



Town Centre Master Plan Sub-Committee

Business Paper

date of meeting: Thursday 24 October 2019

location: Function Room
Port Macquarie-Hastings Council
17 Burrawan Street
Port Macquarie

time: 8.00am

Town Centre Master Plan Sub-Committee

CHARTER

1.0 OBJECTIVES

- To advise Council on projects and issues which support and affect the continued development of the Port Macquarie Town Centre using funding from the Town Centre Master Plan Reserve.

2.0 KEY FUNCTIONS

The key functions of the Sub-Committee are to:

- Make recommendations to Council regarding the development, review and amendment as required of the Town Centre Master Plan
- Make recommendations to Council on works priorities - Capital and maintenance - for the implementation of the Town Centre Master Plan
- Act as a communication conduit between Council and the CBD stakeholders in respect to the Town Centre Master Plan
- Make recommendations to Council regarding an annual Works Program and Budget to be adopted by Council as part of the annual Operational Plan
- Maintain an awareness of the capital expenditure of Town Centre Master Plan Reserves and make recommendations to Council regarding such expenditure.
- Raise funds other than rates and loans to fund the objectives of the Sub-Committee through partnerships with other stakeholders
- Make recommendations to the relevant Director in relation to purchasing, manufacturing, obtaining and supplying material for the promotion of the CBD from any external funds raised by the Sub-Committee
- Advocate for the Town Centre Master Plan and promote the advantages of the CBD to the wider community

3.0 MEMBERSHIP

3.1 Voting Members

- Councillor (resolved by Council)
- Director Strategy and Growth
- Senior Landscape Architect- Council
- 1 Community member (b)
- 2 CBD Landowners (1a + 1b)
- 1 Port Macquarie Chamber of Commerce representative (a)
- 1 CBD Trader (a)
- 1 CBD Trader/Landowner with demonstrated relevant technical expertise (b)
- 1 Port Macquarie-Hastings Access Sub-Committee representative (a)

3.2 Non-Voting Members

- There may be occasions where other attendees are required at Sub-Committee meetings, such as funding partners, independent people, other levels of government, client side project managers (if applicable), stakeholder engagement specialists and other Council staff. Such people will be invited to Sub-Committee meetings on an as needs basis.

3.3 Obligations of Members

- As per Section 226 (c) of the NSW Local Government Act 1993, the Mayor is the principal spokesperson for the governing body and Councillors that are members of a Sub-Committee are to obtain the Mayors agreement to make media and other statements. Further, only the Mayor, or a Councillor with the Mayor's agreement and otherwise in accordance with Council policies and procedures, may release Council information through media statements or otherwise, and the release of such information must be lawful under the Council adopted Code of Conduct. Council Officers that are members of Sub-committees are bound by the existing operational delegations in relation to speaking to the media.
- All Sub-Committee members are not permitted to speak to the media as representatives of the Sub-Committee unless approved by the Chairperson (prior to this from the Mayor as above)
 - Where approval has been granted by the Chairperson, the views and opinions expressed are those of the Town Centre Master Plan Sub-Committee and not of Port Macquarie-Hastings Council
- A Councillor or a non Council member as a member of a Sub-Committee or the Sub-Committee itself has no delegation or authority to make decisions on behalf of Council, nor to direct the business of Council. The only decision making power open to Councillors is through formal resolutions of Council.
- A Councillor or a non Council member as a member of a Sub-Committee or the Sub-committee itself cannot direct staff and must abide by the decisions of Council and the policies of Council.
- All Sub-Committee members must comply with Council's Code of Conduct and relevant Council policies and procedures with particular reference to Council's Work Health and Safety Policy.

3.4 Member Tenure

- Non Council members will be appointed for a two year term. Terms will be staggered so that every year expressions of interest for new members (a) or (b) will be called depending on rotation.

3.5 Appointment of Members

- Council, by resolution duly passed, will appoint members to the Sub-Committee following an advertised expression of interest.

4.0 TIMETABLE OF MEETINGS

- Meetings of the Sub-Committee shall be held monthly at a date convenient to Sub-Committee members. During election caretaker mode the Sub-Committee may be suspended until after the election once Councillor representation is resolved by Council.

5.0 MEETING PRACTICES

5.1 Decision Making

- Recommendations of the Sub-Committee shall be made by consensus. If consensus is not reached, the item may be reported to Council for determination or deferred pending further information and debate.
- The Chairperson shall not have a casting vote.
- Recommendations to Council are to be made through the relevant Director, who will determine under delegation, the process for implementation.

