



AGENDA

Ordinary meeting of the

Commercial Subcommittee

Thursday 18 June 2015

**Commencing at at the conclusion of the Audit, Risk and Finance
Subcommittee meeting**

Ruma Mārama, Floor 2A

Civic House

110 Trafalgar Street, Nelson

Membership: Mr John Murray (Chairperson), Her Worship the Mayor Rachel Reese, Councillors Luke Acland and Gaile Noonan, and Mr John Peters

Guidelines for councillors attending the meeting, who are not members of the Committee, as set out in Standing Orders:

- All councillors, whether or not they are members of the Committee, may attend Committee meetings (SO 2.12.2)
- At the discretion of the Chair, councillors who are not Committee members may speak, or ask questions about a matter.
- Only Committee members may vote on any matter before the Committee (SO 3.14.1)

It is good practice for both Committee members and non-Committee members to declare any interests in items on the agenda. They should withdraw from the table for discussion and voting on any of these items.

1. Apologies

Nil

2. Confirmation of Order of Business**3. Interests**

3.1 Updates to the Interests Register

3.2 Identify any conflicts of interest in the agenda

4. Public Forum**5. Confirmation of Minutes**

5.1 5 May 2015

6 - 9

Document number M1198

Recommendation

THAT the minutes of the meeting of the Commercial Subcommittee, held on 5 May 2015, be confirmed as a true and correct record.

6. Status Report - Commercial Subcommittee - 18 June 2015**10 - 11**

Document number R4391

Recommendation

THAT the Status Report Commercial Subcommittee 18 June 2015 (R4391) and its attachment (A1368654) be received.

7. Stoke Community and Sports Facility, Cafe

12 - 20

Document number R4329

Recommendation

THAT the report Stoke Community and Sports Facility, Cafe (R4329) and its attachment (A1368398) be received.

8. Meeting Dates 2015

The proposed Commercial Subcommittee meeting dates for 2015 are:

Thursday 30 July, following a meeting of the Audit, Risk and Finance Subcommittee that commences at 1pm

Thursday 10 September, following a meeting of the Audit, Risk and Finance Subcommittee that commences at 1pm

Wednesday 14 October, 9am

Thursday 12 November, following a meeting of the Audit, Risk and Finance Subcommittee that commences at 9am

PUBLIC EXCLUDED BUSINESS

9. Exclusion of the Public

Recommendation

THAT the public be excluded from the following parts of the proceedings of this meeting.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

Item	General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Particular interests protected (where applicable)
1	Commercial Subcommittee Meeting - Public Excluded - 5 May 2015	<p>Section 48(1)(a)</p> <p>The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7.</p>	<p>The withholding of the information is necessary:</p> <ul style="list-style-type: none"> • Section 7(2)(h) To enable the local authority to carry out, without prejudice or disadvantage, commercial activities.

10. Re-admittance of the public

Recommendation

THAT the public be re-admitted to the meeting.

Minutes of a meeting of the Commercial Subcommittee

Held in Ruma Mārama, Level 2A, Civic House, 110 Trafalgar Street, Nelson

On Tuesday, 5 May 2015, commencing at 1.08pm

Present: Mr J Murray (Chairperson), Her Worship the Mayor R Reese, Councillor G Noonan, and Mr J Peters

In Attendance: Councillor B McGurk, Group Manager Infrastructure (A Louverdis), Group Manager Strategy and Environment (C Barton), Manager Administration (P Langley), and Administration Adviser (G Brown)

Apology: Councillor L Acland

The meeting adjourned at 1.08pm and resumed at 4.05pm

1. Apology

Resolved COM/2015/001

THAT an apology be received and accepted from Councillor Acland.

Peters / Noonan

Carried

2. Confirmation of Order of Business

There was no change to the order of business.

3. Interests

There were no updates to the Interests Register, and no interests with items on the agenda were declared.

4. Public Forum

There was no public forum.

GOVERNANCE

5. Nelson City Council Forestry Estate Review

Document number R4173, agenda pages 5 - 17 refer.

