18 QUESTIONS WITH NOTICE

18.1 Question with notice: Councillor Warren - Council owned residential land holdings

Clr Erica Warren has submitted the following question with notice for consideration:

Question

Could Council advise how many residential blocks it currently owns in the Kiama Municipality?

Is there a plan to release and sell any of these blocks to the public?

If so, could Council provide an overview of their value and how the money sold from these blocks could be used by Council?

Councillor information provided

Background

It is my understanding that Kiama Council owns several blocks of land of which some could be sold to the public. As we know, there is a shortage of residential blocks and Council is still under a finance improvement order. It would be interesting to understand what monetary value these hold and if Council would benefit from selling some of them.

Chief Executive Officer response

Local councils must manage land as per the public land management provisions in Chapter 6 of the Local Government Act 1993. Under these provisions land owned, vested in or under control of the Council is defined as Public Land.

Land is divided into two classifications: Operational and Community. Operational land can be sold or leased without additional statutory process outside Section 377 of the Local Government Act 1993.

Community land can be reclassified to Operational land through the Local Environmental Plan (LEP) making process and only after a Public Hearing. The reclassification process is expensive, lengthy (12-18 months) and uncertain in outcome with the final decision resting with the Department of Planning, Housing and Infrastructure.

A full list of all the assets that Council owns was presented at a briefing and was later reported to Council for adoption via the Asset Recycling Plan in 2025. More recently staff have currently been reviewing this document and a confidential working draft has been provided to Councillors and the Major Projects and Finance Committee. This information will be further discussed as part of the budget parameters discussions that have occurred and further conversations that are being scheduled at the time of preparing this report.

Proceeds from asset disposals are subject to the adopted restricted reserve policy and can also be determined via council resolutions.

Regarding the value of the parcels of land, current market valuations for potential sales are not initially shared in the public domain due to confidentiality purposes and until any transactions are completed. The use of the proceeds may assist Council's cash position and could be used to build or replenish restricted reserves and/or to fund other major projects and initiatives. All of which are matter for Council to determine.

There are several residential block-sized parcels of land in Council's ownership, but some of these cannot be sold unless they are zoned for residential purposes and reclassified from Community to Operational Land via the LEP making process. Some of these are currently zoned residential but need to reclassified as operational. Others are currently zoned open space for public recreation but need to rezoned to residential and reclassified from community to operational.

Staff are currently investigating these sites for the feasibility of reclassification and rezoning. This process is time consuming, requires investment of resources, and is subject to required legislative processes and a final decision from the Department of Planning, Housing and Infrastructure.

18.2 Question with notice: Councillor Warren - Jamberoo Flood Study, William Davis Bridge Works, Allowrie Street drainage and Colyers Creek Jamberoo

Clr Erica Warren has submitted the following question with notice for consideration:

Question

Could Council please provide an update on the design of works from the Jamberoo flood study, works on William Davis bridge and advise if Council has assessed Colyers Creek culverts? If assessment has occurred, what was the findings and is there a plan in place to clear the blocked culverts?

Councillor information provided

Background

Jamberoo has experienced several significant stormwater and rainfall events in recent years, leading to flooding, and I appreciate Council's proactive work with the community to address drainage issues. We are fortunate to have engaged community members who continue to monitor emerging concerns.

I am seeking an update on the Jamberoo Flood Study design, including its current status and the anticipated timeline for seeking funding? I would also appreciate an update on the William Davis Bridge works.

Additionally, ongoing matters such as Allowrie Street drainage and, more recently, the extensive overgrowth within the Colyers Creek culverts require attention. With Golden Valley Stage 1 retention expected to discharge into Colyers Creek, it is essential that the culverts be fully cleared to ensure adequate water flow and reduce the risk of flooding.

Chief Executive Officer response

As reported to the December 2025 Council meeting, the current stormwater drainage designs for Young Street and Wyalla Road are being reviewed and are considered incomplete for publication. Further works are required from the design consultancy and negotiations are continuing. At this stage a timeline for completion cannot be provided. In conjunction, Council is completing the Flood Risk Management plan with its consultant and have completed 4 out of the 11 milestones for the complete plan and risk management process. Once Council has completed both the designs and the plan, opportunities for grant funding can be explored to implement the recommendations.

