

## COUNCIL ASSESSMENT REPORT

### NORTHERN REGIONAL PLANNING PANEL

<b>PANEL REFERENCE &amp; DA NUMBER</b>	PPSNTH-209 – DA2200364
<b>PROPOSAL</b>	Proposed Macleay Valley Adventure Recreation Park
<b>ADDRESS</b>	Lot 1 and Lot 2 DP1144474 - 20 Airport Road, Aldavilla
<b>APPLICANT</b>	Kempsey Shire Council
<b>OWNER</b>	Kempsey Shire Council
<b>DA LODGEMENT DATE</b>	17 March 2022
<b>APPLICATION TYPE</b>	Integrated Development Application
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	Section 2.19(1) and Clause 3 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> declares the proposal regionally significant development as: Council related development over \$5 million
<b>CIV</b>	\$15,385,519 (excluding GST)
<b>CLAUSE 4.6 REQUESTS</b>	Nil
<b>KEY SEPP/LEP</b>	<ul style="list-style-type: none"> <li>• <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i></li> <li>• <i>State Environmental Planning Policy (Planning Systems) 2021</i></li> <li>• <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i></li> <li>• <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i></li> <li>• <i>Kempsey Local Environmental Plan 2013</i>;</li> <li>• <i>Kempsey Development Control Plan 2013</i></li> </ul>
<b>TOTAL &amp; SUBMISSIONS ISSUES SUBMISSIONS</b> <b>UNIQUE KEY IN</b>	<p>Agency submissions – 6</p> <p>Non agency submissions – 10 unique submissions. Nine submissions objecting and one in support.</p> <p>Issues:</p> <p>Permissibly of the indoor rock-climbing gym</p> <p>Potential rural land use conflict</p> <p>Civil Aviation Safety Authority concerns</p> <p>Adequacy of the Aboriginal Cultural Heritage assessment</p> <p>Adequacy of Stormwater Management</p> <p>Flood Impact</p>

	<p>Traffic Impact particularly on the Old Aerodrome Road</p> <p>Operational design concerns of existing airport operators</p> <p>Future Event Space</p>
<p><b>DOCUMENTS SUBMITTED CONSIDERATION</b></p> <p><b>FOR</b></p>	<p>A. Aboriginal Cultural Heritage Assessment</p> <p>B. Macleay Valley Adventure Rec Park Accessibility Report</p> <p>C. Trinity Acoustic Review</p> <p>D. ANE Acoustic Assessment</p> <p>E. World Trail Pump Track Concept</p> <p>F. Tiny House Moveable Cabin Plans</p> <p>G. Bunkhouse Accommodation Drawings MVARP</p> <p>H. BCA Compliance Report</p> <p>I. Bushfire Assessment Report</p> <p>J. Site Contamination Assessment</p> <p>K. DA Estimate</p> <p>L. Erosion &amp; Sediment Control</p> <p>M. Flood Inundation Report</p> <p>N. Flood Impact Assessment Report</p> <p>O. Geotechnical Assessment</p> <p>P. Landscape Plans</p> <p>Q. DA Covering Letter with Legal Advice</p> <p>R. Hydraulic Loads Electrical Load Report</p> <p>S. MVARP Crime Prevention Report Aviation Feasibility Report</p> <p>T. Statement of Environmental Effects</p> <p>U. Stormwater Management Plan</p> <p>V. Structural Design Certificate</p> <p>W. Survey</p> <p>X. Traffic Impact Assessment</p> <p>Y. Waste Management Plan</p> <p>Documents submitted following request for further information:</p> <ol style="list-style-type: none"> <li>1. <i>Land Use Conflict Risk Assessment (LUCRA)</i></li> <li>2. KSC Response to CASA Submission</li> <li>3. Revised civil plans dated August 2022</li> <li>4. Aboriginal Cultural Heritage Assessment Report - 5 May 2023</li> <li>5. Stormwater Management Report - 30 August 2022 - Rev A</li> <li>6. Flood Impact Assessment Report [B] - 3 April 2023</li> <li>7. Flood Inundation Report [F] - 30 March 2023</li> <li>8. Traffic Impact Assessment - 16 January 2023 - Rev 7</li> <li>9. Traffic Impact Assessment RFI Responses</li> <li>10. Geotechnical Assessment RFI Response</li> <li>11. Hydraulic Load Profiles - 5 September 2022</li> <li>12. Amended Waste Management Plan - August 2022</li> <li>13. REHBEIN Airport Consulting Response to Operator's Comments - 30 May 2023</li> <li>14. KSC Response to SKAAG Inc. Submission - 5 May 2023</li> <li>15. Caravan site layout – Drawing AR-1103 GROUND FLOOR CABINS dated 16/06/2023.</li> </ol>

<b>SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)</b>	Nil
<b>RECOMMENDATION</b>	Development Consent subject to conditions
<b>DRAFT CONDITIONS TO APPLICANT</b>	Yes
<b>SCHEDULED MEETING DATE</b>	12 July 2023
<b>PLAN VERSION</b>	AR-0001 to AR-1203 Version 3 dated 24/02/22 AR-1103 Version 4 dated 16/06/23 LD-000 to LD-0101 Version B dated 18/02/22
<b>PREPARED BY</b>	Chris Pratt Consultant Town Planner Planning Resolutions
<b>DATE OF REPORT</b>	3 July 2023

## EXECUTIVE SUMMARY

The subject site is Lot 1 and Lot 2 DP1144474 and is located at 20 Airport Road Aldavilla. The subject site is the Kempsey Airport which is located approximately 8.7klm west of the Kempsey Town Centre.

The airport has a terminal and series of hangers. Currently no daily passenger service operates at Kempsey Airport, but it has a number of training, emergency and general aviation operations.

The site the subject of the development application is an open grass covered area to the south of the main runway. It is proposed to access this site from an existing gate on the Old Airport Road. The area is flat, low lying and covered in grasses. Much of the development site is around 13 to 14.4 metres AHD.

It is proposed to develop an adventure recreation park. The proposal includes:

A. A large main building which has three parts and will contain:

- a. Rock Climbing
- b. Skydiving Centre
- c. Café
- d. Aircraft Hanger for two planes
- e. Training rooms
- f. Administration

The building will have a FFL of 14.0m AHD

B. Associated aircraft aprons and taxiways.

C. A 42 space car park and bus parking bay adjacent to the proposed main building.

- D. BMX Pump Track.
- E. Canopy Swoop Pond and 250m long landing strip course/runway to serve the canopy piloting pond  
The proposed swoop pond will also be used for kayaking, disabled sailing and as an inflatable water park.
- F. Accommodation in the form of movable dwellings on ten caravan park sites.
- G. Internal access roads and construction of a new site entry/driveway on Old Aerodrome Road.