5.2 Quorum

- A Meeting shall not proceed unless a quorum of at least one (1) more than half the number of members are present, at least one of whom must be a full time Council employee and at least 3 of whom must not be Council employees.

5.3 Chairperson and Deputy Chairperson

- The Chairperson shall be the Councillor, duly appointed by Council resolution.
- At all meetings of the Sub-Committee, the Chairperson shall occupy the Chair and preside. In the absence of the Chairperson, the alternate Councillor will preside at the Meeting.

5.4 Secretariat

- The incumbent Council Director is responsible for ensuring the Sub-Committee has adequate secretariat support. The secretariat will ensure that business papers and supporting papers are circulated at least three (3) days prior to each meeting. Minutes shall be circulated to members within seven (7) days of the meeting having taken place.
- The incumbent Council Director will coordinate a review of the Charter within 12 months of a new Council term and present to Council for adoption.

5.5 Recording of decisions and explicit discussions on risks

- Minutes of Sub-Committee meetings shall include the decisions made, relevant details of discussions and the nature of any dissenting views expressed by members.

6.0 CONVENING OF “OUTCOME SPECIFIC” WORKING GROUPS

- The Sub-Committee can at times request a working group to be convened, for a limited period of time, for a specific actions, these specifics will be minuted clearly. The working group will report back to the Sub-Committee with outcomes.

7.0 CONFIDENTIALITY AND CONFLICT OF INTEREST

- Councillors, Council staff and members of this Sub-Committee must comply with the applicable provisions of Council's Code of Conduct in carrying out their functions as Council Officials. It is the personal responsibility of Council Officials to comply with the standards in the Code of Conduct and regularly review their personal circumstances with this in mind.

- Sub-Committee members must declare any conflict of interests at the start of each meeting or before discussion of a relevant item or topic. Details of any conflicts of interest should be appropriately minuted.
- Where members or invitees at Sub-Committee meetings are deemed to have a real or perceived conflict of interest, it may be appropriate they be excused from Sub-Committee deliberations on the issue where the conflict of interest may exist.
- Any independent members of the Sub-Committee will be required to complete a confidentiality agreement that will cover the period of their membership of the Sub-Committee.

Town Centre Master Plan Sub-Committee

ATTENDANCE REGISTER

| Member | 28/03/19 | 23/05/19 | 28/06/19 | 25/07/19 | 29/08/19 |
|--|----------|--------------|----------|----------|----------|
| Councillor G Hawkins (Chair) | A | No quorum | ✓ | ✓ | ✓ |
| Councillor L Dixon (Deputy Chair) | ✓ | | ✓ | A | A |
| Jeffery Sharp (Director Strategy & Growth) | ✓ | | ✓ | ✓ | ✓ |
| Craig Luff (Landscape Architect) | | | ✓ | ✓ | ✓ |
| Jeff Gillespie (CBD Landowner 2018-2019) | ✓ | | ✓ | ✓ | A |
| Robert Sagolj (CBD Landowner 2018-2020) | X | | ✓ | ✓ | ✓ |
| vacant (CBD Trader with expertise 2016-2018) | - | | - | - | - |
| Tony Thorne (Chamber of Commerce Representative 2018-2020) | ✓ | | ✓ | ✓ | ✓ |
| Michelle Love (Community Member 2018-2019) | ✓ | | ✓ | ✓ | ✓ |
| Sharon Beard (Access Committee Representative 2018-2020) | ✓ | | ✓ | ✓ | ✓ |
| Geraldine Haigh (CBD Trader 2018-2020) | A | | A | ✓ | ✓ |
| John McGuigan (June 2018 - 2019) | A | | ✓ | ✓ | A |

Key: ✓ = Present

A = Absent With Apology

X = Absent Without Apology

Town Centre Master Plan Sub-Committee Meeting

Thursday 24 October 2019

Items of Business

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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: APOLOGIES**

RECOMMENDATION

That the apologies received be accepted.

Item: 03**Subject: CONFIRMATION OF PREVIOUS MINUTES**

RECOMMENDATION

That the Minutes of the Town Centre Master Plan Sub-Committee Meeting held on 29 August 2019 be confirmed.

PRESENT

Members:

Councillor Geoffrey Hawkins (Chair)
Jeffery Sharp (Director Strategy & Growth)
Craig Luff (Landscape Architect)
Robert Sagolj (CBD Landowner)
Tony Thorne (Chamber of Commerce Representative)
Michelle Love (Community Member)
Sharon Beard (Access Committee Representative)
Geraldine Haigh (CBD Trader)

Other Attendees:

Liam Bulley (Group Manager Recreation and Buildings)
Michael Nunez (TCMP Project Manager / Co-ordinator)

The meeting opened at 8:05am.

