

As landowner and Airport Operator, Council will require pilot training organisations to demonstrate a shire-wide benefit (via the QBL assessment methodology) is achieved with their operations prior to Council entering into a commercial agreement.

For investments resulting in a development application for development at the Kempsey Airport, landowners consent is required and again, the pilot training organisation would need to
demonstrate an overall shire-wide benefit to the community before landowner’s consent to the development is granted.

Further, Council will develop an Airport Master Plan for Kempsey Airport (inclusive of ANEF modelling). The development of an Airport Master Plan is a deliverable within the Kempsey Shire Council Operational Plan 2019/20 and will provide the strategic direction for Airport operations in the future.

5. Planning Controls

**Development Assessment**
For a proposed pilot training operation that involves investment, a development application may be required. This being the case, the ‘development’ will then be subjected to the legislated development assessment process. As part of the development assessment process consideration of environmental and social impacts will be considered.

To ensure that the section of the community most affected by circuit training operations has the opportunity to provide input into Council decision making process, for any Development Application submitted to Council involving a commercial pilot training organisation undertaking circuit training activities, Council will expand its written notification requirements to include all residences and business within 2km radius of the airport.

**Kempsey Local Environmental Plan (KLEP) and Development Control Plan (DCP)**
Council’s strategic planning activities aim to minimise conflict between incompatible land uses surrounding the Airport and any subsequent identified development standards are reflected in the Local Environmental Plan (LEP) and Development Control Plan (DCP).

Further, Council will include ANEF modelling as part of developing an Airport Master Plan for Kempsey Airport. The development of an Airport Master Plan is a deliverable within the Kempsey Shire Council Operational Plan 2019/20.

**Section 10.7 Planning Certificates**
It is a recommendation of this report for Council to resolve to notate on section 10.7 planning certificates:

1. for s10.7.2 – the applicable ANEF contour overlay constraints, as included in the planning scheme; and
2. for s10.7.5 – the same as the s10.7.2 and, if applicable, a notation identifying the linear distance to the boundary of the airport land if it is within 2 kilometre(s).

The application of the above circuit training management options is largely dependent on whether the flight training operations achieve broad based benefits to the shire community. As detailed within the ‘Assessing feasibility of Commercial Pilot Training Operations at Kempsey Airport’ section of this report, it is unlikely that broad-based community benefits will be achieved through pilot training operations without moderate/significant investment by the pilot training organisation. The below decision tree (refer Figure 4) has been developed to assist Council in making decisions regarding pilot training operations and the appropriate measures to be implemented based on investment.

*Figure 4: Decision Tree for determining options for managing adverse impacts of pilot training activity at Kempsey Airport*
As shown in Figure 4 above, pilot training operators can only negotiate a commercial agreement with Council when the applicant can demonstrate that the Quadruple Bottom Line assessment provides an overall benefit to the Kempsey Shire community. Kempsey Shire’s strategic planning controls would also be strengthened to provide additional controls over future land-use developments surrounding the airport.

Pilot training operators without a commercial agreement will be subject to all Kempsey Shire Council’s published Scheduled Fees and Charges and ERSA entries. There will be no avenue to negotiate a commercial agreement for operators who choose to utilise the existing airport facilities unless they can demonstrate that their pilot training operations achieves an overall benefit to the Kempsey Shire community via the quadruple bottom line assessment.

All pilot training operators will be subject to compliance with the NMP/FNA.

CONCLUSION
The NMP has been developed by independent external consultants, The Airport Group (TAG) for Kempsey Airport. The NMP has been developed based on the collation of objective data for a specific period of time at Kempsey Airport. This has been considered in the context of industry standard noise metrics and aviation and land use planning considerations.

Broader considerations which were raised through public submissions, such as any potential social, health, and environmental impacts associated with circuit training activities at Kempsey Airport have been considered and addressed in the above Council report.

The NMP/FNA along with the additional recommendations provided in this report and the inclusion of the Quadruple Bottom Line methodology for assessing when/if a pilot training organisation may negotiate a commercial agreement with Council for circuit training activities is considered appropriate and adequate in managing aircraft noise at the Kempsey Airport.
9.2 KEMPSEY REGIONAL SALEYARDS - STRATEGIC FUTURE MANAGEMENT OPTIONS

Officer Gayleen Burley, Manager Commercial Business
File No F18/2079
Attachments
2. Appendix A Historical Financials Results [9.2.2 - 1 page]
3. Appendix B Capital Improvements [9.2.3 - 6 pages]
4. Appendix C Saleyards Survey Data [9.2.4 - 5 pages]
5. Appendix D Saleyards Strategic Workshop [9.2.5 - 2 pages]
6. Appendix E Financial Analysis [9.2.6 - 3 pages]

PURPOSE
7. To provide Council with an updated overview of the strategic options available in relation to the Kempsey Regional Saleyards in the form of an Options Paper including:
   o the analysis and financial modelling performed;
   o feedback from the User Survey; and
   o feedback from the Stakeholder Workshop.
8. To facilitate the placement of the Options Paper on public exhibition.

RECOMMENDATION
1. That Council notes the Strategic Options Analysis presented in relation to the Kempsey Regional Saleyards.
2. That Council places the Strategic Options Analysis paper and related appendices on public exhibition for a period of 42 days with a request for submissions.
3. That a decision paper incorporating the options paper, submissions and final recommendation(s) be presented to a future Council Meeting.

BACKGROUND
In May 2018 Council was presented with an initial overview of the strategic options available in relation to the Kempsey Regional Saleyards (“Saleyards”) owned and operated by Kempsey Shire Council. That report highlighted a number of issues associated with the Saleyards including a sustained period of cash deficits, increasing operational challenges, and the requirement for substantial new loan funding to deliver the proposed capital expenditure program outlined in the 2016 Saleyards Financial Plan and updated Business Plan developed by GHD.

The May 2018 report was a follow up to a resolution of the May 2017 Council meeting that a further review of the Saleyards Business Plan be undertaken.

KEY CONSIDERATIONS
The attached Saleyards Strategic Options Analysis report has been prepared to provide information and analysis to support the evaluation of alternative options available to Kempsey Shire Council (“Council”) in relation to the future operation of the Kempsey Regional Saleyards (“Saleyards”). This report, supported by financial modelling incorporating the analysis and consultation to date, has been prepared to be placed on public exhibition to invite community input. To encourage the drawing of independent conclusions and reduce the risk of unduly influencing readers, this paper has been prepared without specific recommendations. Upon receipt and assessment of community...
feedback, a final Strategic Options paper will be presented to Council that incorporates the public submissions and recommendations for Council to consider.

The Saleyards have been owned and managed by local government in the Macleay Valley since the early 1900s and at the current saleyard site since 1969. They are well situated between saleyards located at Taree and Grafton and have averaged annual throughput of over 33,000 head of cattle over the past 15 years. They are highly valued as a community asset by Saleyard users, although historically less so by the broader community.

The Saleyards generated consistent operating cash surpluses between 2009-2010 and 2016-2017 after a period of significant capital upgrades. However, these surpluses were not adequate to fund the loan repayments on the $2.2M of capital expenditure on facility improvement between 2001-2009. The final payment in relation to borrowings to fund that capital expenditure occurred during the 2018-2019 financial year.

During this period Council’s General Fund has contributed over $1.2M to the Saleyards. The generation of surpluses in some of these years was only made possible by the non-allocation of administrative and management costs incurred by Council in relation to the Saleyards.

In 2017-2018 the Saleyards produced an operating cash deficit of $28k. After loan servicing costs are considered the deficit is $92k. A similar result is forecast for 2018-2019. Whilst continuing to operate as is, the Saleyards are forecast to incur ongoing operating cash deficits that will be funded from Council’s General Fund. The operating cash deficit result is attributable to a material increase in annual maintenance costs. There are a number of challenges currently facing the Saleyards. To address some of these, such as animal welfare and increasing legislative requirements, will require significant additional funding.

There is an argument that as a community asset, Council should be prepared to continue to subsidise the operation of the Saleyards. However, as this represents a contribution from general ratepayer funds, Council’s position in the absence of broader community support for the contrary, is that the facility should be independently financially sustainable.

Looking at the saleyards industry more broadly, the trends are consolidation and increasing private ownership. Kempsey is ideally situated geographically as a location for a new livestock selling complex. However, it is unlikely that it could generate the annual throughput of cattle to make a new facility commercially viable either for Council or a private operator. Gaining the market share of all saleyards within a 180km radius of Kempsey would not likely be sufficient to provide a return on investment to support investment in a greenfield site, based on available market analysis. Kempsey would need also to attract business from Armidale and/or Grafton, which have the new or significantly upgraded facilities of Tamworth and Casino respectively within approximately 100 kms, to obtain sufficient volumes to support the substantial investment needed in a new facility.

Cattle numbers have been declining across Northern Coastal NSW for many years. The short-term outlook for the local beef cattle industry in terms of cattle numbers is negative. Online marketing of cattle and direct selling to feedlots is increasing, further reducing the number of cattle being sold through saleyards.

In terms of the annual throughput of cattle through the facility, the Saleyards have maintained a reasonably consistent long-term average compared with declining throughput across neighbouring yards. As such, Kempsey’s share of the Northern Coastal Saleyards market has almost doubled since
2006. However, there is no available data to quantify how much that market has been reduced through direct sales outside saleyards.

There is no question as to the need for, or merits of, a saleyards facility in or near Kempsey. There is less certainty as to whether the current operating model and service delivery by Council of the Saleyards provides the best solution in the long term when balancing the interests of Saleyards users and the broader community.

It is prudent for Council to consider the future direction of the Saleyards to ensure it is best serving its broader constituency as well as the local cattle industry and other key stakeholders. It is also necessary with all of its licence agreements concluding within the next six months that Saleyards management are able to plan, act and negotiate with a long-term strategy for the Saleyards in place.

To that end, the Saleyards Strategic Options Analysis attached articulates and analyses five potential options in relation to the management and ownership of the Saleyards. All options see the continuation of a saleyard facility in the Macleay Valley. Whilst not necessarily mutually exclusive, these have been identified as representing the high-level potential decision points in relation to the Saleyards and each possessing a distinct financial profile.

The five options are:

**Table 1: Kempsey Regional Saleyards’ Strategic Options**

<table>
<thead>
<tr>
<th>OPTION DESCRPTOR</th>
<th>DEFINING FEATURES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maintain</td>
<td>Council continues to own and operate the current Saleyards without significant capital investment</td>
</tr>
<tr>
<td>Upgrade</td>
<td>Council continues to own and operate and undertakes a significant capital works improvement program</td>
</tr>
<tr>
<td>Lease</td>
<td>Council enters a long-term lease of the Saleyards with an external party assuming operational management responsibility</td>
</tr>
<tr>
<td>Sell</td>
<td>Council enters into a Sale Agreement with an alternative saleyard operator for the entirety of the Saleyards facility and business</td>
</tr>
<tr>
<td>New Facility</td>
<td>Council builds a new facility partially funded through assumed Government grants</td>
</tr>
</tbody>
</table>

Financial modelling of each of these options has been conducted with assumptions informed through stakeholder consultation and analysis of the historical and current financial and operational performance of the Saleyards.

The Net Present Value (NPV) of each of these options, calculated over both 10 and 25 years, is presented below.

**Table 2: Net Present Value of Strategic Options**

<table>
<thead>
<tr>
<th>OPTION</th>
<th>NPV – 10 Years $’000</th>
<th>Financial Rank</th>
<th>NPV – 25 Years $’000</th>
<th>Financial Rank</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maintain</td>
<td>(193)</td>
<td>3</td>
<td>(43)</td>
<td>2</td>
</tr>
<tr>
<td>Upgrade</td>
<td>(1,113)</td>
<td>4</td>
<td>(315)</td>
<td>4</td>
</tr>
<tr>
<td>Lease</td>
<td>(41)</td>
<td>2</td>
<td>(80)</td>
<td>3</td>
</tr>
<tr>
<td>Sell</td>
<td>567</td>
<td>1</td>
<td>567</td>
<td>1</td>
</tr>
<tr>
<td>New Facility</td>
<td>(6,337)</td>
<td>5</td>
<td>(5,395)</td>
<td>5</td>
</tr>
</tbody>
</table>
The financial analysis included within the options paper is based upon a number of assumptions. Sensitivity analysis undertaken on some of the assumptions results in a change in the calculated NPVs and the relative ranking of the options. These are detailed in the attached report and its appendices. Assumptions tested include throughput, sale and lease contract values and percentage of capital expenditure that is grant-funded. This analysis indicates the possibility of significant change in the above values, however it did not alter the conclusion that the Sell option is projected to provide the best financial outcome for Council. It should be noted that the Saleyards sale price and annual lease fee that were assumed within the financial modelling and analysis for those two options have been redacted so as to not confer a commercial advantage on a person with whom the Council may conduct business with in the future.

