



Extraordinary Council

Business Paper

date of meeting: Monday 7 March 2022

location: Council Chambers
17 Burrawan Street
Port Macquarie

time: 5:00pm

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

Monday, 7 March 2022

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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: REMOTE ATTENDANCE AT MEETING**

RECOMMENDATION

That Council accede to the request of Councillors to attend the meeting by remote means.

Item: 03**Subject: APOLOGIES**

RECOMMENDATION

That the apologies received be accepted.

Item: 04
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: Signed:	Date:
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: 06.01

Subject: RESCISSION MOTION - COUNCIL COMMITTEES, WORKING PARTIES AND GROUPS

Councillors Intemann, Lipovac and Sheppard have given notice of their intention to move the following motion:

RECOMMENDATION

That the undermentioned motion adopted at the Ordinary Council Meeting held on 16 February 2022:

That Council:

- 1. Discontinue the following Council Committees/Working Parties/Groups with community and Councillor representatives pending a future review of Council's Committee structure:**
 - Airport Advisory Group
 - Coast, Estuary and Floodplain Advisory Sub-Committee
 - Community Inclusion Committee
 - Cultural Steering Group
 - Economic Development Steering Group
 - Hastings Bushfire Management Committee
 - Port Macquarie Transport Network Community Consultative Committee
 - Sustainability Advisory Sub-Committee
 - Town Centre Master Plan Sub-Committee.
- 2. Form the following Council Committees and amend their relevant Charters to reflect the membership changes below pending a future review of Council's Committee structure:**
 - Audit, Risk and Improvement Committee (Appoint Cr Sharon Griffiths as Councillor representative)
 - Marrungbalbu Group (Chaired by the Mayor, Deputy Mayor in the Mayor's absence)
 - Development Assessment Panel
 - Mayor's Sporting Fund Sub-committee (Chaired by the Mayor, Deputy Mayor in the Mayor's absence)
 - Local Development Committee (Traffic) (Chaired by the Mayor, Deputy Mayor in the Mayor's absence)
 - Local Traffic Committee (Chaired by the Mayor, Deputy Mayor in the Mayor's absence)
 - Sister City Working Group (Chaired by the Mayor, Deputy Mayor in the Mayor's absence).
- 3. Continue Council's membership on the Arts Mid North Coast Board, with a Council staff member as Council's representative, appointed by the Chief Executive Officer.**

4. **Maintain existing hall and facility management committees at the discretion of the Chief Executive Officer.**
5. **Continue to provide support to community Working Groups and Consultative Committees at the discretion of the Chief Executive Officer.**
6. **Formally thank all outgoing Committee members for their invaluable contribution to Council's Committees and Working Groups.**
7. **Determine to rescind the Councillor Portfolio Protocol.**
8. **Not re-establish the Councillor Portfolio system.**
9. **Amend the charters for the following Program Level Steering Groups to remove the requirement for a Councillor representative being consistent with the removal of the Councillor Portfolio Protocol as in Points 7 and 8 above:**
 - **Transport and Stormwater Program Steering Group**
 - **Water and Sewer Program Steering Group**
 - **Recreation, Buildings and other Assets Program Steering Group.**

be rescinded.

Should the rescission motion be successful, it is the Councillors' intention to move the following motion:

That Council:

1. Discontinue the following Council Committees/Working Parties/Groups with community and Councillor representatives pending a future review of Council's Committee structure:
 - Airport Advisory Group
 - Coast, Estuary and Floodplain Advisory Sub-Committee
 - Community Inclusion Committee
 - Cultural Steering Group
 - Economic Development Steering Group
 - Hastings Bushfire Management Committee
 - Port Macquarie Transport Network Community Consultative Committee
 - Sustainability Advisory Sub-Committee
2. Form the following Council Committees and amend their relevant Charters to reflect the membership changes below pending a future review of Council's Committee structure:
 - Audit, Risk and Improvement Committee (Appoint Cr Sharon Griffiths as Councillor representative)
 - Marrungbalbu Group (Chaired by the Mayor, Deputy Mayor in the Mayor's absence)
 - Development Assessment Panel
 - Mayor's Sporting Fund Sub-committee (Chaired by the Mayor, Deputy Mayor in the Mayor's absence)
 - Local Development Committee (Traffic) (Chaired by the Mayor, Deputy Mayor in the Mayor's absence)
 - Local Traffic Committee (Chaired by the Mayor, Deputy Mayor in the Mayor's absence)
 - Sister City Working Group (Chaired by the Mayor, Deputy Mayor in the Mayor's absence).