The Skydiving Centre is anticipated to attract up to 190 flights per month.

The subject development site is predominantly within *Zone RU2 Rural Landscape*, with a small part within *Zone RU1 Primary Production* under *Kempsey Local Environmental Plan 2013*.

*Kempsey Local Environmental Plan 2013 (Amendment No 32)* was made on 23 June 2023. The amendment inserted additional permitted uses in Schedule 1 of the LEP as follows:

***Use of certain land at Kempsey Airport, Aldavilla***

*(1) This clause applies to part of Lots 1 and 2, DP 1144474, 20 Airport Road, Aldavilla, identified as "16" on the Additional Permitted Uses Map.*

*(2) Development for the following purposes is permitted with development consent—*

- (a) backpackers' accommodation,*
- (b) hotel or motel accommodation,*
- (c) recreation facilities (indoor),*
- (d) serviced apartments*

All the proposed uses are permitted with consent.

The proposed development site is covered in grasses. There are no constraints in terms of biodiversity values. Geotechnical, contaminated land and Aboriginal cultural heritage assessments have shown that the development of the site is unlikely to be constrained regarding these matters. Standard discovery protocols will apply.

The applicant provided a LUCRA which included consultation with neighbouring landowners to establish the nature of agricultural operations undertaken on neighbouring land. The LUCRA has been reviewed by the Department of Primary Industries. They have advised that the LUCRA is generally adequate but have recommended some matters that should be addressed via conditions of consent.

A bushfire assessment was completed. The tourist accommodation is a special fire protection purpose. The Rural Fire Service of NSW have issued General Terms of Approval dated 13 October 2022.

The applicant was asked to review their civil engineer, traffic and stormwater assessments. The applicant has now provided adequate information.

The flooding of the site is the main issue. This was also the main issue in the finalisation of the Planning Proposal. The Planning Proposal was ultimately accepted on the basis that:

- The 1% AEP flooding is minor across the site,
- Evacuation is available to the north around the perimeter of the airport, and
- Council undertook to develop evacuation plans for the site which would be triggered by a predicted 20%AEP flood event.

The revised 1% AEP flood planning level (with 2100 climate change criteria) is 14.9m AHD. The proposed main building has a floor level of 14.0m AHD. The caravan park sites will sit at between 14.2 and 14.4 metres AHD. As an additional precaution the movable dwellings

(caravan/cabins) that cannot have a floor level of 14.9 m AHD should be registerable. That is with wheels and towbar coupling and maintained in a roadworthy condition. This way the movable dwellings can be moved in less than thirty minutes each.

Conditions of consent have been recommended that ensure that an adequate flood evacuation plan is developed, and the constructed buildings can withstand the flood impacts.

The proposal was notified in accordance with Council's Community Participation Plan from 13 May 2022 until 10 June 2022. The development application was placed on public exhibition at the same time as the Planning Proposal for the land. A total of ten unique submissions were received, comprising nine objections and one submission in favour of the proposal.

The objections raised in these submissions included the following:

- Conflict with the operations of the airport for current users.
- Traffic impacts, particularly on Old Aerodrome Road.
- Adequacy of the Acoustic Assessment.
- Adequacy of the Flood Impact Assessment.
- Scale and design of the building in relation to the surrounding rural property buildings.
- Feasibility of the project and whether Council should be carrying out such a project.
- Future event space shown on the plans.

The feasibility of the project is not a planning consideration, otherwise the issues raised in the submissions have generally been dealt via the additional information provided or recommended conditions.

The buildings are well designed and appropriate for the site. The development satisfies a legitimate need of providing additional recreational opportunities in the Macleay Valley and beyond. It also provides an opportunity to support the ongoing operation of the airport, an important local facility. The application proposes a form of development that is consistent with the intent of the planning controls and in particular is consistent with the recent amendment to the LEP.

The predicated bushfire and flood impacts can be reasonably mitigated.

The key issues have been resolved satisfactorily through amendments to the proposal and/or in the recommended draft conditions. Development consent should be granted for the proposed development.

## **1. THE SITE AND LOCALITY**

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### **1.1 The Site**

The subject site is Lot 1 and Lot 2 DP1144474 and is located at 20 Airport Road Aldavilla. The subject site is the Kempsey Airport which is located approximately 8.7km west of the Kempsey Town Centre. The entire airport site is approximately 143 hectares in area.

The airport has a terminal and series of hangers. Currently no daily passenger service operates at Kempsey Airport, but it has the following operations:

- charter operations
- pilot training
- skydiving
- local flying club
- general aviation
- aircraft maintenance
- medical and emergency services.

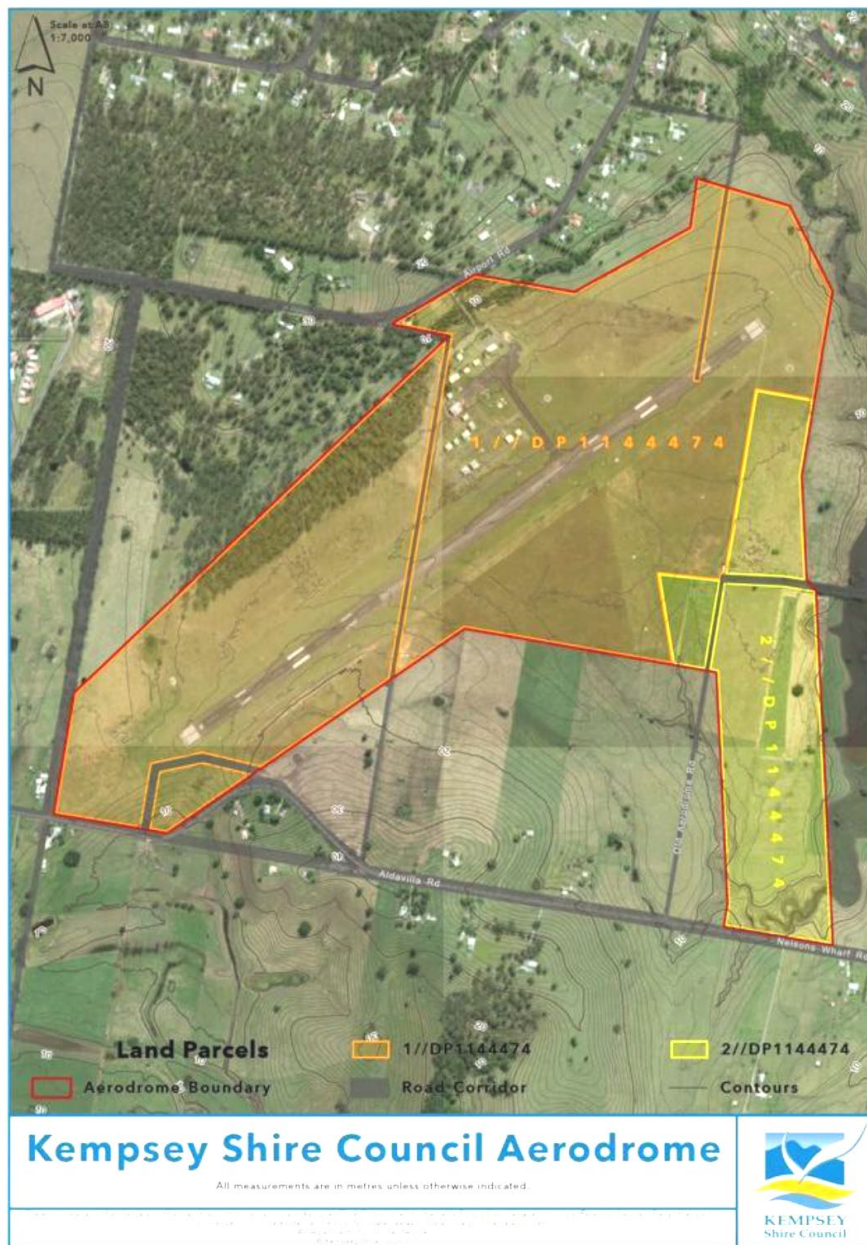
The site the subject of the development application is an open grass covered area to the south of the main runway. It is proposed to access this site from an existing gate on the Old Airport Road.