The financial analysis should be considered in conjunction with the operating environment, risks, strengths, weaknesses, opportunities and threats associated with each option in determining which option is likely to provide the best outcome for the community. Furthermore, the Saleyards serve an important role as a flood refuge and this should also be considered as part of the assessment of options prior to any recommendations regarding the Saleyards being made to Council.

**Stakeholder Engagement**

In accordance with Council’s resolutions from the May 2018 meeting:

- A workshop involving Councillors, Council management and external stakeholders has been held to discuss the available strategic options; and
- Further analysis has been undertaken and an options paper has been prepared.

The workshop, which was held in March 2019, was attended by more than 50 participants. The financial and operational challenges facing the Saleyards were outlined along with the planned process for evaluating options in relation to the Saleyards. Workshop participants were invited to identify strengths, weaknesses, opportunities, threats and other relevant comments pertaining to each of the five articulated options.

In addition to the engagement specified in the Council resolution, the analysis for the Options Paper was also informed by:

- Individual meetings held with agents currently licensed to operate at the Saleyards; and
- A Saleyards User Survey conducted both online via Your Say Macleay and face to face by attending several sale days in January 2019 resulting in the collation of 79 responses.

The Saleyards was one of the Council services evaluated in the 2008 Community Satisfaction Survey, a statistically valid telephone survey conducted by an independent research company. The results of this survey showed that Kempsey Shire residents at that time considered the Saleyards as the least important of 39 services or facilities provided by Council.

Further details and results of these engagement actions are presented in the attached Options Paper and associated appendix.

Placing the Saleyards Strategic Options Paper on public exhibition with the intent of gathering input from the broader community is the next phase in the engagement process and will enable development of an informed set of recommendations to be prepared for Council. Planned community engagement includes a combination of online and face to face engagement, with a dedicated page on Council’s Your Say Macleay portal. Input from the community will be obtained on each of the five options.
Policy and Legislation
Not applicable.

Strategic Alignment
This paper is aligned to the following Kempsey Shire Council strategies:

Delivery Program 2017 - 2021
- WS-05 Delivery Program Strategy
  - Increase value of production
- WS05.1 Delivery Program Outcome:
  - Business performance of Council’s commercial assets is maximised

Operational Plan WS05.1.1
- Action:
  - Provide a saleyards facility and implement Kempsey Regional Saleyards Business Plan including consideration of future expanded operating model
- Performance Measures:
  - Capital works as per Business Plan carried over from 2017-2018
  - Options for operating model reported to Council

Impact on Financial Sustainability
The Saleyards are currently resulting in annual cash deficits to Council that are being funded by Council’s General Fund. These cash deficits are forecast to continue and increase over coming years, which adversely impacts Council’s future financial sustainability.

The most recent Financial Plan and Business Plan identify that considerable capital expenditure (and therefore loan borrowing) is required to maintain and improve the facility. The attached Strategic Options Analysis paper includes detailed financial modelling on each of the five identified options and an assessment of the relative impact of each option on Council’s financial sustainability.

CONCLUSION
Completion of the Draft Strategic Options Paper is in accordance with Council’s resolution of May 2018 and placement of this Paper on public exhibition is the next step that was also resolved by Council at that meeting.
9.3 INTEGRATED PLANNING AND REPORTING PLANS 2019-20

Officer       Kathryn Parker, Corporate Performance Coordinator
File No       F19/2079
              2. LTFP 2019-29 [9.3.2 - 32 pages]
              3. Fees and Charges 2019-20 [9.3.3 - 92 pages]
              4. Revenue Policy 2019-2020 [9.3.4 - 5 pages]
              5. 10 Year Works Program 2019-2029 [9.3.5 - 35 pages]
              6. Submissions Summary [9.3.6 - 9 pages]
              7. Operational Plan Submissions [9.3.7 - 18 pages]
              8. Rate Categories 2019-2020 [9.3.8 - 11 pages]

PURPOSE

To adopt the draft Integrated Planning and Reporting suite of documents following public exhibition, consideration of submissions and internal review.

RECOMMENDATION

1. That the following Integrated Planning and Reporting documents be adopted with the changes outlined in this report:
   a. Operational Plan 2019-20
   b. Long Term Financial Plan 2019-29
   c. Fees and Charges 2019-20
   d. Revenue Policy
   e. Rate Categories 2019-20
   f. Ten Year Works Program 2019-29

2. That whereas Council has given public notice of its Draft Operational Plan for the year 2019-2020 it is now resolved:
   a. That in accordance with Section 494 of the Local Government Act 1993 Council makes the Base Amount plus Ad valorem amount of the ordinary rate as set out hereunder for the various categories of all rateable land in the area for the year commencing 1 July 2019:

<table>
<thead>
<tr>
<th>Category</th>
<th>Base amount $</th>
<th>% $500 LG Act</th>
<th>Plus Ad valorem Cents in $</th>
</tr>
</thead>
<tbody>
<tr>
<td>Farmland</td>
<td>625.00</td>
<td>29.3810</td>
<td>0.005200</td>
</tr>
<tr>
<td>Residential</td>
<td>568.00</td>
<td>49.8257</td>
<td>0.004480</td>
</tr>
<tr>
<td>Business - Other</td>
<td>633.00</td>
<td>27.5850</td>
<td>0.010140</td>
</tr>
<tr>
<td>Business – Urban</td>
<td>713.00</td>
<td>22.2560</td>
<td>0.011870</td>
</tr>
<tr>
<td>Environmental</td>
<td>12.00</td>
<td>21.9059</td>
<td>0.00029</td>
</tr>
</tbody>
</table>
b. That in accordance with Section 496 of the Local Government Act 1993 Council makes the following annual charges for the Domestic Waste Management Service for the year commencing 1 July 2019:

<table>
<thead>
<tr>
<th>Category</th>
<th>Charge per Annum ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Domestic Waste Charge Weekly Standard</td>
<td>403.00</td>
</tr>
<tr>
<td>Domestic Waste Charge Weekly Small</td>
<td>351.00</td>
</tr>
<tr>
<td>Domestic Waste Charge Weekly Standard – Upsize</td>
<td>413.00</td>
</tr>
<tr>
<td>Domestic Waste Charge Weekly Small - Upsize</td>
<td>361.00</td>
</tr>
<tr>
<td>Domestic Waste Charge Vacant Lands – Urban</td>
<td>43.00</td>
</tr>
</tbody>
</table>

c. That in accordance with Section 501 of the Local Government Act 1993 Council makes the following Commercial Waste Service charge for the year commencing 1 July 2019:

<table>
<thead>
<tr>
<th>Category</th>
<th>Charge per Annum ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Per single weekly service (240 Litre Sulo Red)</td>
<td>384.00</td>
</tr>
<tr>
<td>Per single weekly service (140 Litre Sulo Red)</td>
<td>300.00</td>
</tr>
<tr>
<td>Per single fortnightly service (240 Litre Sulo Yellow)</td>
<td>105.00</td>
</tr>
<tr>
<td>Per single fortnightly service (360 Litre Sulo Yellow)</td>
<td>117.00</td>
</tr>
<tr>
<td>Per single weekly service (240 Litre Sulo Green)</td>
<td>140.00</td>
</tr>
<tr>
<td>Per single weekly service (140 Litre Sulo Green)</td>
<td>128.00</td>
</tr>
</tbody>
</table>

d. That the Domestic Waste Management Service and the Commercial Waste Service charges be based on the number of separate occupancies or domiciles (whether actually occupied or not) contained within each rateable property for which the service is available.

e. That in accordance with Section 496A of the Local Government Act 1993 Council makes the following annual charges for Stormwater Management Services – Urban areas for year commencing 1 July 2019:

<table>
<thead>
<tr>
<th>Category</th>
<th>Charge per Annum ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stormwater Management Service – Urban areas</td>
<td>25.00</td>
</tr>
<tr>
<td>Stormwater Management Service – Urban areas Strata Units</td>
<td>12.50</td>
</tr>
</tbody>
</table>

f. That in accordance with Sections 501 and 502 of the Local Government Act 1993 Council makes the following annual water access charges for the year commencing 1 July 2019:

<table>
<thead>
<tr>
<th>Meter Size (mm)</th>
<th>Access Charge per annum ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vacant</td>
<td>325.00</td>
</tr>
<tr>
<td>20</td>
<td>325.00</td>
</tr>
<tr>
<td>25</td>
<td>503.00</td>
</tr>
<tr>
<td>32</td>
<td>818.00</td>
</tr>
<tr>
<td>40</td>
<td>1,273.00</td>
</tr>
<tr>
<td>50</td>
<td>1,984.00</td>
</tr>
<tr>
<td>80</td>
<td>5,056.00</td>
</tr>
<tr>
<td>100</td>
<td>7,896.00</td>
</tr>
</tbody>
</table>
g. That in accordance with Section 501 of the Local Government Act 1993 Council makes the following annual sewerage access charges for the year commencing 1 July 2019:

<table>
<thead>
<tr>
<th>Access Charge</th>
<th>Charge per Annum ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential – Sewerage Base Charge Connected Properties (Per annum)</td>
<td>1,126.00</td>
</tr>
<tr>
<td>Residential – Sewerage Base Charge Unconnected Properties (Per annum)</td>
<td>710.00</td>
</tr>
<tr>
<td>Non-Residential (per connection size) Water Meter Size (mm)</td>
<td></td>
</tr>
<tr>
<td>Vacant</td>
<td>710.00</td>
</tr>
<tr>
<td>20</td>
<td>1,040.00</td>
</tr>
<tr>
<td>25</td>
<td>1,634.00</td>
</tr>
<tr>
<td>32</td>
<td>2,397.00</td>
</tr>
<tr>
<td>40</td>
<td>3,705.00</td>
</tr>
<tr>
<td>50</td>
<td>5,858.00</td>
</tr>
<tr>
<td>80</td>
<td>15,026.00</td>
</tr>
<tr>
<td>100</td>
<td>23,440.00</td>
</tr>
<tr>
<td>150</td>
<td>55,817.00</td>
</tr>
<tr>
<td>Flats (per unit per annum)</td>
<td>1,126.00</td>
</tr>
<tr>
<td>Holiday Flats (per unit per annum)</td>
<td>1,126.00</td>
</tr>
</tbody>
</table>

h. That in accordance with Section 501 of the Local Government Act 1993 Council makes the following Onsite Sewerage Management System – Annual approval charge for the year commencing 1 July 2019:

<table>
<thead>
<tr>
<th>Category</th>
<th>Charge per Annum ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single dwelling</td>
<td>$79.00 per onsite system</td>
</tr>
<tr>
<td>Small commercial systems</td>
<td>$181.55 per onsite system</td>
</tr>
<tr>
<td>Large commercial systems</td>
<td>$316.00 per onsite system</td>
</tr>
</tbody>
</table>

3. That in accordance with provisions of Section 566 of the Local Government Act 1993 Council resolves that the maximum allowable interest rate of 7.5% be applied to all outstanding rates and charges for the year commencing 1 July 2019.

BACKGROUND

The draft Integrated Planning and Reporting documents were placed on exhibition for 28 days following a resolution of the 16 April 2019 ordinary Council meeting. The exhibition period closed on 22 May 2019.

The draft Operational Plan and draft Long-Term Financial Plan (LTFP) documents were accompanied by draft schedule of Fees and Charges, Rate Categories Maps and a ten-year capital works program.
In 2009, the NSW Government adopted a new Integrated Planning and Reporting (IP&R) framework within the Local Government Act (1993) which legislates the way councils draw their plans together. Legislatively, the final suite of planning documents is required to be presented to Council for adoption no later than 30 June 2019 to take effect in the new financial year.

**Operational Plan**

The one-year Operational Plan details the activities, performance measures, and budgets that will be undertaken for 2019-20 to achieve the commitments made in the Delivery Program 2017-2021. The Operational Plan, cascading from the Delivery Program, is organised by the community themes, being Healthy, Wealthy, Safe, Connected and Governance, upon which Council’s Community Strategic Plan and Delivery Program have been structured.

The Operational Plan includes a budget snapshot providing an overview of key projects proposed across the shire that have been prioritised by the community. The total 2019-20 General Fund budgeted operating and capital expenditure (excluding depreciation) is $99M, with total revenues expected to be $85M. The projected net operating surplus, inclusive of income associated with capital grants, is $4M but is a $9M deficit when capital grants are excluded.

The 2019-20 financial year will see the delivery of a number of grant funded projects across the Shire. This will result in improved sports grounds, new playgrounds and new amenities constructed in Kempsey, Crescent Head, South West Rocks, Frederickton and Stuarts Point. Additionally, our works program will see significant investment in the ongoing maintenance and rehabilitation of sealed and unsealed roads, footpaths and our water and sewer networks.

