



Extraordinary Council

Business Paper

date of meeting: Wednesday 24 March 2021

location: Via Skype

time: 4:00pm.

Community Vision

A sustainable high quality of life for all

Community 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

Community Themes

- ★ Leadership and Governance
- ★ Your Community Life
- ★ Your Business and Industry
- ★ Your Natural and Built Environment

Extraordinary Council Meeting

Wednesday, 24 March 2021

Items of Business

Item	Subject	Page
01	Acknowledgement of Country	<u>1</u>
02	Apologies.....	<u>1</u>
03	Disclosures of Interest.....	<u>2</u>
04	Leadership and Governance.....	<u>6</u>
	04.01 Relief Measures for Flood and Storm Impacted Residents	<u>7</u>
05	Your Community Life	
	Nil	
06	Your Business and Industry	
	Nil	
07	Your Natural and Built Environment	
	Nil	
08	Confidential Matters	
	Nil	

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, the undersigned, hereby declare the following interest:	
<input type="checkbox"/>	Pecuniary: Take no part in the consideration and voting and be out of sight of the meeting.
<input type="checkbox"/>	Non-Pecuniary – Significant Interest: Take no part in the consideration and voting and be out of sight of the meeting.
<input type="checkbox"/>	Non-Pecuniary – Less than Significant Interest: May participate in consideration and voting.
For the reason that:	
Name:	Date:
Signed:	
Please submit to the Governance Support Officer at the Council Meeting.	

(Refer to next page and the Code of Conduct)

Pecuniary Interest

- 4.1 A pecuniary interest is an interest that you have in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to you or a person referred to in clause 4.3.
- 4.2 You will 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 you might make in relation to the matter, or if the interest is of a kind specified in clause 4.6.
- 4.3 For the purposes of this Part, you will have a pecuniary interest in a matter if the pecuniary interest is:
- your interest, or
 - the interest of your spouse or de facto partner, your relative, or your partner or employer, or
 - a company or other body of which you, or your nominee, partner or employer, is a shareholder or member.
- 4.4 For the purposes of clause 4.3:
- Your "relative" is any of the following:
 - your parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
 - your spouse's or de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
 - the spouse or de facto partner of a person referred to in paragraphs (i) and (i)
 - "de facto partner" has the same meaning as defined in section 21C of the *Interpretation Act 1987*.
- 4.5 You will not have a pecuniary interest in relation to a person referred to in subclauses 4.3(b) or (c)
- if you are unaware of the relevant pecuniary interest of your spouse, de facto partner, relative, partner, employer or company or other body, or
 - just because the person is a member of, or is employed by, a council or a statutory body, or is employed by the Crown, or
 - just because the person is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.

Non-Pecuniary

- 5.1 Non-pecuniary interests are private or personal interests a council official has that do not amount to a pecuniary interest as defined in clause 4.1 of this code. These commonly arise out of family or personal relationships, or out of involvement in sporting, social, religious or other cultural groups and associations, and may include an interest of a financial nature.
- 5.2 A non-pecuniary conflict of interest exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your official functions in relation to a matter.
- 5.3 The personal or political views of a council official do not constitute a private interest for the purposes of clause 5.2.
- 5.4 Non-pecuniary conflicts of interest must be identified and appropriately managed to uphold community confidence in the probity of council decision-making. The onus is on you to identify any non-pecuniary conflict of interest you may have in matters that you deal with, to disclose the interest fully and in writing, and to take appropriate action to manage the conflict in accordance with this code.
- 5.5 When considering whether or not you have a non-pecuniary conflict of interest in a matter you are dealing with, it is always important to think about how others would view your situation.