For the William Davis Bridge, Council has engaged a specialist consultant to undertake geotechnical investigation this week, followed by the preparation of a concept design and estimate. Once received, an application will be made to the NSW Reconstruction Authority for disaster recovery funding and NSW Fisheries for approval to work in a waterway. Following these approvals, detailed designs will be finalised and tenders call for the construction of the repair works.

For the Allowrie Street drainage, Council has attempted to contact the affected landowner to seek access on their property to undertake clearing of the drainage infrastructure. Although contact has been unsuccessful to date, Council staff will continue to make attempts to gain access permission.

For the Colyers Creek culverts, although one of the three box culverts is functional, the remaining two are substantially blocked. Given the size of the culverts, there will be a substantial volume of deposited material that will need to be excavated. Council staff are currently investigating the methodology and costs to undertake this removal work which is expected to take some months to co-ordinate, but confirm it will be cleared well before the Golden Valley Road subdivision is completed.

18.3 Question with notice: Councillor Lawton - Cost and legislative requirement for the Plan of Management

Clr Melinda Lawton has submitted the following question with notice for consideration:

Question

1. Cost of the Plan of Management

Given the importance of transparency and the need to ensure that the community receives information, could the CEO please provide the cost to Council for the preparation, public exhibition, amendments, consultation, and finalisation of the current Plan of Management?

2. Legislative Requirement for a Plan of Management

Could the CEO please confirm:

(a) That Council is legally required to prepare, publicly exhibit, and adopt a Plan of Management in accordance with the *Local Government Act 1993*; and

(b) That these statutory obligations apply irrespective of cost, meaning the expenditure—whatever the precise amount—is necessary for compliance.

3. Accuracy of Publicly Stated Cost Figures

Given that cost figures previously discussed on the floor of Council at ordinary meetings and noting the significant public interest in this matter, could the CEO please clarify whether Councillor Brown's stated figures ("hundreds of thousands of dollars") is accurate, based on financial records?

Councillor information provided

Background

1. Cost of the Plan of Management

Councillor Brown has publicly stated that the Plan of Management has cost Council "in the hundreds of thousands of dollars." During the December meeting, when the Chief Executive Officer was asked to clarify these figures, the CEO was unable to confirm costs.

2. Legislative requirement for a Plan of Management

Recent discussion could be interpreted as implying that the associated costs are optional or discretionary. However, it is my understanding that these costs are *not* discretionary, as a Plan of Management for community land is a statutory requirement under the NSW Local Government Act 1993. This includes mandatory processes for public exhibition, public hearings in certain circumstances, and formal adoption by Council after consideration of submissions.

3. Accuracy of publicly stated cost figures

This clarification is essential to ensure the community receives information.

Chief Executive Officer response

1. Cost of Plan of Management

The cost for the Crown Lands Plan of Management over the 4-5 year period from commencement is difficult to provide in exact terms. A review of consultant costs over the period shows $80,554.

This figure does not include any staff time over the period. Staff time attributable over a period of 5 years will be substantial as the work involvement years of management, officer, director and CEO level involvement in the following kinds of tasks:

- Meetings, on site, in person, with departmental staff, with Ministers, with members of the community
- Consultation processes and customer responses with a broad range of stakeholders
- Mapping and data collection
- Record keeping, data entry and documenting sites
- Preparing reports for the council
- Media and communications work
- Council decision making, questions with notice, notice of motions and council meetings
- Letters and correspondence to ministers, stakeholders and department
- Graphic design, publishing and website updates

This internal time is not costed and allocated to a single cost centre. Staff time per hour is industrial and not able to disclosed in public session but its is entirely reasonable to assume that over the course of 4-5 years of work this amounts to hundreds and thousands of dollars.

The Councillor's statement is not inaccurate, it is an estimate that is reasonable in this circumstance.