Furthermore, Council will continue to focus on making critical improvements across the operation and management of the Council organisation. Seven (7) priority areas have been identified as part of Council’s Corporate Improvement Program (CIP). These priority areas are fundamental to moving the council organisation forward so that it can continue to meet the expectations of the community in a sustainable way over the long term. The seven CIP priority areas are detailed below, and actions associated with these CIP priorities have been included within the 2019-20 Operational Plan.

1. Financial sustainability
2. Employee engagement and culture
3. Asset management
4. Community engagement and reputation management
5. Corporate governance
6. Strategic planning, reporting and performance management
7. Systems and processes

Further information relating to the 2019-20 budget and assumptions is also provided in the attached Long Term Financial Plan and Revenue Policy.

The 2019-20 financial year will see Council continue to deliver significant capital investment in the areas that have been identified as high community priorities such as:

- Over $11.6 million to be spent on Council’s extensive 613 km of sealed and 570km unsealed roads network, and bridges replacement
- Over $3.2 million proposed to increase open spaces and facilities, including Willawarrin playground replacement, Killick Creek footpath replacement, and Stuarts Point Reserve upgrade
- Over $3.5 million proposed to be spent on sporting infrastructure, such as South West Rocks Sports Complex, Verge/ Eden Street Sports Complex, and Jim Stirling Oval
• Prioritised public amenities at Riverside Park, Kempsey and Willawarrin sportsground
• Continued expansion of sewage treatment facilities.

Nine (9) submissions were received on the proposed Operational Plan during Council’s public exhibition. These submissions and Council’s responses are detailed in the ‘Submissions Summary’ which has been attached to this report. A copy of the nine submissions has also been attached.

Revenue Policy and 2019-20 Fees and Charges
Council delivers a wide range of fees and chargeable services to the community. In determining the appropriate level of fees to be charged, a range of issues are considered such as what is fair and equitable, and how much the service costs to provide. These factors are detailed in Council’s Revenue Policy and in the 2019-20 Schedule of Fees & Charges, in accordance with the Operational Plan requirements of Section 405(2) of the Local Government Act and its regulations.

The 2019-20 Fees and Charges show a number of categories where categories have increased by, or above, CPI. These increases apply to categories where the individual costs are met by the user of the service, where Council operates in a competitive marketplace or Council provides services on a commercial basis.

The attached 2019-20 Schedule of Fees and Charges includes a listing of all proposed Council fees and charges. Council has developed a standalone Revenue Policy, separate to the Schedule of Fees & Charges, that describes how various revenue classes and yields for rates, and fees and charges were determined for the 2019-20 year.

Council has also identified the need for a further review of certain fees and charges (including their pricing methodologies) to ensure that these are appropriate and cost reflective. This review will entail further analysis and benchmarking and will be incorporated into the 2020-21 Fees and Charges.

There were no submissions received on the proposed Fees and Charges during Council’s public exhibition. However, some changes to the draft Fees & Charges have been proposed as a result of further internal review. These changes are detailed in the Internal Review section of this report below.

Long Term Financial Plan
The LTFP is an important part of Council’s strategic planning process. The LTFP must be for a minimum of 10 years and is updated annually as part of the development of the Operational Plan.

The LTFP shows how Council has analysed and planned its financial resources to manage its assets, infrastructure and operations over the next 10 years. In particular, it shows how Council will manage its finances to implement the ten-year strategies outlined in the Community Strategic Plan, the four-year Delivery Program and the annual Operational Plan. While long term financial planning is a necessity, the inherent uncertainty of long term predictions should be taken into consideration when assessing these future long term financial forecasts.

The LTFP includes a number of scenarios and outlines the assumptions that underpin the financial planning as there are aspects of the future that we can’t be sure of, nor accurately predict. The attached LTFP contains detailed 10-year forecasts for all three funds (General, Water and Sewer) and at the consolidated level. Council has commenced a significant program of work to deliver the initiatives identified in its Financial Sustainability Strategy Roadmap. These initiatives, when delivered, will result in improved financial forecasts within future Long Term Financial Plans.
As part of this, a review of the Water Fund and Sewer Fund financial sustainability is in progress. This is in light of Council’s substantial capital works programs across these asset categories over the next 10 years and as a deficit position of the Sewer Fund in particular is projected. This review will deliver advice on the affordability of current and forward programs and determine whether further consideration of project delivery options is required. The review is being undertaken with the aim of ensuring the financial position of these Funds can be managed appropriately.

The Long Term Financial Plan includes a sizeable capital expenditure program, especially for 2019-20, when compared to historical levels of actual capital expenditure delivery. The program will continue to be reviewed to ensure planned capital expenditure programs are achievable and ultimately delivered.

There were no submissions received on the proposed Long Term Financial Plan during Council’s public exhibition. However, changes have been proposed to the Long Term Financial Plan 2019-2029 as a result of more detailed analysis of budget inputs and underlying assumptions. These changes are detailed within the Internal Review section of this report below.

**Community Engagement**

There were a series of community engagement actions undertaken as part of the public exhibition period to promote the opportunity for the community to have a say on the draft IP&R documents. These actions are summarised in the table below.

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Your Say Macleay Site</td>
<td>IP&amp;R document suite posted on Your Say Macleay, to monitor downloads and participation</td>
</tr>
<tr>
<td></td>
<td>• 302 visits to Your Say Macleay project site</td>
</tr>
<tr>
<td></td>
<td>• 266 document downloads</td>
</tr>
<tr>
<td></td>
<td>• 158 Operational Plan downloads</td>
</tr>
<tr>
<td></td>
<td>• 42 Fees and Charges downloads</td>
</tr>
<tr>
<td></td>
<td>• 31 Long Term Financial Plan downloads</td>
</tr>
<tr>
<td>Mayors Column</td>
<td>Two dedicated items in the Mayors Column</td>
</tr>
<tr>
<td>Website Promotion</td>
<td>Link on KSC website on Public Exhibition homepage for the same exhibition period as Your Say Macleay.</td>
</tr>
<tr>
<td></td>
<td>Council notices repeated on website for the weeks it was published in the Argus &amp; media releases.</td>
</tr>
<tr>
<td>Media Promotion</td>
<td>Media releases distributed 23 April &amp; 30 April</td>
</tr>
<tr>
<td>Social Media Promotion</td>
<td>Facebook posts during the period to promote plans and opportunity to comment</td>
</tr>
<tr>
<td>Direct Messages</td>
<td>April / May community newsletter – email newsletter to 1,500 subscribers</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
</tr>
<tr>
<td>----------------------------------</td>
<td>-----------------------------------------------------------------------------</td>
</tr>
<tr>
<td>23 April E Newsletter to all members – 844 recipients</td>
<td>Story in Rates Newsletter – printed newsletter direct to approx. 13,000 rate payers</td>
</tr>
<tr>
<td>Face to Face Engagement</td>
<td>Two days community engagement at Kempsey Show on 6 &amp; 7 May 2019 to promote plans and opportunity to comment</td>
</tr>
<tr>
<td>Council notices</td>
<td>Macleay Argus – 23, 30 April &amp; 7 May</td>
</tr>
<tr>
<td></td>
<td>Macleay Valley Happenings – 24 April &amp; 1, 8 May</td>
</tr>
</tbody>
</table>

**Internal Review**

While the draft Integrated Planning and Reporting document suite was on public exhibition, an internal review was conducted that has proposed a number of corrections due to minor errors or omissions. The review considered:

- Projects that may have been omitted from the original draft Operating Plan
- Revised action delivery dates
- Council’s current organisational structure and the sections responsible for actions
- Grant applications subsequently made
- Legislative requirements for revenue policy and changes to fees and charges
- Fees and charges corrections
- Budget assumptions
- Subsequent resolutions of Council
- Grammatical corrections