Managing non-pecuniary conflicts of interest

- 5.6 Where you have a non-pecuniary conflict of interest in a matter for the purposes of clause 5.2, you must disclose the relevant private interest you have in relation to the matter fully and in writing as soon as practicable after becoming aware of the non-pecuniary conflict of interest and on each occasion on which the non-pecuniary conflict of interest arises in relation to the matter. In the case of members of council staff other than the Chief Executive Officer, such a disclosure is to be made to the staff member's manager. In the case of the Chief Executive Officer, such a disclosure is to be made to the mayor.
- 5.7 If a disclosure is made at a council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes on each occasion on which the non-pecuniary conflict of interest arises. This disclosure constitutes disclosure in writing for the purposes of clause 5.6.
- 5.8 How you manage a non-pecuniary conflict of interest will depend on whether or not it is significant.
- 5.9 As a general rule, a non-pecuniary conflict of interest will be significant where it does not involve a pecuniary interest for the purposes of clause 4.1, but it involves:
- a relationship between a council official and another person who is affected by a decision or a matter under consideration that is particularly close, such as a current or former spouse or de facto partner, a relative for the purposes of clause 4.4 or another person from the council official's extended family that the council official has a close personal relationship with, or another person living in the same household
 - other relationships with persons who are affected by a decision or a matter under consideration 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.
 - an affiliation between the council official and an organisation (such as a sporting body, club, religious, cultural or charitable organisation, corporation or association) that is affected by a decision or a matter under consideration that is particularly strong. The strength of a council official's affiliation with an organisation is to be determined by the extent to which they actively participate in the management, administration or other activities of the organisation.
 - membership, as the council's representative, of the board or management committee of an organisation that is affected by a decision or a matter under consideration, in circumstances where the interests of the council and the organisation are potentially in conflict in relation to the particular matter
 - a financial interest (other than an interest of a type referred to in clause 4.6) that is not a pecuniary interest for the purposes of clause 4.1
 - the conferral or loss of a personal benefit other than one conferred or lost as a member of the community or a broader class of people affected by a decision.
- 5.10 Significant non-pecuniary conflicts of interest must be managed in one of two ways:
- by not participating in consideration of, or decision making in relation to, the matter in which you have the significant non-pecuniary conflict of interest and the matter being allocated to another person for consideration or determination, or
 - if the significant non-pecuniary conflict of interest arises in relation to a matter under consideration at a council or committee meeting, by managing the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.28 and 4.29.
- 5.11 If you determine that you have a non-pecuniary conflict of interest in a matter that is not significant and does not require further action, when disclosing the interest you must also explain in writing why you consider that the non-pecuniary conflict of interest is not significant and does not require further action in the circumstances.
- 5.12 If you are a member of staff of council other than the Chief Executive Officer, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of your manager. In the case of the Chief Executive Officer, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of the mayor.
- 5.13 Despite clause 5.10(b), a councillor who has a significant non-pecuniary conflict of interest in a matter, may participate in a decision to delegate consideration of the matter in question to another body or person.
- 5.14 Council committee members are not required to declare and manage a non-pecuniary conflict of interest in accordance with the requirements of this Part where it arises from an interest they have as a person chosen to represent the community, or as a member of a non-profit organisation or other community or special interest group, if they have been appointed to represent the organisation or group on the council committee.

SPECIAL DISCLOSURE OF PECUNIARY INTEREST DECLARATION

*This form must be completed using block letters or typed.
If there is insufficient space for all the information you are required to disclose,
you must attach an appendix which is to be properly identified and signed by you.*

By <i>[insert full name of councillor]</i>	
In the matter of <i>[insert name of environmental planning instrument]</i>	
Which is to be considered at a meeting of the <i>[insert name of meeting]</i>	
Held on <i>[insert date of meeting]</i>	
PECUNIARY INTEREST	
Address of the affected principal place of residence of the councillor or an associated person, company or body <i>(the identified land)</i>	
Relationship of identified land to councillor <i>[Tick or cross one box.]</i>	<input type="checkbox"/> The 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). <input type="checkbox"/> An associated person of the councillor has an interest in the land. <input type="checkbox"/> An associated company or body of the councillor has interest in the land.
MATTER GIVING RISE TO PECUNIARY INTEREST¹	
Nature of land that is subject to a change in zone/planning control by proposed LEP <i>(the subject land²)</i> <i>[Tick or cross one box]</i>	<input type="checkbox"/> The identified land. <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.
Current zone/planning control <i>[Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]</i>	
Proposed change of zone/planning control <i>[Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]</i>	
Effect of proposed change of zone/planning control on councillor or associated person <i>[Tick or cross one box]</i>	<input type="checkbox"/> Appreciable financial gain. <input type="checkbox"/> Appreciable financial loss.