01 ACKNOWLEDGEMENT OF COUNTRY

The Acknowledgement of Country was delivered.

02 APOLOGIES

CONSENSUS:

That the apologies received from Cllr Michael Cusato, John McGuigan and Jeff Gillespie be accepted.

03 CONFIRMATION OF MINUTES

CONSENSUS:

That the Minutes of the Town Centre Master Plan Sub-Committee Meeting held on 25 July 2019 be confirmed.

04 DISCLOSURES OF INTEREST

There were no disclosures of interest presented.

05 BUSINESS ARISING FROM PREVIOUS MINUTES

CONSENSUS:

That the Business Arising Schedule be noted with the additional information:

Item 06 28/6/2019 Town Centre works/Project Update

3. Use the Flyer as a basis for story in the "Focus" magazine

06 SHORT STREET ACCESSIBLE AMENITIES UPDATE

CONSENSUS:

That the Town Centre Master Plan Sub-Committee:

1. Note the information contained in the Short Street Accessible Amenities Update Report.
 2. Agree to upgrade the footpath between the driveways in Short Street in Nambucca Gold, and fund from existing budgets. Report costs and funding source to a future meeting.
 3. Undertake a cleaning of both driveways as part of the scheduled footpath clean later in 2019.
-

07 PAVEMENT CLEANING SERVICE

CONSENSUS:

That the Town Centre Master Plan Sub-Committee note the information contained within the Pavement Cleaning Service Report.

08 FORESHORE WALKWAY PROJECTS

CONSENSUS:

That the Town Centre Master Plan Sub-Committee note the information contained in the Foreshore Walkway Projects Report.

09 GENERAL BUSINESS

Nil.

The meeting closed at 9:16am.

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:
 - (a) your interest, or
 - (b) the interest of your spouse or de facto partner, your relative, or your partner or employer, or
 - (c) 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:
 - (a) Your "relative" is any of the following:
 - i) your parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
 - ii) your spouse's or de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
 - iii) the spouse or de facto partner of a person referred to in paragraphs (i) and (i)
 - (b) "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)
 - (a) if you are unaware of the relevant pecuniary interest of your spouse, de facto partner, relative, partner, employer or company or other body, or
 - (b) 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
 - (c) 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 general manager, such a disclosure is to be made to the staff member's manager. In the case of the general manager, 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) 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
 - b) 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.
 - c) 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.
 - d) 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
 - e) 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
 - f) 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:
 - a) 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
 - b) 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 general manager, 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 general manager, 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 general manager 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

Item: 05

Subject: BUSINESS ARISING FROM PREVIOUS MINUTES

| | | | |
|-------------------------|---|--------------|------------|
| Item: | 06 | Date: | 28/06/2019 |
| Subject: | Town Centre Works/Project Update | | |
| Action Required: | <ol style="list-style-type: none"> Staff have been in contact with Essential Energy who have provided approval for landscaping scope of works. Quote for landscaping works has been sought. Staff to present a bi-annual report on funding sources for maintenance works within the CBD. Use the Flyer as a basis for story in the "Focus" magazine. | | |
| Current Status: | <ol style="list-style-type: none"> Quote for construction \$13,300. Decision to proceed? Information to be provided at a future meeting Updated Flyer to be presented at meeting. | | |

| | | | |
|-------------------------|---|--------------|------------|
| Item: | 09.01 | Date: | 28/06/2019 |
| Subject: | Proposed Signage - 'Clarence Place' | | |
| Action Required: | TCMP Chair and businesses and property owners at river end of Clarence Street to contact Council regarding renaming via signage only, the area as Clarence Place. | | |
| Current Status: | Information to be provided at December meeting. | | |

| Reports to future meetings | | |
|--|----------|------------|
| Report | Due Date | Requested |
| Town Square Monthly Progress Report | Monthly | 29 Jun 17 |
| Update on Accessible Parking Costs in the CBD | TBA | 26 July 17 |
| Gordon St Underpass - Staff to provide a further report to a future meeting when project costs have been further developed | TBA | 28 Feb 19 |

Item: 06

Subject: HISTORY OF THE TCMP RATE

Presented by: Strategy and Growth, Jeffery Sharp

RECOMMENDATION

That the Town Centre Master Plan Sub-Committee note the information in this report.