Group Manager Strategy and Environment, Clare Barton, and Manager Environment Programmes, Dean Evans, presented the report.

In response to a question, Mr Evans said a budget review was not currently included as part of the Forestry Estate review. Ms Barton added that the Forestry Estate review could be partly funded by Project Maitai.

It was discussed that it would be beneficial to find out how much Council had invested in forestry and what returns on investment were likely to be into the future.

In response to a question in relation to the reference to the loan amount of \$2.1 million in attachment 1, Ms Barton advised that these figures still needed to be investigated.

There was a concern raised about the reference in attachment 1 to no expectation of a return on investment. Ms Barton advised the forestry infrastructure was originally established for a variety of reasons such as amenity and control of runoff.

In response to a question, Ms Barton advised that additional resources may be required if a specific skill set was needed for the review. It was noted that it would be worth speaking with consultants about forestry ownership and investments.

In response to a further question, Ms Barton clarified that the statement in 4.1.1 of the officer report was related to findings from a Cawthron Report.

In response to a question, Mr Evans advised the Forestry Estate review would be considered as part of the Nelson Plan review in relation to the land use and whether it was appropriate.

It was suggested that a commercial approach needed to be taken starting by considering why Council originally purchased the forestry land and then consider what its future use should be. It was said that there would only be three outcomes from the review, sell it, lease it, or let it regenerate.

Resolved COM/2015/002

THAT the report Nelson City Council Forestry Estate Review (R4173) and its attachment (A1345166) be received;

AND THAT the Nelson City Council forestry estate review proceeds with further information being

gathered and a recommendation and possible actions for Nelson City Council forestry activities to be brought to the Commercial Subcommittee by August 2015.

Peters / Noonan

Carried

6. Exclusion of the Public

Resolved COM/2015/003

THAT the public be excluded from the following parts of the proceedings of this meeting.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

Noonan / Peters

Carried

Item	General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Particular interests protected (where applicable)
1	Property Assets Review	Section 48(1)(a) The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7	The withholding of the information is necessary: <ul style="list-style-type: none"> • Section 7(2)(h) To enable the local authority to carry out, without prejudice or disadvantage, commercial activities

The meeting went into public excluded session at 4.28pm and resumed in public session at 5.23pm.

7. Re-admittance of the Public

Resolved COM/2015/004

THAT the public be re-admitted to the meeting.

Murray / Peters

Carried

There being no further business the meeting ended at 5.23pm.

Confirmed as a correct record of proceedings:

_____ Chairperson _____ Date

REPORT R4391

Status Report - Commercial Subcommittee - 18 June 2015

1. Purpose of Report

- 1.1 To provide an update on the status of actions requested and pending.

2. Recommendation

THAT the Status Report Commercial Subcommittee 18 June 2015 (R4391) and its attachment (A1368654) be received.

Shailey McLean
Administration Adviser

Attachments

Attachment 1: Status Report - Commercial Subcommittee - June 2015

Outstanding Actions	Committee:	Commercial Subcommittee
Action Sheets Report		

MEETING DATE	SUBJECT	MOTION	RESPONSIBLE OFFICER	COMMENTS
05 May 2015	Nelson City Council Forestry Estate Review	Resolved COM/2015/002 <u>THAT</u> the report Nelson City Council Forestry Estate Review (R4173) and its attachment (A1345166) be received; <u>AND THAT</u> the Nelson City Council forestry estate review proceeds with further information being gathered and a recommendation and possible actions for Nelson City Council forestry activities to be brought to the Commercial Subcommittee by August 2015.	Dean Evans	Forestry review contract scoped and short form agreement to be signed off by 12 June by consultant; report to be completed by August to meet timeframe. Ongoing

REPORT R4329

Stoke Community and Sports Facility, Cafe

1. Purpose of Report

- 1.1 To seek advice to guide the Community Services Committee regarding whether to include / or not a commercial space - Café, within the Stoke Community and Sports Facility.

