

# AGENDA

TORRES STRAIT ISLAND REGIONAL COUNCIL

JUNE 2021

Tuesday 29<sup>th</sup> June 2021, 10:30am – 5:00pm

Wednesday 30<sup>th</sup> June 2021, 9:00am – 3:00pm

Video Conference

## **COUNCIL ORDINARY MEETING**

**Tuesday 29<sup>th</sup> June 2021**

### **Agenda Items**

- |     |                          |   |
|-----|--------------------------|---|
| 1.  | <u>10:30am – 10:35am</u> | <u>Welcome and Opening Remarks</u>  |
| 2.  | <u>10:35am – 10:40am</u> | <u>Apologies</u>  |
| 3.  | <u>10:40am – 10:45am</u> | <u>Declaration of Conflict of Interest (COI) (Prescribed and Declarable)</u>  |
| 4.  | <u>10:45am – 11:00am</u> | <u>Confirmation of Previous Council Ordinary Meeting Minutes</u> <ul style="list-style-type: none"><li>• 24<sup>th</sup> and 25<sup>th</sup> May 2021</li></ul> |
| 5.  | <u>11:00am – 11:15am</u> | <u>Outstanding Council Ordinary Meeting Action Items</u>  |
| 6.  | <u>11:15am – 11:30am</u> | <u>LEGAL – Transfer of Dwelling house on LHA – Masig Lot 17</u>   |
| 7.  | <u>11:30am – 11:45am</u> | <u>LEGAL – Transfer of Dwelling house on LHA – Masig Lot 20</u>   |
| 8.  | <u>11:45am – 12:00am</u> | <u>LEGAL – Church Services using TSIRC Facilities</u>   |
| 9.  | <u>12:00am – 12:15am</u> | <u>LEGAL – Complaint Public Official Policy Review</u>  |
| 10. | <u>12:15am – 12:30am</u> | <u>LEGAL – Delegation Update ENPR</u>   |

### **LUNCH 12:30pm – 1:30pm**

- |     |                        |  |
|-----|------------------------|--|
| 11. | <u>1:30pm – 1:45pm</u> | <u>BUILDING – BSU Update – June 2021</u>   |
| 12. | <u>1:45pm – 2:00pm</u> | <u>BUILDING – DH&amp;PW Interim/Forward Capital Works Funding</u>                    |
| 13. | <u>2:00pm – 2:15pm</u> | <u>BUILDING – QBuild Timeframe Agreement</u>   |
| 14. | <u>2:15pm – 2:30pm</u> | <b><u>COUNCIL MOVE INTO CLOSED BUSINESS</u></b>                                      |
| 15. | <u>2:30pm – 2:45pm</u> | <u>ASSETS – Contractual Matter – Thursday Island Council Office Roof Replacement</u> |
| 16. | <u>2:45pm – 3:00pm</u> | <u>LEGAL – CB – Contingent Liability</u>   |
| 17. | <u>3:00pm – 3:15pm</u> | <u>BUSINESS SERVICES – CB – Debtor Write-Off - Arafura Blue Marine P/L</u>           |

### **AFTERNOON TEA 3:00pm – 3:15pm**

- |     |                        |  |
|-----|------------------------|--|
| 18. | <u>3:15pm – 3:30pm</u> | <u>BUSINESS SERVICES – CB – 2021/2022 Budget Update <b>Late</b></u>  |
| 19. | <u>3:30pm – 3:45pm</u> | <u>BUILDING – CB – Contractual Matter – TSIRC 2021-338 - Saibai Fuel Infrastructure Upgrade</u>  |
| 20. | <u>3:45pm – 4:00pm</u> | <u>ENGINEERING – CB – Contractual Matter – TSIRC 2020-328 (Portion A) – Saibai Island Airport Apron Upgrade</u>  |
| 21. | <u>4:00pm – 4:15pm</u> | <u>ENGINEERING – CB – Variation of Contract No. TSIRC 2018-120 MIP6 Water Supply Lagoon Cover Replacements to include the Boigu Lagoon Cover Replacement</u> |
| 22. | <u>4:15pm – 4:30pm</u> | <u>ENGINEERING – CB – Funding Matter – Marine Infrastructure Audit – Funding Agreement</u>   |
| 23. | <u>4:30pm – 4:45pm</u> | <b><u>COUNCIL MOVE INTO CLOSED BUSINESS</u></b>  |
| 24. | <u>4:45pm – 5:00pm</u> | <u>ENGINEERING – Award of Purchase Orders – Poruma Seawall</u>   |
| 25. | <u>5:00pm – 5:15pm</u> | <u>Closing Remarks and Prayer</u>  |

**COUNCIL ORDINARY MEETING**  
**Wednesday 30<sup>th</sup> 2021**  
**Agenda Items**

- |     |                         |   |
|-----|-------------------------|---|
| 26. | <u>9:00am – 9:05am</u>  | <u>Welcome and opening prayer.</u>  |
| 27. | <u>9:05am – 9:45am</u>  | <b><u>Deputation 1:</u></b> – Australian Bureau of Statistics – Ms Vera Havili & Ms Lency Pedro |
| 28. | <u>9:45am – 10:05am</u> | <u>BUSINESS SERVICES – May 2021 Financial Report</u>  |

**MORNING TEA – 10:05am – 10:30am**

- |     |                          |   |
|-----|--------------------------|---|
| 29. | <u>10:30am – 10:40am</u> | <u>BUSINESS SERVICES – Policy Matter - Investigation Policy</u>   |
| 30. | <u>10:40am – 11:00am</u> | <u>BUSINESS SERVICES – Policy Matter - Financial Policies Review</u>  |
| 31. | <u>11:00am – 11:20am</u> | <u>BUSINESS SERVICES – Policy Matter - Strategic External Grant Funding Policy</u>  |
| 32. | <u>11:20am – 11:40am</u> | <u>BUSINESS SERVICES – Councillor Remuneration, Reimbursement and Facilities Provision Policy</u> <span style="color: red;">Late</span> |
| 33. | <u>11:40am – 12:00pm</u> | <u>BUSINESS SERVICES – People and Wellbeing Policies Review</u>   |

**LUNCH – 12:00pm – 1:00pm**

- |     |                        |  |
|-----|------------------------|--|
| 34. | <u>1:00pm – 1:20pm</u> | <u>BUSINESS SERVICES – Sole Supplier</u>   |
| 35. | <u>1:20pm – 1:40pm</u> | <u>BUSINESS SERVICES – Insurance Renewal 2021/2022</u> <span style="color: red;">- Late</span> |
| 36. | <u>1:40pm – 2:00pm</u> | <u>HOUSING – Housing Policies</u>  |
| 37. | <u>2:00pm – 2:05pm</u> | <u>Next COM Meeting Date – July 20<sup>th</sup> &amp; 21<sup>st</sup> 2021 – Iama</u>          |
| 38. | <u>2:05pm – 2:15pm</u> | <u>Business Arising from Information Reports</u>   |
| 39. | <u>2:15pm – 2:45pm</u> | <u>Strategic Matters</u>   |
| 40. | <u>2:45pm – 3:00pm</u> | <u>Closing Remarks and Prayer</u>  |

# **TORRES STRAIT ISLAND REGIONAL COUNCIL**

## **AGENDA REPORT**

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### **ORDINARY MEETING**

**DATE:** June 2021

**ITEM:**

**SUBJECT:** Agreement to transfer a Land Holding Act House on Lot 17 on SP277431 on Masig from TSIRC to Celsia Bethel Bani and Mary Laurah Whap.

**AUTHOR:** Peter Krebs, Senior Legal Counsel

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### **PERSONAL INTERESTS**

Councillors are reminded to inform the meeting of any prescribed conflicts of interests or declarable conflicts of interests.

### **RECOMMENDATION**

*That Council agrees to the transfer of its social house (Asset No. 1002945) on Lot 17 on SP277431 on Masig to Celsia Bethel Bani and Mary Laurah Whap and remove it from the Social Housing and Assets Register and authorises the Mayor or Chief Executive Officer to sign the Agreement for transfer of Dwelling.*

### **PURPOSE**

The purpose of this report is to seek Council endorsement on the application for the transfer of TSIRC social house on Masig to Katter lease holders Celsia Bethel Bani and Mary Laurah Whap and to remove it from the Social Housing and Assets Register.

### **BACKGROUND**

A paper was presented (Attachment 1) to the 15 November 2018 Ordinary meeting regarding the resolution of LHA (Katter) Lease entitlements seeking Council endorsement amongst other things for the transfer of a social house on a Katter lease to the Katter lease holder for a peppercorn.



The decision to transfer for a peppercorn was the result of negotiations between the Department of Housing and TSIRC back in February 2015 where it was agreed that the houses be transferred to the Katter lease holder upon the State bringing the condition of the houses to a safe standard.

At the 15 November 2018 Ordinary Council meeting, due to the fact that a majority of Councillors present had a conflict of interest due to the fact that they were Katter lease holders or had family members who were Katter lease holders and therefore there was no quorum, the matter was then put over to the 23 November 2018 for consideration.