Discussion

At the Town Centre Master Plan Sub-Committee Meeting on 25 July 2019, it was resolved that a report would be brought to a future meeting on the history of the TCMP rate.

In January 2013, an Executive Briefing was written which outlined this history.

Attachments

1 [View](#). Town Centre Master Plan Briefing Note



INFORMATION BRIEF

Town Centre Masterplan – Funding

9 January 2013

Issue Statement / Topic

This report relates to the funding of the Town Centre Masterplan, specifically the rates levied on the owners of the properties within the Port Macquarie CBD.

DIRECTOR'S RECOMMENDATION

That the information contained in this report be noted.

Background

The Port Macquarie Townscape Plan was undertaken by Council in response to representations by the community. The following gives a background:

- May 1991 – the Port Macquarie Chamber of Commerce wrote to Council seeking to revitalize the Town Centre
- July 1992 – The Mayor chaired an open meeting of property owners within the Town Centre
- August 1992 – Council indicated support and through its Committee adopts a consultancy brief. The committee, the Hastings Economic Development Board includes extensive community representation.
- September 1992 – Tract consultants engaged to undertake study
- November 1992 – Public workshops held to discuss Town Centre issues
- December 1992 – “Shop front office” set up in main street to exhibit draft study over 6 week period. Many viewed proposals. One of the issues raised by the community at the time was the feasibility of levying a local rate.
- April 1993 – Council adopted in principle the plan and called for report on funding the works.
- September 1993 – Council considers options for funding and resolved to further discuss the issue of the local rate with “relevant interest groups”

On the 19 November 1993 an open meeting of stakeholders organized by the Port Macquarie Chamber of Commerce and Industry and chaired by the Mayor of the Hastings Council was held to discuss a proposal to levy a local rate to fund improvement works proposed for Port Macquarie's CBD. The stakeholders were the Council, the owners of property in Port Macquarie's CBD and the tenants of those properties.

The resolution from that meeting was as follows:

That this meeting strongly urges Hastings Council to take whatever action is necessary to implement:

- A. *A special rate on the Port Macquarie CBD (as from 1 January 1994) equivalent to the reductions in total rates from 1992 to 1993 as a result of the introduction of the new land values.*
- B. *Further, that any further reduction in rates/charges as a result of introducing uniform or user pays water and sewerage rates and charges in the Port Macquarie CBD be also levied as a special rate from the time such rates and charges are introduced.*
- C. *That the following conditions apply to the special rate:*
 1. *That the funds raised be applied only to the works identified in the Port Macquarie CBD.*
 2. *That the Special rate outlined in A. be adjusted in future years to take account of the effects of future revaluations on rating.*
 3. *Council should continue to apply funding to the Port Macquarie CBD from the Works Program on the priority basis as currently exists.*
 4. *Council to include the Townscape plan in the Section 94 contributions plans.*
 5. *Applications should be made under grant programs appropriate to the proposed works.*
 6. *That the levying of a "special rate" be on a sunset basis to achieve the works identified.*
 7. *A committee be established of Council and interest group representatives to establish priorities and monitor progress.*
 8. *Properties used solely as a residence be excluded from the rate.*
 9. *That Council consider the application of proceeds of appropriate land sales to fund the works identified in the Townscape Plan.*

It was resolved at a Special Meeting of Council on the 6 December 1993 to apply to the Minister of Local Government to levy a Local Rate (for the area identified as the Port Macquarie CBD) under Section 121(1) of the Local Government Act, 1919. The application would be under the conditions outlined in the Port Macquarie Chamber of Commerce and Industry's submission. Such a local rate, being .3657c in the dollar, to commence from 1 January 1994. This would achieve a gross yield of \$291,674.

The complication at the time was that the final saving in the study area as a result of the introduction of the revised charging structure for water and sewerage would not be known until Council adopted its rating structure to apply from 1 July 1994. Thus in seeking the Ministers consent to levy a local rate, Council was seeking approval in two stages.

1. Firstly to introduce the local rate on the area identified in the map attached at a rate in the dollar of 0.3657 cents to yield \$291,674 effective from 1 January 1994 subject to the conditions outlined in the points 1 to 9.
2. Given that the study area paid water and sewerage rates of \$581,070 (1993) any savings in the study area as a result of Council introducing a user pays water and sewerage rates and charging structure likely to be effective from 1 July 1994 to also be levied as a local rate effective from 1 July 1994. It was estimated that such a saving would be in the order of \$230,000 which would allow an additional 0.2884 cents in the dollar as a local rate, giving an aggregate rate of 0.6541 cents in the dollar.