[If more than one pecuniary interest is to be declared, reprint the above box and fill in for each additional interest]

Councillor's Signature: **Date:**

This form is to be retained by the council's Chief Executive Officer and included in full in the minutes of the meeting

Last Updated: 3 June 2019

Important Information

This information is being collected for the purpose of making a special disclosure of pecuniary interests under clause 4.36(c) of the Model Code of Conduct for Local Councils in NSW (the Model Code of Conduct).

The special disclosure must relate only to a pecuniary interest that a councillor has in the councillor's principal place of residence, or an interest another person (whose interests are relevant under clause 4.3 of the Model Code of Conduct) has in that person's principal place of residence.

Clause 4.3 of the Model Code of Conduct states that you will have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative or because your business partner or employer has a pecuniary interest. You will 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.

"Relative" is defined by clause 4.4 of the Model Code of Conduct 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.

You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

This form must be completed by you before the commencement of the council or council committee meeting at 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.

¹ Clause 4.1 of the Model Code of Conduct 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 clause 4.6 of the Model Code of Conduct.

² 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 clause 4.3 of the Model Code of Conduct has a proprietary interest

1 Leadership and Governance

What we are trying to achieve

A community that works together in decision making that is defined as ethically, socially and environmentally responsible.

What the result will be

We will have:

- A community that has the opportunity to be involved in decision making
- Open, easy, meaningful, regular and diverse communication between the community and decision makers
- Partnerships and collaborative projects, that meet the community's expectations, needs and challenges
- Knowledgeable, skilled and connected community leaders
- Strong corporate management that is transparent

How we will get there

- 1.1 Inform and engage with the community about what Council does using varied communication channels
- 1.2 Maintain strong partnerships between all stakeholders - local, state and federal — so that they are affective advocates for the community
- 1.3 Demonstrate leadership
- 1.4 Use innovative, efficient and sustainable practices
- 1.5 Ensure strong corporate and financial management that is transparent and accountable

Item: 04.01

Subject: RELIEF MEASURES FOR FLOOD AND STORM IMPACTED
RESIDENTS

Presented by: Corporate Performance, Rebecca Olsen

Alignment with Delivery Program

1.3.1 Provide effective leadership and equity.

RECOMMENDATION

That Council:

1. Note the provisions included in Council's Rates and Charges Hardship Assistance Policy for property owners who have had a house, facility or outbuilding determined to be destroyed or damaged by the responsible government agency as a result of a natural disaster.
2. Waive the fees and charges as detailed in this report, in relation to owners of properties and local businesses which have been damaged or destroyed in the March 2021 Flood and Storm Emergency. These fees and charges include:
 - a) Interest on rates and charges.
 - b) Direct debit dishonour fees.
 - c) Tipping fees for local government area residents and businesses' flood damaged waste, including building materials, furniture, fittings, personal items, not including greenwaste, at Council's waste transfer stations.
 - d) Fees for bulk kerbside collection of flood damaged waste for local government area residents.
 - e) Relevant Council fees and charges associated with building / construction.
 - f) Fees for food shop inspections.
 - g) Fees for public health inspections.
 - h) Animal impound and maintenance fees
 - i) Fees to alter an existing sewerage management facility under section 68.
 - j) Licence fees / application fees for activities on Council-managed land.
 - k) Fees for the use of the Innovation Hub.
 - l) Road Occupation fees under Section 138 for clean-up purposes.
3. Delegate approval to the Chief Executive Officer to enter into a formal agreement with an eligible applicant to repay outstanding rates and charges by periodical payments on a payment arrangement, where the applicant is the owner of a property which has been damaged or destroyed in the March 2021 Flood and Storm Emergency.
4. Extend the above Rates and Charges provisions to non-residential property owners.