**IP&R Document Suite Changes Recommended:**

<table>
<thead>
<tr>
<th>Item</th>
<th>Draft Details</th>
<th>Changes Proposed</th>
<th>Changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>New / updated Operational Plan 2019-20 actions</td>
<td>WS0.1.2.1</td>
<td>Add Strategic &amp; Asset Planning to responsibility</td>
<td>Strategic Planning are responsible for developing the Local Strategic Planning Statements.</td>
</tr>
<tr>
<td></td>
<td>WS01.2.4</td>
<td>Add Strategic &amp; Asset Planning to responsibility</td>
<td>Strategic &amp; Asset Planning are often responsible for cultural heritage enhancement and protection through project development and planning instruments.</td>
</tr>
<tr>
<td></td>
<td>SS03.1.1.</td>
<td>Remove Community Partnerships and change to Governance &amp; Information Services.</td>
<td>Community partnerships received the grant and installed the CCTV, however ongoing maintenance is with Governance &amp; Information Services.</td>
</tr>
<tr>
<td>Item</td>
<td>Draft Details</td>
<td>Changes Proposed</td>
<td>Changes</td>
</tr>
<tr>
<td>------</td>
<td>---------------</td>
<td>------------------</td>
<td>---------</td>
</tr>
<tr>
<td>SS07.1.2</td>
<td>Add Governance and Information Services to responsibility.</td>
<td>Governance and &amp; Information Services manage the protocols and provision of the CCTV footage to Police.</td>
<td></td>
</tr>
<tr>
<td><strong>Other Changes to Operational Plan arising from internal reviews</strong></td>
<td>CO1.1.6</td>
<td>Responsibility should be Strategic &amp; Asset Planning only</td>
<td>Other Council areas are simply stakeholders in the process, of which there are many.</td>
</tr>
<tr>
<td></td>
<td>CO1.1.9</td>
<td>Performance Measure edited to avoid pre-empting outcomes of the Masterplan.</td>
<td>Complete the Beach access path by December 2019. Seek funding opportunities for the implementation of further priority stages of the finalised masterplan.</td>
</tr>
</tbody>
</table>
| | HS03.2.3 | Arising from past under-expenditure of the Stormwater Levy, addition of the following to the list of locations for the construction program following review being:  
- Ocean Street, South West Rocks  
- William Street, East Kempsey  
- New Entrance Road/Marlin Drive, South West Rocks. | Additional locations added to stormwater construction for the Operational Plan Action item HS0 3.2.3. |
<p>| <strong>Changes to Operational Plan arising from Capital Works Program review</strong> | WS05.3.2 | Delete Middleton Street from the project list for 2019-20 in light of work previously completed on this section and the planned review of the South Kempsey One Community One Mob Plan in 2019-20. Reallocation of funds to other projects following further site investigations. | Deletion of project from Operational Plan and Capital Works program for 2019-20. |</p>
<table>
<thead>
<tr>
<th>Item</th>
<th>Draft Details</th>
<th>Changes Proposed</th>
<th>Changes</th>
</tr>
</thead>
</table>
| WS05.3.2 | • Error noted in location and changed  
• Macleay Valley Way – Renewal of Directional and Tourist Signage required following completion of Pacific Highway duplication | • Change to ‘Hillview Drive, Yarravel’  
• Addition of ‘Macleay Valley Way – Renewal of directional and tourist signage’ | |
<p>| WS05.3.5 | Delete ‘Belmore Right Bank Road – Scotts Bridge’ from project list due to additional funds required for Back Creek Pedestrian Bridge in 2019-20. It will be on the 2020-21 program as grant funds are being received for Roses Bridge in 2020-21, thereby reducing Council’s contribution to that project. | Deletion made to Operational Plan and Capital Works program for 2019-20. | |
| <strong>10 Year Works Program Changes</strong> | Middleton Street | Deletion of Middleton Street per Operating Plan change outlined above. Budget of $300,000 for Middleton Street - to be reallocated over existing projects based on scoping/investigation work undertaken since the draft plan was developed – increase Innes Street from $300k to $450k, increase Haven Crescent from $310k to $410k and increase Hillview Drive from $343k to $393k. | Changes to Works Program made. |
| Bridge Replacement Program | Delete Belmore Right Bank Road – Scotts Bridge from the project list for 2019-20 per Operating Plan change outlined above. It will be put in the 2020-21 program as grant funds are being received for Roses Bridge in 2020-21 (see details below on the 2020-21 Bridge program). 2019-20 budget | Changes to Works Program made. | |</p>
<table>
<thead>
<tr>
<th>Item</th>
<th>Draft Details</th>
<th>Changes Proposed</th>
<th>Changes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>of $250,000 for Scott Bridge requires reallocation to Back Creek Pedestrian Bridge (add to existing 2019-20 budget of $640,000 - meaning $890,000 for Back Creek Bridge plus funds in 2018-19) based on tendered costs for components of the works (tender being reported to Council in June).</td>
<td>Changes to Works Program made.</td>
<td></td>
</tr>
<tr>
<td>Macleay Valley Way Directional and Tourist Signage</td>
<td>Macleay Valley Way Directional and Tourist Signage (addition following audit). Allocation of $65,000 from Highway Reserve.</td>
<td>Changes to Works Program made.</td>
<td></td>
</tr>
<tr>
<td>Roads to Recovery</td>
<td>Creation of road rescaling program from 2020-21 to 2023-24 arising from additional Roads to Recovery funding of $1,160,188 over the next 5 years.</td>
<td>Changes to Works Program made.</td>
<td></td>
</tr>
</tbody>
</table>
| Stormwater Drainage | Arising from past under-expenditure of the Stormwater Levy, addition of the following to the list of locations for the construction program over the next 2 years:  
  - Ocean Street, South West Rocks  
  - William Street, East Kempsey  
  - New Entrance Road/Marlin Drive, South West Rocks  
  - Gregory Street/Tallowwood Place, South West Rocks | Changes to Works Program made. | |
<table>
<thead>
<tr>
<th>Item</th>
<th>Draft Details</th>
<th>Changes Proposed</th>
<th>Changes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>• Philip Drive, South West Rocks.</td>
<td></td>
</tr>
<tr>
<td>Unsealed Roads</td>
<td>Commentary on unsealed road requires updating following Council’s consideration of priority program at the May Ordinary Meeting of Council.</td>
<td>Changes to commentary in Works Program made.</td>
<td></td>
</tr>
<tr>
<td>Roads to Recovery</td>
<td>Roads to Recovery – Long Term Financial Plan adjustments due to an extra $1,160,188 being allocated to Council over the 5 year program. These additional funds shall be allocated to Road Resealing Program.</td>
<td>Adjustments to Long Term Financial Plan due to Change in 10 Year Works Program.</td>
<td></td>
</tr>
<tr>
<td>Roses Bridge grant</td>
<td>Roses Bridge grant - Long Term financial plan adjustment to reflect the grant ($332,500) being received in 2020-21. 2020/21 bridge replacement program therefore increases to $1,282,500 ($665,000 – Nulla Nulla Creek Road – Roses Bridge, $200,000 – Warbro Brook Road – Butlers Bridge, $250,000 – Temagog Road – White Hawk Bridge, $167,500* – Belmore Right Bank Road – Scotts Bridge (*additional funding of $82,500 required for project through grant funding or savings within other bridge projects).</td>
<td>Adjustments to Long Term Financial Plan due to Changes in 10 Year Works Program.</td>
<td></td>
</tr>
<tr>
<td>Long Term Financial Plan Changes arising from changes to 10 Year Works Program</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| Other Changes to Long Term Financial Plan arising from internal reviews | Long Term Financial Plan 2019-2029 financial forecasts | Changes have been proposed to the Long Term Financial Plan (2019-2029) as a result of more detailed analysis of budget inputs and underlying assumptions. | • $0.8M increase in labour costs  
• $0.3M increase in materials  
• $1.1M increase in depreciation (this is an estimate, the asset |
<table>
<thead>
<tr>
<th>Item</th>
<th>Draft Details</th>
<th>Changes Proposed</th>
<th>Changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Item</td>
<td>Draft Details</td>
<td>Changes Proposed</td>
<td>Changes</td>
</tr>
<tr>
<td>Fees &amp; Charges 2019-20 changes (noted following Council meeting of 16 April 2019)</td>
<td>Tipping Fees – Tyres – In pieces measuring less than 250mm in any direction – DRAFT Fees &amp;Charges was $240.00</td>
<td>Proposed to be $280.00 in the Final document</td>
<td>Increase tyre tipping charge to $280</td>
</tr>
<tr>
<td>P. 13 - Aerodrome – Under the Aircraft Movement Charges</td>
<td>Propose to remove the following charges from the Fees &amp; Charges - Minimum Charge (as it was duplicated under Aircraft Movement) - Annual Airport User Charges for both Commercial and Private Purposes</td>
<td>Proposed changes made to remove duplicated aircraft movement in Fees and Charges.</td>
<td></td>
</tr>
<tr>
<td>p.33 Companion Animals Registration Charges under Companion Animals Act.</td>
<td>In accordance with the OLG Circular of 12 June 2019, there were minor changes to registration charges to fees being: - Entire (not desexed) cat or dog - $210 - Entire cat or dog by a registered breeder, desexed cat or dog - $58 - Pound/ Shelter animal $29 - Desexed dog or cat owned by pensioner $25</td>
<td>Proposed changes made to Fees and Charges.</td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Draft Details</td>
<td>Changes Proposed</td>
<td>Changes</td>
</tr>
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<td>----------------------------------------------------------------------</td>
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<tr>
<td></td>
<td>• Late Fee $16</td>
<td>Minor wording changes made to clarify descriptions being:</td>
<td>Proposed wording changes made to Fees and Charges in Part 12 and Part 3.</td>
</tr>
<tr>
<td></td>
<td>Minor descriptive wording changes</td>
<td>• Part 12 Waste Management Tipping fees descriptions for ‘sorting mixed loads’</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Part 3 Aerodrome Parking changes to ‘Aircraft’ and ‘Airside’, and ‘weight based movement charge’, and ‘Little Wings’ added to wording descriptions</td>
<td></td>
</tr>
<tr>
<td>Revenue policy: in accordance with requirements of LGA and regulations following internal review</td>
<td>Not applicable</td>
<td>Development of a standalone Revenue Policy separate to the Schedule of Fees &amp; Charges to more clearly address the overarching policy requirements of s.405(2) of LGA; and clause 201 of the Local Government regulations.</td>
<td>Development of a standalone Revenue Policy separate to the Schedule of Fees &amp; Charges.</td>
</tr>
</tbody>
</table>

Submissions Review

CONCLUSION

Council exhibited its suite of IP&R documents as required under the Local Government Act (1993) following the Council resolution from the 16 April 2019 Council meeting. Nine submissions were received, and these have been considered in the final draft IP&R documents attached to this report for Council adoption. Additionally, a number of other changes to the IP&R documents have been recommended following internal review of the documents by Council staff.

Legislatively, the final suite of planning documents are to be presented to Council and adopted no later than 30 June 2019. It is recommended that Council adopt the IP&R document suite for 2019-20.
9.4 PLANNING PROPOSAL 27 SEAMS ROAD, KUNDABUNG

Officer  
Peter Orr, Senior Strategic Planning Officer

File No  
KLEP2013-AM-17

Attachments  
1. Gateway determination and delegation [9.4.1 - 6 pages]
2. Public Submissions [9.4.2 - 49 pages]
3. OEH Agency Response [9.4.3 - 6 pages]
4. Forestry NSW Agency Response [9.4.4 - 4 pages]
5. NSW RFS Agency Response [9.4.5 - 1 page]

PURPOSE

To consider the following planning proposal for progression to the next stage of the local plan making process.

Proposal: Amend Kempsey Local Environmental Plan (KLEP) 2013 by changing the minimum lot size for the subject site from 40ha to part 10ha and part 20ha

Location: 27 Seams Road, Kundabung

Proponent: Hopkins Consultants on behalf of Gavin Landini

Status: Community and agency consultation undertaken

Council is to consider the matters raised in the community and agency submissions and decide whether to exercise delegation to make the proposed amendment to KLEP 2013.

RECOMMENDATION

1. That the planning proposal to permit the amendment of the Lot Size Map for land at 27 Seams Road, Kundabung, from 40ha to part 10ha and part 20ha, be progressed to make the amendment to the local environmental plan, described as KLEP 2013 (Amendment 17).

2. Prior to progressing the amendment, the proponent is to first complete the registration of a plan of subdivision to formalise access to Old Coast Road, as required by Condition 5 of the Gateway Determination.

3. On notification of the registration of subdivision, Council staff request the Parliamentary Counsel’s Office to draft the legal instrument, KLEP 2013 (Amendment 17), under s 3.36(1) of the Environmental Planning and Assessment Act 1979 to give effect to the final planning proposal.

4. The General Manager exercise delegation from the Minister for Planning to make the amending instrument, KLEP 2013 (Amendment 17).

5. Upon the making of KLEP 2013 (Amendment 17), the Department of Planning & Environment be requested to notify the plan on the NSW Legislation webpage.

ISSUES

A delegate for the Minister for Planning has issued authorisation for Council to exercise delegation to make the amending LEP. This means that Council undertakes the role of:

- instructing Parliamentary Counsel’s Office to draft the legal instrument which will give effect to the planning proposal;
- making the amending local environmental plan; and
- requesting the amending local environmental plan be notified on the NSW Legislation website.

The plan comes into effect the day that it is published on the legislation website.

BACKGROUND

The subject land is legally defined as Lot 13 DP878784, 27 Seams Road, Kundabung and is located approximately 15 km south of Kempsey. The subject land (refer to Figure 1 below) is located within a split RU1 – Primary Production/RU2 - Rural Landscape land zone and has a total area of approximately 58.18ha. The planning proposal will provide formal access to Old Coast Road (to the west).

The Planning Proposal is to amend Lot Size Map – Sheet LSZ_012 KLEP 2013 (as it applies to this site) from a minimum lot size of 40ha to part 10ha and part 20ha, to permit (with development consent) a future 3-lot rural residential subdivision.

Figure 1: Subject site (within yellow border) located to the north west of Kundabung Village
On 21 February 2017, Council resolved:

That the Planning Proposal and associated documentation be submitted to the Minister for Planning for consideration of issuing a “gateway determination” pursuant to Section 56 of the Environmental Planning and Assessment Act 1979.

On 5 December 2017 a delegate for the Minister for Planning issued a Gateway determination to proceed with the planning proposal (subject to the conditions outlined in the table below) along with written authorisation to exercise the delegation of the Minister’s functions under S3.36 of the Environmental Planning and Assessment Act 1979 (the Gateway determination is attached). An extension of time was granted for the Gateway determination on 7 November 2018 (the new timeframe for completing the LEP amendment is now 5 December 2019).

<table>
<thead>
<tr>
<th>Gateway Condition</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Prior to community consultation the planning proposal is to be amended as follows:</td>
<td>The Planning Proposal was amended, as required, prior to community consultation on 15 January 2019.</td>
</tr>
<tr>
<td>a) the planning proposal is to be amended to reflect that access from Old Coast Road to Lot 13 will be provided by a 20m wide access handle across Lot 43 instead of a right of way;</td>
<td></td>
</tr>
<tr>
<td>b) a map that also shows the proposed minimum lot sizes is to be included in Part 4 of the planning proposal;</td>
<td></td>
</tr>
<tr>
<td>c) figure 7 on page 11 of the planning proposal is to be reinstated;</td>
<td></td>
</tr>
<tr>
<td>d) a project timeline is to be included in Part 6 of the planning proposal.</td>
<td></td>
</tr>
<tr>
<td>2. Prior to community consultation the following additional investigations are to be undertaken and are to be included in the material used for community consultation. The planning proposal is to be amended as necessary should these investigations conclude changes to the proposal are necessary:</td>
<td>These matters were addressed prior to community consultation as follows:</td>
</tr>
<tr>
<td>a) an Aboriginal cultural heritage study for the site and the location of the proposed 20m wide vehicular access across Lot 43 DP 592703;</td>
<td>a) On the 27 June 2018 the Kempsey Local Aboriginal Land Council prepared an Aboriginal Cultural Heritage Assessment Report which confirmed that their research and a “… site inspection revealed no new sites of spiritual, ceremonial or otherwise of traditional Indigenous cultural significance”.</td>
</tr>
<tr>
<td>b) an additional flora and fauna assessment of the route of the agreed 20m wide future access across Lot 43 DP592703 from the</td>
<td>b) The flora and fauna assessment provided identifies that a 20m wide access clearing was undertaken prior to the lodgement of the planning proposal through Routine</td>
</tr>
<tr>
<td>Gateway Condition</td>
<td>Comment</td>
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<tr>
<td>site to Old Coast Road that confirms that the clearing of the access way will not have any significant adverse ecological impact. If the route of the proposed access way needs to be realigned the planning proposal is to be amended as necessary; and c) a preliminary contaminated land assessment for the proposed dwelling envelopes, including soil sampling as considered appropriate by the relevant planning authority.</td>
<td>Agricultural Management Activity (RAMA) clearing under the <em>Native Vegetation Act 2003</em>. No further clearing for the access route is required and therefore an additional flora and fauna assessment is unnecessary and unwarranted. c) A history of previous land uses at the site (identified in the revised planning proposal) confirms that the site is unlikely to be contaminated from prior land practices. A statutory declaration to this effect is provided as Attachment E3 to the exhibited Planning Proposal. Additionally, a soil test has been provided which identifies no site contamination. These responses were provided to the Department of Planning who advised that this condition had been addressed and that consultation could proceed.</td>
</tr>
</tbody>
</table>

3. **Consultation is required with the following public authorities / organisations under section 56(2)(d) of the Act and/or to comply with the requirements of relevant Section 117 Directions:**
   - NSW Office of Environment and Heritage;
   - NSW Rural Fire Service;
   - Forestry Corporation of NSW; and
   - The Local Aboriginal Land Council.