At the Council Ordinary meeting on 23 November 2018 the following resolutions were passed due to the lack of a quorum and recorded in the minutes (Attachment 2).

**RESOLUTION:**

*Moved:* Cr Pearson; *Second:* Cr Levi

**1. That Council delegate deciding the matter to the Chief Executive Officer under section 257 of the *Local Government Act 2009 (Qld)*, due to a majority of Councillors informing the meeting that they have a personal interest in the matter.**

**MOTION CARRIED**

**RESOLUTION:**

*Moved:* Kaigey; *Second:* Cr Akiba

**2. That Council reserve its rights in relation to its financial interest in the houses affected by Land Holding Act/ LHA lease interests.**

**MOTION CARRIED**

**RESOLUTION:**

*Moved:* Cr Nona; *Second:* Cr Akiba

**3. That Council delegate to the CEO the power to execute all documents necessary to give effect to Land Holding Act (LHA) lease interests.**

**MOTION CARRIED**

Council received a letter dated 8 June 2021 in which was attached an agreement for Transfer of Dwelling from the Department of Communities, Housing and Digital Economy (Attachment 3). The Transfer has been signed by both Celsia Bethel Bani and Mary Laurah Whap. The Transfer requires either the Mayor or CEO signature to come into effect.

Under Council's Trustee Policy PO 19, Council is committed to facilitating private homeownership within the TSIRC Municipality.

Since this involves the transfer of an asset which would exceed the CEO's delegation of \$200,000, the matter has been brought to council for a decision.

### **CONSULTATION**

Cr. Mosby  
TSIRC Housing Department  
TSIRC Assets  
Department of Housing and Public works

### **LINKS WITH STRATEGIC PLANS**

Corporate Plan

### **STATUTORY REQUIREMENTS**

*Local Government Act 2009 (Qld)*  
*Local Government Regulation 2012 (Qld)*  
*Torres Strait Islander Land Holding Act 2013 (Qld)*  
*Land Act 1994 (Qld)*

### **FINANCE AND RISK**

*Removal of Asset from Register*

*Loss of rental income.*

*Operating Cost*

*NIL*

*Risk Assessment*

### **SUSTAINABILITY**

N/A

## **CONCLUSION**

As presented.



David Baldwin

**A/CEO**



Peter Krebs

**Senior Legal Counsel**

## **ATTACHMENTS:**

1. Late Agenda report – Council OM 15 November 2018
2. Minutes of Meeting – Council OM 15 & 23 November 2018
3. Agreement to Transfer Dwelling

**TORRES STRAIT ISLAND REGIONAL COUNCIL  
LATE AGENDA REPORT**

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**ORDINARY MEETING**

**DATE:** 15–16 November 2018  
**SUBJECT ITEM:** Resolution of LHA (Katter) Lease entitlements  
**AUTHOR:** Julia Maurus, Manager Legal Services

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**PERSONAL INTERESTS**

Councillors are reminded to declare any personal interests relating to:

- Registered LHA leases where the house is owned by TSIRC
- LHA lease entitlements where the house is owned by TSIRC

**RECOMMENDATION**

1. *That Council endorse the following methodology for the transfer of a social housing dwelling located on lease land for (i) a lease granted under the Aborigines and Torres Strait Islanders (Land Holding) Act 1985 or (ii) a lease granted or proposed to be granted under the Aboriginal and Torres Strait Islander Land Holding Act 2013:*
  - a. *Where applicants registered an Expression of Interest to purchase the dwelling with their lease application, these dwellings may be considered owned or paid for by the lessee, and ownership may be transferred administratively; and*
  - b. *Where there is no record that the applicants registered an Expression of Interest to purchase the dwelling, the value of the dwelling is a “peppercorn”.*
2. *That the CEO and Mayor make deputations to the State to seek compensation from the State to Council for the financial impact of transferring to private ownership the social houses subject to*

*perpetual lease interests.*

## **PURPOSE**

The purpose of this report is to allow Council to make a resolution on its position regarding the transfer of social houses for the purpose of resolving Katter/LHA lease entitlements.

## **BACKGROUND**

For the purpose of resolving LHA/Katter lease entitlements, there are three “tranches”, with Tranche 1 being the most straight-forward and Tranche 3 being the most complex:

**Tranche 1:** Land and private houses

**Tranche 2:** Applicant or beneficiary resides in the house (social house)

**Tranche 3:** Tenant is not the applicant or beneficiary (social house)

For the purpose of house (asset) ownership, the categories are as follows:

**Category 1:** Leases are LHA leases which have been granted – they have a Governor-in-Council approval.

**Category 2:** Leases are LHA leases which are Granted OR Entitlements – that have an EOI approval.

**Category 3:** Leases are LHA leases which are Granted OR Entitlements – that have no EOI.

**Attachment 1** is a “Current Summary of Granted Leases, Lease Entitlements and Invalid Applications made under the *Aborigines and Torres Strait Islanders (Land Holding) Act 1985* for Torres Strait Communities as at 13 November 2018”.

Council's adopted house price methodology only applies to 99-year home-ownership leases and any freehold option land. For LHA leases, there has been correspondence between TSIRC, DHPW and DNRM relating to lease entitlements, which confirms that there is peppercorn/no purchase price for a Katter lease house. However, there is no Council resolution confirming this "Council position".

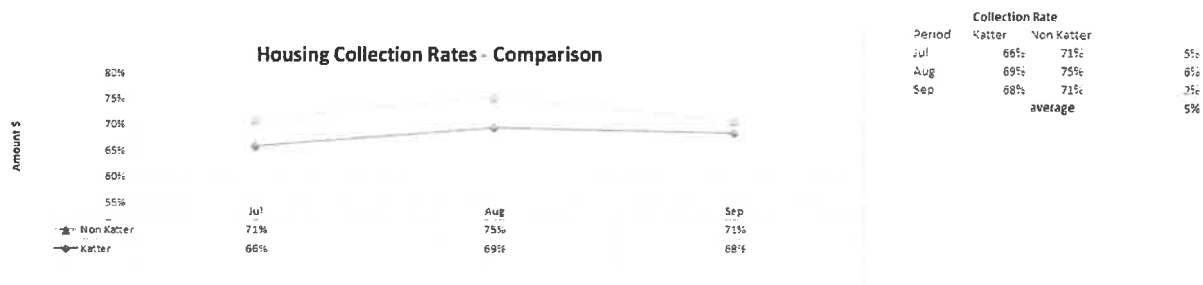
**Attachment 2** is the letter from DHPW to TSIRC dated 16 February 2015 that, relevantly, proposed the following:

- Where applicants registered an Expression of Interest to purchase the dwelling with their lease application, these dwellings are considered owned or paid for by the lessee, and ownership will be transferred administratively in these categories.
- Where applications did not register an Expression of Interest to purchase the dwelling, it is proposed that dwellings be transferred at a "peppercorn" rate.

**Attachment 3** is email correspondence from TSIRC to DNRM confirming Council's support for the above to points, and confirming that in each case the State must undertake maintenance and/or improvements to bring the houses to a safe standard.

Included as **Attachment 4** is financial modelling of the potential impact on Council of the proposed methodology for Katter (LHA) lease houses.

At present, the difference in the rent collection rate between houses affected by LHA interests and houses not affected by LHA interests is 5% (July to September 2018 average):



It should be noted that many of the social houses affected by LHA entitlements have rent arrears. If/when these houses are converted to private ownership, Council could continue to pursue rental debts, however there is limited legal action the Housing team is able to take under the *Residential Tenancies and Rooming Accommodation Act*, and it is likely that the majority of debt will be written off via the statute-barred debt process.

The reasons for the peppercorn/nil house price are:

1. An original agreement for some tranche 1 and tranche 2 entitlements that a number of years' rent (up to 100 months) be taken as payment for the dwelling;
2. The length of time applicants have waited for their leases to be granted (around 30 years);
3. The length of time applicants have waited for house ownership to be transferred (around 30 years);
4. Fairness, considering that applicants have been charged rent to date and the houses have not been maintained to the same standard as non-LHA social houses in the region; and
5. To avoid any further impediments to resolving rights under the LHA regime.
6. The intention of the LHA lease regime was to provide for home ownership. Therefore, even where there is no record of an Expression of Interest, it can be assumed that applicants did want

home ownership.

The methodology is also consistent with the approach taken in transferring five (5) dwellings at Poruma in April 2018 from TSIRC to registered Katter lease holders/beneficiaries. These Katter lease holders are in Category 3 (no EOI to purchase the house). These houses were transferred for peppercorn consideration (\$1.00).

At the September 2018 Ordinary Meeting, Council advised that there would be no price charged to the entitlement holders for the social houses, but that Council should make a deputation to the State about the impact of the Katter leases on Council's social housing rent revenue. The matter was recorded as follows:

**THIS ITEM IS LEFT LYING ON THE TABLE**

**ACTION:** Mayor and CEO to have a deputation with the Minister for Housing and Local member, Ms Cynthia Lui regarding housing entitlements and sub leases.