2. Delegations

- 2.1 The Commercial Subcommittee is delegated to consider matters of commercial activities relating to Council activities.

3. Recommendation

THAT the report Stoke Community and Sports Facility, Cafe (R4329) and its attachment (A1368398) be received.

4. Background

- 4.1 Work on the Stoke Community and Sports Facility, Greenmeadows project is well underway. Concept design and budget estimates are completed. A report is being presented to the Community Services Committee on 2 July, specifically to approve the concept plans so that detailed design and consents can commence.
- 4.2 The project is extremely timeline critical in order to achieve a commencement date on site of March 2016.
- 4.3 At the 24 February 2015 Council workshop, the inclusion of a cafe was discussed. Councillors requested staff investigate the opportunity to include, or not, a Café within facility.
- 4.4 The advice from this sub-committee is deemed appropriate to guide the Community Services Committee in this decision.

5. Discussion

Café

- 5.1 The building has been designed to cater for a Café facing onto Main Road Stoke and sharing the main pedestrian entrance to the new Facility.
- 5.2 The design is such that should the Café not be required it can be removed from the end of the building, but there would be some redesign required to accommodate this.
- 5.3 The Café is estimated to add an additional \$330,000 to the existing cost estimate. Due to the very tight timeframes required to achieve the March 2016 commencement date, little time is available for detailed analysis of potential operating costs.
- 5.4 A question for this Subcommittee is whether a commercial undertaking should be part of a community facility and whether Council should provide additional funding for this? The Subcommittee may prefer to encourage access to existing businesses within the Stoke shopping area instead.
- 5.5 Due to the very tight timeframes, there has been no investigation to understand how the café might be managed, i.e. should Council fit-out the café or should an anchor tenant be responsible for this.

Consultation

- 5.6 Food and beverage retailers opposite the facility (on Main Road Stoke) have been written to asking for feedback on the Cafe proposal. Responses will be tabled at the meeting.
- 5.7 An impact assessment has been commissioned to look at potential economic effects of a café (see Attachment 1). The report is solely focused on this from a resource management perspective which does not allow for potential trade competition effects. Council needs to determine whether it seeks to set up a café which will potentially compete with other cafe business in stoke. Given there is work going on to look at Stoke centre broadly there is no desire to inadvertently affect existing business.
- 5.8 Council's solicitors have confirmed that a lease can be granted for the Café. However, the Council will need to give public notice and consider any objections before deciding to grant such a lease under section 54(1) (d) of the Reserves Act.
- 5.9 Council officers recommend that if the Café is to be included in the Facility then the Café should be included in the main submission for Resource/Building Consent as part of the expected notification process. The potential trade competition affects will need to be assessed as part of this process.

6. Options

- 6.1 The Subcommittee could indicate that it either is, or is not, appropriate to include a Café in the designs for the Stoke Community and Sports Facility building.

7. Alignment with relevant Council policy

- 7.1 The project aligns with the 2014/2015 Annual Plan and the draft 2015-25 Long Term Plan.
- 7.2 The project is consistent with Nelson 2060 particularly in providing a strong economy and sustainable city.

8. Assessment of Significance against the Council's Significance and Engagement Policy

- 8.1 This is not a significant decision in terms of Council's Significance and Engagement policy.

9. Consultation

- 9.1 Significant consultation has been undertaken.

10. Inclusion of Māori in the decision making process

- 10.1 No consultation has been undertaken with Māori.

11. Conclusion

- 11.1 The project is well advanced.
- 11.2 Officers seek advice from the Commercial Subcommittee to guide the Community Services Committee in their decision to included / or not a Café within this facility.

Shane Davies
Manager Capital Projects

Attachments

Attachment 1: A1368398 - Retail Impact Overview

28 May 2015

Via E-mail: Shanine.Hermesen@ncc.govt.nz

Nelson City Council
c/- Shanine Hermesen
Manager Community Partnerships
PO Box 645
NELSON 7040

Dear Shanine,

RE: Proposed Stoke Community Centre Café – Retail Impact Overview

Property Economics has been engaged by Nelson City Council (NCC) to provide a high level overview on the potential retail economic distributional effects of a proposed single cafe provision as part of a new development of the Stoke Community Centre.

