

AMENDED ITEM



Item No: 6.1
Title: Notice of Motion - Trees in flight path - Council's liabilities?
Department: Councillor

9 March 2020 Ordinary Council Meeting

Reference: F2020/00039 - D13841527
Author: Greg Best, Councillor
Rebecca Gale, Councillor
Jilly Pilon, Councillor
Troy Marquart, Councillor
Bruce McLachlan, Councillor

Councillors Best, Gale, Pilon, Marquart and McLachlan have given notice that at the Ordinary Council Meeting to be held on 9 March 2020 they will move the following motion:

- 1** *That Council notes the repeated calls from the Aviation Community around vegetation safety issues at the Airport including their dismay at Council resolving to plant more trees at the end of the runway, it has now been more than six months since Council resolved to 'study' the vegetation and that this 'study' is likely to be further protracted while the public safety issue continues to escalate.*
- 2** *That Council notes its clear responsibilities around public duty of care and its commitment to reduce liabilities on behalf of our Ratepayers.*
- 3** *That having regard to 2 above, Council now urgently expedite actioning this issue and seek independent legal advice around what 'Emergency Powers' Council may have similarly to The Entrance Channel flooding to allow us to immediately resolve this issue.*
- 4** *That further Council makes urgent representations to the Peak Aviation Control Bodies including CASSA seeking their guidance and assistance around this serious Aviation Public Safety issue.*
- 5** *That Council thanks the Central Coast Aero Club and their highly professional Pilots who have repeatedly drawn this escalating vegetation issue at the ends of the runway to Council's attention and their strident opposition to Council planting even more trees.*

Councillors Note

Councillors, this issue has been on foot for more than six months now and I am most concerned for those using and operating the Airport and indeed Council's liabilities as the owner of the Airport. Of recent, we have learnt some hard lessons around our duty of care and possible liabilities. It is with this understanding that I urge Council to investigate what 'Emergency Powers' we may be able to rely upon to avoid an Aviation tragedy. Please see below for Councillors' background, the Resolution of 723/19, 724/19 and 725/19 of 12 August 2019 that was resolved by Council that engaged Vegetation Consultants to review trees impinging on the OLS (Point 724/19). Please be reminded that under Wyong Shire Council that this issue was managed well by the Operational Team, not the Council! whereby trees were regularly pruned at both ends of the runway.

At the meeting of 12 August 2019 it was resolved:

- 723/19 *That Council engage an external specialist to undertake an up-to-date survey and analysis of the Obstacle Limitation Surfaces (OLS) at the southern and northern ends of the Central Coast Airport runway for both the 5% OLS and 3.33% OLS.*
- 724/19 *That Council commence the environmental studies required to seek approval to manage the tree heights at the northern and the southern ends of the Central Coast Airport runway.*
- 725/19 *That Council request the Chief Executive Officer to provide a further report on the outcomes of 723/29 and 724/19 as soon as possible.*

Chief Executive Officer Note

The Chief Executive Officer considers that this Notice of Motion has legal, strategic, financial or policy implications which should be taken into consideration by the meeting. As a result, the Chief Executive Officer will provide a report in relation to the Notice of Motion. This report will be provided as a Late Item and will be made available by close of business on the Friday prior to the Council Meeting.

Attachments

- 1** Chief Executive Officer Response to Notice of Motion - Trees in Flight Plan - Council Liabilities D13852444



Title: Chief Executive Officer Response to Notice of Motion - Trees in Flight Plan - Council Liabilities

Department: Governance

9 March 2020 Ordinary Council Meeting

Reference: F2020/00039 - D13852444

Author: Janine McKenzie, Unit Manager, Business Enterprise

Manager: Dr Liz Develin, Director Governance

Executive: Gary Murphy, Chief Executive Officer

Report Purpose

This report provides an update on the management of the OLS at the Central Coast Airport since the report and resolutions from 13 August 2019 and to accompany the Notice of Motion titled "Trees in Flight Path – Council Liabilities?".

Summary

Council is implementing the resolutions from the 13 August 2019 in relation to managing the OLS at Central Coast Airport.

The current status of action is as follows:

- **Update OLS Survey:** Survey report is completed. Council is updating the Light and Detection and Ranging (LIDAR) imagery of the Airport to provide a 3-dimensional representation of the data.
- **Undertake Environmental Studies:** These commenced in September 2019 and were initially expected to run at least until March 2020. The recent update from the consultant is that further study is required and is expected to be completed by 31 May 2020.
- **Confirm approval pathway:** Council has also sought further legal advice on the approval pathways available. As a result, Council is currently seeking further expert advice before it can finalise the advice and report back to Council on this.

Context

The report on Managing the Obstacle Limitations Surfaces (OLS) at Central Coast Airport on 12 August 2019 outlined the risks associated with the current heights of trees impinging on the recommended Obstacle Limitation Surfaces (OLS) at the Central Coast Airport at Warnervale.

The report noted that as the Central Coast Airport is an Aeroplane Landing Area (ALA), there are no specific regulations governing OLS for ALAs. However, Civil Aviation Advisory Publication No 92-1: Guidelines for Aeroplane Landing Areas (CAAP 92-1) recommends a gradient of 5% for day operations and 3.3% for night operations. CAAP92-1 states that there is no legal requirement to observe the details set out in that publication and that decisions around the landing or taking off at an ALA are the responsibility of the pilot in command having regard to the circumstances of the proposed landing or take off.