**ACTION:** SEA to place on the November workshop agenda LHA Katter Lease – sub lease category to be workshopped by Councillors.

**OFFICER COMMENT**

MLS has drafted a letter to Minister Mick de Brenni, the Minister for Housing and Public Works. The draft is included as **Attachment 5** for Council's consideration. Mayor Gela has not confirmed his support for this letter because there is no Council resolution confirming this position, and it is a departure from TSIRC's policy to date in advocating for the resolution of LHA lease entitlements. This report has therefore been prepared to allow Council to consider all issues and risks involved and to make a resolution confirming its position.

The Katter lease house price is addressed in section 62 of the *Aboriginal*



and Torres Strait Islander Land Holding Act 2013 (Qld), as follows:

*62 – Use of valuation methodology for social housing dwelling*

*1) This section applies if—*

*(a) a social housing dwelling is located on the lease land for a 1985 Act granted lease, a new Act granted lease or a proposed new Act granted lease; and*

*(b) the owner of the dwelling is—*

*i. the State; or*

*ii. the trustee of the trust area, or the part of the trust area, where the dwelling is located; or*

*iii. if the lease land is also the subject of a townsite lease under ALA or TSILA—the lessee under the townsite lease.*

*2) The owner of the dwelling may transfer the dwelling to a person who is or is to become the lessee under the lease.*

*3) The value of the dwelling for the transfer is—*

*(a) if in the trust area there is in operation a valuation methodology agreed under ALA, section 128(2) or TSILA, section 93 (2)—the value decided by using the methodology; or*

*(b) otherwise—the value decided by using the valuation methodology decided by the housing chief executive.*

*4) Subsection (3) does not apply if the value is decided by the Land Court in deciding an application for—*

*(a) a contested deferred grant; or*

*(b) an agreed boundary relocation; or*

*(c) a contested boundary relocation.*

The intention of DHPW, in its letter dated 16 February 2015, was that the peppercorn/nil purchase price would fall under subsection (3)(b) above.

That is, although TSIRC has adopted a valuation methodology under the ALA and TSILA, in the case of Katter lease houses, DHPW has decided a separate methodology (peppercorn/nil purchase price).

## **CONSULTATION**

Chief Executive Officer

Mayor

Financial Services

Executive Manager Housing Services

Department of Housing and Public Works (DHPW)

Department of Natural Resources and Mines (DNRME)

Department of Aboriginal and Torres Strait Islander Partnerships  
(DATSIP)

## **LINK WITH STRATEGIC PLAN**

- Environment - (3) Healthier communities by improving wellbeing and living standards with affordable, appropriate housing.
- Economic Participation - (2) Growth in the local economy through economic change.

## **RISK AND SUSTAINABILITY**

- Affordability of housing.
- Consistent approach to the resolution of LHA rights.
- Political risk (perception if Council changes its policy and delays the grant of LHA leases, essentially “holding the State to ransom”).
- Need to resolve LHA rights.
- Recoverability of rent arrears for social houses affected by LHA entitlements.
- Divestment of Council assets (reduces Council’s social housing

stock and tenancy revenue).

- State is bearing the cost of bringing houses up to a safe standard before ownership transfer.

## **STATUTORY REQUIREMENTS**

*Torres Strait Islander Land Holding Act 2013 (Qld)*

*Aboriginal Land Act 1991 (Qld)*

*Torres Strait Islander Land Act 1991 (Qld)*

*Local Government Act 2009 (Qld)*

*Land Act 1994 (Qld)*

## **CONCLUSION**

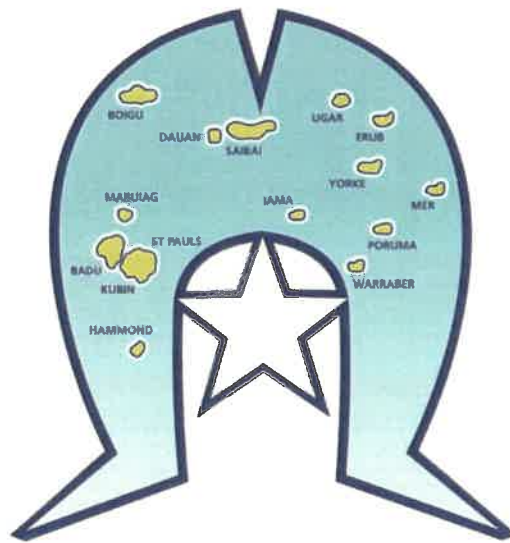
As presented.

Bruce Ranga  
CEO

Julia Maurus  
Manager Legal Services

## **Attachments**

1. Current Summary of Granted Leases, Lease Entitlements and Invalid Applications made under the *Aborigines and Torres Strait Islanders (Land Holding) Act 1985* for Torres Strait Communities as at 17 May 2018. (DNRME)
2. Letter from DHPW to TSIRC dated 16 February 2015.
3. Email from TSIRC to DHPW dated 27 July 2015.
4. Financial modelling of the potential impact on Council of the proposed methodology.
5. Draft letter to Minister Mick de Brenni



# **Torres Strait Island**

## **REGIONAL COUNCIL**

### **MINUTES**

### **ORDINARY MEETING**

Thursday 15 November 2018: 9:00am to 5:00pm  
Friday 23 November 2018: 9:00am to 5:00pm

Lagoon Room, Shangra La Marina, Pier Point Road, CAIRNS

**Thursday 15 November 2018**

**Present**

Cr Fred Gela, Mayor  
Cr Dimas Toby, Division 1 – Boigu Island  
Cr Keri Akiba, Division 3 – Saibai Island  
Cr Keith Fell, Division 4 – Mabuiag Island  
Cr Laurie Nona, Division 5 – Badu Island  
Cr David Bosun, Division 6 – Kubin Community at Moa Island  
Cr John Levi, Division 7 – St Pauls Community at Moa Island  
Cr Mario Sabatino, Division 8 – Kirriri Island  
Cr Getano Lui Jnr, Division 9 – Iama  
Cr Clara Tamu, Division 10 – Warraber Island  
Cr Francis Pearson, Division 11 – Poruma Island  
Cr Ted Nai, Division 12 – Masig Island  
Cr Rocky Stephen, Division 13 – Ugar  
Cr Patrick Thaiday, Division 14 – Erub Island  
Cr Bob Kaigey, Division 15 – Mer Island  
Mr Bruce Ranga, Chief Executive Officer (CEO)  
Ms Jan Pool, Chief Operating Officer (COO)  
Mr David Baldwin, Executive Manager Engineering Services (EMES)  
Mr David Abednego, Executive Manager Community Services (EMoCS)  
Ms Hollie Faithfull, Acting Executive Manager Financial Services (AEMFS)  
Ms Julia Maurus, Manager Legal Services (MLS)  
Mrs Ursula Nai, Senior Executive Assistant (SEA)  
Mrs Kathy Cochran, Secretariat Officer (SO)

**Apologies**

Cr Torenzo Elisala, Division 2 – Dauan Island

1. **9:15am – 9:19am** **Opening Prayer by Cr Pearson and Welcome by Mayor Gela**

**Mayor Gela, Welcome and Opening Remarks**

Mayor Gela welcomed everyone and apologised for the late start. Mayor invited Cr Pearson to open the meeting in prayer.

Mayor Gela acknowledges the traditional owners of the land we're meeting on today in Cairns. He acknowledges the traditional owners throughout Zenadth Kes and paid respects to all elders past, present and emerging. Mayor Gela further acknowledged Councillors, the CEO and staff.

2. **9:19am – 9:19am** **Apologies**

Cr Elisala applied for leave of absence in advance at the October Ordinary meeting.

**RESOLUTION:**

*Moved:* Cr Kaigey; *Second:* Cr Stephen

**That Council accept the apology from Cr Elisala for his absence at this meeting.**

**MOTION CARRIED**

3. **9:19am – 9:23am** **Declaration of Conflict of Interest (COI) or Material Personal Interest (MPI)**

<b>Name of Councillor</b>	<b>Agenda Item</b>	<b>COI/MPI</b>
Cr Gela	10. LEGAL – Resolution of LHA Lease Entitlements	COI – representative/ spokesperson for in-laws who are LHA applicants
Cr Nona	10. LEGAL – Resolution of LHA Lease Entitlements	MPI – Katter Lease recipient
Cr Nai	10. LEGAL – Resolution of LHA Lease Entitlements	MPI – Katter Lease recipient
Cr Tamu	10. LEGAL – Resolution of LHA Lease Entitlements	MPI – Husband recipient of a Katter Lease
Cr Stephen	10. LEGAL – Resolution of LHA Lease Entitlements	MPI – Father is a recipient of a Katter Lease
Cr Pearson	10. LEGAL – Resolution of LHA Lease Entitlements	MPI – Family members recipient of a Katter lease
Cr Toby	10. LEGAL – Resolution of LHA Lease Entitlements	COI – generally assists LHA Lease applicants – Council agrees Cr Toby has no conflict of interest.

Mayor encouraged Councillors to make their disclosures, either COI/MPI be known at any time throughout the meeting.