Rate Adoption

At Council's budget meeting on the 15 December 1993 Council resolved to charge a Local Rate under section 121(1) of the Local Government Act, 1919 of 0.3657c in the \$ on the rateable value of all rateable land in the Port Macquarie CBD as detailed on the attached map, subject to a minimum of \$1.00.

As part of the 1994/1995 Management Plan it was resolved:

"That Council make application to the Minister of Local Government and Co-operatives for approval to increase the Port Macquarie CBD Special Rate by \$285,882 above allowable limits. Further that Council request the Minister to waive the requirement for an independent financial audit and public meeting as this is a continuation of the Special Variation previously approved."

The Port Macquarie CBD Special Rate was raised as a special rate from 1994 until 1998/99. In 1999/00 it was moved into the business sub-category.

Legal Advice on validity of a special rate for the Port Macquarie CBD

On the 23 March 1999 Council received legal advice from Donovan Oates and Hannaford regarding the validity of the CBD Special Rate. Council requested the legal advice after receiving a demand from Gadens Lawyers acting for an unnamed client seeking from Council a refund of the CBD Special rate paid by their client. The demand was made on the basis that the Special Rate was invalidly imposed.

Donovan Oates and Hannaford advised Council of the following:

"In our opinion the Local Rate and all subsequent Special Rates should be considered to be invalid".

Included with this decision was the following:

"On 20 March 1998 the Land and Environment Court handed down a decision in the case of Wyton v Tweed Shire Council wherein the Court declared invalid a Special Rate imposed by Tweed Shire Council on commercial premises in the CBD of Kingscliff. The Special Rate was for town centre improvement works and was very similar to the levy imposed by Hastings Council. Residential properties in the Kingscliff CBD, of which there were only two, were excluded by the Council on the grounds that they would not receive a benefit from the Special Rate. The Court said that Council was wrong in making that assessment and that the Council must look at the benefit to be derived by the land from the Special Rate and not the current use (ie residential) to which the land is presently being put.

Applying that decision means that the Hastings Council CBD Local Rate and CBD Special Rates can no longer be applied.

The reason why the Wyton V Tweed Shire Council decision can be applied to Hastings Council's Special Rate is because Council's Special rate was not collected from residential properties in the CBD. What will be inferred from that is that Council was of the opinion that the residential properties and the Sundowner Caravan Park would not receive a benefit from the Special Rate. That, the Court said, was the wrong way for Council to apply Section 495."

Remedies Available

Council put the following question to Donovan Oates and Hannaford.

"Instead of levying this rate under the provisions for Section 495 (is as a special rate) consideration has now been given to establishing a sub-category of the business category. Is the creation of such a sub-category possible in this situation and if so, what factors and processes would Council have to follow to ensure that such a sub-category was established correctly."

For which Council received the following response:

"It appears to us that it is possible to establish a sub-category business rate (CBD sub-category) pursuant to Section 529 of the Local Government Act based on a centre of activity. The centre of activity would be the CBD area of Port Macquarie as defined by Council for the purposes of the imposition of the rate. Council must make this sub-categorisation determination prior to making of its ordinary rate for business."

Council Resolution 10 May 1999

On the 10 May 1999 Council resolved the following recommendation:

Port Macquarie CBD Special Rate

It is recommended that this rate be amalgamated with the Port Macquarie CBD business sub-category rate. It will not affect the yield of the rate to be devoted to the CBD works.

Current Situation

From the 1999/00 financial year a sub-category of "Port Macquarie CBD" has been applied to the business rate. The amount applied to the Town Centre Masterplan is the 1998/99 Special Rate amount of \$650,587 increased by the rate pegging allowance for each year since then. For the 2012/13 financial year the amount applied to the Town Centre Masterplan is \$1,028,000.

Director Responsible

Jeffery Sharp

Author

Kerrie Avery

Attachments

Map of the Town Centre Masterplan area

Port Macquarie Town
Centre Masterplan
Special Rate Area

Scale 1:2000 @ A1



Item: 07

Subject: FIXED FURNITURE - TOWN SQUARE

Presented by: Strategy and Growth, Jeffery Sharp

RECOMMENDATION

That the Town Centre Master Plan Sub- Committee note the information in this report.

Discussion

Further to the discussion at the TCMP meeting on 26 August 2019 regarding fixed furniture in Town Square, the report and resolution of the TCMP meeting 28th Feb 19 Item 08 - "Confirm the ongoing position regarding fixed furniture in the Town Square" is attached for the information of the Sub-Committee members.