   *Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.*

   *The consultation with NSW Office of Environment and Heritage, NSW Rural Fire Service and Forestry Corporation of NSW is to occur after the additional site investigations have been completed and prior to community consultation.*

   The amended planning proposal was provided to all the referred agencies in accordance with this condition and their responses are discussed later in this report.

4. **Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:**

   Community consultation was undertaken for a 28-day period from Tuesday 15th January 2019.
<table>
<thead>
<tr>
<th>Gateway Condition</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>a)</strong> the planning proposal is classified as low impact as described in A guide to preparing local environmental plans (Department of Planning and Environment 2016) and must be made publicly available for a minimum of <strong>14 days</strong>; and</td>
<td>until Tuesday 12th February 2019. A Public Notice was placed in the Macleay Argus on the 15th January 2019. Additionally, letters advising of the planning proposal and the public consultation period were posted to sixteen (16) adjoining landowners – in accordance with Section 5.5.2 of A guide to preparing local environmental plans (Department of Planning and Environment 2016).</td>
</tr>
<tr>
<td><strong>b)</strong> the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in Section 5.5.2 of A guide to preparing local environmental plans (Department of Planning and Environment 2016).</td>
<td></td>
</tr>
</tbody>
</table>

5. **Before the proposed amendment to the Kempsey LEP 2013 to amend the minimum lot size for Lot 13 DP 878784 is made, the subdivision between Lot 13 DP 878784 and Lot 43 DP 592703 to create a 20m wide access handle to provide access between Old Coast Road and Lot 13 DP 878784 is to be finalised and the plan of subdivision registered.**

As per Attachment H of the exhibited Planning Proposal – a signed agreement to purchase a strip of land 20m wide (as identified in Attachment B2 – Plan of Subdivision for the exhibited Planning Proposal) has been provided.

A development application for the required boundary adjustment (T6-18-418) to provide the road access was lodged on the 14th December 2018. Consent has been issued following assessment, and the proponent is finalising the details for registration of the subdivision.

The LEP amendment will not be notified until the 20m access handle has been formalised and the plan of subdivision registered.

6. **A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).**

Noted.

7. **The timeframe for completing the LEP is to be 12 months following the date of the Gateway determination.**

The current timeframe for completing the LEP amendment is 5 December 2019 – which is readily achievable.
### Community consultation

#### Public exhibition

The planning proposal was placed on public exhibition from Tuesday 15th January 2019 through to Tuesday 12th February 2019. Three public submissions (attached) were received objecting to the proposal, which are summarised below.

<table>
<thead>
<tr>
<th>Submission</th>
<th>Comment/Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. This locality is identified as having a historical record of Koala populations. The proposal should be refused until an assessment against a revised Kempsey Comprehensive Koala Plan of Management (CKPoM) can be undertaken.</td>
<td>Council has an adopted CKPoM. The flora and fauna assessment (by Eco Ecology) provided, demonstrates that the proposal will not have any significant impact on threatened species or communities, and establishes compliance with the CKPoM. The report also contains several recommendations which would be applied to a future development application for the subdivision. Further, it is noted that the site is substantially cleared, and that further clearing is not required to accommodate proposed building envelopes or the access road. It would be unfair to refuse the proposal based on unknown changes that may or may not arise from a new or revised CKPoM.</td>
</tr>
<tr>
<td>2. a) The planning proposal will diminish the productive capacity of the site and adjoining land parcels through potential land use conflict. b) The site will be rezoned and the proposal will create increased demand for services and infrastructure. c) The natural and historical values at the site will likely be undermined by the subdivision, additional dwellings at the site and an increase in occupants. d) Potential threats exist regarding bushfire, flooding and safe access.</td>
<td>The subject site is located within the Kundabung land release area, as contained in the Kempsey Shire Rural Residential Land Release Strategy (the strategy). a) The site contains an area of regionally significant farmland which runs either side of Pipers Creek (being the southern boundary of the site). The regionally significant farmland is confined to the riparian edges of the creek and therefore has restricted accessibility and limited functionality as productive agricultural land. The planning proposal will have no material impact on this regionally significant farmland. Further, this locality comprises highly fragmented land which is best described as hobby farms/rural lifestyle blocks and is consistent and compatible with the rural subdivision proposed in this instance. b) The planning proposal is to amend the minimum lot size map. It will not change the zone from its current RU1 – Primary Production and RU2 - Rural Landscape land zones. The minimum lot size mapping proposed would provide for two</td>
</tr>
<tr>
<td>Submission</td>
<td>Comment/Response</td>
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<tr>
<td>------------</td>
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<tr>
<td>additional lots, and ultimately two additional dwellings. This additional density is consistent with surrounding development and is unlikely to detrimentally impact local services or infrastructure.</td>
<td>c) The site is substantially cleared, and the Planning Proposal identifies that no further clearing is required to accommodate a future 1 into 3 lot subdivision. Additionally, there are no heritage listings, heritage sites or heritage structures identified for this site.</td>
</tr>
<tr>
<td>d) The Planning Proposal is accompanied by a bushfire hazard assessment report which identifies that the subdivision and the proposed future locations for dwellings at the site can comply with the legislative requirements of <em>Planning for Bushfire Protection 2006</em>.</td>
<td></td>
</tr>
<tr>
<td>Direct access to Old Coast Road, built to the appropriate road standard, is required to be provided as a condition of the Gateway determination. While Council does not have specific flood data for this location, the identified access route is located at elevated contours above Pipers Creek and is wholly superior to the State forest access arrangements currently relied upon. This 20m wide access carriageway will provide improved access for residents and also satisfy access requirements under <em>Planning for Bushfire Protection 2006</em>. A development application to create the required subdivision to enable this access to be created has been lodged with Council and determined.</td>
<td></td>
</tr>
</tbody>
</table>

3. **What restrictions apply on the use of the existing Right of Carriageway that extends from the subject site to Seams Road.**

| The new road connection from the proposed subdivision to Old Coast Road will be the principle accessway. The existing Right of Carriageway (RoC) provides legal public access between the subject site (through lots 11 and 12) to/from the Pacific Highway via Seams Road. It is proposed that the RoC arrangement will continue and provide alternative/secondary |
Agency Responses:

As required by condition number 3 of the Gateway determination, consultation was undertaken with the following State agencies prior to community consultation:

- NSW Office of Environment and Heritage;
- NSW Rural Fire Service;
- Forestry Corporation of NSW; and
- The Local Aboriginal Land Council.

The agency responses received are provided below. While Kempsey Local Aboriginal Land Council did not respond they have provided a report (an attachment to the Planning Proposal) to the proponents identifying that no cultural heritage was identified at the subject site.

Office of Environment & Heritage (OEH)

OEH reviewed the planning proposal and provided the following comments to assist the consent authority in making a determination:

<table>
<thead>
<tr>
<th>OEH submission</th>
<th>Comment/Response</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1</strong> An Aboriginal cultural heritage investigation should be undertaken to inform the planning proposal. This should include the following:</td>
<td>Council’s practice is for proponents to obtain a report from the Kempsey Local Aboriginal Land Council (KLALC) where no matters of Aboriginal heritage significance have been identified for the site through an AHIMS (Aboriginal Heritage Information Management System) search. The KLALC research their records and undertake a site inspection before issuing their report. If no matters of significance are identified in the KLALC report, and the site is substantially developed/modified, then (generally) further cultural heritage investigations are considered unwarranted. As such, it is considered that the additional studies suggested by OEH are unnecessary in this instance.</td>
</tr>
<tr>
<td>a) landscape analysis,</td>
<td></td>
</tr>
<tr>
<td>b) analysis of land use history for the planning area,</td>
<td></td>
</tr>
<tr>
<td>c) a site inspection by a suitably qualified and/or experienced person,</td>
<td></td>
</tr>
<tr>
<td>d) and consultation with relevant Aboriginal cultural heritage knowledge holders including with the Local Aboriginal Land Council.</td>
<td></td>
</tr>
<tr>
<td><strong>2</strong> The planning proposal should then be designed to avoid and minimise future development impacts on areas of</td>
<td></td>
</tr>
<tr>
<td>OEH submission</td>
<td>Comment/Response</td>
</tr>
<tr>
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</tr>
<tr>
<td><strong>important Aboriginal cultural heritage and should include the use of planning mechanisms (e.g. environmental protection zones, Aboriginal cultural heritage overlays, minimum lot sizes, voluntary planning agreements) to protect important Aboriginal cultural heritage values in the planning area.</strong></td>
<td>The flora and fauna assessment provided identifies that “As the proposal is for subdivision into three lots only, will not require any vegetation clearing and have only a minor increase in human activity, the potential impacts on the candidate Subtropical Coastal Floodplain Forest EEC are considered likely to be low. It is considered unlikely that the proposed subdivision will have an adverse effect on the extent of the EEC, such that its local occurrence is likely to be placed at risk of extinction.” Notwithstanding, the identified potential EEC is located in adjacent waterways. There is already a 30m wide 88B title restriction along the southern boundary where “the clearing of natural vegetation except for noxious weeds is prohibited without the consent of Council”. The remaining area of potential EEC comprises remnant riparian vegetation adjoining a watercourse to the east of the site. This area is not bisected by the minimum lot size mapping boundaries and so clearing and fencing through this area is not required to demarcate future subdivision.</td>
</tr>
<tr>
<td><strong>Areas mapped as the Subtropical Coastal Floodplain Forest Endangered Ecological Community (SCFF EEC) and riparian corridors for Pipers Creek and its tributaries should be retained and protected. Protection mechanisms could include the use of planning mechanisms (e.g. environmental protection zones, biodiversity overlays, minimum lot sizes, voluntary planning agreements) and implementation of a vegetation management plan to enhance and protect biodiversity values in the planning area.</strong></td>
<td></td>
</tr>
<tr>
<td><strong>The Planning Proposal should ensure that any Minimum Lot Size boundaries do not intersect with SCFF EEC areas, as these are likely to become future property boundaries arising from subdivision, which would result in clearing of the EEC for future boundary fence lines.</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Consideration be given to the recommendations in the Flora and Fauna Assessment at subdivision and development application stages</strong></td>
<td>The flora and fauna assessment will inform the assessment of the future development application for subdivision at the site.</td>
</tr>
</tbody>
</table>

**Forestry Corporation of NSW**

Forestry Corp reviewed the planning proposal and provided the following comments:

<table>
<thead>
<tr>
<th>Forestry Corp submission</th>
<th>Comment/Response</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Mr GV Landini currently holds an approved Practical Access Authority to</strong></td>
<td>Noted - the proponent has been advised.</td>
</tr>
</tbody>
</table>

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**NSW Rural Fire Service**

The NSW RFS advised that it has no objection to the planning proposal proceeding and provided the following standard comments:

> Future development applications for all development on bush fire prone lands will be required to comply with either S4.14 of the Environmental Planning and Assessment Act 1979 or S100B of the Rural Fires Act 1997, depending upon the nature of the proposed development, and the relevant provisions of Planning for Bush Fire Protection.

**Final Steps**

The NSW Department of Planning has issued Council delegation to make the plan. Council is now requested to resolve to use the delegation in completing the plan.

This will involve a report back to the NSW Department of Planning, obtaining legal advice from the Parliamentary Counsel, the General Manager’s final signature on the amended Planning Instrument and then publication on the NSW Legislation website.
In accordance with the Gateway determination conditions, it is proposed that the above steps not proceed until the Plan of Subdivision has been issued for the 20m wide access handle to Old Coast Road.
9.5 DEVELOPMENT APPLICATION T6-19-77 - MULTIPLE DWELLINGS (4) AND SUBDIVISION AT SOUTH WEST ROCKS

Officer Shane Reinhold, Town Planner
File No T6-19-77
Attachments
1. Attachment T 6-19-77 Plans [9.5.1 - 5 pages]
2. Attachment T 6-19-77 Recommended Conditions of Consent [9.5.2 - 10 pages]
3. Attachment T 6-19-77 SEE & Variation Request [9.5.3 - 31 pages]

PURPOSE

This report is submitted to Council for the determination of Development Application T6-19-77, which proposes multi-dwelling housing and subdivision at McIntyre Street and Baldwin Street in South West Rocks, properly described as Lot 15 DP245033 (see Attachment T6-19-77 Plans).

The proposal was advertised, and surrounding residents notified in accordance with Council’s Customer Service and Notification Policy. No submissions of concern were received from the community.

The proposal requests variation to planning controls relating to the minimum lot size for subdivision. The merits of the case have been considered, and it is recommended that the requested variation be supported and development consent, subject to conditions, be granted.