4. **9:30am – 9:38am** **Confirmation of October 2018 Ordinary Meeting Minutes**

Amendments/ corrections;

- Page 2 – correction Dimus to read “Dimas”
- Page 3 – insert “Cr Fell” as the Councillor who second the for Apology resolution for Cr Elisala.
- Page 8 – In resolution “Development” should read “Deed”
- Page 9 – Item 16 – delegation should read the “CEO” not “COO”

- Page 9 – Item 16 – in put before the resolution “No quorum, Councillors re-joined the meeting.
- Page 12 – Item 22 – in put before the resolution “No quorum, Councillors re-joined the meeting.

**RESOLUTION:**

*Moved:* Cr Fell; *Second:* Cr Kaigey

**That the minutes of the Ordinary Meeting held in October 2018 be adopted as a true and accurate record of that meeting taking into account the above amendments.**

**MOTION CARRIED**

**5. 9:38am – 9:42am Outstanding Strategic Ordinary Meeting Action items**

1. Discussion with Sea Swift regarding their part in the mail service to Ugar – Manager Procurement waiting on Australia Post to mail volume. Work in progress.
2. Circulate the ALGA National key areas to Councillors - completed
3. Invite DATSIP Director General to our next OM in Cairns – Dr Sarra will be invited to an OM in 2019. Update at Jan 2019 OM.
4. Badu Lease Options – Lot 623 – report being tabled December 2018
5. SARG terms of reference – update to reflect the minute exemptions per Council resolution. Completed.
6. Ugar Community visit – Mayor and CEO. Currently in progress.
7. Mayor and CEO community visit across the region. SEA will provide dates to Councillors at December OM.

**6. 9:42am – 9:44am HOUSING – Policy Approval**

**RESOLUTION**

*Moved:* Nil

**That Council adopts Housing Services Department’s policy for a period of two years, being:**

***Maintenance Debt Policy***

If it is established that a tenant or their guest/s has damaged a Council property, Council will request that tenants pay for the repair on the basis of 50% of the standard average cost for a similar repair in a remote region.

Council will identify the charge onto the tenant rental account as maintenance debt.

**ITEM LEFT LYING ON THE TABLE**

**Assess whether the proposal is justified and consistent with our role as registered housing provider.**

Mayor Gela advised the Policies needs to run parallel with the governing Act.

**7. 9:44am – 10:10am Mayoral Update**

Mayor Gela updated the Councillor on the following matters;

- Belcarra Report – complying with disclosure recommendations
- Budget for 2020 – factor in budget, cost of a by-election
- Drought Relief funds – extra financial support – water issues
- LGAQ Board meeting and conference – FAGS grant – need to change the methodology for distribution of funds.
- Comlek discussions – waste management, power generation and by product. Anaerobic system – Councillors to visit places with these system.

- Sherlock – data collating and collection
- Minister Mick DeBrenni - \$40m for new housing Qld wide. Mayor Gela nominated as the FNQ Rep on the Steering committee.
- Rental income – reviewing our model
- Commonwealth Government released the residual funding of \$115m for new builds to be built by Dec 2019.
- First Start Program - \$3m to create and support 400 apprenticeships. COO to note.
- DATSIP update later

**10:10am – 10:30am – Morning Tea break**

**8.      10:30am – 11:19am              PRESENTATION: AUDIT Committee Update – Mr Eric Muir (Chair)**

Mayor Gela welcomes Mr Eric Muir, Chairman of the Audit Committee and Mr Paul Shipperley a committee member. He thanked them both for their work and coming today to provide Council with an overview of the year.

**9.      11:19am – 11:46am              LEGAL – Resolution of Land Holding Act Lease Entitlements**

MLS spoke to this report.

Cr Sabatino clarified that Mayor cannot vote on trustee matters (Local Government Act section 85 & 86).

- Cr Gela declared a conflict of interest (COI)
  - COI details: Cr Gela is a spokesperson for his in-laws who are LHA applicants.
  - How the Councillor proposed to deal with the COI: Cr Gela left the room.
- Cr Nona declared a material personal interest (MPI)
  - MPI details: Cr Nona is a LHA recipient.
  - How the Councillor proposed to deal with the MPI: Cr Nona left the room.
- Cr Tamu declared a material personal interest (MPI)
  - MPI details: Cr Tamu's husband is a LHA recipient
  - How the Councillor proposed to deal with the MPI: Cr Tamu left the room.
- Cr Pearson declared a material personal interest (MPI)
  - MPI details: Cr Pearson's direct family members are LHA recipients.
  - How the Councillor proposed to deal with the MPI: Cr Pearson left the room.
- Cr Stephen declared a material personal interest (MPI)
  - MPI details: Cr Stephen's father is a LHA recipient.
  - How the Councillor proposed to deal with the MPI: Cr Stephen left the room.
- Cr Nai declared a material personal interest (MPI)
  - MPI details: Cr Nai is a LHA recipient.
  - How the Councillor proposed to deal with the MPI: Cr Nai left the room.
- Cr Bosun declared a conflict of interest (COI)
  - COI details: Cr Bosun's father in law is a LHA recipient.



- How the Councillor proposed to deal with the COI: Cr Bosun left the room due to public perception.
- Cr Levi declared a conflict of interest (COI)
  - COI details: Cr Levi's mother in law is a LHA lease holder.
  - How the Councillor proposed to deal with the COI: Cr Levi left the room due to public perception.
- Cr Toby declared a potential conflict of interest (COI)
  - COI details: Cr Toby's uncle is a LHA recipient.
  - How the Councillor proposed to deal with the COI: Council noted the perceived conflict and decided that Cr Toby could stay in the room.

There being no quorum to consider the matter, all Councillors re-enter the room at 11:43am and Council decided to defer the matter to 2pm on Friday, 23<sup>rd</sup> November 2018, being day two of and the continuation of the Ordinary Meeting.

**ACTION: SO to place on the Agenda at 2pm on Friday 23<sup>rd</sup> November 2018.**

**10. 11:46am – 11:46am COUNCIL MOVE INTO TRUSTEE**

**RESOLUTION:**

*Moved:* Cr Levi; *Second:* Cr Kaigey

**That in accordance with Section 83 of the Local Government Act 2009 (QLD) management of Community Deeds of Grant in Trust, the meeting of the Trustee of Community DOGIT be convened and conducted as separate meetings from the Indigenous Regional Council.**

**MOTION CARRIED**

**11. 11:32am – 11:44am TRUSTEE - LEGAL – Trustee Policy**

MLS spoke to this report. Council does not currently have a Trustee Policy. The Queensland Government Leasing Torres Strait Islander DOGIT Land: Manual for Trustees recommends that trustees of DOGIT land have internal policies relating to the leasing of land. The purpose of the report is to present a new policy, called the Trustee Policy, for Trustee consideration.

**RESOLUTION:**

*Moved:* Cr Fell; *Second:* Cr Toby

**That the Trustee endorse the Trustee Policy P029, as presented with amendments to 6(b), 6(c), 6(d), 8(a), 11 and 12 and removal of 10.**

**MOTION CARRIED**

**ACTION:** Council to do a reconciliation of trustee (DOGIT) land occupation fees versus licence fees paid to TSIRC as Local Government asset owner.

**12:30pm – 1:50pm – Lunch Break**

**1:50pm** Team Building discussion with SEA. Cr Lui raised the issue of whether Council will reach the required 75% of Resolution with some reports not having a quorum to deal with the matters.

**12. 1:57pm - 2:40pm TRUSTEE - LEGAL – Home Affairs Lease – Poruma Lot 5 and Erub Lot 29**

MLS spoke to this report. Cr Bosun requested a copy of the Regional ILUA.

Note: - Cr Pearson is not present during the discussions. Cr Pearson enters the room at 2:09pm

Mayor Gela also mentioned Cr Nai has given apology for the afternoon session as he is attending the Queensland Health Board meeting. Mayor Gela will deal with the apology after this report.

**RESOLUTION:**

*Moved:* Cr Pearson; *Second:* Cr Levi

**That pursuant to the Torres Strait Islander Land Act 1991 (Qld), the Trustee grant, subject to registration of an Indigenous Land Use Agreement to which Council is a party, development approval (if required), and subject to surrender of existing lease 704936762, a standard lease to the Commonwealth of Australia represented by the Department of Home Affairs, over Lot 5 of SP270862 (1,349m<sup>2</sup>) at Poruma Island, title reference 51078104, for the purpose of operating and maintaining a radio telecommunications tower and affixed infrastructure, and delegate to the Chief Executive Officer the power to conclude the terms of the lease.**

**MOTION CARRIED**

**RESOLUTION:**

*Moved:* Cr Thaiday; *Second:* Cr Nona

**That pursuant to the Torres Strait Land Act 1991 (Qld), the Trustee grant, subject to registration of an Indigenous Land Use Agreement to which Council is a party, development approval (if required), and subject to surrender of existing lease 705779898, a standard lease to the Commonwealth of Australia represented by the Department of Home Affairs over Lot 29 on SP270873 (2,273m<sup>2</sup>) at Erub (Darnley Island), title reference 51073553, with rent charged at \$10.80 per square metre per annum subject to 3% increase annually, the lease being for the purpose of operating and maintaining a radio telecommunications tower and affixed infrastructure, and delegate to the Chief Executive Officer the power to conclude the terms of the lease.**

**MOTION CARRIED**

Cr Sabatino queried the planning and asked if the tower will be like for like.