This overview will focus on the retail component of the development only, assessing its potential retail impacts on the wider network within a Resource Management Act (RMA) context. Attached in Appendix 1 is the site in the context of the surrounding environment, while Appendix 2 highlights the current development concept on which this overview is based.

In terms of assessing potential effects under the RMA from a retail economic perspective there is first a need to differentiate between trade competition effects and flow-on retail distribution effects. By themselves trade competition effects do not provide the relevant justification for declining a retail application under the RMA, unless they are of a level that generates significant adverse flow-on retail distribution effects on the existing centre network. It is within this broader context that the relative merits of the development, in terms of potential retail impacts, needs be considered under the RMA.

Retail distribution effects are generated and the result of, consequential trade competition effects. These effects can range across the spectrum (positive and negative) depending on the level of effects generated, which is heavily dependent on the scale, type and location of the proposed retail activity, among other attributes. Where the patterns of performance, amenity and commercial activity within an existing centre would not change dramatically within a locality, then the retail distribution effects are not considered to be significant.

Put another way, such effects would occur where a new business (or cluster of businesses) affects key businesses in an existing centre to such a degree that the centre's viability is eroded, causing a decline

in its function and amenity, and disabling the people and communities who rely upon those existing (declining) centres for their social and economic wellbeing.

Retail distributional effects are differentiated from the effects of trade competition on trade competitors, which are to be disregarded pursuant to s104 (3)A with reference to resource consent applications. Although retail distributional effects are a relevant consideration for a consent authority, it should be noted that Environment Court case law has made it clear that those effects must be significant¹ (but not necessarily ruinous) before they could properly be regarded as going beyond the effects ordinarily associated with trade competition.

Due to the proportionally small quantum of retail proposed 'at grade', the proposed development is caught by Rule 15.6.1.3.1(e) of the Nelson City District Plan which states:

Any activity listed in Table 15.1 shall be a Limited Discretionary activity unless:

(e) The activity listed has a gross floor area greater than 2500m², either by itself or in combination with any other activities listed in Table 15.1 (including any activity otherwise listed as a Permitted activity within Table 15.1) located in a Business 6, 7 (excluding 7C), 8, 9 or 10 zone within a 500m distance of the boundaries of the site of the activity, in which case it is a Discretionary activity.

The assessment criteria in 15.7.3.5 apply:

Without limiting the exercise of the Council's discretion, activities will be assessed to determine the extent of any adverse social and economic effects, including the following effects:

- a) The extent to which the new activities would result in a significant adverse effect on the commercial and community services and facilities of any existing or proposed business centre as a whole.*
- b) The extent to which the overall availability and accessibility of commercial and community services and facilities will be maintained in any existing business centre.*
- c) The extent to which the new activities would result in a significant adverse effect on the character, heritage and amenity values of any existing or proposed centre.*

¹ Northcote Mainstreet vs North Shore City Council (High Court, CIV-2003-404-5292). Randerson J stated: "In regard to shopping centres, I would not, with respect, subscribe to the view that the adverse effects of some competing retail development must be such, as to be ruinous before they could be considered. But they must, at the least, seriously threaten the viability of the centre as a whole with on-going consequential effects for the community served by that centre."

d) The extent to which the benefits of a new development are able to directly or indirectly mitigate any adverse effects in a), b) or c) above.

Taking into consideration the scale, type and location of the proposed café provision, the proximity to centre competition (Stoke Town Centre), the development is simply not considered of a scale that has the propensity to generate significant adverse retail distribution effects on surrounding centres, particularly the Stoke Town Centre. Nor could it jeopardise the viability, role, or function of any centre.