5. Request the Chief Executive Officer to provide an update report to the June 2021 Ordinary Council meeting on this matter.

Executive Summary

The Port Macquarie-Hastings LGA and surrounding regions have been subject to unprecedented flood and storm activity over recent times, with large scale damage and a significant number of people forced to evacuate. With the recovery process and assessment of the full impacts underway, it is recognised that the impact on our community is significant and recovery will be ongoing for a significant period of time. Indeed, the area has now been declared a natural disaster zone. It is also noted that the current challenges come on the back of many difficult months following the 2019 bushfires and floods, and the COVID-19 pandemic.

This report is intended to provide a number of relief measures for those members of the community severely impacted by the flood and storm activity and to assist in minimising the financial burden on those impacted during the recovery period.

The proposed relief measures include specific provisions for rates and charges as detailed in this report, however it should be noted that Councils are subject to certain legislative restrictions in relation to issuing rates levies and instalments, and writing these amounts off if required. A number of relief measures are proposed around rates and charges, which will still meet the legislative requirements, whilst providing support and assistance to the community. Further details of these measures are included in this report, however they have been proposed with a focus on working with affected businesses and individuals on a case by case basis to formulate the most appropriate solution for their particular needs, whilst making the process as easy and accessible as possible in these difficult times.

Discussion

The recovery process in response to the recent flood and storm emergency is underway, with assessment of impacts ongoing and a number of assistance measures announced by State and Federal Governments. The impact on the local community has been significant and the recovery process is likely to take a significant amount of time.

In order to assist those members of our community who have been most severely impacted and aid in the recovery process, Council has considered a range of options, including a number of measures to provide financial relief to those affected.

As noted above, the State and Federal Governments have announced various initiatives that will assist those affected in the flood and storm emergency and the intent of this report is not to replace these assistance avenues. This report is intended to provide additional assistance to those members of the community experiencing genuine difficulty in paying rate and charges as a result of the natural disaster impacts, where alternative cost recovery avenues are not available.

The following fees are proposed to be waived under the recommendation:

Rates and Charges

- Council may at its discretion write off rates, charges or interest, subject to the Rates and Charges Hardship Assistance Policy. It is proposed that interest charges in relation to properties which have been damaged or destroyed in the March 2021 Flood and Storm Emergency be waived for late payments in accordance with section 567 of the Local Government Act 1993 and under the provisions of the Rates and Charges Hardship Assistance Policy.
- Direct debit dishonour fees relating to accounts for properties which have been damaged or destroyed in the March 2021 Flood and Storm Emergency will be waived.

Waste management and tipping fees

- Tipping fees for all flood damaged waste from residents and businesses of the LGA at Council's waste transfer stations will be waived.
- Bulk waste collection services will be provided free of charge to flood affected residents.

Relevant fees and charges associated with building and construction

To assist with the recovery and support people rebuilding homes and other structures damaged or destroyed by the flood event, it is recommended that Council waive all Council fees associated with development applications, complying development certificates, construction certificates, plumbing and drainage applications (Section 68 applications) and onsite sewer management systems applications and road opening permits (Section 128 applications) relating to property damaged or destroyed in the March 2021 Flood and Storm Emergency where permissible. These fees vary depending on the type of development and if an owner wishes to rebuild, accordingly it is not possible to estimate the likely cost to Council at this stage. It is noted that building repair such as re-sheeting, re-lining and fit-out works would be considered exempt development and not require development consent. There are many farm buildings that are also classified as exempt development under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* that can be built without development consent. Council's Duty Planner and Duty Surveyor are able to assist customers identify what may or may not need development consent.