2. Legislative requirement for a Plan of Management

The Crown Land Management Act 2016(CLM Act) authorises councils who have been appointed to manage Crown Land to manage the land as public land under the *Local Government Act 1993 (LG Act).* All community land must have a Plan of Management (PoM) adopted by Council.

All Crown Land that Council is delegated as the Crown Land Manager in Kiama Local Government Area is classified Community Land under the LG Act. Therefore, a PoM is required in accordance with section 3.23(6) of the CLM Act and section 36 of the LG Act.

Item 18.4

18.4 Question with notice: Councillor Warren - Rate review for Short Term Rental Accommodation (STRA)

Clr Erica Warren has submitted the following question with notice for consideration:

Question

Can the CEO explain the process of a rate review for short term rental accommodation (STRA) and opportunities available for Council?

Councillor information provided

N/A

Chief Executive Officer response

NSW Legislation states and permits only four categories of rateable land. Rates and Charges are governed by NSW Legislation through the Local Government Act, 1993, not STRA planning rules.

LG Act s493 Categories of ordinary rates and categories of land

(1) There are 4 categories of an ordinary rate and 4 categories of rateable land –

- farmland
- resident
- mining
- business

There are no provisions for a property to be rated in a separate 'STRA' category; it falls under residential as that is the dominant use of the land, which is how the rate zone is determined. The rating zone will change if the dominant use changes, for example, to business use (ie operates as a Hotel / Motel or commercial business).

IPART the State's regulatory body govern annual rate increases, or special rate variations. In January 2024 IPART published the draft Terms of Reference for a review of the council financial model in NSW on the website and the NSW Have Your Say website on 30 January 2024. Stakeholders were asked to provide feedback until 15 March 2024 or complete a NSW Have Your Say survey.

Kiama Council contributed to this and sought to advocate a wider category of rates, including differential rates for short term rental accommodation, similar to other states. IPART received 103 submissions to the draft Terms of Reference and 448 responses to the Have Your Say survey from ratepayers, councillors, and organisations including councils, council organisations and advocacy groups.

On 19 March 2024, IPART received a letter from the NSW Government withdrawing the referral for the review of the financial model for councils to avoid unnecessary duplication, as the matter was now being considered via an inquiry by the NSW Parliament's Standing Committee on State Development.

IPART has reviewed all submissions and survey responses and provided a summary of issues raised to the NSW Government. All non-confidential submissions have been published in line with IPART's submissions policy. IPART have also published an Information Paper on the survey results. Kiama Council's submission is included.

At a high-level, most stakeholder feedback supported the proposal to undertake a review. Some stakeholders also suggested expanding the draft Terms of Reference to cover additional issues, including:

- council functions and governance
- complexity of reporting frameworks
- impacts of council amalgamations
- differences between council types (metropolitan, regional and rural)
- cost shifting
- the role of State and Federal Governments
- grants and contributions
- impacts of climate change and climate change-related costs
- impacts of the rate peg
- the special variation process.

In May 2025 the New South Wales Government announced that it will support 15 of the 17 recommendations from the NSW Parliament's Upper House inquiry into the financial sustainability of local governments. That inquiry was established in March 2024 to examine long-held concerns from the sector about the financial challenges impacting councils across the state. Council's CEO attended a hearing and spoke to the submission from KMC.

The inquiry heard cost pressures have increased significantly in recent years, impacting councils' ability to reliably and affordably provide the services communities rely upon, especially in rural and regional areas.

The New South Wales Government's response to the inquiry recognises the need to preserve local democracy and councils' autonomy, while also ensuring they can sustainably provide services over the long-term without financially burdening ratepayers.

The NSW government has proposed five key actions:

1. The Independent Pricing and Regulatory Tribunal (IPART) will continue to oversee council rates to ensure councils' revenue keeps pace with cost changes, while protecting ratepayers from excessive rate hikes
2. Councils that want to permanently increase their rates will be required to submit a Comprehensive Spending Review to IPART that forensically examines their expenditure as well as their revenue

3. The Special Variation process will be simplified and used solely by councils to fund specific projects or programs supported by the community
4. Local government financial statements and reporting will be streamlined to increase transparency and councillor and public oversight over council spending
5. Establishing an Expert Advisory Panel of experienced general managers, finance directors and other local government experts to support the government in delivering its reforms

Council made a submission to both the NSW and Federal Government's recent reviews of financial sustainability, with Council adopting the submissions last year. These submissions speak to differential rates, expansion of the categories and a broad range of issues negatively affecting financial sustainability models for Kiama and the sector in general.