**ACTION:** MLS to obtain from Home Affairs the specifications of the current towers and the certified drawings of the new towers including emissions, radiation and frequencies, to confirm whether planning approval is required.

**13.     2:40pm – 2:44am                     TRUSTEE - LEGAL – TCHHS Mabuiag (Lease HA on SP28766)**

- Cr Tamu declared a conflict of interest (COI)
  - COI details: Cr Tamu is an employee of Queensland Health
  - Council decided Cr Tamu had a potential perceived conflict only and could participate and vote on the matter.

MLS spoke to this report. It was noted that Lease HA on SP287766 is proposed to be described as Lot 18 on DP273192 (draft community survey plan not yet endorsed by Council).

**RESOLUTION:**

*Moved:* Cr Fell; *Second:* Cr Sabatino

***That the Trustee, pursuant to the Torres Strait Islander Land Act 1991 (Qld), grant Torres and Cape Hospital and Health Service (TCHHS) an extension to 28 February 2019 of the date for the satisfaction of the Minister and Treasurer's approval condition in relation to proposed Lease HA on SP287766 (Mabuiag Island), and delegate to the Chief Executive Officer the power to conclude the terms of this lease with TCHHS.***

**MOTION CARRIED**

14. 2:45pm – 2:45pm COUNCIL MOVE OUT OF TRUSTEE

**RESOLUTION:**

*Moved:* Cr Kaigey; *Second:* Cr Akiba  
That Council move out of Trustee.

**MOTION CARRIED**

15. 2:45am – 2:45pm COUNCIL MOVE INTO CLOSED BUSINESS

**RESOLUTION**

*Moved:* Cr Nona; *Second:* Cr Kaigey  
That Council move into Closed Business.

**MOTION CARRIED**

- 17. ENGINEERING - MIP6 Water Supply Cover Tender Award
- 18. BUSINESS SERVICES - TSIRC2016-90 Preferred Supplier Arrangement
- 19. BUSINESS SERVICES – Other Exemption to Preferred Supplier arrangements
- 20. BUSINESS SERVICES - Lease of Residential Accommodation in Cairns
- 21. LEGAL - TCICA

16. 2:45pm – 2:46pm COUNCIL MOVE OUT OF CLOSED BUSINESS

**RESOLUTION:**

*Moved:* Cr Fell; *Second:* Cr Pearson  
That Council move out of Closed Business

**MOTION CARRIED**

17. 2:46pm – 2:47pm ENGINEERING – MIP6 Water Supply Cover Tender Award

**RESOLUTION:**

*Moved:* Cr Fell; *Second:* Cr Sabatino  
That Council resolves to:

- Award Contract TSIRC 2018-120 to GDT Linings to the amount of \$5m,376,501.19 (GST Exclusive), with works ordered based on available budget, subject to advice from the MIP Trustee
- Delegate authority to the Chief Executive Officer in accordance with the Local Government Act 2009 to negotiate, finalise and execute any and all matters associated with or in relation to this project and contract subject to normal procurement practices and policies.

**MOTION CARRIED**

18. 2:47pm - 2:48pm BUSINESS SERVICES – TSIRC 2016-90 Preferred Supplier Arrangements

**RESOLUTION:**

*Moved:* Cr Fell; *Second:* Cr Akiba

That pursuant to the *Local Government Act 2009* (Qld) and *Local Government Regulation 2012* (Qld), Council resolve to extend the TSIRC 2016-90 Preferred Supplier Contracts listed below from the expiry of the initial Contract term to 31 March 2019 and delegate all power, financial and otherwise, to the Chief Executive Officer to execute agreements and approve purchase orders in accordance with the adopted budget.

**Service/Trade**

<b>1, 2 &amp; 4. Accommodation, Air Transport Services, Travel Agency Services- Torres Strait &amp; Cairns Region</b>
Cairns Oasis Resort (Novotel)
Grosvenor In Cairns
Cape Air Transport
Independent Aviation Pty Ltd
Torres Strait Air Pty Ltd
Cairns Business Leisure Travel (BLT)
Flight Centre Travel Group
<b>3. Air-conditioning Supply and Service - Cairns Region</b>
Coral Coast Air conditioning and Refrigeration
Evercool Air conditioning
Source Logistics
Brown Brothers Electrical
Corporate Cleaning Services
MIPEC
<b>4. Air Transport Services -Torres Strait Region (above)</b>
<b>5. Asset services</b>
APV Valuers and Asset Management
Asset Advance Valuers
Innovative Facility Solutions
ARUP
Rushton AssetVal Group - Asset Services
<b>6. Auto parts supply</b>
East Coast Lubes
REPCO
Truck & Equipment Hire
<b>7. Auto and heavy machinery windscreen supply</b>
Truck & Equipment Hire
<b>8. Batteries, Tyres, Tubes - Heavy Machinery and Motor Vehicles</b>
AAA Battery
Bridgestone Australia
Cairns Tyre Service
Mareeba Tyre Service
Truck & Equipment Hire

REPCO
<b>9. Bus Provider - Torres Strait Region</b>
<b>10. Bus Provider - Cairns Region</b>
Emerson Bus Service
McDonald Charter Boats
Rebel Tours - Torres Strait Tours
<b>11. Catering - Cairns Region</b>
<b>12. Catering - Torres Strait Region</b>
<b>13. Civil engineering services - Torres Strait Region</b>
AURECON
Black & Moore
Cardo Civil Engineering
AECOM Engineering
ARUP
Flanagan Consulting
Geoghegan Project Management
GHD Engineering Design Services (Local Buy)
Minor Project Support Services
RECS Consulting Engineers and Building Designers
Thirkell Consulting Engineers
WSP Parsons Brinckerhoff - Engineering
<b>14. Cleaning and general maintenance - Cairns Region</b>
<b>15. Cleaning and general maintenance -Torres Strait Region</b>
Corporate Cleaning Services
STI & Associates
MIPEC
Tosco Office National
<b>16. Community Development consultant - Torres Strait Region</b>
Buckly Vann Planning & Development
Ipsos Public Affairs Social Research



<b>17. Compressor and blower supply and service - Torres Strait Region</b>
Queensland Air Compressors
REPCO
<b>18. Computer - LED Monitors</b>
<b>19. Computer - HP Laser Jet and Multi-Function Devices</b>
<b>20. Computer - Lenovo Tiny Desktop PC</b>
<b>21. Computer - Lenovo ThinkPad Notebook Series</b>
Future Computers
Think Office Technology - Aust Print
Brilliant Technologies
Office Works
Tosco Office National
<b>22. Counselling and mental services - Employee Assistance Program</b>
<b>23. Design and Media Services</b>
Interactivink Design and Media
Bolton Printing
Visual Obsession
Cardzilla
<b>24. Electrical Services - Cairns Region</b>
<b>25. Electrical Services - Torres Strait Region</b>
Amped Up Solar Electrical Services
AUSTEK Electrical Services
Brown Brothers Electrical
JM Switchboards
Babinda Electrics
Serene Contraction Cimaruta
Corporate Cleaning Services
MIPEC
Zenadth Kes Electrical
<b>26. Engineering Design - Torres Strait Region</b>
360 Engineering
ADG Engineering
AECOM Engineering
ARUP
AURECON
Cardo Civil Engineering

ERSCON Consulting Services
RECS Consulting Engineers and Building Designers
Thirkell Consulting Engineers
WSP Parsons Brinckerhoff - Engineering
Indij Architectural & Interior Design
Black & Moore
Harris Kmon Solutions
<b>27. Ferry Service - Torres Strait Region</b>
McDonald Charter Boats
Rebel Tours - Torres Strait Tours
<b>28. Financial and Accounting Services</b>
Altius Advisors Chartered Accountants
BDO Financial and Accounting Services
Bri Ferrier Accountants and Financial Services
Pacifica Financial Accountants
<b>29. Funeral Director - Torres Strait Region</b>
<b>30. Hire - Equipment and Heavy Machinery - Torres Strait Region</b>
Coates Hire
Flexi Hire
Tutt Bryant Hire
Rebel Tours - Torres Strait Tours
<b>31. HR - Recruitment Services - Cairns Region</b>
HR Dynamics
LOGO Appointments
Northern Staff
Precruitment
Strait Support Services
MIPEC

