Extra-Ordinary Council

Business Paper

date of meeting: Monday 4 April 2016

location: Council Chambers
17 Burrawan Street
Port Macquarie

time: 4:00pm

Note: *Council is distributing this agenda on the strict understanding that the publication and/or announcement of any material from the Paper before the meeting not be such as to presume the outcome of consideration of the matters thereon.*

PORT MACQUARIE
HASTINGS

Council's Vision

A sustainable high quality of life for all

Council's Mission

Building the future together
People Place Health Education Technology

Council's Corporate Values

- ★ Sustainability
- ★ Excellence in Service Delivery
- ★ Consultation and Communication
- ★ Openness and Accountability
- ★ Community Advocacy

Council's Guiding Principles

- ★ Ensuring good governance
- ★ Looking after our people
- ★ Helping our community prosper
- ★ Looking after our environment
- ★ Planning & providing our infrastructure

PORT MACQUARIE
HASTINGS

How Members of the Public Can Have Their Say at Council Meetings

Council has a commitment to providing members of the public with an input into Council's decision making. The Council's Code of Meeting Practice provides two (2) avenues for members of the public to address Council on issues of interest or concern at the Ordinary Council Meeting. These are:

Addressing Council on an Agenda Item:

If the matter **is** listed in the Council Business Paper, you can request to address Council by:

- Completing the *Request to Speak on an Agenda Item at a Council Meeting"*, which can be obtained from Council's Offices at Laurieton, Port Macquarie and Wauchope or by downloading it from Council's website.
- On-line at http://www.pmhc.nsw.gov.au/About-Us/How-Council-Works/Council-Committee-Meetings/Request-to-speak-on-an-Agenda-Item

Your request to address Council must be received by Council no later than 4:30pm on the day prior to the Council Meeting.

Council's Code of Meeting Practice sets out the following guidelines for addressing Council:

- Addresses will be limited to 5 minutes.
- If you wish any written information, drawings or photos to be distributed to the Council to support the address, two (2) copies should be provided to the Group Manager Governance & Executive Services prior to the commencement of the meeting.
- Where speakers wish to make an audio visual presentation, a copy is to be provided to the Group Manager Governance & Executive Services by 4.30pm on the day prior to the Council Meeting.
- Council will permit only two (2) speakers "Supporting" and two (2) speakers "Opposing" the *Recommendation* contained in the Business Paper. If there are more than two speakers supporting and opposing, the Mayor will request the speakers to determine who will address Council.

Addressing Council in the Public Forum:

If the matter **is not** listed in the Council Business Paper, you can request to address Council by:

- Completing the *Request to Speak in the Public Forum at Ordinary Council Meeting"*, which can be obtained from Council's Offices at Laurieton, Port Macquarie and Wauchope or by downloading it from Council's website.
- On-line at http://www.pmhc.nsw.gov.au/About-Us/How-Council-Works/Council-Committee-Meetings/Request-to-speak-in-a-Public-Forum

Your request to address Council must be received by Council no later than 4:30pm on the day prior to the Council Meeting.

A maximum of eight (8) speakers will be heard in the Public Forum. Each speaker will be limited to 5 minutes. Council may ask questions of speakers but speakers ***cannot*** ask questions of Council.

Council will not determine matters raised in the Public Forum session, however may resolve to call for a further report, when appropriate.

Speakers will be allowed to address Council in the Public Forum on the same issue no more than three (3) times in each calendar year. (Representatives of incorporated community groups may be exempted from this restriction).

PORT MACQUARIE HASTINGS

Extra-Ordinary Council Meeting

Monday, 4 April 2016

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PORT MACQUARIE HASTINGS

Item: 01

Subject: ACKNOWLEDGEMENT OF COUNTRY

"I acknowledge that we are gathered on Birpai Land. I pay respect to the Birpai Elders both past and present. I also extend that respect to all other Aboriginal and Torres Strait Islander people present."

Item: 02

Subject: APOLOGIES

RECOMMENDATION

That the apologies received be accepted.

Item: 03

Subject: DISCLOSURES OF INTEREST

RECOMMENDATION

That Disclosures of Interest be presented

DISCLOSURE OF INTEREST DECLARATION

Name of Meeting: ……..

Meeting Date: ……..

Item Number: ……..

Subject: ……..
……..…..

I, ... declare the following interest:

☐ **Pecuniary:**
Take no part in the consideration and voting and be out of sight of the meeting.

☐ **Non-Pecuniary - Significant Interest:**
Take no part in the consideration and voting and be out of sight of the meeting.

☐ **Non-Pecuniary - Less than Significant Interest:**
May participate in consideration and voting.

For the reason that: .....

.....

Signed: ..... Date: .....

(Further explanation is provided on the next page)

Further Explanation

(Local Government Act and Code of Conduct)

A conflict of interest exists where a reasonable and informed person would perceive that a Council official could be influenced by a private interest when carrying out their public duty. Interests can be of two types: pecuniary or non-pecuniary.

All interests, whether pecuniary or non-pecuniary are required to be fully disclosed and in writing.