RECOMMENDATION

1. That the requested variation to Clause 4.1 of Kempsey Local Environmental Plan 2013 (KLEP 2013), minimum lot size for subdivision, be supported; and

2. That Development Consent be granted to T6-19-77, subject to the conditions contained in the attachment (Attachment T6-19-77 Recommended Conditions of Consent).

BACKGROUND

Context

The subject site is in an area of South West Rocks that is zoned for high density residential. The site is currently vacant but is surrounded by a variety of residential development, including a mix of residential flat buildings, multi-occupancy units, and single dwellings. The subject site is 50m south of the CBD area, 100m east of the Back Creek estuary/recreation area, 300m north of the primary school and 250m west of the Brighton Park foreshore area.

The vacant site has dual frontage to McIntyre Street and Baldwin Street. The proposal is for multi-dwelling housing and subdivision, in the form of two (2) sets of attached dual-occupancy units (4
Each set of dual occupancy unit will present to a different street frontage. The proposed subdivision will separate each unit onto its own torrens title lot with a common wall under reciprocal easements between the attached building.

The applicant has voluntarily opted to make all four (4) units universally accessible. This feature is well suited to the convenience of the location within South West Rocks and provides for an undersupplied housing product for the area.

ABOVE: The location of the subject site.

KEY CONSIDERATIONS

Policy and Legislation

Zoning & Location

The subject site is zoned R3 Medium Density Residential under Kempsey Local Environmental Plan 2013 (KLEP 2013) and is the highest density residential zoning in the Kempsey Shire. The proposal is for ‘multi-dwelling housing’, which is permissable in the R3 zone.

The objectives of the R3 zone relate to the provision of housing in the context of the medium density residential zoned environment and encourages urban infill and redevelopment in areas that surround existing facilities and services. The development site is a vacant infill site, located within walking distance of many facilities, including the CBD, foreshore areas, and primary school. The proposal seeks consent for four (4) large three (3) bedroom dwellings. The proposal seeks to establish a quality, universally accessible housing product that will go towards meeting the residential needs of the growing community. The proposal complies with the objectives of the R3 zone.
Residential Design Considerations

The proposal is for residential development within a residential zoned urban area, and as such is assessed under Chapter C1 of *Kempsey Development Control Plan 2013* (KDCP 2013). The proposed residential development is well designed, with universal access, and conveniently located near essential services in the South West Rocks locale (see ‘Zoning & Location’ above). The proposal is appropriately scaled, compliant with the density controls and setback from street frontages and neighbouring properties. The design ensures neighbours are not adversely impacted, with overshadowing, loss of privacy, and loss of view sharing. Each dwelling and lot has sufficient outdoor open space, solar access, parking, and landscaping. The proposal complies with all desired outcomes of KDCP 2013. The applicant has provided a detailed assessment of the matters for consideration in *(see Attachment T6-19-77 SEE (Statement of Environmental Effects) & Variation Request)*.
State Environmental Planning Policy (Coastal Management) 2018 (the ‘Coastal Management SEPP’) identifies further design criteria to be met for coastal development. The proposal will not interfere with any public access or enjoyment of coastal activities or foreshore areas. It is of an appropriate scale and style considering its location in relation to the coastline and foreshore areas, and does not detract from the scenic qualities of the New South Wales coastline. The development will not significantly impact upon any threatened species or wildlife corridors, marine ecosystems, coastal process, or aboriginal heritage. The proposal is compliant with the Coastal Management SEPP.
Universally Accessible Design

It is acknowledged that the applicant has voluntarily opted to make all four (4) units universally accessible. A number of design considerations have been included such as a personal elevator in each dwelling, ground floor entry at grade and doorways and halls that are wide enough to accommodate mobility aids. The universally accessible design of the buildings is well suited to the convenience of the subject site as the essential services in the South West Rocks locale are a short distance away. The result is a housing product that significantly differs from surrounding ‘walk-up’ development in the area but provides a necessary gap in the dwelling stock.

Subdivision Lot Size

Clause 4.1 of KLEP 2013 provides the minimum lot size for this site is 800sqm. Clause 4.1A provides permissibility to subdivide residential land into lots measuring 300sqm when an application also proposes residential development that will be situated upon those lots. The proposal is to construct four (4) dwellings, and then subdivide each onto individual Torrens title lots. The subdivision proposes to divide the existing 1,009sqm lot into two (2) lots for development staging purposes, and then finally each in half again for a total of four (4) lots measuring 252sqm each. With consideration to Clause 4.1A, this represents a variation from the development standard of ~16% for each lot. The applicant has requested variation to this standard under Clause 4.6 of KLEP 2013 (see Attachment T6-19-77 SEE & Variation Request).
The objectives of the KLEP 2013 lot size standards are:

(a) to prevent the fragmentation of rural land,

(b) to promote the efficient use of residential land,

(c) to maintain viable farm sizes to promote continuing agricultural production,

(d) to ensure that lot sizes have a practical and efficient layout to meet intended use.

The purpose of the larger medium density lot size is to provide larger vacant lots upon which medium density residential development can be designed and constructed (e.g., unit development, residential flat buildings, etc.). The standard assumes that medium density residential development will be Strata subdivided by offering no minimum lot size for Strata subdivision in residential areas. This system is generally functional, as in practice most medium density residential development is subdivided by Strata title. However, in this instance the proposed residential buildings are constructed at ground-level, with no vertical overlapping elements, and appropriate reciprocal easements can be used to carry the common walls. As such, it is acceptable to permit Torrens title subdivision of the proposal as it provides variety in the forms of housing product available in the area.

The applicant notes in the submission that if the proposed residential development were Strata subdivided rather than Torrens title, then it would be fully compliant with the KLEP 2013. This statement is correct. There are no negative impacts envisaged as a result of the variation request, with all outcomes being either neutral or positive.
The proposed residential infill development in an urban residential zone is a beneficial form of urban intensification. It allows controlled population growth within the existing urban footprint. This proposed development provides for additional population, closer to existing services and facilities, while reducing the Council’s need to expand the urban fringe into surrounding sensitive environmental areas. Consenting to the proposed residential development creates an efficient use of strategically planned for residential zoned land.

It is noted that, pursuant to Clause 64 of the Environmental Planning and Assessment Regulation 2000, the Director-General has notified Council of assumed concurrence in respect of all applications made under Clause 4.6 (aside from certain rural development that does not apply in this instance).

Given the above, it is considered that there are sufficient environmental planning grounds to justify variation from the development standard in this circumstance. As such, it is recommended that Council support the request under Clause 4.6 of KLEP 2013 to vary Clause 4.1 of KLEP 2013.

Social & Economic Considerations

The proposed residential development provides a social benefit by delivering a gap in the current housing stock of the South West Rocks area through well located, universally accessible dwellings. It will also increase the inclusive activity in the South West Rocks CBD and coastal foreshore areas which is being redesigned for universal accessibility.

The proposal provides an economic benefit by increasing the South West Rocks customer and employee base for local businesses. Furthermore, the proposal will have a temporary economic benefit during the period of construction.

Strategic Alignment

N/A

Impact on Financial Sustainability

The proposed development is for residential activity in an urban residential zone. The impact of this type of development in this location has already been considered at strategic level and thus will have no unplanned impact on financial sustainability.

Stakeholder Engagement

This proposal was advertised and surrounding residents notified, in accordance with Council’s Customer Service and Notification Policy. No submissions of concern were received from the community.
Other Matters
N/A

CONCLUSION

The proposed residential development is well designed and is consistent with the residential building controls and zone objectives. The subdivision element is below the minimum lot size, however the merits of the case justify variation in this instance. The proposal represents an efficient use of existing urban residential zoned land, enabling controlled growth within the existing urban footprint and in close proximity to existing services and open space.

For the reasons detailed in this report, it is recommended that the variation request be supported and Development Consent granted for T6-19-77.
9.6 VERGE AND EDEN STREET SPORTING COMPLEX MASTERPLAN

Officer  Steve Pellen, Coordinator Civic Services
File No  F12/1475
               2. Verge & Eden Street Fields - Master Plan Submissions [9.6.2 - 110 pages]

PURPOSE

To report on the outcome of the public exhibition of the Verge and Eden Street Sporting Complex
Masterplan and recommend the plan for adoption by Council.

RECOMMENDATION

That Council adopt the revised Verge and Eden Street Sporting Complex Masterplan

BACKGROUND

Council recognised the importance of the Macleay Valley Sports Strategy in its 2017-2021 Delivery
Program, outlining that priority actions would commence being progressed during the 2017-2021
period. Specific priority actions for delivery of the Sports Strategy are outlined within the Delivery
Program related to the Verge and Eden Street Sporting Complex.

The draft Verge and Eden Street Sporting Complex Masterplan was placed on public exhibition for 28
days, following the Council resolution arising from the 19 March 2019 Ordinary Meeting of Council.
In a scheduled meeting, Council officers met with existing users of the facility to further discuss the
draft masterplan. The exhibition period ended on 30 April 2019 with seven written submissions
received (see attached). The submissions were from:

- Single submissions from 5 existing user groups;
- One joint submission from all existing user’s groups; and
- One submission from a resident.

All submissions were positive and supportive of the plan. There was a range of recommendations
and adjustments suggested by the sporting groups during the exhibition period and consultation
meeting.

Specific issues raised by the sporting clubs included:

- The need for 2 separate pavilions, one to cater for netball, with the second pavilion to service
  cricket and soccer: This is necessary to accommodate the competing demands and scheduling
  issues with all three user groups. This has been accommodated in the new masterplan,
  however the second building which was proposed for netball is not currently identified in the
  scope of works of committed funding. At a consultation session held on 5 June 2019, cricket
  and soccer users stated they would be happy to reduce the overall size of their pavilion to
  assist in cost savings to procure a netball building within the committed funding amount.
- The original pavilion location was suggested to be moved from the eastern side of the
  Athletics 1 field to the western side: This would enable better viewing of sports fields with the
  sun setting in the west and the building facing east. This has been accommodated in the
  revised plan.
To allow for the relocation of the pavilion to the western side of Athletics 1 oval, the existing cricket nets are required to be relocated north of their current position: As this was not included in the original scope of works, this is also listed as currently unfunded.

Netball requested a higher perimeter fence along both Sydney and Belgrave streets to reduce the incidence of netballs going on the road: This has been accommodated in the revised plan.

Cricket indicated a preference to retain the original size of Eden 1 and 2 fields to allow senior competition: This has been accommodated in the revised plan.

Due to the loss of parking in Vincent Street from relocating the new pavilion and cricket nets, an upgrade to Verge Lane is proposed: This can be accommodated under the current scope of works.

KEY CONSIDERATIONS

The draft Verge and Eden Street Sporting Complex Masterplan is consistent with the Macleay Sports Strategy which was adopted by Council in June 2017.

Continued advocacy of the need for better sporting facilities in Kempsey at the Verge and Eden Street Sporting Complex resulted in the local member for Oxley, Melinda Pavey MP, announcing on 25 February that if the current government is re-elected in the 2019 State Government election, $10m for the delivery of work identified in the masterplan would be provided.

Allocation of this funding would provide for a large program of works to be delivered from the masterplan and allow Council to make a significant achievement against its Delivery Program action. Following the State election, correspondence has been forwarded to the State Government seeking confirmation and clarification as to the potential timing of this funding.

The new proposed location for a 6-bay cricket net facility and a new clubhouse for netball were not originally included on the masterplan, therefore the items have been labelled as unfunded items. Staff will continue to work with clubs and associations to seek funding to complete these items. Alternatively, any masterplan project savings could also be allocated to part fund these facilities.

The draft Verge and Eden Street Sporting Complex Masterplan was placed on public exhibition for 28 days, following the March 2019 Council resolution. That period ended on 30 April 2019 and seven submissions were received. These were from the existing user groups singularly, a joint submission from all the existing user’s groups and a submission from a resident.

A further meeting was held on Wednesday 5 June with all sporting clubs invited to review the plan. Apart from some minor field adjustments, consensus was reached that the attached plan is fully supported by all clubs who use the facility.

CONCLUSION

The Verge and Eden Street Sporting Complex Masterplan has been developed following the endorsement of the Macleay Valley Sports Strategy. The masterplan was developed with all users involved in the design process and is consistent with the Strategy.

In April 2019, the draft masterplan was placed on public exhibition for 28 days and 7 submissions were received. Some minor changes have occurred with the most notable being the inclusion of a new netball specific pavilion and new 6 lane cricket net facility. Neither of these facilities were in the original masterplan and are currently unfunded.
All users were invited to a meeting on Wednesday 5 June to consult on the amendments proposed. The Masterplan received unanimous support by all current users of Verge and Eden Street Sporting Complex.