- **Town Centre Master Plan Sub-Committee** (Chaired by Councillor Intemann, Councillor Lipovac in the Chair's absence)
3. Continue Council's membership on the Arts Mid North Coast Board, with a Council staffmember as Council's representative, appointed by the Chief Executive Officer.
 4. Maintain existing hall and facility management committees at the discretion of the Chief Executive Officer.
 5. Continue to provide support to community Working Groups and Consultative Committees at the discretion of the Chief Executive Officer.
 6. Formally thank all outgoing Committee members for their invaluable contribution to Council's Committees and Working Groups.
 7. Determine to rescind the Councillor Portfolio Protocol.
 8. Not re-establish the Councillor Portfolio system.
 9. Amend the charters for the following Program Level Steering Groups to remove the requirement for a Councillor representative being consistent with the removal of the Councillor Portfolio Protocol as in Points 7 and 8 above:
 - Transport and Stormwater Program Steering Group
 - Water and Sewer Program Steering Group
 - Recreation, Buildings and other Assets Program Steering Group.

Comments by Councillors (if provided)

Nil.

Attachments

Nil

2 Your Community Life

What we are trying to achieve

A healthy, inclusive and vibrant community.

What the result will be

We will have:

- Community hubs that provide access to services and social connections
- A safe, caring and connected community
- A healthy and active community that is supported by recreational infrastructure
- A strong community that is able to identify and address social issues
- Community participation in events, programs, festivals and activities

How we will get there

- 2.1 Create a community that feels safe
- 2.2 Advocate for social inclusion and fairness
- 2.3 Provide quality programs, community facilities and public spaces, for example, community halls, parks and vibrant town centres
- 2.4 Empower the community through encouraging active involvement in projects, volunteering and events
- 2.5 Promote a creative and culturally rich community

Item: 07.01

Subject: NOTICE OF MOTION - BAIN PARK MASTERPLAN - STAGES 1 AND 2

Councillor Griffiths has given notice of her intention to move the following motion:

RECOMMENDATION

That Council not proceed to commence works for the Bain Park Masterplan Stages 1 or 2 until the following has occurred:

- 1. An urgent briefing is provided to Councillors on the Bain Park Masterplan to consider amendments to the adopted Masterplan at the earliest possible time, noting this project is time critical against external funding conditions.**
- 2. A further report being provided to Council detailing any proposed amendments to the Masterplan at the earliest possible time, noting this project is time critical against external funding conditions.**

Comments by Councillor (if provided)

Nil.

Attachments

Nil

Subject: CONFIDENTIAL SESSION

RECOMMENDATION

- 1. That Council move into Confidential Session to receive and consider the following items:**
 - Item 10.01 Update on Legal Matter**
This item is considered confidential under Section 10A(2)(c) of the Local Government Act 1993, as it contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.
 - Item 10.02 Notice of Motion - Potential Purchase of Land**
This item is considered confidential under Section 10A(2)(c) of the Local Government Act 1993, as it contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.
 - Item 10.03 T-21-44 Management and Operation of Four Council Owned Pools**
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 Confidential Session of Council on the basis that the items to be considered are of a confidential nature.**
- 3. That the resolutions made by Council in Confidential Session be made public as soon as practicable after the conclusion of the Confidential Session and such resolutions be recorded in the Minutes of the Council Meeting.**