Pecuniary Interest

A pecuniary interest is an interest that a Council official has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the Council official. (section 442)

A Council official will also be taken to have a pecuniary interest in a matter if that Council official's spouse or de facto partner or a relative of the Council official or a partner or employer of the Council official, or a company or other body of which the Council official, or a nominee, partner or employer of the Council official is a member, has a pecuniary interest in the matter. (section 443)

The Council official must not take part in the consideration or voting on the matter and leave and be out of sight of the meeting. (section 451)

Non-Pecuniary

A non-pecuniary interest is an interest that is private or personal that the Council official has that does not amount to a pecuniary interest as defined in the Act.

Non-pecuniary interests commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.

The political views of a Councillor do not constitute a private interest.

The management of a non-pecuniary interest will depend on whether or not it is significant.

Non Pecuniary – Significant Interest

As a general rule, a non-pecuniary conflict of interest will be significant where a matter does not raise a pecuniary interest, but it involves:

(a) A relationship between a Council official and another person that is particularly close, for example, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the Council official or of the Council official's spouse, current or former spouse or partner, de facto or other person living in the same household.
(b) Other relationships that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship.
(c) An affiliation between a Council official an organisation, sporting body, club, corporation or association that is particularly strong.

If a Council official declares a non-pecuniary significant interest it must be managed in one of two ways:

1. Remove the source of the conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another Council official.
2. Have no involvement in the matter, by taking no part in the consideration or voting on the matter and leave and be out of sight of the meeting, as if the provisions in section 451(2) apply.

Non Pecuniary – Less than Significant Interest

If a Council official has declared a non-pecuniary less than significant interest and it does not require further action, they must provide an explanation of why they consider that the conflict does not require further action in the circumstances.

SPECIAL DISCLOSURE OF PECUNIARY INTEREST DECLARATION

By *[insert full name of councillor]*	
In the matter of *[insert name of environmental planning instrument]*	
Which is to be considered at a meeting of the *[insert name of meeting]*	
Held on *[insert date of meeting]*	
PECUNIARY INTEREST	
Address of land in which councillor or an associated person, company or body has a proprietary interest (*the **identified land)***[i]	
Relationship of identified land to councillor [*Tick or cross one box*.]	□ Councillor has interest in the land (e.g. is owner or has other interest arising out of a mortgage, lease trust, option or contract, or otherwise). □ Associated person of councillor has interest in the land. □ Associated company or body of councillor has interest in the land.
MATTER GIVING RISE TO PECUNIARY INTEREST	
Nature of land that is subject to a change in zone/planning control by proposed LEP *(the **subject land***[iii] [*Tick or cross one box*]	□ The identified land. □ Land that adjoins or is adjacent to or is in proximity to the identified land.
Current zone/planning control [*Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land*]	
Proposed change of zone/planning control [*Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land*]	
Effect of proposed change of zone/planning control on councillor [*Tick or cross one box*]	□ Appreciable financial gain. □ Appreciable financial loss.

Councillor's Signature: ……. Date: ……..

Important Information

This information is being collected for the purpose of making a special disclosure of pecuniary interests under sections 451 (4) and (5) of the *Local Government Act 1993.* You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints made about contraventions of these requirements may be referred by the Director-General to the Local Government Pecuniary Interest and Disciplinary Tribunal.

This form must be completed by you before the commencement of the council or council committee meeting in respect of which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

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i. Section **443** (1) of the *Local Government Act 1993* provides that you may have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative[iv] or because your business partner or employer has a pecuniary interest. You may also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.

ii. Section **442** of the *Local Government Act 1993* provides that a ***pecuniary interest*** is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter or if the interest is of a kind specified in section **448** of that Act (for example, an interest as an elector or as a ratepayer or person liable to pay a charge).

iii. A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in section **443** (1) (b) or (c) of the *Local Government Act 1993* has a proprietary interest—see section **448** (g) (ii) of the *Local Government Act 1993*.

iv. ***Relative*** is defined by the *Local Government Act 1993* as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.

Subject: CONFIDENTIAL COMMITTEE OF THE WHOLE

RECOMMENDATION

1. **That Council move into Confidential Committee of the Whole to receive and consider the following items:**

   Item 09.01 Stingray Creek Bridge Replacement Project Deed of Assignment

   This item is considered confidential under Section 10A(2)(d(i)) of the Local Government Act 1993, as it contains commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.

2. **That pursuant to Section 10A subsections 2 & 3 and 10B of the Local Government Act 1993 (as amended), the press and public be excluded from the proceedings of the Council in Confidential Committee of the Whole on the basis that the items to be considered are of a confidential nature.**
3. **That the recommendations made in Confidential Committee of the Whole be made public as soon as practicable.**

Subject: ADOPTION OF RECOMMENDATIONS FROM THE CONFIDENTIAL COMMITTEE OF THE WHOLE

RECOMMENDATION

That the undermentioned recommendations from Confidential Committee of the Whole be adopted:

Item 09.01 Stingray Creek Bridge Replacement Project Deed of Assignment

This item is considered confidential under Section 10A(2)(d(i)) of the Local Government Act 1993, as it contains commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.

RECOMMENDATION