Attachments

1 [View](#). TCMP Report - Fixed Furniture Town Square 2019 02 28

AGENDA**TOWN CENTRE MASTER PLAN SUB-COMMITTEE
28/02/2019**Fixed Furniture

Council met with management from The Taphouse Group at their request. They plan to persist in their attempt to gain approval for fixed outdoor dining furniture. Their application was previously approved with a loose furniture, partly due to police concerns of after-hours loitering.

Another reason to avoid fixed furniture is the requirement to lift pavers on sand bed to install concrete footings below, and the replacement of expensive pavers with holes when the fixed furniture is removed.

It is worth noting that several of the shade structures will not be occupied with outdoor dining. They offer the opportunity to provide shade for the general public albeit, without any seating.

Furniture

The trialled water-based timber coating has proved to be a long lasting alternative to the original oil which required reapplication every couple of months or so. The contractor will strip and recoat several more of the most faded seats and bollards in March.

Several bollards have been slightly damaged with one being completely ripped out. A couple have been repaired and one has been replaced. Council is considering installing contrasting reflective elements to those most likely to be repeatedly hit, i.e. to the front of the disabled parking bays.

Bluestone Pavement Clean and Tinted Seal

The Council approved contractor is now programmed to clean and seal the bluestone pavement with darkening tint from the 11th - 14th March 2019. These works were previously postponed due to poor weather conditions and upcoming events. Staged part closures of the carpark and pedestrian pavement will be required.

Pedestrians will not be denied access to business entrances during the works.

Plantings

The trees within the Town Square have deteriorated due to an abnormal prolonged hot, dry and windy season. They are being watered on a fortnightly basis as part of the drought period watering program for young trees within the Town Centre including a dose of mineral salts to aid recovery. They are showing signs of recovery and should continue to do so as weather conditions normalise.

The modular feature planters continue to be well maintained by the nursery, replacing any damaged and unhealthy plants and changing species to improve variety and colour.

Attachments

Nil

**MINUTES**
Town Centre Master Plan Sub-Committee Meeting
28/02/2019

08 TOWN SQUARE

CONSENSUS:

1. That the Town Centre master Plan Sub-Committee note the information contained within this report.
 2. Include in the March meeting – linkage of responsibilities of catenary lighting in the original contract.
 3. Add reflective material and frangible bolts to the bollards at the disabled parks
 4. Confirm the ongoing position regarding fixed furniture in the Town Square.
-

09 BANNER POLES

CONSENSUS:

That the Town Centre Master Plan Sub-Committee note the information contained in this report.

10 GENERAL MAINTENANCE

CONSENSUS:

That the Town Centre Master Plan Sub-Committee note the information contained in this report.

11 KOOLOONBUNG CREEK STAGE 1

CONSENSUS:

That the Town Centre Master Plan Sub-Committee note the information contained in this report.

12 FORESHORE WALKWAY PROJECT UPDATE

CONSENSUS:

That the Town Centre Master Plan Sub-Committee:

1. Note the information contained in this report.
 2. Support the allocation of a budget of \$150,000 to allow for finalisation of the Foreshore Walkway Project detailed design and approvals.
-

Item: 08

Subject: FORESHORE WALKWAY PROJECTS

Presented by: Strategy and Growth, Jeffery Sharp

RECOMMENDATION

That the Town Centre Master Plan Sub-Committee note the information contained in the Foreshore Walkway Projects Report.

Discussion

Progress for September / October:

1. Detailed surveys completed for all of the projects.
2. Draft Geotechnical report submitted to Council.
3. Draft Heritage report submitted to Council, including AHIMS (Aboriginal Heritage Information Management System) searches.
4. Brief sent out to engineering consultants for quotations to provide structural, hydrological and electrical advice and details.
5. Fishermen's Wharf Parklands design issued to Crown Lands for review and procurement.
6. William Street Underpass at detailed concept stage. Drawing attached.

One month look ahead:

1. Commence the REF process as development without consent under State Environmental Planning Policy (no areas are within SEPP Coastal Wetlands).
2. Commence applications for Work in a Key Fish Habitat.
3. Engage the engineering consultant and conduct a detailed briefing and site meeting.
4. Commence procurement for the Quantity Surveyor.
5. Commence procurement for the irrigation consultant.
6. Native Title determination.

Key Project Risks:

1. Crown Lands consent to remove / relocate sea plane ramp - decision required by 30th October 2019 - likely time / cost impact
2. Duration of AHIMS / Native Title assessments
3. OEH approvals - likely time / cost impact
4. Change in strategy later than 22nd January 2020 to acquire private property - likely time / cost impact
5. Projects may require resubmission for environmental approvals depending on structure changes at the detail design stage.