<b>32. HR - Vaccinations/Medicals - Cairns Region</b>
<b>33. HR - Vaccination/Medicals - Torres Strait Region</b>
<b>34. HR - Registered Training Organisation                      Torres Strait Region</b>
Industry Training Queensland
Aptitude Training and Safety
Queensland TAFE NQ
Training Services QLD
McLeod Training Organisation
<b>35. Lagoon liner and covers supply, install and repair - Torres Strait Region</b>
<b>36. Mowing and beautification - Torres Strait Region</b>
Roy Boiiz Cleaning & Gardening Services Pty
Corporate Cleaning Services
<b>37. Printing Services - Cairns Region</b>
<b>38. Printing Services - Torres Strait Region</b>
Bolton Printing
Brilliant Printing Services
Cairns Plan Printing
Expressway Signage
Lotsa Printing
Cardzilla
Office Works
Southern Cross Safety & Workwear
<b>39. Promotional goods - cups/mugs, etc.</b>
Cardzilla
Cairns Link
Southern Cross Safety & Workwear
Tosco Office National
<b>40. Pump and pipe fittings supply</b>
Pressure Pumps North Queensland
<b>41. Records Management/Storage</b>
Grace Removalist and Storage
Total Records Management
<b>42. Rustproofing - vehicles and heavy machinery</b>
Roland Graff Auto Centre
Truck & Equipment Hire
<b>43. Safety equipment supplies</b>



Southern Cross Safety & Workwear
Totally Workwear
Cairns Link
Kelly's Crane Hire
<b>44. Stationary Supplies</b>
Office Works
Cairns Link
<b>45. Towing Services - Cairns Region</b>
Truck & Equipment Hire
<b>46. Training room providers - Cairns Region</b>
McLeod Training Organisation
Queensland TAFE NQ
Training Services QLD
<b>47. Travel Agency Services</b>
<b>48. Tree and Mangrove lopping services - Torres Strait Region</b>
Branching Out
Torres Strait Tree Management
Corporate Cleaning Services
Roy Boiiz Cleaning & Gardening Services Pty
<b>49. Vehicle, Tractor and heavy machinery supply - Cairns Region</b>
<b>50. Waste Removal Services - Cairns Region</b>
<b>51-54 Water and Sewer</b>
JPMI Water & Sewerage
MIPEC (Water and Sewer)
Water Treatment Services Australia
360 Engineering
AUSTEK Electrical Services
Babinda Electrics
George Yamashita Electrical
JM Switchboards
Serene Contraction Cimaruta

**MOTION CARRIED**

20. **2:49pm – 2:50pm**

**BUSINESS SERVICES – Lease of Residential Accommodation in Cairns**

Council noted the report.

**ACTION:** Team to find a unit in Cairns for a twelve (12) month lease.

**21. 4:11pm – 4:18pm                      LEGAL – TCICA**

**RESOLUTION:**

*Moved:* Cr Nona; *Second:* Cr Kaigey

**1. That Council request the Mayor and CEO to act in the role of Members of the Torres and Cape Indigenous Council Alliance (TCICA) Inc. Management Committee.**

**MOTION CARRIED**

**RESOLUTION:**

*Moved:* Cr Sabatino; *Second:* Cr Fell

**2. That Council request from TCICA a certificate of currency in respect of its professional indemnity and public liability insurance policies, and a copy of the policy terms.**

**MOTION CARRIED**

**22. 4:18pm – 4:22pm                      Leave in Advance**

The following Councillors applied for leave in advance for the December meeting at Poruma from 11-12 December 2018.

- Cr Toby
- Cr Tamu
- Cr Sabatino
- Cr Nona and
- Cr Nai

Council had a brief discussion about the December meeting.

**23. 4:22pm – 4:29pm                      Apology – Cr Nai**

Cr Nai applied for leave of absence in advance at the October Ordinary meeting.

**RESOLUTION:**

*Moved:* Cr Fell; *Second:* Cr Sabatino

**That Council accept the apology from Cr Nai for his absence at this meeting.**

**MOTION CARRIED**

**Meeting Closed at 4:29pm - Prayer by Cr Fell**

**Friday 23 November 2018**

**Present**

Cr Fred Gela, Mayor  
Cr Dimas Toby, Division 1 – Boigu Island  
Cr Torenzo Elisala, Division 2 – Dauan Island (via telephone)  
Cr Keri Akiba, Division 3 – Saibai Island  
Cr Laurie Nona, Division 5 – Badu Island  
Cr David Bosun, Division 6 – Kubin Community at Moa Island  
Cr John Levi, Division 7 – St Pauls Community at Moa Island  
Cr Getano Lui Jnr, Division 9 – Iama  
Cr Clara Tamu, Division 10 – Warraber Island  
Cr Francis Pearson, Division 11 – Poruma Island  
Cr Ted Nai, Division 12 – Masig Island  
Cr Stephen, Division 13 – Ugar  
Cr Patrick Thaiday, Division 14 – Erub Island  
Cr Bob Kaigey, Division 15 – Mer Island  
Mr Bruce Ranga, Chief Executive Officer (CEO)  
Mr David Baldwin, Executive Manager Engineering Services (EMES)  
Ms Julia Maurus, Manager Legal Services, Office of the CEO (MLS)  
Mr David Abednego, Executive Manager, Community Services (EMoCS)  
Ms Jan Pool, Chief Operating Officer (COO)

**Apologies**

Cr Keith Fell, Division 4 – Mabuiag Island  
Cr Mario Sabatino, Division 8 – Kirriri Island  
Ms Ursula Nai, Senior Executive Assistant (SEA)  
Mrs Kathy Cochran – Secretariat Officer (SO)  
Ms Hollie Faithfull, Acting Executive Manager Financial Services (AEMFS) – away on Council business

**24. 9.00am – 9.05am Opening Prayer by Cr i and Welcome by Deputy Mayor**

Mayor Gela welcomed everyone to the meeting and Cr Nai opened the meeting in prayer.

**25. 9:05am – 10:00am PRESENTATION 1: Meet and greet Council – Minister Furner – Minister for Agriculture Industry Development and Fisheries.**

Mayor Welcomed Minister Furner to the meeting, and informed Councillors of the recent Launch of the Torres Strait and Northern Peninsula Area Biosecurity Strategy at Thursday Island on Thursday 22 November.

Minister Furner thanked Mayor Gela and acknowledged the Torres Strait and Northern Peninsula Area Biosecurity Strategy, especially all three levels of Government working together to implement the strategy going forward.

Cr Lui raised concerns in relation to screening of goods prior to shipping it up to the Islands Mayor Gela – also advised Minister Furner that Torre Strait has never had cane toads; there really is no legislative framework to monitor and control movements of pests up North.

Cr Nona – advised Minister Furner that Biosecurity Officers on ground needs to have the ability to enforce compliance instead of monitoring.

Minister Furner acknowledged issues raised by Cr Lui and Mayor Gela – informed Council that these issues raised should be addressed as part implementation of the Biosecurity Strategy. He also advised Council that Biosecurity Officers on the islands are responsibility of the Commonwealth, and Council should lobby directly with Member for Leichardt – Warren Entsch.

Cr Lui – sought clarification whether Minister Furner is a member of the PZJA – fisheries seems to be the focus of the PZJA and a review should be done to capture issues under the Treaty. Council does not have the opportunity to meet with Federal Minister.

Minister Furner's responded to Cr Lui – he is not a member of the PZJA, this is the responsibility of the Federal Minister who is a member of the PZJA, and he will raise the issue with the Minister. Cr Nai – talked at length regarding Aqua Culture options in the Torres Strait.

Mayor Gela thanked Minister Furner for taking time to attend Council Meeting and advised that Council will write to him regarding issues surround Biosecurity Matters within the Torres Strait Region, and looking forward to working closely with him on Aqua Culture in the Torres Strait.

**ACTION: Council write to Minister Furner regarding issues surrounding Biosecurity matters in the Torres Strait.**

**Morning Tea break – 10:00am – 10:30am**

**26. 10:30am – 11:15am PRESENTATION 2: Indigenous Connection Plan (Reconciliation Action Plan) – Mr Neville HOEHNE, Indigenous Connection Project Manager, Energy Queensland Limited.**

Mayor welcomed Neville Hoehne to the meeting.

Neville thanked Council for inviting Ergon along to discuss the Indigenous Connection Plan (Reconciliation Action Plan) He then provided a power point presentation on the Indigenous Action Plan to see whether Council would be interested in being a part of the plan.

Cr Lui asked whether the plan is culturally appropriate for use on ground - Neville advised that part of the presentation today is seeking input from Council to ensure that the plan is culturally appropriate going forward.

Mayor Gela informed Neville as part of the process of the plan to ensure that Ergon reviews and look at the current tariff rates for the Torres Strait, he also requested that Ergon should provide an opportunity for locals in the community to do tree lopping, other than bringing external contractors into cut trees that are a hazard for the power lines.

Cr Lui asked if there are any incentives for the local Ergon Energy workers on the islands.

Neville noted both Mayor Gela questions and will provide a response, and advised that there will be an annual workshop held on TI for Ergon workers to attend. Cr Lui advised Neville that the workshop on TI won't necessarily be the views of the Outer Islands, and the workers from the outer islands should also attend the workshop.

Mayor Gela advised Neville to liaise with Ursula in relation to the plan and to ensure that the engagement is done effectively on ground.