The report also provided the assessment of the current risk around the OLS is rated high, both under Council's Enterprise Risk Management Framework and the Civil Aviation Safety Authority's (CASA) Aviation Risk Matrix. This risk level is unchanged since the original report.

In response to this report, Council resolved:

- 723/19 *That Council engage an external specialist to undertake an up-to-date survey and analysis of the Obstacle Limitation Surfaces (OLS) at the southern and northern ends of the Central Coast Airport runway for both the 5% OLS and 3.33% OLS.*
- 724/19 *That Council commence the required environmental studies required to seek approval to manage the tree heights at the northern and the southern ends of the Central Coast Airport runway.*
- 725/19 *That Council request the Chief Executive Officer to provide a further report on the outcomes of (1) and (2) as soon as possible.*

Current Status

Since the report and resolutions of August 2019, all resolution actions have been initiated. Council has also sought further legal advice on potential approval pathways for tree height reduction. The below provides an update on the current status of each resolution as well as other actions taken to provide Council with further information to inform decision making. This information is current at the time of writing (28 Feb 2020), but work is ongoing. If further material progress occurs between the time of writing and the Council meeting, a supplementary report will be provided.

Update on Resolution 723/19 - Update the OLS Surveys and Analysis

The OLS survey was completed late 2019.

In order to provide Council with a more meaningful 3-dimensional representation, the survey data has been converted into a 3-dimensional model, which can then be laid over a 3-

dimensional image of the airport, taken using Light Detection and Ranging (LIDAR) technology.

The 2-dimensional survey was converted to 3 dimensions in early February 2020. In December 2019, an up-to-date LIDAR aerial survey, including high resolution imagery, was flown by the Council's provider, and that data set was returned at the end of January 2020. Unfortunately, due to the survey being flown in smoky conditions at the time, the data set had to be enhanced by the provider.

This enhanced data set arrived week ending 20 February 2020 and the Council GIS team have now loaded both the enhanced LIDAR and 3D OLS data into a software platform. Final analysis and set up of the various layers will occur with expected completion by 30 April 2020.

Update on Resolution 724/19 - Undertake the Environment Studies

The BDAR (Bio Diversity Assessment Report) surveys commenced in mid-September 2019 and have been continuing in accordance with the NSW legislated requirements. These surveys are conducted over a number of seasons as per the State Government environmental regulations to assess the flora and fauna within the assessment area.

The surveys have uncovered some known threatened species and the NSW DPIE has very recently flagged additional threatened species requirement. As a result of this the ecologist advises that additional surveys will be required beyond the end of March.

The consultant has assured Council that they will be able to issue their final BDAR report by 25 May 2020. This report will also include a Vegetation Management Plan (VMP) for the affected areas.

Confirming Approval Pathways for Tree Management

Subsequent to the report of August 2019, Council has sought further advice on the approval pathways available to reduce the height of the trees.

At this stage, there is a consensus across all both external and internal legal advisors that this area of law is extremely complicated. Further aviation expert advice is now being sought before this advice can be finalised and provided to Council.

Existing Controls Remain in Place

The existing controls noted in the August 2019 report remain in place, these include:

- There is a permanent displaced threshold at the northern end of the runway (RWY20) of 210 metres, although this is not adequate to fully comply with OLS guidelines due to the height of the trees to the north of Sparks Road.

- There is a temporary displaced threshold at the southern end of the runway at 86 metres, although this is not adequate to fully comply with the OLS guidelines.
- Current En Route Supplement Australia (ERSA), as of November 2019, states “Tall trees 92FT AGL 400m of DTHR RWY 20” under Aerodrome Obstacles. This identifies that there are 92 feet tall trees 400 metres from the displaced threshold at the northern end of the runway.

As the original report noted, more extensive use of displaced thresholds to fully comply with the OLS guidelines would shorten the useable runway and, in turn, would reduce number of aircraft that would then be able to use the airport (under different weather conditions).

Consultation

Central Coast Aero Club (CCAC)

Council Staff have monthly operational meetings with the CCAC Executive. The progress of these resolutions is provided at every meeting.

The management of risk, in general, at the Airport is a standing agenda item for all operational meetings with the CCAC.

Council staff have also provided an update to the CCAC to include in their newsletter to members on the progress of the OLS management. Discussions continue with CCAC on how to best help them provide information to their members on relevant matters.

It is important to reiterate as per CAAP 92-1, decisions around the landing or taking off at an ALA are the responsibility of the pilot in command having regard to the circumstances of the proposed landing or take off, including the aircraft they are operating, the conditions of ALA and the atmospheric conditions at the time.

Response to Notice of Motion titled “Trees in Flight Path – Council Liabilities?”

In response to the issues raised in the Notice of Motion, Council are undertaking the environmental studies that would be required for approval to be granted to reduce the height of the trees. There are required timeframes for these studies. As a result, it is not possible to expedite this process any further than it is currently being done.

If Council seeks a more immediate remedy to the OLS risk, the options would be to either:

- Implement temporary displaced thresholds at both ends of the runway to maintain a 5% OLS. This would significantly restrict the available runway for take offs and landings, and as a result, the aircraft that could use the airport.
- Temporarily close the airport until Council can lawfully reduce the tree heights to accommodate the 5% OLS.

Attachments

Nil.