The area is flat, low lying and covered in grasses. Much of the development site is around 13 to 14.4 metres AHD. The site entrance has an elevation of 12.8 metres AHD. There is a low point in the entrance road of 12.4 metres. The main buildings have an elevation of around 14 metres AHD.

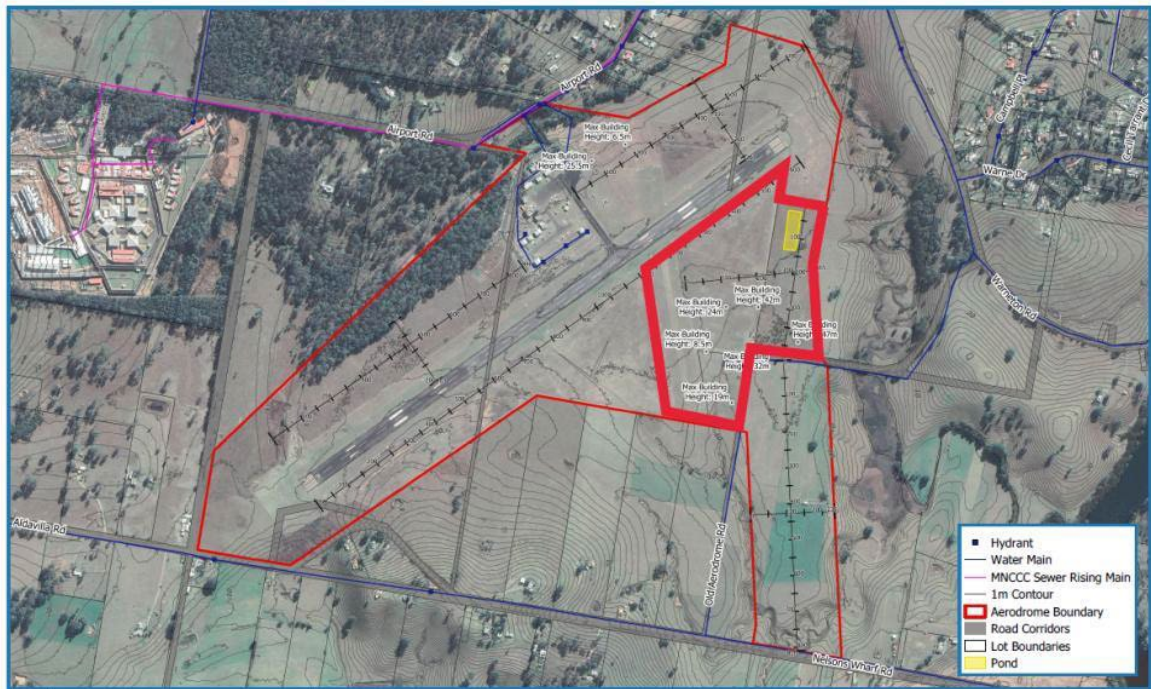
The land is subject to flooding. The proposed site is approximately 160 metres west of Warners Creek and 900 m northwest of the Macleay River.

### **Figure 1 - Site Plans**

**Below is the site locality plan from the submitted SEE showing the entire airport land.**



Below is the plan from the submitted SEE showing the site of the proposed development (thick red line) relative to the overall airport site.



## Site Photos



**Drone view 21 July 2022**



**The site looking back to site entrance**



**Proposed site entrance**

## **1.2 The Locality**

The site the subject of the development application adjoins larger rural holdings. There are extensive areas of rural residential development to the north and east of the airport land. The Mid North Coast Correctional Centre is located to the west of the airport.

## **2. THE PROPOSAL AND BACKGROUND**

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### **2.1 The Proposal**

The applicant seeks development for the following:

- *Linked primary structure containing the Adventure Recreation Park Facility comprising Rock Climbing and Skydiving Centre of 2,767.63m<sup>2</sup> (total Gross Floor Area including Café, proposed hanger, mezzanine areas and accommodation). With a ground FFL of 14.0m AHD;*

*Building Code of Australia Classifications–*

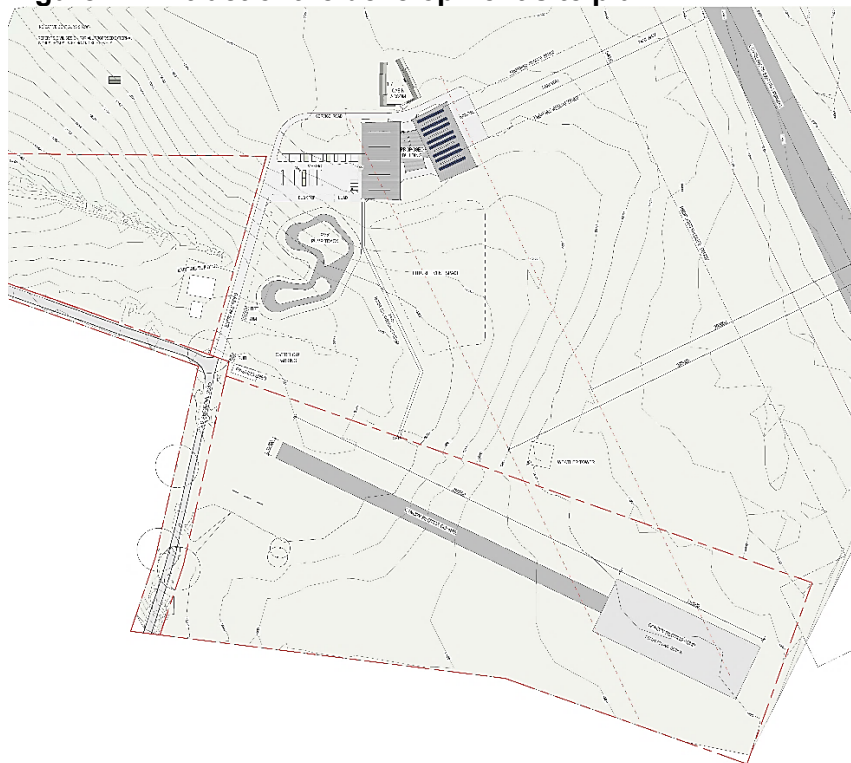
*ROCK CLIMBING (Class 9B) - HANGAR (Class 8) - TRAINING (Class 5) - CAFE (Class 6)*