It is recommended Council adopt the revised masterplan attached to this report following the exhibition period.
9.7 PROPOSED ROAD CLOSURE OFF MARIA RIVER ROAD

Officer  
Ian Russell, Property Consultant

File No  
F19/1650, LA9148, LA9160

Attachments  
1. Proposed Road Closure [9.7.1 - 1 page]  
2. Part 4 Division 3 Roads Act 1993 [9.7.2 - 2 pages]  
3. Plan Showing Alternate Road Access from Maria River Road to the Ocean [9.7.3 - 1 page]  
4. Submissions Received - Proposed Road Closure [9.7.4 - 9 pages]

PURPOSE

To advise Council on the proposal to close a public road to the east of Maria River Road.

RECOMMENDATION

1. That Council publish a Notice of Road Closure in the NSW Government Gazette to close the Council public road leading east off Maria River Road and situated between Lot 62 DP754441 and Lot 3 DP1157009.

2. That Council sell the land in closed road to the owner of Lot 103 DP754441, at market value as determined by Council’s Consulting valuer.

3. That Council reaffirm that all costs involved in the closure of the road and the transfer of the land in the closed road be met by the road closing applicant.

4. That Council delegate authority to the General Manager to sign:
   a. Survey plan of road closure
   b. Contract for the Sale of Land
   c. Land Registry Services documents:
      i. Application for the certificate of title for the land in the closed road.
      ii. Transfer Form

BACKGROUND

An application for the closure and purchase of a Council public road leading off Maria River Road has been lodged by the owner of Lot 103 DP754441, 653 Maria River Road, Crescent Head. The location and extent of the requested road closure and purchase is shown by red line in the attached aerial photograph.

KEY CONSIDERATIONS

Policy and Legislation

Division 3 of Part 4 of the Roads Act 1993 (Sections 38A to 38F) outlines the ability and process for the closure by Council of a Council public road. Sections 38A to 38F are detailed in the attachment.

Council is advised that on receipt of an application to close and purchase a Council road, an initial assessment is made having regard to the criteria set out in Section 38A of the Roads Act 1993; namely:
The road is not reasonably required for public use (whether for present or future needs); and
The road is not required to provide continuity for an existing road network; and
If the road provides means of vehicular access to particular land, another public road provides lawful and reasonably practicable vehicular access to that land.

On the basis that the initial assessment of the application reasonably satisfied the above criteria, mandatory notification of the road closure proposal was conducted. Details on the notification are provided in the Stakeholder Engagement section of this report.

**Strategic Alignment**

A report was prepared for the May Ordinary Council meeting regarding unmaintained roads arising from an action within the current Operating Plan. Further information on the relative merit of closing the road relating to the impact on Council’s Financial Sustainability is provided below.

**Impact on Financial Sustainability**

The road sought for closure and purchase provides a formed access to the property where the applicant is constructing an approved dwelling. Given the road serves a single property, ongoing Council funded maintenance and construction to a standard suitable for passenger vehicles would be unlikely given the demand on the financial resources to maintain the wider public road network.

Council considered a report at its May 2019 Ordinary Meeting (item 13.07) reviewing un-maintained Council roads which serve more than 3 dwellings.

If Council endorses the closure, the land can be sold to the applicant at its market value (disregarding any improvements carried out by the road closing applicant).

Under the conditions of the road closing application, the applicant is fully responsible for all costs incurred in the closure and sale of the road.

Whilst the land value of the closed road may be nominal; nonetheless, the once off income received will be used in providing maintenance of other Council roads or the acquisition of land for road purposes. This is mandated under Section 43(4) of the Roads Act 1993.

**Stakeholder Engagement**

Section 38B of the Roads Act 1993 requires notification of a proposed road closure be:

- Published in a local newspaper
- Given to owners adjoining the road
- Given to notifiable authorities

The mandated Notifiable Authorities are:

- NSW Metropolitan Fire Service
- NSW Rural Fire Service
- Department of Primary Industries – Recreation Fishing and Waterways
- Department of Industry – Crown Lands
- Essential Energy
- Transgrid
- Forestry Corporation of NSW
- Office of Environment and Heritage (National Parks & Wildlife Service)
- Local Land Services
At the conclusion of the mandatory 28 day notification period, none of the Notifiable Authorities submitted an objection to the proposal. Submissions objecting to the proposal were received following notification in the *Macleay Argus* and from an adjoining landowner. Redacted copies of the submissions are attached to this report. A summary of the issues raised and comments in response are in the following table:

<table>
<thead>
<tr>
<th>ISSUE</th>
<th>COMMENT IN RESPONSE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access required to maintain tea tree plantation and to monitor cattle and bees.</td>
<td>The tea tree plantation directly abuts Maria River Road. Slightly to the north of the road sought for closure is a gate in the fence that provides ready access to the plantation and to other sections of the property to monitor cattle and bees. Given the nature of the land surrounding the road proposed for closure, loss of access off it is considered not to be a significant issue. No dwelling access is impacted.</td>
</tr>
<tr>
<td>Access required for emergency services.</td>
<td>Emergency Services will still retain access along the gravel formation constructed by the road closure applicant if the road is closed. Powers of entry onto land, not only roads, are available in various State legislation. For example, the <em>State Emergency and Rescue Management Act 1989</em>, <em>State Emergency Services Act 1989</em>, and <em>Rural Fires Act 1997</em>. It is noted that the NSW Rural Fire Service has not objected to the proposed road closure.</td>
</tr>
<tr>
<td>Negative impact on the environment, flora and fauna arising from construction of the road.</td>
<td>These are no impacts arising from the principal purpose of a road being to provide access. The environmental, flora and fauna impacts have been addressed outside the scope of the road closing application.</td>
</tr>
<tr>
<td>Extent of notification of proposal.</td>
<td>Council has fully met its statutory obligations required under the Roads Act 1993 for notification of a proposal to close a Council road.</td>
</tr>
<tr>
<td>Use of road by horse riders to access the beach.</td>
<td>A review of aerial photography and on-ground inspection would indicate that access along the surveyed road network would be restricted by vegetation. Access to the beach may be being made but probably outside the designated road corridor. There is an alternate Crown road access</td>
</tr>
<tr>
<td>ISSUE</td>
<td>COMMENT IN RESPONSE</td>
</tr>
<tr>
<td>---------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>available nearby. The alternate access is shown in the plan attached to this report.</td>
<td></td>
</tr>
<tr>
<td>Road may be needed for access to future subdivision being investigated by potential purchaser of adjoining property.</td>
<td>Consideration of the road closing application by Council has been deferred several months to provide a period for a potential purchaser to complete the property transaction and to develop a subdivision plan. It is noted that at the date of drafting this report, the adjoining property has not been sold and is not being offered for sale through a real estate agency. Council needs to assess the road closing proposal, although Council has the option of further deferring consideration of this matter.</td>
</tr>
</tbody>
</table>

Following conclusion of the notification period, Council is required to consider the submissions received and decide if the application is supported or declined. If the proposal is supported, Section 38D(1) of the Roads Act 1993 allows for a Notice to be published in the Gazette. The Notice closes the road and public rights of access and passage are extinguished (Refer Section 38E Roads Act 1993).

**CONCLUSION**

Notwithstanding objections were received to the proposal to close the Council owned road, it is considered the road sought for closure meets the criterium for closure as set out at Section 38A of the Roads Act 1993 and accordingly a Notice of road closure can be published in the NSW Government Gazette with the land in the closed road sold to the applicant at its market value.
9.8 STATEMENT OF CASH AND INVESTMENTS

Officer Wayne Douglass, Chief Financial Officer
File No N/A
Attachments
1. Investments at May 2019 [9.8.1 - 1 page]
2. Investment Performance Chart May 2019 [9.8.2 - 1 page]
3. May 2019 Bank Reconciliation [9.8.3 - 1 page]

PURPOSE

In accordance with the Local Government (General) Regulation 2005 (the Regulation), a report on investments is to be provided monthly to Council.

RECOMMENDATION

That the report be noted.

ISSUES

Council’s investments are in accordance with the Local Government Act (1993) and Council’s investment policy.

BACKGROUND

Clause 212 of the regulation states:
Local Government (General) Regulation 2005
Part 9 Division 5 Clause 212
212 Reports on council investments
   (1) The responsible accounting officer of a council:
       (a) must provide the council with a written report (setting out details of all money that the council has invested under section 625 of the Act) to be presented:
           (i) if only one ordinary meeting of the council is held in a month, at that meeting, or
           (ii) if more than one such meeting is held in a month, at whichever of those meetings the council by resolution determines, and
       (b) must include in the report a certificate as to whether or not the investment has been made in accordance with the Act, the regulations and the council’s investment policies.
   (2) The report must be made up to the last day of the month immediately preceding the meeting.
Note. Section 625 of the Act specifies the way in which a council may invest its surplus funds.

KEY CONSIDERATIONS

Impact on Financial Sustainability

Council’s investments are in accordance with the Local Government Act (1993) and Council’s investment policy.

Due to current system limitations the investment income budget is spread evenly across the financial year. Normally, cash holdings would reduce throughout the year as works are completed and hence the investment income should be higher at the beginning of the year and taper off.
towards the end. As a result, the year to date actual investment income is higher than the evenly spread budget.

Furthermore, the trend of higher levels of cash holdings resulting from lower capital expenditure year to date has continued, a further increase to the investment income budget of $200k was approved in the March Quarterly Budget Review (QBR) and is reflected in the attached Investment Performance Chart.

There was a nil net cash and investment movement from last month; Council is still currently holding $46M in cash and investments as at 31 May 2019.

**CONCLUSION**

Council is holding higher levels of cash investments driven by lower Capital expenditure than originally budgeted. As a result, Council is earning more investment income. Council is currently holding $46M in cash and investments.
9.9 NOTICE OF MOTIONS NOT INCLUDED

Officer  Craig Milburn, General Manager
File No  F19/922
Attachments  Nil

PURPOSE

To report to council the exclusion of business for which due notice has been given in the agenda as required by Council’s Code of Meeting Practice cl 3.20.

RECOMMENDATION

That the information be noted

BACKGROUND

Two items of business, for which due notice was given, has been excluded from the Business Paper because in the General Manager’s opinion the business is unlawful.

This report is provided in order to comply with the requirement in cl 3.20 of Council’s Code of Meeting Practice to report any such exclusion to the next meeting of council.

Furthermore, it is required by cl 3.20 that the General Manager not give details of the item of business.

The Code of Meeting Practice states:

3.20 The general manager must not include in the agenda for a meeting of the council any business of which due notice has been given if, in the opinion of the general manager, the business is, or the implementation of the business would be, unlawful. The general manager must report, without giving details of the item of business, any such exclusion to the next meeting of the council.
COUNCILLOR QUESTIONS

QFNM1
Can we have a report from our delegate on the 'breaking the cycle'

RESPONSE:
After a period of inaction in 2018 the Breaking the Cycle Committee was reconvened by Department of Premier and Cabinet and met on 20 February 2019. The meeting was well attended by a cross section of agencies including Council and the Terms of Reference and actions of the original plan were reviewed. The next scheduled meeting is June 19, 2019 where updated actions will be presented by Department of Family and Community Services who have taken over the Chair role. A further update will be provided to Councillors following that meeting.

QFNM2
Could we get a report on who received grants from the Mayoral Fund and the total amount of funding granted to the community by the Mayor, from her Mayoral allowance

RESPONSE:
$15,000 was granted to the following recipients from the Mayoral Community Fund:

<table>
<thead>
<tr>
<th>Recipient</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Macleay Valley Business Chamber</td>
<td>1,500.00</td>
</tr>
<tr>
<td>Kempsey District Chamber of Commerce</td>
<td>1,000.00</td>
</tr>
<tr>
<td>South West Rocks Arts Council</td>
<td>500.00</td>
</tr>
<tr>
<td>Kempsey District Silver Band</td>
<td>1,500.00</td>
</tr>
<tr>
<td>Kempsey Singers</td>
<td>700.00</td>
</tr>
<tr>
<td>Country Education Foundation of the Macleay Valley Inc</td>
<td>3,000.00</td>
</tr>
<tr>
<td>Role Models and Leaders Australia</td>
<td>1,250.00</td>
</tr>
<tr>
<td>1st Kempsey Scout Group</td>
<td>500.00</td>
</tr>
<tr>
<td>Stuarts Point Pre-School</td>
<td>420.00</td>
</tr>
<tr>
<td>Hat Head Triathlon Club</td>
<td>1,000.00</td>
</tr>
<tr>
<td>Aldavilla Primary School</td>
<td>60.00</td>
</tr>
<tr>
<td>Bellbrook Public School</td>
<td>60.00</td>
</tr>
<tr>
<td>Crescent Head Public School</td>
<td>60.00</td>
</tr>
<tr>
<td>Frederickton Public School</td>
<td>60.00</td>
</tr>
<tr>
<td>Gladstone Public School</td>
<td>60.00</td>
</tr>
<tr>
<td>Greenhill Public School</td>
<td>60.00</td>
</tr>
<tr>
<td>Kempsey Adventist School</td>
<td>100.00</td>
</tr>
<tr>
<td>Kempsey East Public School</td>
<td>60.00</td>
</tr>
<tr>
<td>Kempsey High School</td>
<td>100.00</td>
</tr>
<tr>
<td>Kempsey South Public School</td>
<td>60.00</td>
</tr>
<tr>
<td>Kempsey West Public School</td>
<td>60.00</td>
</tr>
<tr>
<td>Kinchela Public School</td>
<td>60.00</td>
</tr>
<tr>
<td>Lions Club of SWR</td>
<td>460.00</td>
</tr>
<tr>
<td>Macleay Vocational College</td>
<td>100.00</td>
</tr>
</tbody>
</table>
What actions have already been taken by Council to address Climate Change?