There are other statutory fees that may be applicable as well such as, the Plan First Levy/Planning Reform Fee payable with all development applications to the NSW Department of Planning Industry and Environment, the NSW Long Service Levy which is payable to the Long Service Corporation NSW and the Integrated Authority Referral Fee which is payable to government agencies such as the RFS or the RMS for example for integrated development applications. Unfortunately, Council cannot legally waive these fees.

Other

The following fees will be waived for customers / properties / businesses impacted by the March 2021 Flood and Storm Emergency:

- Fees for food shop inspections.
- Fees for public health inspections.

- Some or all impound and maintenance fees will be waived so that animals, including livestock, can return home in a timely manner. Registration requirements, including registration fees, will still be required before release if an animal is not already registered.
- Fees to alter an existing sewerage management facility under section 68.
- Licence fees / application fees for activities on Council-managed land will be waived for a period of 1 month. These will be assessed on a case by case basis.
- Fees for the use of the Innovation Hub for up to 1 month for members of the community who have had their business / place of work impacted.
- Road Occupation fees under Section 138 for clean-up purposes.

Other measures include:

Rates and Charges

Under the Local Government Act 1993 and associated Regulations, Councils must levy rates and send quarterly instalment notices in accordance with legislated timeframes. In addition to this, Councils can only write off Rates and Charges under limited circumstances.

Notwithstanding the above restrictions, Council recognises the financial burden which businesses and individuals impacted by the floods and storms may be experiencing and therefore proposes a number of measures as detailed below to assist in relation to Rates and Charges. This means that Council will work with businesses and individuals on a case by case basis to tailor solutions which will best assist during this challenging period. Affected parties are requested to contact Council staff who will then work through the particular impacts / circumstances, discuss the most appropriate options for that particular case and work through the information / documentation required, with a focus on making the assistance process as easy and accessible as possible. Some of the options for assistance by arrangement in this area include the following:

- Entering into a payment arrangement which means the amount payable can be spread over smaller payments and across a timeframe which is manageable for the applicant.
- People with existing payment arrangements can contact Council and further reduce the amounts payable each week / month for a period.
- Although Council must continue levying rates and charges under legislation, Council may be able to put rate and charges payments on hold for a period by negotiation.
- For businesses experiencing closure or reduced activity, water and sewer access charges may be waived on a case by case basis.
- Waiving or putting interest charges on hold for a period.

The proposed measures are therefore as follows:

- Council's Rates and Charges Hardship Assistance Policy currently has provisions for Council to enter into a formal agreement with an eligible applicant to repay outstanding rates and charges by periodical payments on a payment arrangement. It also includes specific provisions in the event of a natural disaster whereby Council officers with the relevant delegated authority can enter into such agreements where the applicant is suffering financial hardship due to the

impacts of a natural disaster. Note that application for such payment arrangements will be subject to similar criteria and documentation requirements as the current hardship policy.

- The above provisions currently apply to residential properties. It is therefore proposed to extend these provisions to non-residential properties.

Options

Council may adopt the recommendation as proposed or amend as required.

Community Engagement and Internal Consultation

Consultation has occurred with the Chief Executive Officer, Director Corporate Performance, Director Development and Environment, Director Infrastructure, Director Strategy and Growth, Senior Leadership Team, Rates and Revenue Coordinator.

Planning and Policy Implications

Council's Rates and Charges Hardship Assistance Policy already includes provisions in relation to the recommendations included in this report. Further amendment is not required as extension of the provisions to non-residential properties is covered by the resolution 4 above.

Financial and Economic Implications

The direct assistance measures noted above will inevitably have an impact on Council's financial position, largely in the form of forgone revenue. Assessment of the flood and storm damage is ongoing and the overall impact will vary depending on the volume / nature of damage. Therefore, whilst there will be a financial impact in relation to the above measures, it is not possible to reliably estimate the likely cost to Council at this stage. As these impacts become clearer in this evolving situation, any adjustments required to the budget will be dealt with through the Monthly Financial Update reports to Council.

Attachments

Nil