Given that the proposed café will be adjacent to the Stoke Town Centre, it will essentially operate as an extension of the existing centre with any retail effects being trade competition only. For example if one café was affected enough for it to close down, there is no net economic or social loss to the community as the new (arguably better) café would fill that provision. The provision of additional retailing within the Stoke Town Centre in no way disadvantages the local community, but rather provides additional choice and competition within the local market.

It should also be noted that the proposed development of the Stoke Community Centre will also help to attract more people to the area and thereby increasing the presence of the Stoke Town Centre within the local market. This in turn is likely to increase the level of retail spending within the area, mitigating a proportion of the retail trade impacts that may occur as a result of the proposed café provision, albeit these effects themselves being negligible in size and scope.

To put the proposed development (in terms of retailing) into perspective, the retail provision at Stoke Town Centre encompasses in the order of 18,500sqm GFA with around 30 stores and contains two supermarkets as anchor tenants, in comparison the proposed café covers less than 200sqm GFA. With these parameters, Property Economics consider a full retail economic impact assessment is not warranted in this instance given the contextual scale of the proposed development and the negligible impacts likely to be generated.

In the opinion of Property Economics, a proposed café as part of the Stoke Community Centre does not constitute a material retail development, and any effects generated from proposed development are considered trade competition effects only and therefore irrelevant in RMA terms. Nor does the retail activity itself have the propensity to generate significant adverse retail distribution effects on the market. Any trade diversion effects will be negligible in my opinion and trade competition based. Further to this, market growth would very quickly offset any diversion of trade from other retail stores making any trade impacts non-consequential and short lived.

Therefore the commercial centre network, its form, function, performance, amenity and vitality cannot be jeopardised or undermined in any capacity as a result of the proposed development. Overall, the proposed Stoke Community Centre is likely to be the genesis of increased patronage of Stoke by attracting increased volumes of people to the area for non-retail related activities. This is likely to result

in a net positive economic benefit for the Stoke Town Centre and community in respect of economic performance and social wellbeing.

On this basis, from a retail and economic perspective, the proposed development is supported.

If you have any queries please feel free to give me a call.

Yours faithfully



Tim Heath
Director



APPENDIX 1: STOKE COMMUNITY CENTRE AND SPORTS GROUNDS SITE



APPENDIX 2: STOKE COMMUNITY CENTRE REDEVELOPMENT CONCEPT PLAN

Stoke Community & Sports Facility

Greenmeadows Sports Ground, STOKE

Concept Design Issue 13.05.15

Sheet Title	Sheet No.	Sheet Name	Revision	Date
1.1	1.1	1.1	1.1	1.1
1.2	1.2	1.2	1.2	1.2
1.3	1.3	1.3	1.3	1.3
1.4	1.4	1.4	1.4	1.4
1.5	1.5	1.5	1.5	1.5
1.6	1.6	1.6	1.6	1.6
1.7	1.7	1.7	1.7	1.7
1.8	1.8	1.8	1.8	1.8
1.9	1.9	1.9	1.9	1.9
1.10	1.10	1.10	1.10	1.10
1.11	1.11	1.11	1.11	1.11
1.12	1.12	1.12	1.12	1.12
1.13	1.13	1.13	1.13	1.13
1.14	1.14	1.14	1.14	1.14
1.15	1.15	1.15	1.15	1.15
1.16	1.16	1.16	1.16	1.16
1.17	1.17	1.17	1.17	1.17
1.18	1.18	1.18	1.18	1.18
1.19	1.19	1.19	1.19	1.19
1.20	1.20	1.20	1.20	1.20



Project Name	Stoke Community & Sports Facility
Client	Stoke-on-Trent City Council
Location	Greenmeadows Sports Ground, Stoke-on-Trent, ST2 0AG
Project Manager	Stoke-on-Trent City Council
Design Team	Stoke-on-Trent City Council
Issue	13.05.15

Concept Design Issue 13.05.15

Project Name	Stoke Community & Sports Facility
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Issue	13.05.15

Sheet No.	1.1
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