- *The Skydiving Centre that is anticipated to attract up to 190 flights per month - including an Aircraft Hangar, Training rooms, administration and associated aircraft aprons and taxiways.*

- A 42 space car park and bus parking bay adjacent to the proposed structure
- BMX Pump Track
- Canopy Swoop Pond and 250m long landing strip course/runway to serve the canopy piloting pond
- Use of the proposed swoop pond for kayaking, disabled sailing and an inflatable water park
- Accommodation in the form of 4 relocatable self-contained cabins and 2 sets of bunkhouses (each with 4 rooms), including one accessible cabin consistent with the submitted access report
- Internal access roads and construction of a new site entry/driveway on Old Aerodrome Road.

The applicant was asked to clarify what was proposed in relation to the accommodation as the two sets of bunkhouses (each with 4 rooms) didn't fit within the definition of a moveable dwelling in a caravan park. The applicant has provided an amended plan to now shown caravan park sites consisting of ten short term stay sites. Each site is 10 metres by 10 metres. The V shaped arrangement of sites is the same as the originally submitted plan. There is now the required separation between the proposed moveable dwellings.

**Figure 2 - Extract of the development site plan**



**Figure 3 - Perspective of the main building**



## **2.2 Background**

The development application was lodged on **17 March 2022**. A chronology of the development application since lodgement is outlined in **Table 2**.

**Table 1: Chronology of the DA**

Date	Event
<b>13 May 2022</b>	Exhibition of the application
<b>10 May 2022</b>	DA referred to external agencies
<b>5 August 2022</b>	Request for Information from the applicant
<b>19 April 2023</b>	Panel briefing
<b>26 April 2023</b>	Panel site inspection
<b>19 June 2023</b>	Final additional information received

## **2.3 Site History**

Kempsey Airport was opened in 1936. It no longer has regular commercial flights and is a general aviation airport.

Development consent T6-15-381 for “Additions to Pilot Training Facility” was granted by Council on 10 December 2015. The assessment report summarised the development as:

*The proposal is for an additional building to expand the existing pilot training facility, which is part of the "airport" land use.*

In 2018 the applicant sought to modify the consent to permit an expansion of the circuit training as part of the Pilot Training Facility. This attracted numerous submissions including 168 objections from residents directly affected by the circuit training. The applicant withdrew the application.

### **3. STATUTORY CONSIDERATIONS**

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When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
  - (i) *any environmental planning instrument, and*
  - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
  - (iii) *any development control plan, and*
  - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
  - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*  
*that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

The proposal is integrated development pursuant to Section 100B of the Rural Fires Act 1993. The Rural Fire Service have provided General Terms of Approval.

#### **Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations**

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

#### **(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments**

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The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Kempsey Local Environmental Plan 2013;*
- *Kempsey Development Control Plan 2013*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

**Table 2: Summary of Applicable Environmental Planning Instruments**

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021	<b>Chapter 4: Koala Habitat Protection 2021</b> Council's <i>Comprehensive Koala Plan of Management for Eastern Portion of Kempsey Shire LGA</i> applies to the site. The land is not mapped Potential Koala Habitat and no trees are to be removed. As such no further assessment under the plan is required.	Yes
State Environmental Planning Policy (Housing) 2021	<b>Chapter 3: Diverse Housing</b> Part 9 Caravan parks. Ten short terms sites are proposed. No long-term sites are proposed. Tourists will be limited to a maximum occupation period of 3 months.	Yes
State Environmental Planning Policy (Planning Systems) 2021	<b>Chapter 2: State and Regional Development</b> Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 3 of Schedule 6.	Yes
SEPP (Resilience & Hazards)	<b>Chapter 4: Remediation of Land</b> <b>Section 4.6</b> - Contamination and remediation has been considered in the Contamination Report and the proposal is satisfactory subject to conditions.	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	<b>Chapter 2: Infrastructure</b> <b>Section 2.121(4)</b> - Traffic-generating development o Airports or heliports: Any size or capacity	Yes
Proposed Instruments	No draft EPIs are applicable	NA
LEP	<i>Clause 5.21 – Flood Planning</i> – an expanded flood assessment has been provided. The revised 1% AEP flood planning level (with 2100 climate change criteria) is	Yes

	<p>14.9m AHD. The proposed main building has a floor level of 14.0m AHD.</p> <p><i>Clause 7.1 – Acid Sulfate Soils</i> – Even though the land is mapped as Class 5 it does not apply as the sloop pond is not within 500 metres of any other Class of Acid Sulphate Soil and is above 5 metres AHD.</p> <p><i>Clause 7.2 – Earthworks</i> – extent of earthworks has been minimised.</p> <p><i>Clause 7.4 - Koala Habitat</i> – not mapped and no tree removal proposed.</p> <p><i>Clause 7.9 – Essential Services</i> – adequate services are available.</p>	
DCP	There is no precinct or land use specific DCP that applies to the proposal. There is a limited range of general matters that are required to be assessed and these are mostly assessed via other planning controls.	Yes

Consideration of the relevant SEPPs is outlined below.

### **State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP)**

#### Chapter 2: State and Regional Development

The proposal is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in Clause 3 of Schedule 6 of the Planning Systems SEPP as the proposal is development for Council related development over \$5million. Accordingly, the Northern Regional Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

### **State Environmental Planning Policy (Resilience and Hazards) 2021**

#### Chapter 4: Remediation of Land

The provisions of Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* (*the Resilience and Hazards SEPP*) have been considered in the assessment of the development application. Section 4.6 of Resilience and Hazards SEPP requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out. To consider this, a Preliminary Site Investigation ('PSI') has been prepared for the site.

