

ITEM 13.2 KEMPSEY AIRPORT FLY NEIGHBOURLY AGREEMENT

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File: F12/1895

PURPOSE

The purpose of this report is to seek Council's endorsement of the scope of a proposed Fly Neighbourly Agreement for the users of Kempsey Airport and to advise of feedback received from the community at recent community workshops.

RECOMMENDATION

- 1 **That the scope of matters to be addressed in the Noise Management Plan and associated Fly Neighbourly Agreement, as detailed in the following report be endorsed.**
- 2 **That expression of interest from community members be sought to serve on a Community Reference Group to assist in the process for preparing a draft Noise Management Plan and associated Fly Neighbourly Agreement.**

ISSUES

Council has endorsed a procedure for developing a Fly Neighbourly Agreement (FNA) to address community concerns relating to increased aircraft noise associated with the use of Kempsey Airport. The following report provides an assessment of the feedback received in relation to the scope of matters the FNA should address.

BACKGROUND

At its meeting of 18 April 2017, Council resolved to endorse a procedure for preparing a Noise Management Plan to underpin a FNA between Council and current airport users.

In summary, this involves a 10 step procedure, including:

- STEP 1:** Report to Council seeking endorsement to enter into a FNA
- STEP 2:** Preliminary community consultation, including referral to the Office of Airspace Regulation
- STEP 3:** Report outcomes of preliminary community consultation to Council to endorse the scope of the proposed Noise Management Plan and FNA
- STEP 4:** Seek EOIs from suitably qualified consultants to prepare a draft Noise Management Plan and FNA
- STEP 5:** Prepare a draft Noise Management Plan and FNA and refer to Office of Airspace Regulation for comment
- STEP 6:** Report draft Plan to Council to endorse for public exhibition

STEP 7: Formal public exhibition of the draft Noise Management Plan and draft FNA

STEP 8: Assess public submissions and consider any required amendments in response

STEP 9: Report recommended draft Noise Management Plan and FNA to Council for endorsement

STEP 10: Enter into a Fly Neighbourly Agreement with Airport users

Noise Management Plan and Fly Neighbourly Agreement Process Status

The following is the status of the process for developing a FNA that was endorsed by Council at its meeting of 18 April 2017.

STEP	COMMENTS
STEP 1	Completed as per Council's resolution of 18 April 2017
STEP 2	A meeting was held with a representative from the Office of Airspace Regulator on 18 May 2017. The Office of Airspace Regulation has advised that the proposed process for preparing the Noise Management Plan and FNA is in accordance with Commonwealth requirements and the Office of Airspace Regulation supports Council's initiative. Although covering a wider range of current issues associated with the Airport, the community workshops held on 4 and 5 July 2017 included feedback on the matters the community consider should be within the scope of the Noise Management Plan and FNA.
STEP 3	This report seeks Council's endorsement of the scope of the matters that the Noise Management Plan and associated FNA should address. In response to feedback received more generally, it is also recommended that Council establish a community reference group to assist in overseeing the preparation of the draft Noise Management Plan and FNA. (See "Community Reference Group")

At its meeting of 16 May 2017, Council further resolved:

That Council organise an independent facilitated community workshop, including an evening workshop, as soon as reasonably possible, where Council will outline the present situation at Kempsey Airport regarding the Australian International Aviation College (AIAC) Development Application and the Memorandum of Understanding. This meeting will enable full dialogue with the community on all issues. The Fly Neighbourly Agreement progress should also be addressed.

Three community workshops were subsequently held on 4 and 5 July 2017, including an evening workshop on 4 July 2017 at the Slim Dusty Centre at South Kempsey.

In response to various Airport related issues that have been raised by the community, information was presented, including:

- An overview of Kempsey Airport facilities and operations
- Financial information related to sources of income, areas of expenditure and expected 2017/2018 operating loss
- An outline of the Mid North Coast Aviation Excellence Plan 2011, including grant funding parameters
- The heads of agreement under the existing Memorandum of Understanding between Council and the Australian International Aviation College (AIAC)
- A summary of the expected economic benefits of the proposed expanded flying school facility
- The status of the current DA for the expanded flying school
- Details of the Council endorsed FNA process, including feedback on matters that the community consider that the FNA should address

Community Feedback

Details of all feedback received as a result of the workshops is included at [\(Appendix B\)](#). The feedback has been categorised on the basis of relevance to the:

- Fly Neighbourly Agreement
- Development Application
- Draft Airport Plan of Management
- Other

This report concentrates on the feedback received at the workshops relating to the Fly Neighbourly Agreement. The matters of relevance to the DA will be considered by Council's planners when reporting the DA to the JRPP.

