



Byron Shire Council



Agenda

Extraordinary Meeting

Wednesday, 10 June 2015

held at Council Chambers, Station Street, Mullumbimby
commencing at 9.00am

Public Access relating to items on this Agenda can be made between 9.00am and 10.30am on the day of the Meeting. Requests for public access should be made to the General Manager or Mayor no later than 12.00 midday on the day prior to the Meeting.

Ken Gainger
General Manager

CONFLICT OF INTERESTS

What is a “Conflict of Interests” - A conflict of interests can be of two types:

Pecuniary - 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 or another person with whom the person is associated.

Non-pecuniary – a private or personal interest that a Council official has that does not amount to a pecuniary interest as defined in the Local Government Act (eg. A friendship, membership of an association, society or trade union or involvement or interest in an activity and may include an interest of a financial nature).

Remoteness – 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 a matter or if the interest is of a kind specified in Section 448 of the Local Government Act.

Who has a Pecuniary Interest? - a person has a pecuniary interest in a matter if the pecuniary interest is the interest of the person, or another person with whom the person is associated (see below).

Relatives, Partners - a person is taken to have a pecuniary interest in a matter if:

- The person’s spouse or de facto partner or a relative of the person has a pecuniary interest in the matter, or
- The person, or a nominee, partners or employer of the person, is a member of a company or other body that has a pecuniary interest in the matter.

N.B. “Relative”, in relation to a person means any of the following:

(a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descends or adopted child of the person or of the person’s spouse;

(b) the spouse or de facto partners of the person or of a person referred to in paragraph (a)

No Interest in the Matter - however, a person is not taken to have a pecuniary interest in a matter:

- If the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative or company or other body, or
- Just because the person is a member of, or is employed by, the Council.
- Just because the person is a member of, or a delegate of the Council to, a company or other body that has a pecuniary interest in the matter provided that the person has no beneficial interest in any shares of the company or body.

Disclosure and participation in meetings

- A Councillor or a member of a Council Committee who has a pecuniary interest in any matter with which the Council is concerned and who is present at a meeting of the Council or Committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable.
- The Councillor or member must not be present at, or in sight of, the meeting of the Council or Committee:
 - (a) at any time during which the matter is being considered or discussed by the Council or Committee, or
 - (b) at any time during which the Council or Committee is voting on any question in relation to the matter.

No Knowledge - a person does not breach this Clause if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

Participation in Meetings Despite Pecuniary Interest (S 452 Act)

A Councillor is not prevented from taking part in the consideration or discussion of, or from voting on, any of the matters/questions detailed in Section 452 of the Local Government Act.

Non-pecuniary Interests - Must be disclosed in meetings.

There are a broad range of options available for managing conflicts & the option chosen will depend on an assessment of the circumstances of the matter, the nature of the interest and the significance of the issue being dealt with. Non-pecuniary conflicts of interests must be dealt with in at least one of the following ways:

- It may be appropriate that no action be taken where the potential for conflict is minimal. However, Councillors should consider providing an explanation of why they consider a conflict does not exist.
- Limit involvement if practical (eg. Participate in discussion but not in decision making or vice-versa). Care needs to be taken when exercising this option.
- Remove the source of the conflict (eg. Relinquishing or divesting the personal interest that creates the conflict)
- Have no involvement by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in S451 of the Local Government Act apply (particularly if you have a significant non-pecuniary interest)

RECORDING OF VOTING ON PLANNING MATTERS

Clause 375A of the Local Government Act 1993 – Recording of voting on planning matters

- (1) In this section, **planning decision** means a decision made in the exercise of a function of a council under the Environmental Planning and Assessment Act 1979:
 - (a) including a decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but
 - (b) not including the making of an order under Division 2A of Part 6 of that Act.
- (2) The general manager is required to keep a register containing, for each planning decision made at a meeting of the council or a council committee, the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.
- (3) For the purpose of maintaining the register, a division is required to be called whenever a motion for a planning decision is put at a meeting of the council or a council committee.
- (4) Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document, and is to include the information required by the regulations.
- (5) This section extends to a meeting that is closed to the public.

BYRON SHIRE COUNCIL
EXTRAORDINARY MEETING

BUSINESS OF EXTRAORDINARY MEETING

- 1. PUBLIC ACCESS**
- 2. APOLOGIES**
- 3. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY**
- 4. NOTICES OF MOTION AND RESCISSION**
 - 4.1 Proposed Belongil Interim Beach Access Stabilisation Works Update
(Resolution 15-219).....4

Councillors are encouraged to ask questions regarding any item on the business paper to the appropriate Executive Manager prior to the meeting. Any suggested amendments to the recommendations should be provided to the Administration section prior to the meeting to allow the changes to be typed and presented on the overhead projector at the meeting.

NOTICES OF MOTION

Notice of Rescission Motion No. 4.1

**Proposed Belongil Interim Beach Access
Stabilisation Works Update (Resolution 15-219)
I2015/459**

5 **File No:**

We move that Council rescind Resolution No. 15-219 from its Ordinary meeting held on 21 May 2015 which reads as follows:

15-219 Resolved that in relation to the proposed Interim Beach Access Stabilisation (IBAS) Works at Manfred Street, Belongil, Council:

- 1. a) Adjust the 2014/15 budget allocation from \$907,000 to \$1,267,000 to include the additional funding of \$300,000 provided by the landowners and a further \$60,000 from Council funded from the Infrastructure Renewal Reserve.*
b) Accept the quotation from Hardings Earthmoving to the value of \$1,225,047 (ex GST).
- 2. That report 15.2 be made public except for the “commercial in confidence” information commencing on page 240 under the heading “appointment of contractors for the proposed works” (resolution 14-498) to the end of the report and confirm that Attachment 1 (quotation evaluation) remain confidential.*
- 3. That Council formally thank the three contributors for their donation of \$300,000 and generate a media release to advise the community of this generosity.*
- 4. That Council write to the Minister advising of our progress and request a reconsideration of the original \$300,000 grant, or part thereof considering this donation.*

If successful we intend to move:

10 **That, in relation to the proposed Interim Beach Access Stabilisation (IBAS) Works at Manfred Street, Belongil, Council:**

- 1. Not increase the 2014/15 budget allocation above its current \$907,000;**
- 2. Investigate alternate more affordable and removable means of stabilising beach access at Manfred Street;**
- 3. Suggest to affected landowners that they investigate their potential to use the same Infrastructure SEPP for similar access if needed;**
- 4. Make report 15.2 public except for the “commercial in confidence” information commencing on page 240 under the heading “appointment of contractors for the proposed works” (resolution 14-498) to the end of the report and confirm that Attachment 1 (quotation evaluation) remain confidential;**
- 5. Write to the minister requesting a reconsideration of the original \$300,000 grant, or part thereof for the new works.**

25 **Signed: Cr Duncan Dey
Cr Paul Spooner
Cr Simon Richardson**