The assessment by Regional Geotechnical Solutions has been provided. They conclude in part:

*Based on the results obtained in this investigation the site is considered likely to be suitable for the proposed recreational land use with regard to the presence of soil contamination provided the recommendations and advice of this report are adopted, and site preparation works are conducted in accordance with appropriate site management protocols and legislative requirements.*

The recommendations include demolition of the shed. The shed is not to be demolished.

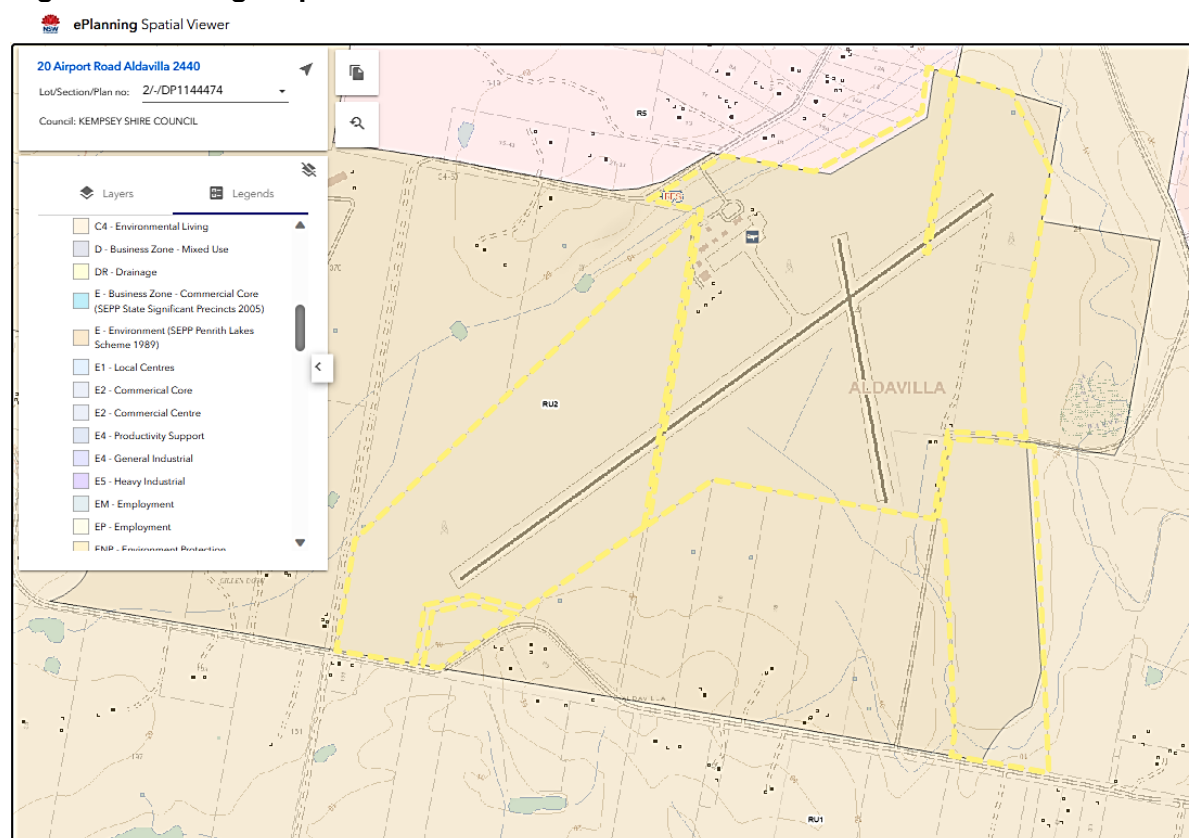
The other recommendation refers to an abandoned aircraft. They recommend:

- The site walkover should also include an assessment of surface soils in the vicinity of the abandoned aircraft (AEC 3) and assess the need for collection of soils for assessment of potential chemical contaminants.

### Kempsey Local Environmental Plan 2013

The subject development site is predominantly within *Zone RU2 Rural Landscape*, with a small part within *Zone RU1 Primary Production* pursuant to Clause 2.3 of the *Kempsey Local Environmental Plan 2013*. An extract of the zoning map from the ePlanning Spatial Viewer appears below in Figure 4.

**Figure 4 - Zoning map**



*Kempsey Local Environmental Plan 2013 (Amendment No 32)* was made on 23 June 2023. The amendment inserted additional permitted uses in Schedule 1 of the LEP as follows:

#### ***Use of certain land at Kempsey Airport, Aldavilla***

- (1) *This clause applies to part of Lots 1 and 2, DP 1144474, 20 Airport Road, Aldavilla, identified as “16” on the Additional Permitted Uses Map.*
- (2) *Development for the following purposes is permitted with development consent—*
  - (a) *backpackers’ accommodation,*
  - (b) *hotel or motel accommodation,*
  - (c) *recreation facilities (indoor),*
  - (d) *serviced apartments*

The following are the relevant permitted uses:

**air transport facility** means an airport or a heliport that is not part of an airport, and includes associated communication and air traffic control facilities or structures.

**airport** means a place that is used for the landing, taking off, parking, maintenance or repair of aeroplanes, and includes associated buildings, installations, facilities and movement areas and any heliport that is part of the airport.

**caravan park** means an area of land, with access to communal amenities, used for the installation or placement of caravans, or caravans and other moveable dwellings, but does not include farm stay accommodation.

**recreation facility (indoor)** means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

**recreation facility (outdoor)** means a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major).

**restaurant or cafe** means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided, but does not include the preparation and serving of food and drink to people that occurs as part of—

- (a) an artisan food and drink industry, or
- (b) farm gate premises.

The proposal is considered to be generally consistent with the LEP.

**(b) Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments**

There are no relevant to the draft environmental planning instruments.

**(c) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan**

The following Development Control Plan is relevant to this application:

- **Kempsey Development Control Plan 2013**

There is no precinct or land use specific DCP that applies to the proposal. There is a limited range of general matters that are required to be assessed and these are mostly assessed via other planning controls. The only matter not covered elsewhere is the number of required carparking spaces under **B2 Parking, Access and Traffic Management**.

The assessment found the need for 30 car spaces. A total of 42 spaces are provided. The draft condition of consent recommends that the number of car parking spaces be limited to a maximum of 42 spaces as a way of controlling the unknown impacts of events on the site.

The following contributions plans are relevant pursuant to Section 7.18 of the EP&A Act:

- *Local Roads and Traffic Infrastructure Developer Contribution Plan 2009*
- *Section 94 Contributions Plan for Outdoor Recreation - 2001*

Council has exhibited a new draft Section 7.12 Fixed Development Consent Levy Plan. It is expected that by the time the Panel considers this application this new contributions plan will have been adopted by Council. Conditions of consent for contributions will be provided to the Panel prior to determination.