Council is also preparing a Plan of Management for future planning for the Airport that will complement the FNA. Whilst a preliminary draft plan has been developed by consultants, the process has been put on hold pending determination of the DA for the expansion of the flying school. The feedback relevant to this Plan of Management and other miscellaneous comments will be fed into Council's ongoing community engagement strategies for the Airport and to inform Council of the views of the community.

Community feedback on matters relating to the Fly Neighbourly Agreement include:

ISSUES RAISED AT THE COMMUNITY WORKSHOP		COMMENTS	
1	Noise causes hypertension, particularly at night	1	Consideration of restrictions on night time flights should be within the scope of the FNA
2	Standard left-hand flight path concentrates noise	2	The Noise Management Plan should examine flight paths for inclusion in the FNA
3	Can small planes be replaced by larger noisier ones?	3	The types of aircraft used by all operators should be specified in the FNA. In respect to AIAC, the opportunity exists to tie the FNA to the lease agreement, whereby any variation to the specified aircraft would need to go through a process of modifying and renotifying the FNA.
4	Need to consider noise impacts over a wider area, not just land adjoining the Airport	4	The geographic area over which the FNA would apply should be included in the scope of the FNA.
5	Impacts on grazing activities	5	All land uses within the geographic area over which the FNA would apply should be mapped for consideration of any required restrictions
6	Only DA 40 aircraft used in noise assessment	6	See Point 3
7	New noise assessment needed if twin-engine aircraft to be used	7	See Point 3
8	6:00am to 12:00am 7 days a week is unacceptable	8	The Noise Management Plan that underpins the FNA needs to address operating hours
9	Low flying just above the trees	9	The height at which aircraft operate should be within the scope of the FNA
10	Need to stick to agreed flight paths	10	The FNA should include the means for monitoring and enforcing all provisions
11	Low flying will not go below 600ft	11	The FNA should include the means for enforcing all provisions, including the height of aircraft.
12	AIAC described any reductions in hours as catastrophic to their business	12	AIAC has indicated that there is scope for flexibility and Council will need to weigh

ISSUES RAISED AT THE COMMUNITY WORKSHOP		COMMENTS	
			this up with the reasonable expectations of residents
13	1000% increase in flights equates to 5 flights per hour, 7 days a week	13	See Point 12
14	Council needs to stick to the adopted FNA process and communication strategy	14	In addition to the public exhibition process endorsed by Council, it is recommended that Council appoint a community committee to assist in overseeing the process of preparing the Noise Management Plan and FNA. See <i>"Community Reference Group"</i>
15	FNA needs to define what is acceptable to the community	15	See Point 12
16	Stalling practice of drone – stop – full power is very annoying	16	The scope of the Noise Management Plan and FNA should include the location of stalling training. See also Point 4
17	Need to avoid sensitive sites such as schools, nursing homes and hospital	17	See Point 4
18	Noise mitigation works required at most affected residences	18	The scope of the Noise Management Plan and FNA will identify the Australian Noise Exposure Forecast affecting residences, including whether any mitigation works are required or justified
19	Penalties need to be imposed for breaches of the FNA	19	As owner of the Airport, Council is able to include sanctions on AIAC for any deliberate and repeated breaches of the FNA. The FNA will be on a voluntary basis for all other Airport users
20	Needs to be a 7:00pm to 7:00am curfew	20	See Point 8
21	Independent noise assessment required	21	The scope of the Noise Management Plan and FNA will identify the Australian Noise Exposure Forecast affecting residences that will be based on a noise assessment commissioned by Council
22	6:00am to midnight 365 days per year is excessive	22	See Point 8

