

From: [Local Government Mailbox](#)
To: [Local Government Mailbox](#)
Subject: Wendy Hatton - Concern regarding Kempsey Cinema Complex
Date: Thursday, 1 March 2018 11:14:35 AM
Attachments: [cinema 1.pdf](#)
[Kempsey Cinema Complex 2.pdf](#)
[Kempsey Council Cinema 3.pdf](#)
[Kempsey Cinema Complex 4.pdf](#)
[Kempsey Cinema Doc 5.pdf](#)
[FW Kempsey Shire Council Cinema Complex.msg](#)
[FW Kempsey Council Cinema Complex.msg](#)
[FW Kempsey Council Cinema Complex.msg](#)
[FW Kempsey Council Cinema 4.msg](#)
[FW Kempsey Council Cinema survey form.msg](#)

From: IPART Mailbox
Sent: Thursday, 1 March 2018 10:32 AM
To: Local Government Mailbox
Subject: FW: Concern regarding Kempsey Cinema Complex
From: Wendy Hatton [REDACTED]
Sent: Thursday, 1 March 2018 2:22 AM
To: olg@olg.nsw.gov.au; IPART Mailbox; Wendy Hatton; icac@icac.nsw.gov.au
Subject: Concern regarding Kempsey Cinema Complex

28th February, 2018

The Minister for Local Government Gabriel Upton

Dear Ms Upton,

I write to you as a very concerned ratepayer for the Kempsey Shire.

My concern is: Kempsey shire Council in "donating/gifting" two million dollars of our rate payers dollars to a private organisation.

This two Million dollars along with a further two million dollars from the Federal Government is being given to the ASX listed company Gowings Bros to build a multiplex cinema in the flood area of the Kempsey CBD. Studies have been conducted that show a four cinema complex in Kempsey is just not financially viable. We already have an art deco theatre which is on flood free land. This theatre sits diagonally opposite our neglected local Showground. It is also located opposite an infants primary school and churches. Despite continued requests Kempsey Council continues to ignore this theatre and the Showground.

The money Kempsey Council is gifting to Gowings Bros Ltd could well be spent on upgrading our existing theatre. Furthermore the ratepayers of Kempsey Shire would continue to own this asset rather than the interest being held outside Council area.

It has been said this complex will create jobs!!!! Nowhere have I seen figures to back this up. It is difficult to see where the increase in jobs would be. Running a modern cinema requires minimal staff, of whom are expected to multitask. The building of this complex requires current stores to close. This would result in a large loss of employment. Hardship in an already economically challenged town. One of the stores being "Target Kempsey". This is not being considered or discussed in anyway by the **group of five councillors**, who have an almost religious fervour for this Cinema complex to be constructed. We are not being given any answers, nor are our concerns being heard or even discussed in a reasonable manner. It was unknown until very recently who would be building this

structure. However, in the last week I have heard, a local Company of O'Donnell and Hanlon have been awarded the contract and they are to start construction in April..... The words directly from the Mayor's mouth via a radio interview with the ABC in the last week. A copy of this interview is available and on our facebook page - Kempsey Cinema Action Group.

All of this taking place **BEFORE** a **VPA** is made available for viewing by Kempsey Ratepayers. I believe this document was finally put on display to-day the 28th of November 2018.

There are a number of concerns regarding this document. Copies of the concerns, of which have been addressed to the General Manager, Kempsey Shire, Craig Milburn will also be sent to your office. I believe, along with a large number of other concerned ratepayers that our concerns **MUST** be addressed and not **WHITEWASHED** by the said **group of five councillors**. We have been told by our Mayor Elizabeth Campbell, on air via the ABC interview that this is a "DONE DEAL". No further discussion of the cinema will be entered into and we must only discuss the VPA in writing.

Does this sound like the ratepayers of this Shire re being given a fair deal? We want and expect **OUR** money to be spent in **OUR** town on **OUR** property and infrastructure. I do not pay rates in order for the money to be donated to a very large private company.

Kempsey shire council has continually raised rates under the guise of "lack of funds". Year after year there has been special rate rises. I believe to date 38% in the last four years with another 6% expected this year.

I find this incredulous..... **My land valuation DECREASES yet my land rates INCREASE exponentially. WHY?????** It has come to the point where I and many other ratepayers are struggling to pay their rates. The two million dollars, could be used to stave off increases in rates. This would definitely help ratepayers such as myself.

Could you please advise me:

- as the why my rates are being given to a private company?
- Why does Kempsey Shire Council view that a privately owned entertainment venue is more important than roads and infrastructure?
- Why Kempsey Shire Council is ignoring the reports that indicate the cinema project is not financially viable?
- Why Kempsey Shire Council are funding a project in a flood area when there are many flood safe areas available?
- Should this project go ahead and what systems are in place to ensure that a conflict of interest is avoided between councillors and all aspects of the project.
- This project has been refused approval by the Office of Local Government five times yet it is being ignored. **WHY?**
- **Why are a group of 5 councillors allowed to do this?**
- Who is responsible for any "blowout" of construction costs?
- What ever happened to "elected by the people - for the people"?

I would address these questions directly to Kempsey Shire Council but they have a history of ignoring correspondence including not acknowledging knowledge of it's receipt.

I look forward to your response as time is running out for us here.

Yours faithfully

Wendy Hatton

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



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28.02.2018
General Manager
Craig Milburn
PO BOX 3078,
West Kempsey
NSW 2440

As a Kempsey Shire Council Rate Payer and Australian Tax Payer, I am writing in regards to the VPA put out for public exhibition on the 27/02/2018.

The VPA is between Gowing Bro Limited and Kempsey Shire Council.

I want to make comment on the following terms as stated in the VPA, and the gifting of \$2 Million rate payers and \$2 Million of tax payers money

OPERATIVE PROVISION.