**(d) Section 4.15(1)(a)(iia) – Planning agreements under Section 7.4 of the EP&A Act**

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

**(e) Section 4.15(1)(a)(iv) - Provisions of Regulations**

These provisions of the 2021 EP&A Regulation have been considered and are addressed in the recommended draft conditions (where necessary).

**3.1 Section 4.15(1)(b) - Likely Impacts of Development**

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The consideration of impacts on the natural and built environments includes the following:

- **Context and setting** – The proposal is consistent with the context of the site. The large building has an appropriate bulk and scale given its location within the airport precinct. It has the sense of an airport terminal, an important public building. The proposed uses not only rely on the airport location, but the operation of the uses will benefit from the relative isolation from neighbouring dwellings.
- **Access and traffic** – The road network has the capacity to service the proposed development. Some traffic management measures are to be investigated. Council will receive some developer contributions that can be put towards an upgrade of the road network. The road access is subject to regular flooding though there is emergency access via higher ground within the airport area.
- **Public Domain** – The proposal while a commercial enterprise will improve the public domain by providing additional recreational opportunities.
- **Utilities** – All utilities are available at the site. Water and sewer headworks contributions are payable.
- **Heritage** – The site does not contain any European heritage items.

The applicant has now prepared a complete *Aboriginal Cultural Heritage Assessment Report*. The report has been reviewed by Heritage NSW and they advise that a “Aboriginal Heritage Impact Permit would not be required”. They have also provided some recommended conditions of consent.

- Other land resources – A LUCRA was prepared. The recommendations from the LUCRA and additional recommendations from the Department of Primary Industry will assist to minimise any adverse impacts on adjoining agricultural land.
- Water/air/soils impacts - Contamination and remediation has been considered in the Contamination Report and the proposal is satisfactory subject to conditions.
- Flora and fauna impacts - The land is highly modified and is covered in grasses. The land has been maintained for the purposes of the airport for almost a century. The land supports very limited habitat suitable for native fauna and has few conservation attributes. There are no threatened species, endangered populations or endangered ecological communities that will be impacted by the development works. The development does not involve key threatening processes and is not mapped on the Biodiversity Values Map for the purposes of the *Biodiversity Conservation Act 2016*. The nearest mapped area is Warners Creek to the west.
- Natural environment – There is limited earthworks. The applicant has now provided cut and fill plans. The maximum excavation is for the swoop pond with cuts at around 1.8 metres. Conditions of consent have been recommended to adequately control any sediment and erosion impacts.
- Noise and vibration – This is not expected to be a significant issue given the relative isolation of the site. Standard mitigating conditions have been recommended.
- Natural hazards – The site impacted by flooding and bushfire. Extensive assessment and review has been undertaken to ensure that these impacts can be reasonably mitigated. The RFS General Terms Approval and the recommended flood mitigation conditions will ensure assessment measures will be implemented in perpetuity.
- Safety, security and crime prevention – The site is within the secure compound of the airport. Standard measures can easily be implemented to ensure public safety.
- Social impact – The proposed development will have a positive social impact on the community providing further recreational opportunities in the local area. There appears to be general community support for the proposal.
- Economic impact – The proposed development will generate employment through construction and ongoing operation. The development will also have a multiplier effect on the local economy.
- Site design and internal design – The proposal is set out appropriately on the site to mitigate potential impacts.
- Construction – Potential impacts from construction have been adequately mitigated in the recommended conditions. The relative isolation of the development site will help in mitigation of impacts on the neighbourhood.

- Cumulative impacts – By locating the development on the edge of the floodplain the development will have some cumulative impacts in that it will take resources away from flood preparedness elsewhere in Kempsey. Though the flood impact is marginal. The facility by its nature needs to be located within the confines of the airport. Council's willingness to evacuate the site early at a 20%AEP flood event will help in greatly reducing the impact on resources.

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above.

### **3.2 Section 4.15(1)(c) - Suitability of the site**

The site is suitable for the proposed development for the following reasons: -

- a) The proposed development is permissible under Kempsey LEP 2013 land use zone provisions and importantly the recently added additional permitted uses,
- b) The development can be serviced with water and sewer services and has adequate road access,
- c) Bushfire and flooding impacts can be readily mitigated, and
- d) The proposed uses enhance and assists in maintaining this important asset of the local airport.

### **3.3 Section 4.15(1)(d) - Public Submissions**

These submissions are considered in Section 5 of this report.

### **3.4 Section 4.15(1)(e) - Public interest**

The public interest is best served by the orderly and economic use of land for purposes permissible under the relevant planning regime and predominantly in accordance with the prevailing planning controls. The proposed adventure recreation park will attract a number of public benefits. The proposed development:

- a) The development will complement and enhance the social, cultural, and built form character of the neighbourhood,
- b) The development will generate additional construction activity in the local area,
- c) Provide enhanced recreational opportunities in the Macleay valley and beyond, and
- d) The proposed uses enhance and assists in maintaining this important public asset of the local airport.

## **4. REFERRALS AND SUBMISSIONS**

### **4.1 Agency Referrals and Concurrence**

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in **Table 4**.

**Table 3: Concurrence and Referrals to agencies**

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
<b>Referral/Consultation Agencies</b>			
Transport for NSW	Clause 2.121 and Schedule 3 of <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>	The applicant has addressed the issues raised in the submission.	Yes
Biodiversity and Conservation Division	As part of Planning Proposal referral	Extensive consultation has occurred as part of the Planning Proposal. The Planning Proposal has now been finalised. The Planning Proposal was ultimately accepted on the basis that: <ul style="list-style-type: none"> <li>The 1% AEP flooding is minor across the site,</li> <li>Evacuation is available to the north around the perimeter of the airport, and</li> <li>Council undertook to develop evacuation plans for the site which would be triggered by a predicted 20%AEP flood event.</li> </ul>	Conditions of consent have been recommended.
NSW Department of Primary Industries	As part of Planning Proposal referral	A LUCRA was requested. The applicant provided the LUCRA and this has been reviewed by the Department. They have advised that the LUCRA is generally adequate but have recommended some matters that should be addressed via conditions of consent.	The requested conditions have been included in the draft conditions.
Heritage NSW	As part of Planning Proposal referral	The applicant was asked to prepare a complete <i>Aboriginal Cultural Heritage Assessment Report</i> . The report has been reviewed by Heritage NSW and they advise that a "Aboriginal Heritage Impact Permit would not be required". They have also provided some recommended conditions of consent.	The requested conditions have been included in the draft conditions.
Civil Aviation Authority	Input considered important	The applicant was asked to address various issues and obtain final agreement from CASA. CASA have not provided final agreement in writing.	A cautionary condition of consent has been recommended.