ISSUES RAISED AT THE COMMUNITY WORKSHOP		COMMENTS	
23	Who will monitor flights?	23	This is a matter that should be included in the scope of the Noise Management Plan and FNA
24	What are the ongoing consultation arrangements?	24	See Point 23
25	Consultation needs to include direct access to the GM	25	See Point 23
26	A complaints management process is needed	26	See Point 23
27	Extra taxiways are needed to increase capacity	27	Whilst the provision of additional taxiways is not currently being considered, should any of the parameters of the FNA change, a revised FNA and consultation process should be included in the scope of the FNA
28	Controls on flights that come from Port Macquarie	28	The FNA will not apply to itinerant aircraft, however, aircraft operated out of Port Macquarie Airport by AIAC could be included in the FNA
29	How will flights be monitored?	29	See Point 23
30	Will we be given the opportunity for a community committee?	30	See <i>"Community Reference Group and Standing Orders"</i> .
31	How robust will the monitoring be?	31	See Point 23
32	How high do aircraft fly?	32	See Point 23
33	Parties to FNA need to be held accountable by Council	33	See Point 19
34	Is the FNA binding?	34	See Point 19
35	FNA process needs to be independently facilitated	35	Having regard to the recommendation for Council to appoint a Community Reference Group and cost considerations, it is not recommended that Council meet the costs of an independent facilitator
36	Flying hours need to be reduced	36	See Point 8
37	Flights should be restricted to 9:00am to 5:00pm	37	See Point 8

ISSUES RAISED AT THE COMMUNITY WORKSHOP		COMMENTS	
38	Why is there no curfew?	38	See Point 8
39	Flight paths need to alternate to share noise impacts on residents	39	This is an option that should be examined in the Noise Management Plan to determine its feasibility for inclusion in the FNA
40	Flight hours should be restricted to 6:00am to 9:00pm to reduce sleep disturbance	40	See Point 8
41	Night flying should be in winter, not during day-light saving	41	See Point 8
42	Who will manage and enforce the FNA?	42	See Point 19
43	Disturbance from revving engines	43	Measures to reduce disturbances from this aspect of operations needs to be examined in the Noise Management Plan to determine whether to include restrictions in the FNA
44	Inconsistent flight paths	44	See Point 23
45	Lack of understanding of the flight jargon	45	Whilst the Noise Management Plan will be the technical assessment that underpins the FNA, the FNA should be in plain English that avoids technical jargon. The means for achieving this should be within the scope of the Noise Management Plan
46	Will jets be allowed?	46	See Point 3
47	Why isn't the FNA compulsory	47	See Point 19
48	Who monitors where flights originate?	48	See Point 23
49	Should have a method for tracking aircraft	49	See Point 23
50	Need to survey the needs of all airport users	50	It is expected that part of the process for preparing the Noise management Plan and community engagement more generally will include some form of communication with all Airport users
51	FNA is a contradiction because it cannot be achieved	51	The endorsed process of preparing the Noise Management Plan and FNA with involve extensive community consultation to seek to achieve a balance between the commercial imperatives of AIAC and the

ISSUES RAISED AT THE COMMUNITY WORKSHOP		COMMENTS	
			reasonable expectations of affected residents that will involve a degree of compromise by all parties

Draft Scope of the Noise Management Plan and Fly Neighbourly Agreement

As previously reported to Council, the scope of a FNA is a matter for the stakeholders involved. The Office of Airspace Regulation provides advice on the scope of matters a FNA could cover which has been cross checked against the matters raised at the community workshops that are considered of relevance to the FNA as follows:

ELEMENTS OF NOISE MANAGEMENT PLAN AND FNA		RAISED AT WORKSHOPS?	COMMENTS
The extent and values of the designated area over which the Noise Management Plan would cover		Yes	This would involve a mapping exercise of existing land uses and tenures.
The nature and extent of the disturbance caused by aircraft and where possible, through measurement or other scientific analysis.		Yes	This would involve noise modelling to identify the Australian Noise Exposure Forecast (ANEF) 20 contour around the airport. An aircraft noise exposure level of less than 20 ANEF is considered acceptable for residential development.
Identify all potential stakeholders to be affected, including residents and all airport users.		Yes	Depending on feedback from residents, this may also identify dwellings beyond the ANEF 20 contour.
Identify the nature and purpose of aircraft operations that are affecting the designated area.		Yes	This will include the operational requirements of all current airport users.
	a. the number of operations;	Yes	
	b. the heights of operations;	Yes	
	c. flight tracks used, including the avoidance of sensitive areas and the repetitive use of particular tracks;	Yes	