**27. 11:15am – 12:00noon      PRESENTATION 3: Skytrans – Mr Michael Thinee, CEO and Ms Rebecca Hyde, Business Development Manager, Skytrans & West Wing Aviation.**

Mayor Welcomed Michael from Skytrans to the meeting.

Michael thanked Council for giving him an opportunity to present and discuss the Flight Training and Engineering Centre.

Michael advised Council that Skytrans is looking at setting up a Flight Training Centre focusing on upskilling people in the area of Engineering. He then went through his power point presentation explaining the initiative Skytrans is considering and wants to encourage local people from Torres Strait to participate in the program.

Mayor advised Michael that Council would like to work in collaboration with Skytrans once the program has been established, as this is a good opportunity for locals who are interested in Flight Engineering.

Cr Bosun also raised concerns regarding access to the Caravan on communities. The issue is the exhaust coming out of the plane when passengers are exiting and entering the aircraft, particularly young mothers with babies, and the elderly.

Michael advised that unfortunately it will cost Skytrans if the plane is shut down whilst on the airstrip, and this will be an added cost to the community members travelling, and he does not want to see community members have this additional charge on their tickets.

Cr Lui advised Michael he had to use his discretionary funds to assist community member's travel into TI for the Festival, as he thought there was capacity for passenger to access the Local Fare Scheme to attend the festival, as per Skytrans presentation in August at St Pauls.

Michael was unsure as to why there was no LFS for Iama community members to utilise for the Festival, he will follow up with staff and advise Cr Lui.

**Lunch Break – 12:00noon – 1:00pm**

**28. 1:00pm – 3:15pm PRESENTATION 4: Comlek – Mr John Cruz**

Mayor welcomed representatives from COMLEK.

Jon introduced the delegates who were present and thanked Council for inviting them to the meeting.

Jon then went through his presentation and discussed further a paper on Waste Management Solutions and was seeking Councils feedback in relation to the proposal.

There was a very lengthy discussion on the proposal, and it was suggested that Jon works closely with Councils Chief Operating Officer and Engineering Team to look at the proposal on Waste Management.

Jon then introduced a member of the team to discuss briefly on the training offered by Jigsaw. Council was provided with the information back in September, and wanted reiterated what training was being offered, and whether Council would be interested in the training.

CEO advised them to work closely with Councils HR Department in relation to training for staff on ground.

**29. 3:15pm – 3:16pm Cr Elisala attend the OM by teleconference**

**RESOLUTION:**

*Moved: Cr Tamu; Second: Cr Akiba*

**That Council approve Cr Elisala to attend the Ordinary meeting by teleconference.**

**MOTION CARRIED**

**30. 3:16pm – 3:45pm LEGAL – Resolution of Land Holding Act Lease Entitlements**

- Cr Gela declared a potential conflict of interest (COI)
  - COI details: Cr Gela is a spokesperson for his in-laws who are LHA applicants, in particular the LHA interest of Veronica Sabatino.
  - How the Councillor proposed to deal with the COI: Cr Gela chose to leave the room.
- Cr Nona declared a material personal interest (MPI)
  - MPI details: Cr Nona's mother, Rita Nona, is a beneficiary of an LHA lease interest.
  - How the Councillor proposed to deal with the MPI: Cr Nona left the room.
- Cr Tamu declared a material personal interest (MPI)
  - MPI details: Cr Tamu's husband, Samuel Tamu, is a LHA beneficiary
  - How the Councillor proposed to deal with the MPI: Cr Tamu left the room.
- Cr Pearson declared a potential conflict of interest (COI)
  - COI details: Cr Pearson's nephew Jim Larry has an LHA lease interest.
  - How the Councillor proposed to deal with the MPI: Cr Pearson chose to leave the room due to public perception.
- Cr Stephen declared a material personal interest (MPI)
  - MPI details: Cr Stephen's is a potential beneficiary because his father, Daniel Stephen, has an LHA lease interest.
  - How the Councillor proposed to deal with the MPI: Cr Stephen left the room.
- Cr Nai declared a material personal interest (MPI)

- MPI details: Cr Nai is a potential beneficiary of a granted LHA lease interest (the leaseholder is deceased).
- How the Councillor proposed to deal with the MPI: Cr Nai left the room.
- Cr Levi declared a potential conflict of interest (COI)
  - COI details: Cr Levi's wife, Catherine Levi, is an eventual beneficiary to a LHA lease granted to his father-in-law and currently held by his mother-in-law.
  - How the Councillor proposed to deal with the COI: Cr Lui left the room due to public perception.
- Cr Bosun declared a conflict of interest (COI)
  - COI details: Cr Bosun's wife's involvement in the LHA lease interest of his father-in-law, Horace Baira Snr.
  - How the Councillor proposed to deal with the COI: Cr Bosun left the room.
- Cr Elisala confirmed he had no interest to declare in this matter
- Quorum could not be established because only six Councillors remained in the room (Cr Fell and Cr Sabatino were unable to attend the meeting).
- All Councillors then re-entered the room and discussed options to deal with this matter.

#### **RESOLUTION:**

*Moved:* Cr Pearson; *Second:* Cr Levi

**1. That Council delegate deciding the matter to the Chief Executive Officer under section 257 of the *Local Government Act 2009 (Qld)*, due to a majority of Councillors informing the meeting that they have a personal interest in the matter.**

**MOTION CARRIED**

#### **RESOLUTION:**

*Moved:* Kaigey; *Second:* Cr Akiba

**2. That Council reserve its rights in relation to its financial interest in the houses affected by Land Holding Act/ LHA lease interests.**

**MOTION CARRIED**

#### **RESOLUTION:**

*Moved:* Cr Nona; *Second:* Cr Akiba

**3. That Council delegate to the CEO the power to execute all documents necessary to give effective to Land Holding Act (LHA) lease interests.**

**MOTION CARRIED**

### **29.     3:45pm – 4:15pm                     Surrender of Leases – Badu LHA ILUA**

- Cr Nona declared a material personal interest (MPI)
  - MPI details: Cr Nona's mother, Rita Nona, is beneficiary of an LHA Lease interest. Cr Nona also noted he is the Chair of Mura Badulgal (Torres Strait Islanders) Corporation RNTBC, currently in caretaker mode.
  - Cr Nona left the room.
- Cr Bosun declared a conflict of interest (COI)
  - COI details: Cr Bosun's wife's involvement in the LHA lease interest of his father-in-law, Horace Baira Snr.

- How the Councillor proposed to deal with the COI: Cr Bosun left the room.

**RESOLUTION:**

*Moved:* Cr Toby; *Second:* Cr Akiba

**1. That Council surrender to Mura Badulgal (Torres Strait Islanders) Corporation RNTBC the following lots from lease dealing number 715599235, upon receipt of written notice from the Department of Housing and Public Works consenting to such surrender**

- Lot 58 on SP 274784 Title Reference 51066859
- Lot 145 on SP 274784 Title Reference 51066914
- Lot 226 on SP 274784 Title Reference 51066961
- Lot 227 on SP 274784 Title Reference 51066962
- Lot 300 on SP 274784 Title Reference 51067009
- Lot 333 on SP 274784 Title Reference 51067035

**for the purpose of granting the following Land Holding Act leases in accordance with the Badu Island Land Holding Act ILUA QI2018/013:**

LHA Application Number	Street Address	LHA Lease Entitlement Area
BA2/89	58 Nona Street, Badu	Lot 58 on SP274784
BA5/89	145 Mairu Street, Badu	Lot 145 on SP274784
BA8/89	300 Chapman Street, Badu	Lot 300 on SP274784
BA10/89	227 Chapman Street, Badu	Lot 227 on SP274784
BA13/89	226 Chapman Street, Badu	Lot 226 on SP274784
BA14/89	317B Gulkaunaw Street, Badu	Lot 333 on SP274784

**MOTION CARRIED**

Cr Nona and Cr Bosun re-entered the meeting.