		<p>The Council as operators of the airport must ultimately ensure the ongoing authorisation for the airport operation. The matters are those of Commonwealth legislation.</p> <p>CASA also suggested that the Australian Parachute Federation should be consulted. They advised as follows:</p> <p><i>We neither support nor oppose the planned Devolvment Application DA2200364. We don't expect the broader skydiving community to make more than the occasional use of this planned facility.</i></p>	
<b>Integrated Development (S 4.46 of the EP&amp;A Act)</b>			
RFS	<p>S100B - <i>Rural Fires Act 1997</i></p> <p>bush fire safety of subdivision of land that could lawfully be used for residential or rural residential purposes or development of land for special fire protection purposes</p>	<p>The tourist accommodation is a special fire protection purpose. A Bushfire Authority issued on 13 October 2022.</p>	<p>Yes. The conditions of the GTA have been incorporated into the draft conditions.</p>

There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended conditions of consent being imposed.

#### 4.2 Council Officer Referrals

The development application has been submitted by Kempsey Shire Council, therefore no Council staff have been engaged in the assessment of the development application. At my request consultant civil engineer Michiel Kamphorst of Ingen Consulting was engaged to assist me with the assessment of the development application. Ingen Consulting has assisted in formulating the requested further information sent to the applicant. Otherwise, I have relied on the assessment input of the NSW Agencies.

The issues raised by the consultant civil engineer are considered in the Key Issues section of this report.

#### 4.3 Community Consultation

The proposal was notified in accordance with Council's Community Participation Plan from 13 May 2022 until 10 June 2022. The development application was place on public exhibition at the same time as the Planning Proposal for the land. A total of ten unique submissions were received, comprising nine objections and one submission in favour of the proposal.

The issues raised in these submissions included the following:

- a) Conflict with the operations of the airport for current users.
- b) Traffic impacts, particularly on Old Aerodrome Road.
- c) Adequacy of the Acoustic Assessment.
- d) Adequacy of the Flood Impact Assessment.
- e) Scale and design of the building in relation to the surrounding rural property buildings.
- f) Feasibility of the project and whether Council should be carrying out such a project.
- g) Future event space shown on the plans.

The applicant was asked to address all of the issues listed.

The issues raised in these submissions are considered in **Table 5**.

**Table 5: Community Submissions**

Issue	No of submissions	Council Consultant Comments
a) Conflict with the operations of the airport for current users	2	<ul style="list-style-type: none"> <li>inadequate access and parking facilities for aircraft users</li> <li>pedestrian/skydiver access from airside is potentially dangerous</li> <li>review the Hangar, Taxiway, Apron design and specifically of how aircraft approach and depart the facility without taxing straight at and away from the hangar (prop wash), a proper turning bay and pickup location (bus stop) for loading the skydivers.</li> </ul> <p><b>Outcome:</b> Condition of consent recommend for additional design consultation.</p>
b) Traffic impacts, particularly on Old Aerodrome Road.	3	<ul style="list-style-type: none"> <li>Lower speed limits are not an equitable solution for local residents to a problem created by the Adventure Park and Council's inability to fund road infrastructure upgrades.</li> <li>Fails to consider known problem intersections on both roads, particularly Old Aerodrome Road</li> <li>Congestion on Sherwood Road at Aldavilla Public School drop off and pick up times is high and prolonged, especially when pick up times also coincide with end-of-shift for staff at Mid North Coast Correctional Centre.</li> </ul> <p><b>Outcome:</b> Additional information has been provided by the applicant. A condition of consent has been recommended that will see the possible implementation of a speed review for Old Aerodrome Road. Developer Road Contributions will also be payable.</p>
c) Adequacy of the Acoustic Assessment.	2	<ul style="list-style-type: none"> <li>ANE Acoustic Assessment are invalid because of the differing flight profiles and the aircraft used.</li> </ul>

		<ul style="list-style-type: none"> <li>A completely new aircraft noise monitoring study is required, focused on the skydiving flight profile operations associated with the Adventure Park DA.</li> </ul> <p><b>Outcome:</b> Tim Fitzroy in his Land Use Conflict Risk Assessment considers the noise assessment information submitted with the application. Mr Fitzroy is also an experienced acoustic consultant. His recommendations for further noise monitoring have been included as a condition of consent.</p>
d) Adequacy of the Flood Impact Assessment.	2	<p>How will Council:</p> <ul style="list-style-type: none"> <li>Ensure flood evacuation?</li> <li>Who is responsible for costs of repairs and maintenance of buildings if inundation occurs?</li> </ul> <p><b>Outcome:</b> Early flood evacuation is a key element of the recommend conditions of consent.</p>
e) Scale and design of the building in relation to the surrounding rural property buildings.	2	<ul style="list-style-type: none"> <li>scale and design of the building as it is disproportionate to surrounding rural property buildings and does not align with the rural amenity of the surrounding areas</li> <li>energy efficiency</li> <li>glare and reflection of sunlight into neighbouring properties</li> </ul> <p>See the detailed response from the applicant in Attachment B.</p> <p><b>Outcome:</b> The comments on the building design by the applicant in response to submissions is supported. The building design is appropriate for the airport location.</p>
f) Feasibility of the project and whether Council should be carrying out such a project.	4	<ul style="list-style-type: none"> <li>How will Council with increased costs and any funding shortfall?</li> <li>Does Council propose to make up the shortfall by injecting ratepayers' money?</li> <li>Is this an appropriate expenditure of Council funds</li> </ul> <p><b>Outcome:</b> These are of a commercial/ community expenditure nature and not matters for consideration in the determination of this development application.</p>
g) Future Event Space	2	<p>On Architectural Drawing AR-1002 a 'Future Event Space' has been allocated.</p> <ul style="list-style-type: none"> <li>What is the purpose of this space?</li> <li>How will 'future events' be managed and by whom?</li> </ul>

		<b>Outcome:</b> A condition of consent has been recommended that makes it clear that the future vent space is not part of the development consent.
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Careflight Aviation Safety Manager advised in their submission that “we don’t see any major issues with the proposed plan”.

## 5. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

### 5.1 Permissibility of the indoor rock-climbing gym

The draft Planning Proposal has since been made that now clearly provides for the proposed uses.