ELEMENTS OF NOISE MANAGEMENT PLAN AND FNA		RAISED AT WORKSHOPS?	COMMENTS
	d. the origins and destinations of operations;	Yes	
	e. times of operations;	Yes	
	f. operating procedures available to the type of aircraft in use; and	No	
	g. changing the type of aircraft used.	Yes	
Specify procedures that apply to aircraft operating in the designated area. Such procedures could include:			This will involve input from the Office of Airspace Regulation.
a. avoiding noise sensitive areas	i. follow any high ambient noise routes (main roads, etc.); and	No	
	ii. follow unpopulated routes.	Yes	
b. when operating near noise sensitive areas:	i. maintain an appropriate fly-over altitude for any specific land uses affected;	Yes	
	ii. maintain an appropriate hover/circling altitude;	Yes	
	iii. speed reduction;	No	
	iv. low noise speed/descent settings;	Yes	
	v. route variation;	Yes	
	vi. use high take-off/descent profiles.	Yes	
Identify opportunities for aircraft operators to vary their operations to reduce disturbance		Yes	This will involve seeking a balance between operational requirements and the

ELEMENTS OF NOISE MANAGEMENT PLAN AND FNA	RAISED AT WORKSHOPS?	COMMENTS
without being unreasonably penalised by doing so; and		reasonable expectations of residents.
Set targets for reasonable reductions in the disturbance being caused by aircraft operations;	No	This will enable the effectiveness of the Noise Management Plan to be measured by setting quantifiable targets.
Specify all relevant aviation safety requirements for the airport. These will include any non-negotiable requirements for the safe operation of the airport.	No	These will include any non-negotiable requirements for the safe operation of the Airport.

Matters Raised by the Community Related to a FNA Not Covered by the Guidelines

As previously reported to Council, it is important that Council incorporate all matters raised by the community relevant to the preparation of a Noise Management Plan and FNA in the scope for the consultant brief. In addition to the matters recommended in the guidelines, the following is an assessment of the matters relevant to the FNA that were raised by the community at the workshops that are not covered by the guidelines.

MATTERS RAISED NOT COVERED BY THE GUIDELINES	COMMENTS
FNA needs to be enforceable	The FNA can be enforced through conditions placed on any lease agreement with AIAC. The FNA should include dispute resolution provisions.
Location of stalling procedure training locations	A specific provision can be considered for inclusion in the FNA specifying areas where this activity should be restricted to.
The FNA needs to include penalties for breaches	The dispute resolution provisions can specify any punitive measures in the event of any persistent avoidable breaches of the FNA by AIAC, however, penalties cannot be imposed on other users as the FNA would be on a voluntary basis.
How and by whom will monitor the FNA?	The methods for monitoring the FNA, including responsibilities of all parties should be specified in the FNA.

MATTERS RAISED NOT COVERED BY THE GUIDELINES	COMMENTS
What are the ongoing consultation requirements?	The FNA should specify how the community will be advised of the compliance status of the FNA, including the process for consulting with the community for any variations to operational parameters.
Consultation needs to include direct access to the GM.	The GM should only become involved where any complaints have not been resolved under the dispute resolution provisions of the FNA
What will be the complaints management process?	The process for receiving and responding to complaints should be included in the FNA.
How will flights from Port Macquarie be controlled?	Aircraft movements by AIAC, regardless of origin can be included in the FNA
Will a community committee be formed?	This will be dealt with under the community consultation provisions of the FNA.
Lack of understanding of flight jargon.	The need for the FNA to be expressed in plain English should be included in the scope of matters to be addressed.
Noise mitigation works required at most affected residences	The recommended investigations to determine the Australian Noise Exposure Forecast (ANEF) 20 contour around the airport will determine whether mitigation works at any residences is required.

Recommended Scope of Noise Management Plan and Fly Neighbourly Agreement

The scope of the matters that should be addressed by the Noise Management Plan and Fly Neighbourly Agreement, including those identified in the guidelines and the matters raised by the community at the workshops is at [\(Appendix C\)](#). It is intended that the scope of matters to be addressed will be included in a draft consultancy brief for consideration of the recommended Community Reference Group.