INTERPRETATIONS

- Development consent means consent under the act to develop application DA T6-16-293 granted by the council on 23rd December 2016, as modified from time to time.

WHY HASN'T THE DA FOR REINFORCEMENT OF THE BUILDING AS SPECIFIED FOR STRUCAL DEVELOPMENT CONSENT T6-16-280 BEEN MENTIONED IN THIS CLUAS.

- Peak hours.

THIS CLAU DOES NOT SPECIFY THE DA T6-16-280 OPERATION HOURS INCLUDING HIGH NOISE ACTIVITIES WHICH ARE TO BE DONE OUTSIDE NORMAL SHOPPING HOURS.

- Operational hours.

THE DA ALSO STATES THAT THE LAST OPERATION HOURS OF THE CINEMA MUST BE BETWEEN 10AM AND 9:30PM, ONE WOULD ASK HOW A CINEMA RUNS WITH LATE VIEWINGS GIVEN THESE HOURS OF OPERATION.

SIGNATURE

NAME

ADDRESS

28.02.2018
General Manager
Craig Milburn
PO BOX 3078,
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NSW 2440

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13.1 Enduring Public Benefits

The developer is to use their best endeavors to ensure the cinema and the associated community uses provided for in this deed are provided as enduring benefits to serve the recreational needs of the local community of Kempsey.

A DERFINITION OF BEST ENDEVORS IS NEEDED. THERE IS NO LEGAL REQUIRMENT FOR THE DEVELOPER TO ENSURE THAT THE ENDURING BENEFIT ARE DELIVERED TO THE LOCAL COMMUNITY OF KEMPSEY- AGAIN NOTED ONLY KEMPSEY COMMUNITY MATTERS.

13.2

AGAIN A DEFINITION OF BEST ENDEVORS IS REQUIRED FOR THIS CLAUS.

13.3 The developer is to not make a request to the council to amend Claus 13.1 or 13.2,

13.3.1 sooner than the end of the "OPERATIONAL PERIOD", as defined in the commonwealth grant.

DEVELOPER MUST OPERATE FOR 5 YEARS IF NOT WHO PAYS THE BALANCE OF THE OPERATIONAL PERIOD IF THE CINEMA CLOSES BEFORE 5 YEARS COUNCIL AND/OR DEVELOPER WILL HAVE TO PAY PRO RATA TO THE COMMONWEALTH GRANT FUND. IF THIS DOES HAPPEN THE DEBT VERY WELL WILL COME BACK TO THE RATE PAYERS.

13.3.2

If the developer is or has been in breach of this deed and the breach has not been waived by the council or remedied to the satisfaction of the council at the time of the request is made.

IT IS NOT SPECIFIED IN THE VPA THAT IF THE DEVELOPER IS NOT IN BREACH OF THIS DEED COUNCIL HAS NO RIGHT TO REFUSE THE DEVELOPERS REQUEST.

SIGNATURE

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Craig Milburn
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19.11 DELETE

19.11 COUNCIL WILL REQUEST THE DEVELOPER TO PROVIDE THE COUNCIL WITH COPIES OF THE INVOICES OF WHICH ANY BUILDING SUPER INTENDENT CERTIFICATE WAS BASED INCLUDING, WITHOUT LIMIT, COPIES OF INVOICES ISSUED BY CONSULTANTS ENGAGED IN CONECTION WITH DEVELOPMENT.

19.12 DELETE

COUNCIL WILL APPOINT AN INDEPENDENT QUANTITY SURVERYOR TO REVIEW ANY OF THE BUILDING SUPER INTENDENT'S CERTIFICATE (S) AND PREPARE A REPORT ON EPENDIURE INCURED BY THE DEVELOPER IN CONECTION WITH THE DEVELOPMENT, ADDRESSED TO BOTH THE COUNCIL AND DEVELOPER.

SIGNATURE

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28.02.2018
General Manager
Craig Milburn
PO BOX 3078,
West Kempsey
NSW 2440

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BACKGROUND.

D. States at the date of this deed there is no cinema serving the recreational needs of the local community of Kempsey.

THIS IS TO BE DISPUTED AS WE BELIEVE YOUR INFORMATION GATHERED WAS OF SOME 29,000 RESIDENTS OF THE SHIRE, HOWEVER YOU ARE ONLY CONCENTRATING ON THE RECREATIONAL NEEDS OF THE COMMUNITY OF KEMPSEY. THERE IS A CINEMA WITHIN OUR SHIRE AT SWR, BEING THE ROXY CINEMA. SO MY QUESTION IS DO YOU POSE TO USE THE FIGURES OF THE SOME 29,000 OPOSED TO LOCAL COMMUNITY OF KEMPSEY'S POPULATION OF SOME 10,000, TO SUSTAIN YOUR STATISTICS.

E. The council considers the provision of the cinema to be an essential community recreational service and needed to revitalize the CBD of Kempsey.

HOW WAS THE DECISION MADE TO PROVE THAT IT IS A COMMUNITY RECREATIONAL SERVICE?

F.2 Make the cinema and a community notice board in the foyer of the cinema available for appropriate community uses.

ONLY THOSE PEOPLE ATTENDING THE BUILDING WILL SEE IT SO THERE FOR IT IS NOT AVAILABLE TO THE WIDER COMMUNITY AS REQUIRED.

SIGNATURE

NAME

ADDRESS

28.02.2018
General Manager
Tozer Street
West Kempsey NSW 2440

Dear Craig Milburn,

I am writing this letter to request that Kempsey Shire Council conduct an independent survey poll, as to find the true numbers in support for and against for the proposed cinema project. As I believe the previous poll done in 2014 was misleading in the form of the funding and structure of the proposal.

I do not support this Cinema project.

Sincerely

NAME-