**Resolution:** No longer an issue.

### 5.2 Potential rural land use conflict

A LUCRA has been prepared and was assessed as generally adequate by the Department of Primary Industries. They advised in part:

*The methodology used for the LUCRA is considered to be generally sound. The approach has included consultation with neighbouring landowners to establish the nature of agricultural operations undertaken on neighbouring land and whether the proposed adventure recreation park would have an impact on these activities.*

They note the following:

- *A biosecurity management plan should incorporate regular consultation with adjoining landowners to ensure that the biosecurity risk is being adequately managed and provide the opportunity to address new biosecurity risks that may arise.*
- *the issue of air quality impacts on animal and human health from aviation gas from planes has not been directly addressed.*
- *the potential for land contamination from aircraft movements or whether this is indeed a risk given the existing aircraft operations and standard aircraft and aerodrome procedures.*

These are matters that can be address in a neighbour management plan. The preparation of such a plan has been recommended as a condition of consent.

**Resolution:** The issue has been resolved through recommended conditions of consent as outlined in Attachment A.

### 5.3 Civil Aviation Safety Authority concerns

The applicant was asked to address various issues and obtain final agreement from CASA. CASA have not provided final agreement in writing.

The Council as operators of the airport must ultimately ensure the ongoing authorisation for the airport operation. These are matters of Commonwealth legislation.

CASA also suggested that the Australian Parachute Federation should be consulted. They advised as follows:

*We neither support nor oppose the planned Devolvement Application DA2200364.  
We don't expect the broader skydiving community to make more than the occasional use of this planned facility.*

**Resolution:** The issue has been resolved through recommended conditions of consent as outlined in Attachment A.

#### **5.4 Adequacy of the Aboriginal Cultural Heritage assessment**

The applicant has now prepared a complete *Aboriginal Cultural Heritage Assessment Report*. The report has been reviewed by Heritage NSW and they advise that a "Aboriginal Heritage Impact Permit would not be required". They have also provided some recommended conditions of consent.

**Resolution:** The issue has been resolved through recommended conditions of consent as outlined in Attachment A.

#### **5.5 Adequacy of the tourist accommodation style proposed.**

The applicant has provided an amended plan to now show caravan park sites consisting of ten short term stay sites. Each site is 10 metres by 10 metres. The V shaped arrangement of sites is the same as the originally submitted plan. There is now the required separation between the proposed moveable dwellings.

The caravan park sites will sit at between 14.2 and 14.4 metres AHD. Given the 1% AEP flood level (with 2100 climate change) is 14.9m AHD, as an additional precaution the movable dwellings (caravan/cabins) that cannot have a floor level of 14.9 m AHD should be registerable. That is with wheels and towbar coupling and maintained in a roadworthy condition. This way the movable dwellings can be moved in less than thirty minutes each.

The details of the layout and servicing of the caravan park will be determined by the required approval process under Section 68 of the *Local Government Act 1993*.

**Resolution:** The issue has been resolved through recommended conditions of consent as outlined in Attachment A.

#### **5.6 Adequacy of Stormwater Management**

The submitted revised Stormwater Management Plan adequately addresses Council's requirements for stormwater management.

**Resolution:** The issue has been resolved through recommended conditions of consent as outlined in Attachment A.

## 5.7 Flood impact assessment

The development impact on the floodplain will be minimal. The table from the revised assessment is reproduced below.

Storm events	Flood Planning levels for buildings and tourist accommodation cabins	Flood Planning levels for carpark
50% AEP	NA	NA
20% AEP	NA	NA
10% AEP	NA	NA
5% AEP	NA	NA
2% AEP	NA	NA
1% AEP	13.8m AHD	13.8m AHD
1% AEP with 2050 CC	14.3m AHD	14.3m AHD
1% AEP with 2100 CC	14.9m AHD	14.9 mAHD
PMF	24.1m AHD	24.05 mAHD

Table 1: Flood Planning Levels

A suitable flood evacuation plan must be in place for the protection of staff and patrons.

Provision of a Flood Evacuation Plan, to be developed in consultation with the SES, is required.

**Resolution:** The issue has been resolved through recommended conditions of consent as outlined in Attachment A.

## 5.8 Flood Inundation Report

To protect the structural integrity of the asset during a flood all building elements, including windows and doors, framing, cladding, etc, will have to be designed and constructed to withstand the flood pressure for floods up to the 1% AEP flood level plus 500mm freeboard.

A Structural Engineer's certificate must be submitted prior to issuing a construction certificate certifying that the building has been designed to withstand the forces created by floodwaters and debris loadings anticipated for that area and indicate any impacts on adjoining buildings and land.

**Resolution:** The issue has been resolved through recommended conditions of consent as outlined in Attachment A.

## 5.9 Traffic impact particularly on the Old Aerodrome Road

Development triggers less than 10% of Sherwood Road peak hour traffic and therefore the development does not trigger an upgrade as such. Developer contributions are required.

Subject to a speed review, approaches to intersections along Old Aerodrome Road should be reduced to 60 km/h.

**Resolution:** The issue has been resolved through recommended conditions of consent as outlined in Attachment A.

### **5.10 Civil Engineering**

The applicant has now provided sufficient additional details. The additional information has been assessed and it adequately describes the proposed development. The envisaged impacts can be mitigated by conditions of consent.

**Resolution:** The issue has been resolved through recommended conditions of consent as outlined in Attachment A.

### **5.11 Operational design concerns of existing airport operators**

The applicant asked REHBEIN Airport Consulting to review the concerns of the other airport operators. They appear to have only undertaken a cursory review but have recommend the following aspects be considered in the detailed design phase:

- ☐ Additional apron pavement area for skydiving operations
- ☐ Additional apron pavement area for visiting aircraft
- ☐ Adjustments to wildlife fence alignment to suit the above

This is a complex issue in that Council needs to operate the airport as a commercial operation and is also confined by aviation regulatory and operational requirements. Though Council should formally engage the other operators during the detailed design to try to resolve the apparent issues. A condition of consent has been recommended that requires some formal consultation.

**Resolution:** The issue has been resolved through recommended conditions of consent as outlined in Attachment A.

## **6. CONCLUSION**

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported.

The development satisfies a legitimate need of providing additional recreational opportunities in the Macleay Valley and beyond. It also provides an opportunity to support the ongoing operation of the airport, an important local facility. The application proposes a form of development that is consistent with the intent of the planning controls and in particular is consistent with the recent amendment to the LEP.

The predicated bushfire and flood impacts can be reasonably mitigated.

It is considered that the key issues as outlined in Section 5 have been resolved satisfactorily through amendments to the proposal and/or in the recommended draft conditions at **Attachment A**.

## **7. RECOMMENDATION**

That the Development Application DA2200364 for Proposed Macleay Valley Adventure Recreation Park at 20 Airport Road, Aldavilla be granted development consent pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: Draft Conditions of consent
- Attachment B: KSC Response to submission from SKAAG Inc.
- Attachment C: Architectural Plans