Lastly in terms of statutory and legislative context, the NSW Government is undertaking a review of the regulatory framework for short-term rental accommodation (STRA) in NSW. In early 2024 NSW State Government sought feedback on the planning policy and regulatory framework for short-term rental accommodation and options to encourage the supply of long-term rental accommodation. A discussion paper was exhibited from 15 February to 14 March 2024 on the NSW Planning Portal.

A public discussion paper and an online questionnaire were exhibited from 15 February to 14 March 2024 on the NSW Planning Portal. The discussion paper sought feedback on the planning policy and regulatory framework for STRA and options to encourage the supply of long-term rental accommodation.

NSW Government received over 430 submissions and more than 2,400 survey responses to the online questionnaire, hearing from councils, booking platforms, property owners, and the tourism sector, among others. Kiama Council submitted a detailed response which was endorsed by Council.

While many of the challenges relating to the financial sustainability of councils are not new, band-aid solutions have done little to fix systemic issues which are threatening the long-term viability of the sector. Just this year the NSW Auditor General Office tabled his report to Parliament that identified, 17 Local governments (one of which was Kiama Council) as not meeting financial sustainability ratios and legislative requirements. This issue continues to remain the focus of Kiama Council and its Performance Improvement Order. This was discussed at length with ARIC at its recent meeting with the Auditor General, and again this month.

Like other local governments with high numbers of short-term rental accommodation Kiama Council is awaiting with a degree of hope the NSW Government's findings and recommendations arising from that review. Giving the timing of budget cycle it is unlikely any findings will make their way into changes in the 2026-27 budget.

It is noted that Byron Bay Shire Council has been permitted by the NSW government to handle short term rental accommodation and rates differently to the rest of the sector. In 2024 and 2025 Kiama Council had a series of meetings (after reports and resolutions of Council) with the CEO and then Mayor to understand this approach. For information, following a planning proposal submission by Byron Bay Shire Council in 2023 to encourage homes to be returned to the long-term rental market, NSW

Government endorsed a tightening of the cap on some non-hosted short term rental accommodation (STRA).

In response to the Independent Planning Commission's recommendation the cap was tightened on some STRA from 180 days to 60 days per year. Hosted short term rentals (where the main resident resides on the premises during the stay) are unaffected by the above decision. The Byron Bay Shire Council website also explains that the 60 day cap applies to specific areas within the local government area. There was a unique set of political circumstances around this.

18.5 Question with notice: Councillor Warren - grass mowing alternatives/bailing grass opportunities for larger open spaces

Clr Erica Warren has submitted the following question with notice for consideration:

Question

Can the CEO provide information on opportunities for larger open spaces to be bailed by external parties; consider lease and agreement arrangements available, and any safety and risk implications?

Councillor information provided

Background

At a recent JVRAA meeting various areas in Jamberoo currently mowed by Council, be offered via a tender process to bailing contractors. This would reduce the cost to Council and have those resources used elsewhere and the mowing would be done on a more regular basis. Areas of concern are the paddock to the East of Jamberoo Cemetery, Minnamurra Headland and the land where the dog park is currently.

Chief Executive Officer response

Council staff can investigate the feasibility of such opportunities but would need to dedicate officer resources to this work as it is not currently in the DPOP. The types of work required would include:

- identifying such areas within the Kiama Local Government Area that could be bailed
- consulting with relevant stakeholders
- undertaking an Expression of Interest (EOI) procedure for suitable operators
- establishing formal agreements and service levels
- considering safety and risk management strategies
- establishing public liability requirements / insurance matters
- potentially advising Consultative committee and staff of workplace changes and any required union notification processes