Town Green West*Progress for September / October:*

1. Commencement of civil design by PMHC Project Delivery. Adjustments to path alignment near Short Street incorporated to avoid the mooring dolphin and reinstate acceptable connecting pathway grades.

One month look ahead:

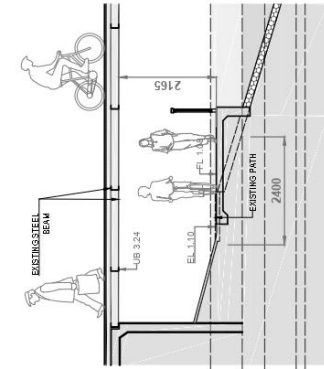
1. Commence discussions with stakeholders regarding licenses / approvals.

Further look ahead:

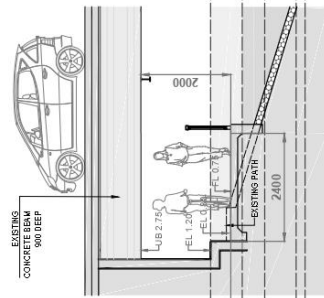
The playground upgrade consultation is planned for early 2020, with some pre-planning on themes being developed in the lead-up.

Attachments

1 [View](#). William Street Underpass - Preliminary Detailed Concept Plan

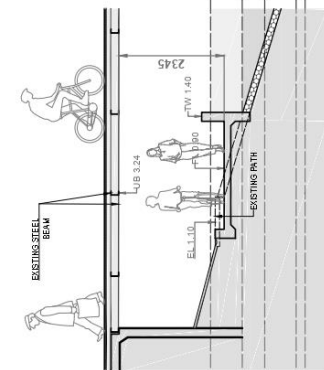


SECTION 2B - PEDESTRIAN BRIDGE 1:50 @ A3

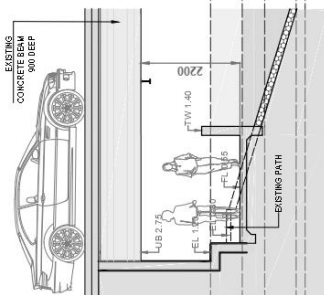


SECTION 2A - VEHICULAR BRIDGE 1:50 @ A3

OPTION 2 - OPEN PATHWAY

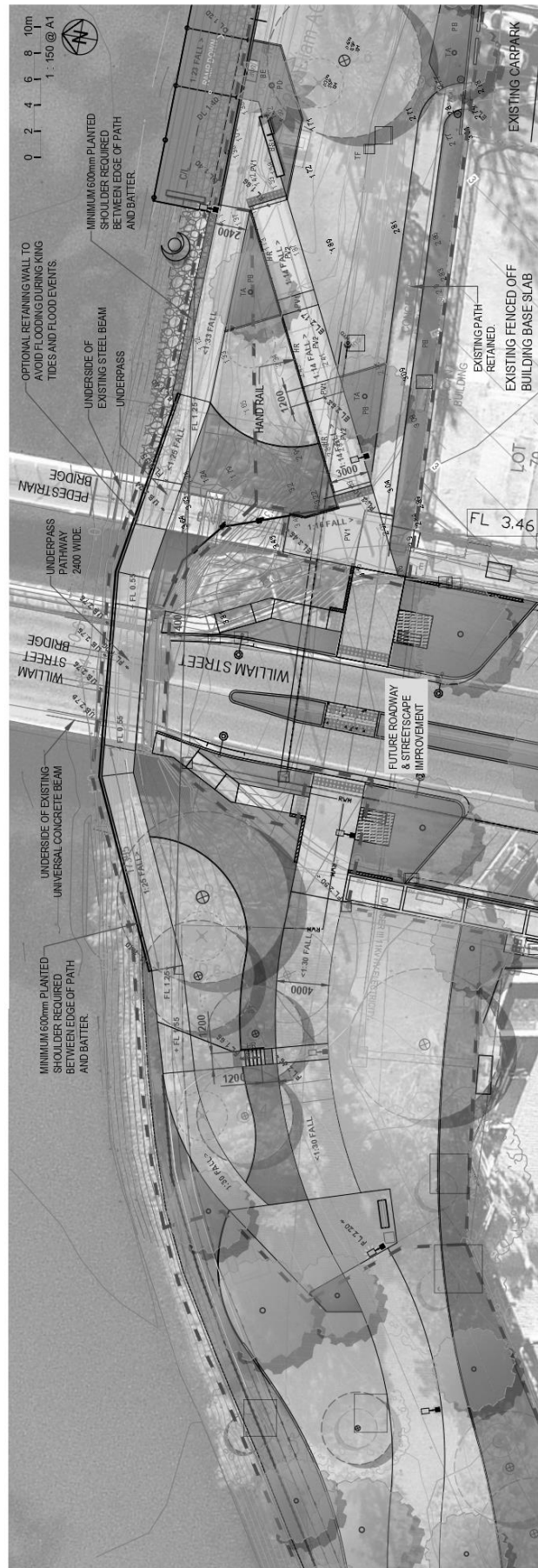


SECTION 1B - PEDESTRIAN BRIDGE 1:50 @ A3



SECTION 1A - VEHICULAR BRIDGE 1:50 @ A3

OPTION 1 - TANKED PATHWAY



DRAWING NUMBER: WSU11
DATE: 17.10.2019
REVISION: A
SHEET 1 OF 1

DRAWING TITLE

WILLIAM STREET UNDERPASS
GENERAL PLAN

PROJECT:
PORT MACQUARIE TOWN CENTRE
FORESHORE PROJECTS



PORT MACQUARIE
HASTINGS
COUNCIL

Item: 09**Subject: TOWN CENTRE TREE WORKS****Presented by: Strategy and Growth, Jeffery Sharp**

RECOMMENDATION

That the Town Centre Master Plan Sub-Committee note the information contained within the Town Centre Tree Works report.

Discussion

Two trees (including soil and understory planting) were replaced in Town Centre as per the Town Centre Tree Replacement strategy (planted by PMHC landscape maintenance team). These works were TCMP funded.

- 1 x Tuckeroo replaced the Norfolk Island Hibiscus on Hay Street (near the corner of Clarence Street, opposite the Pancake Parlour).
- 1 x Tuckeroo replaced the damaged Tuckeroo on Hayward St, near Coles.

Two trees were replaced in Town Green East (planted by PMHC landscape maintenance team). These works are Council funded.

- 1 x Magnolia replaced in Town Green following insufficient recovery from the scorching summer winds.