RESPONSE:

The following is a list of some actions that Council has taken:

- Council has been a signatory to the NSW Mayor’s Agreement on Climate Change since 2007.
- Council had a Climate Change Risk Assessment, prepared in 2010. A related Climate Change Adaptation Strategy for Nambucca, Bellingen and Kempsey, also dated 2010, is available. (Note: The risk assessment and strategy are not a focus area of the current Delivery Program.)
- Council’s three delivery programs since 2011 have not included specific actions to address climate change, focussing instead on identifying risks to property and the environment from factors arising from climate change such as sea level rise.
- Council’s Kempsey Coastal Zone Management Plan was developed and endorsed by the Minister in 2016, and includes coastal hazard assessments based on a broad modelling approach.
- Council’s Macleay River Estuary Coastal Zone Management Plan is currently being updated in line with coastal reforms.
- Stage 1 scoping studies that are required for the updating of existing management plans for Korogoro Creek, Killick Creek and the Macleay Estuary have been completed. In response to this a grant application has recently been submitted through the Office of Environment & Heritage’s Estuary Management Program to undertake a coastal vulnerability study and inundation mapping (to assess the potential impacts of climate change on the coastal zone), which will facilitate the preparation of the coastal management programs.
- Lower Macleay Flood Study is currently in progress, which takes due consideration of sea level rise.
- The Hat Head Dune system is being monitored via annual aerial imagery to determine and monitor landward migration of the dunal system in combination with the impact of potential sea level rises.
- Council’s website provides community education on climate change, including providing links to a range of online resources if people want to know more.
The 2016 State of the Environment Report noted that Council emissions (from assets and operations) decreased by 12% since 2011. This figure comprises emissions from fuel, electricity and streetlighting.

The draft Economic Development Strategy proposes to investigate impacts of climate change on the agricultural sector.

Council’s new 3 bin waste system has been in place since mid-2017 and is best practice. It diverts 15% more food and organics from landfill, where it would otherwise create methane. As a greenhouse gas, methane is 25 times more potent than carbon dioxide.

LED lighting has been installed (and is planned for installation) in several Council and community facilities, Council’s works depot has a major solar system installed and further solar systems are being investigated for other Council assets with high energy use.

Various options are being considered for Solar/Gas Hot Water Systems in Holiday Parks.

100% recycled toilet paper is used in community & operational assets.

Development of a Long Term Energy Strategy is listed as an action within the 2019-20 Operating Plan. A Workshop on Climate Change, among other environmental/sustainability matters, is planned for later in 2019.

COUNCILLOR L J HAUVILLE  
FILE: F19/1945  
SMM

QFNM2  
Should any agreement entered into by Council and another entity have an expectation that both parties would comply with all sections of the agreement?

RESPONSE:
Yes. However, there may be occasions when immaterial or insignificant departures from contractual terms and conditions are accommodated in the day to day contract management of the agreement. The majority of contracts will contain waiver, variation and / or amendment clauses that address these situations and how they are dealt with and what their impact is.

COUNCILLOR L J HAUVILLE  
FILE: F19/1945  
SMM

QFNM3  
What is the situation with the investigation of the cost of removal and site remediation of the fuelling system now redundant at Kempsey Airport?

RESPONSE:
Quotations are currently being sought from suitably qualified and experienced environmental investigation consultants. The outcome of the preliminary investigation will dictate the removal or abandonment options. Council will request the appointed consultant to provide written recommendations based on the initial investigations.

COUNCILLOR A P PATTERSON  
FILE: F19/1945  
RAF

QFNM1  
Could council look at landscaping the corner of River St and Elbow St

RESPONSE:
This project is currently not included in our works program for 2019/20. Further landscaping at this location is not considered necessary at this point in time with existing landscaping immediately east of this intersection providing a good entry into West Kempsey.

<table>
<thead>
<tr>
<th>COUNCILLOR A P PATTERSON</th>
<th>FILE: F19/1945</th>
<th>RAF</th>
</tr>
</thead>
<tbody>
<tr>
<td>QFN M2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Update on the buffer zone to see where works are up to regarding the bat colony</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**RESPONSE:**
Council applied for grant funding with LGNSW for carrying out Level 2 actions at the Rudder Park Flying Fox Camp, with advice just received that this application was successful. Council can now commence the steps outlined in the report to the Ordinary Meeting of Council in December 2018.

<table>
<thead>
<tr>
<th>COUNCILLOR D F SAUL</th>
<th>FILE: F19/1945</th>
<th>RAF</th>
</tr>
</thead>
<tbody>
<tr>
<td>QFN M1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Start date given for the amenities block on Freddo boat ramp</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**RESPONSE:**
The tender for the amenities facility has been issued. Tender responses have been received and we are currently waiting on some further information prior to awarding the contract for supply.

<table>
<thead>
<tr>
<th>COUNCILLOR D F SAUL</th>
<th>FILE: F19/1945</th>
<th>RAF</th>
</tr>
</thead>
<tbody>
<tr>
<td>QFN M2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Start date for Clyde street mall amenities</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**RESPONSE:**
Negotiations are continuing with landowners to resolve land ownership issues at the site. Once agreement is reached the matter will be reported to Council. Design work is essentially complete for the project and a tender is planned to be advertised in the near future for the amenities. At this point in time it is not recommended that any work progress until such time that the land ownership matters are resolved. Staff continue to liaise with the State Government related to timelines associated with the Stronger Country Communities grant for the project.

<table>
<thead>
<tr>
<th>COUNCILLOR L J HAUVILLE</th>
<th>FILE: F19/1945</th>
<th>SMM</th>
</tr>
</thead>
<tbody>
<tr>
<td>QON1</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| Question: With reference to the Voluntary Planning Agreement between Kempsey Shire Council and Gowing Bros. in regard to the Kempsey Cinema Project:
a) How is the implementation of Section 19 progressing,
b) Have the dates in the Agreement been complied with and
c) has council required an independent quantity surveyor report? |

**RESPONSE:**
The management of the VPA is an operational matter. The construction of the cinema complex, which is the subject of the VPA, is progressing in accordance with the terms of the VPA and the Commonwealth Deed of Agreement. To date, Council has not required an
independent quantity surveyor report.
10.2 TOURIST AND VISITOR ACCOMMODATION AT CRESCENT HEAD

Councillor Mark Baxter
File No F19/1327
Attachments Nil

PURPOSE

I intend to move the following motion at the ordinary meeting to be held 25 June 2019.

RECOMMENDATION

That Kempsey Shire Council prepare a Local Environment Plan (LEP) and a Development Control Plan (DCP) that specifies the development requirements for Tourist and Visitor accommodation at Crescent Head and that any property used for Tourist / Visitor accommodation be required to submit a Development Application (DA) for such a use.

BACKGROUND

For many residents at Crescent Head, there has been a slow crisis evolving of the last 20 years. Over the years there has been a relentless increase in 'Holiday Accommodation' at the expense of Permanent housing. It is true that Crescent is a tourist seaside village, and that is where it earns it's living. However, there needs to be a balance. If tourist accommodation continues to rise as a ratio to permanent residences, then the village will have its soul challenged.

In 2004 there were 11 classrooms at the local School. Today there are 7. In the non-holiday season, the Cafe's, the Country Club, the Corner store, the Chemist, the Mexican, the Bakery, the Butcher, the Dress shop and the Tavern relies heavily on 'the locals' spending their money. Needless to say, this keeps employment levels up (200 jobs). It also maintains the soul of the village. The locals meet each other at these places and this socialising with each other 'maintains the soul of the place'. So there needs to be a critical mass of locals to maintain the businesses and School, and the atmosphere of the village.

See below the progress of legislation before the State Government. Other places have requested help regarding these ratios. (Byron Bay being further down the road than us. Many locals at Byron claim the 'Happy seaside village' atmosphere has destroyed by the excess of tourist accommodation in the town.) So too, the locals at Crescent Head do not want the 'Happy, laid back, seaside village atmosphere' destroyed by excessive tourist accommodation.


Short-term holiday letting - Department of Planning and Environment - planning.nsw.gov.au

www.planning.nsw.gov.au
This included a Parliamentary Inquiry into the Adequacy of the Regulation of Short–term Holiday Letting in New South Wales and inviting feedback on an Options Paper. The Options Paper on Short–term Holiday Letting in NSW (PDF, 4.0 MB), was on exhibition between 21 July 2017 and 31 October
2017. Submissions made in response to the Options Paper can be viewed at the Department’s Plans and Policies website.

**General Managers Comment**

*Holiday accommodation, particularly in the ‘sharing economy’, is a complex issue with both positive and negative attributes. A sound understanding of the characteristics of holiday accommodation in our villages and towns is necessary to develop an effective planning response.*

*Staff will be investigating this issue as part of the ongoing Strategic Planning Program, taking into account any State Government direction in terms of standardised definitions and model LEP clauses. Key activities relevant to this issue will be the Local Strategic Planning Statement, which can provide clear direction to develop future land use controls, and the proposed housing strategy.*

*Following this strategic planning work, the LEP and DCP will be calibrated accordingly. Note that if the State Government amends the Standard Instrument LEP definitions, the Kempsey LEP is automatically updated.*

*It is therefore recommended that Council await the outcome of the State led framework associated with holiday accommodation, being on-line accommodation in particular, and the completion of key activities planned by Council as outlined above, prior to further consideration of planning instruments that apply.*
11 CONFIDENTIAL MATTERS

MOTION FOR CONFIDENTIAL SESSION

In accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2005, in the opinion of the General Manager, the following business is of a kind as referred to in section 10A(2) of the Act, and should be dealt with in a part of the meeting closed to the media and public.

Set out below is section 10A(2) of the Local Government Act 1993 in relation to matters which can be dealt with in the closed part of a meeting.

The matters and information are the following:
(a) personnel matters concerning particular individuals (other than councillors)
(b) the personal hardship of any resident or ratepayer
(c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business
(d) commercial information of a confidential nature that would, if disclosed;
   (i) prejudice the commercial position of the person who supplied it,
   or
   (ii) confer a commercial advantage on a competitor of the Council,
   or
   (iii) reveal a trade secret
(e) information that would, if disclosed, prejudice the maintenance of law
(f) matters affecting the security of the Council, councillors, council staff or Council property
(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege
(h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.

Councillors are reminded of their statutory obligations in relation to the non-disclosure to any outside person of matters included in this section.

That Council form itself into the Confidential Session, and at this stage, the meeting be closed to the public to permit discussion of the confidential business items listed for the reasons as stated in the Agenda.
11.1 LEGAL MATTERS

Contact Person: Daniel Thoroughgood – Manager Information and Governance
File: F19/1960

**Section 10A(2)(g) – Legal Proceedings**

This report is submitted on a confidential basis as it involves advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege. (Local Government Act 1993, Section 10A(2)(g))

On balance, the public interest in preserving the confidentiality of the advice outweighs the public interest in openness and transparency in Council decision making by discussing the matter in open meeting.

11.2 TENDER FOR SUPPLY AND INSTALLATION OF PILING FOR BACK CREEK FOOTBRIDGE

Officer Tony Green, Project Leader Infrastructure Delivery
File No TQE19/7
Attachments Nil

**Section 10A(2)(d)(i) – Commercial Position**

This report is submitted on a confidential basis as it involves commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it. (Local Government Act 1993, section 10A(2)(d)(i))

On balance, the public interest in preserving the confidentiality of the commercial information supplied, outweighs the public interest in openness and transparency in council decision making by discussing the matter in open meeting.

11.3 GENERAL MANAGER’S CONTRACT

Officer John Gilroy, Manager Organisational Development and Performance
File No MIL/23552
Attachments Nil

**Section 10A(2)(a) – Personnel Matters**

This report is submitted on a confidential basis as it involves personnel matters concerning particular individuals (other than Councillors). (Local Government Act 1993, section 10A(2)(a))

On balance, the public interest in preserving the confidentiality of the commercial information supplied, outweighs the public interest in openness and transparency in council decision making by discussing the matter in open meeting.

12 CONCLUSION OF THE MEETING