



Office of Local Government

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Our Reference: A573807
Your Reference:
Contact: Grant Gleeson
Phone: 02 4428 4136

Mr Craig Milburn
Acting General Manager
Kempsey Shire Council
PO Box 3078
WEST KEMPSEY NSW 2440

Dear Mr Milburn

I refer to Mr Hagger's letter of 22 December 2017 responding to the request of 8 December 2017 for Council to supply further information about the Cinema project.

Council has notified the Office that it has formally resolved not to progress the Public Private Partnership (PPP) project and that Gowing Bros Limited and Majestic Cinemas are no longer Council's commercial partners in the project. I note in that regard that Council considers that the PRC assessment process provided Council with the leverage it needed to pursue alternate arrangements.

I note that Council has not as yet resolved formally to enter into a Voluntary Planning Agreement (VPA). As VPAs are instruments regulated under the *Environmental Planning and Assessment Act 1979*, an Act administered by the Department of Planning and Environment (DPE), Council should ensure that any VPA it enters into is consistent with any guidance issued by DPE.

I acknowledge that a VPA arrangement is excluded from the definition of a PPP. Insofar as Council is considering entering into such an arrangement, Council will still have the responsibility, consistent with the principles of sound financial management set out in s.8B of the *Local Government Act 1993*, to manage the risks associated with such an arrangement.

Should you have any further enquiries, Mr Grant Gleeson, Director Legal, Office of Local Government, is available on (02) 4428-4100 or olg@olg.nsw.gov.au.

Yours sincerely

Tim Hurst
Acting Chief Executive
Office of Local Government

26/2/18