- 1 x Tuckeroo has been replaced in Town Green following complete desiccation due to the scorching summer winds.

The next round of Port Macquarie CBD palm tree pruning will commence 21st October and will take 9 days to complete.

Town Square Zelcovas and Short Street Brush Boxes were watered by truck due to limited rainfall. Soil was aerated prior to watering, and fertilizer applied.

Attachments

Nil

Item: 10

Subject: SHORT STREET AMENITIES PAVEMENT UPGRADE

Presented by: Strategy and Growth, Jeffery Sharp

RECOMMENDATION

That the Town Centre Master Plan Sub-Committee note the information contained within the Short Street Amenities Pavement Upgrade report.

Discussion

The Short Street pavement works (in front of the new amenities building) were completed prior to the official opening of the amenities on 13th September 2019.

The total cost as invoiced by the contractor is \$26,200, which included sealing of the concrete. PMHC propose to pay this invoice from the TCMP Footpaths Maintenance fund which has a total budget of \$31,600 and a current balance of \$25,785. This budget will be increasingly overspent as we are in the early part of the financial year. All adjacent works (i.e. pavements, planting, amenities building etc.) were funded by Council.

The upgrades resulted in a net loss of one parking space (this was due to converting three standard car parking spaces into two disabled spaces with a central access).



Attachments

Nil

Item: 11

Subject: PROPOSED DATES FOR 2020 TOWN CENTRE MASTER PLAN SUB-COMMITTEE MEETINGS

Presented by: Strategy and Growth, Jeffery Sharp

RECOMMENDATION

That the Committee accept the proposed dates for 2020 TCMP sub-committee meetings.

Discussion

Thurs 27 Feb – 8.00-10.30am
Thurs 26 Mar – 8.00-10.30am
Thurs 23 Apr – 8.00-10.30am
Wed 28 May – 8.00-10.30am
Thurs 25 Jun – 8.00-10.30am
Thurs 23 Jul – 8.00-10.30am
Thurs 27 Aug - 8.00-10.30am
Thurs 29 Oct – 8.00-10.30am (5th Thursday of month)
Thurs 26 Nov – 8.00-10.30am

The Port Macquarie-Hastings Council Local Government elections will be held in September 2020 so there will be no Sub-Committee meeting this month.

Attachments

Nil