Community Reference Group

Similar to the approach taken with other plans and strategies of broad community interest, it is recommended that an advisory group be appointed to assist in developing the Noise Management Plan and FNA. It is suggested that:

- The group be comprised of a maximum of 4 community representatives
- The chair be a community representative elected by the group

- Council staff representative
- Expressions of interest be sought for representatives from a broad cross-section of the community
- The representatives be appointed by resolution of Council

It is expected that the group would have a time-limited tenure with the purposes of:

- Providing input to developing the consultancy brief seeking expressions of interest (EOI)
- Assisting in developing the selection criteria and associated weightings
- Evaluating the EOIs against the selection criteria
- Reviewing and providing feedback on the consultancy deliverables (milestone reports, drafts and final draft Noise Management Plan and recommended FNA)
- Reviewing and providing feedback on the draft Council report seeking endorsement of the draft plan and FNA for the purposes of formal public exhibition
- Reviewing and providing feedback on all submissions received, including the draft Council report for adoption, or otherwise, of the final Noise Management Plan and FNA

Should Council support the recommendation to establish the group, it is intended to develop a set of Standing Orders for Council's endorsement when EOIs to serve on the group are reported to Council.

It should be noted that the community has also expressed the desire for a community group to monitor and provide feedback on the ongoing implementation of the FNA. Whilst, based on examples of other FNAs operating in Australia, this is likely to be a recommended outcome, it is important that the mechanisms for ongoing monitoring and feedback related to the implementation of the FNA not be pre-empted and that the endorsed process be followed.

Revised Estimated Project Delivery

Having regard to Council's resolution to hold a public facilitated workshop and the appointment of the recommended community reference group, the indicative project plan included in the Council report of 18 April 2017 is likely to result in a delay to completing and implementing the project. It is further noted that the timeframe for preparing the Noise Management Plan and FNA will also be determined by the availability of suitable consultants, however, the following revised indicative timeframe is provided.

TASK	START	END	COMMENT
STEP 1: Report to Council seeking endorsement of the intention to prepare a Noise Management Plan and Fly Neighbourly Agreement, including communications strategy.	Mar 2017	Apr 2017	Completed 18 April 2017

TASK		START	END	COMMENT
STEP 2: Preliminary community consultation. Refer to Office of Airspace Regulation seeking input		May 2017	Jun 2017	Delayed due to Council resolution to conduct a public meeting. Completed 4 and 5 July 2017
STEP 3: Report outcomes of preliminary community consultation to Council to endorse the scope of the matters to be addressed in the Noise Management Plan		~~Jun 2017~~ Jul 2017	~~Jul 2017~~ Aug 2017	Completed 15 August 2017
	STEP 3(b): Seek EOIs for community representatives for reference group	Aug 2017	Sep 2017	
	STEP 3(c): Report EOIs to Council and appoint community representatives	Oct 2017	Nov 2017	
STEP 4: Seek EOIs and appoint suitably qualified consultants to prepare the Noise Management Plan and confirm with AIAC how the plan will be funded.		~~Aug 2017~~ Nov 2017	~~Sep 2017~~ Feb 2017	
STEP 5: Prepare draft Noise Management Plan and refer to the Office of Airspace Regulation for comment.		~~Oct 2017~~ Mar 2018	~~Oct 2017~~ May 2018	Revised timeframe subject to confirmation with appointed consultant
STEP 6: Report draft Noise Management Plan incorporating Office of Airspace Regulation comments to Council to endorse for the purposes of public exhibition.		~~Nov 2017~~ May 2017	~~Dec 2017~~ Jun 2018	
STEP 7: Formal public exhibition of the draft Noise Management Plan.		~~Jan 2018~~ Jun 2017	~~Mar 2018~~ Jul 2017	
STEP 8: Assess public submissions and consider any required amendments in response.		~~April 2018~~ Jul 2018	~~May 2018~~ Jul 2018	
STEP 9: Report recommended Noise Management Plan, including draft Fly		~~May~~	~~Jun~~	

TASK	START	END	COMMENT
Neighbourly Agreement to Council for its endorsement.	~~2018~~ Jul 2018	~~2018~~ Aug 2018	
STEP 10: Enter into FNA.	~~Jun~~ ~~2018~~ Aug 2018	~~Jul~~ ~~2018~~ Aug 2018	