**31. 4:15pm – 4:15pm COUNCIL MOVE INTO TRUSTEE**

**RESOLUTION:**

*Moved:* Cr Nai; *Second:* Cr Levi

**That in accordance with Section 83 of the Local Government Act 2009 (QLD) management of Community Deeds of Grant in Trust, the meeting of the Trustee of Community DOGIT be convened and conducted as separate meetings from the Indigenous Regional Council.**

**MOTION CARRIED**

**32. 4:15pm – 4:30pm TRUSTEE – LEGAL – Resolution of LHA Lease Entitlements**

- Cr Gela declared a potential conflict of interest (COI)
  - COI details: Cr Gela is a spokesperson for his in-laws who are LHA applicants, in particular the LHA interest of Veronica Sabatino.
  - How the Councillor proposed to deal with the COI: Cr Gela chose to leave the room.
- Cr Nona declared a material personal interest (MPI)
  - MPI details: Cr Nona's mother, Rita Nona, is a beneficiary of an LHA lease interest.
  - How the Councillor proposed to deal with the MPI: Cr Nona left the room.
- Cr Tamu declared a material personal interest (MPI)
  - MPI details: Cr Tamu's husband, Samuel Tamu, is a LHA beneficiary



- How the Councillor proposed to deal with the MPI: Cr Tamu left the room.
- Cr Pearson declared a potential conflict of interest (COI)
  - COI details: Cr Pearson's nephew Jim Larry has an LHA lease interest.
  - How the Councillor proposed to deal with the MPI: Cr Pearson chose to leave the room due to public perception.
- Cr Stephen declared a material personal interest (MPI)
  - MPI details: Cr Stephen's is a potential beneficiary because his father, Daniel Stephen, has an LHA lease interest.
  - How the Councillor proposed to deal with the MPI: Cr Stephen left the room.
- Cr Nai declared a material personal interest (MPI)
  - MPI details: Cr Nai is a potential beneficiary of a granted LHA lease interest (the leaseholder is deceased).
  - How the Councillor proposed to deal with the MPI: Cr Nai left the room.
- Cr Levi declared a potential conflict of interest (COI)
  - COI details: Cr Levi's wife, Catherine Levi, is an eventual beneficiary to a LHA lease granted to his father-in-law and currently held by his mother-in-law.
  - How the Councillor proposed to deal with the COI: Cr Lui left the room due to public perception.
- Cr Bosun declared a conflict of interest (COI)
  - COI details: Cr Bosun's wife's involvement in the LHA lease interest of his father-in-law, Horace Baira Snr.
  - How the Councillor proposed to deal with the COI: Cr Bosun left the room.
- Cr Elisala confirmed he had no interest to declare in this matter
- Quorum could not be established because only six Councillors remained in the room (Cr Fell and Cr Sabatino were unable to attend the meeting).
- All Councillors then re-entered the room and discussed options to deal with this matter.

**RESOLUTION:**

*Moved:* Cr Kaigey; *Second:* Cr Pearson

**1. That the Trustee delegate deciding the matter to the Chief Executive Officer under section 257 of the *Local Government Act 2009 (Qld)*, due to a majority of Councillors informing the meeting that they have a personal interest in the matter.**

**MOTION CARRIED**

**RESOLUTION:**

*Moved:* Cr Nona; *Second:* Cr Bosun

**2. That the Trustee delegate to the CEO the power to execute all documents necessary to give effective to Land Holding Act/ LHA lease interests.**

**MOTION CARRIED**

Cr Nai advised the he is unable to attend the December Ordinary Meeting and 10<sup>th</sup> Anniversary celebrations, and congratulated TSIRC on 10 years.

**Meeting closed at 4:30pm – Closing prayer by Cr Fell**

8 June 2021

Torres Strait Regional Council  
PO Box 7336 Cairns QLD 4870  
Manager, Legal Services

Dear Julia Maurus

**Re. Agreement for Transfer of Dwelling**

Between: Torres Strait Regional Council  
and  
Mary Laurah Whap  
Celsia Bethel Bani  
Address: 17 JDL Road Masig Island

Please find attached the original ATD for signing by the CEO or Mayor.

Please sign and return the original to:

DCHDE – Remote Home Ownership  
PO BOX 2556 Cairns 4870  
Attention to Jamie Lupson

This document needs to be signed for the home ownership of the above address to be finalised and the property to be taken off TSIRC asset register.

**THIS IS AN ORIGINAL DOCUMENT – PLEASE SIGN AND RETURN TO THE ADDRESS LISTED ABOVE**

If you have any questions, please contact Rebecca De-Lai on (07) 4036 5520 or by email at [Rebecca.De-Lai@chde.qld.gov.au](mailto:Rebecca.De-Lai@chde.qld.gov.au). You may also contact Jamie Lupson on (07) 4036 5503 or by email at [jamie.lupson@chde.qld.gov.au](mailto:jamie.lupson@chde.qld.gov.au).

Yours sincerely

Jamie Lupson  
Senior Program Officer - Remote Home Ownership  
Aboriginal and Torres Strait Islander Housing Unit  
Department of Communities, Housing and Digital Economy

**AGREEMENT FOR TRANSFER OF DWELLING**

*Between*

**TORRES STRAIT ISLAND REGIONAL COUNCIL**

*and*

**MARY LAURAH WHAP  
CELSIA BETHEL BANI**

**THIS AGREEMENT** is made

**BETWEEN:**     **The party named in Item 1 of Schedule 1 ('the Trustee')**

**AND:**           **The party named in Item 2 of Schedule 1 ('the Lessee')**

## **RECITALS**

- A.   The Trustee is the owner of the Improvements located on the Land.
- B.   The Trustee is the lessor under the Perpetual Lease which has been granted to the Lessee over the Land.
- C.   The Perpetual Lease does not include the Improvements.
- D.   The Improvements have been used as Social Housing.
- E.   The Trustee wishes to transfer and the Lessee wishes to accept a transfer of the Improvements on the terms and conditions specified in this Agreement.
- F.   The parties wish to record the terms of their agreement.

## **AGREED TERMS**

### **1.   DEFINITIONS & INTERPRETATION**

#### **1.1   In this Agreement, the following definitions will apply:**

***Agreement*** includes this document and all schedules to this document;

***Date of this Agreement*** means the date on which this Agreement is executed by the parties and if executed on different dates, the later of those dates;

***GST*** has the meaning given in GST Act;

***GST Act*** means *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

***Housing Chief Executive*** means the chief executive of the department which administers the *Housing Act 2003*;

***Improvements*** means the improvements specified in Item 3 in Schedule 1;

***Land*** means the land described in Item 4 in Schedule 1;

***Lessee*** means the person specified in Item 2 in Schedule 1;

***Lessee's Solicitor*** means the person specified in Item 10 in Schedule 1;

***Perpetual Lease*** means the lease granted under section 15 of the *Aborigines and Torres Strait Islanders (Land Holding) Act 1985* and specified in Item 5 in Schedule 1;

***Place for Settlement*** means the place specified in Item 7 in Schedule 1;

***Purchase Price*** means the amount specified in Item 6 in Schedule 1;

***Settlement Date*** means that date which is 10 business days after the Date of this Agreement;

***Social Housing*** means housing used to provide subsidised housing for residential use;

***Supply*** has the meaning given in the GST Act;

***Tax Invoice*** has the meaning given in the GST Act;

***Trustee*** means the party identified in Item 1 of Schedule 1; and

***Trustee's Solicitor*** means the person show in Item 9 in Schedule 1.

1.2 In this Agreement:

- (a) words importing a gender include any other gender and words in the singular include the plural and vice versa;
- (b) all monetary amounts refer to Australian currency;
- (c) a reference to legislation includes subordinate legislation made under it and any legislation amending, consolidating or replacing it;
- (d) a reference to an individual or person includes a corporation or other legal entity;
- (e) a reference to a clause or schedule means a clause or schedule to this Agreement;
- (f) the headings are included for convenience of reference only and are not intended to affect the meaning of this Agreement;
- (g) if an expression is defined, other grammatical forms of that expression will have corresponding meanings;
- (h) a reference to days or months means calendar days or months;
- (i) if the day on which any act or thing is to be done under this Agreement is a Saturday, Sunday or public holiday in the place where the act or thing is to be done, the act or thing may be done on the next business day in that place;
- (j) if any conflict arises between the clauses in this Agreement and the contents of any schedule, the clauses prevail; and

- (k) an obligation on the part of two or more persons binds them jointly and each of them individually.

1.3 If a government department, agency or statutory authority mentioned in this Agreement:

- (a) ceases to exist; or
- (b) is reconstituted, renamed or replaced;

and its powers or functions are transferred to another government department, agency, or statutory authority, a reference to the government department, agency or statutory authority will include that other government department, agency or statutory authority.

## **2. TRANSFER OF DWELLING**

- 2.1 The Trustee agrees to transfer and the Lessee agrees to accept a transfer of the Improvements, free of all encumbrances.

## **3. WARRANTIES**

- 3.1 The Trustee warrants that the Purchase Price has been determined in accordance with the requirements of section 62(3) of the *Aboriginal and Torres Strait Islander Land Holding Act 2013*.
- 3.2 The Trustee warrants that, except as disclosed in this Agreement, at the time the Trustee executes this Agreement, it has free and unqualified capacity and power to enter into this Agreement and to complete the obligations created by this Agreement.
- 3.3 The Lessee warrants that except as disclosed in this Agreement, each of the following statements is accurate at the time the Lessee executes this Agreement:
- (a) it has free and unqualified capacity and power to enter into this Agreement and to complete the obligations created by this Agreement; and
  - (b) it is not under any legal disability which affects the Lessee's capacity to contract and to complete the obligations created by this Agreement.
- 3.4 The Trustee warrants that, as far as it is aware, except as disclosed in this Agreement, each of the following statements is accurate at the time the Trustee executes this Agreement:
- (a) there is no current litigation by any person claiming an estate or interest in the Improvements;
  - (b) there is no unsatisfied judgement, order, or writ of execution which affects the Improvements.

## **4. AS IS WHERE IS**

- 4.1 The Lessee acknowledges that the Improvements are being transferred in an 'as is where is' condition, with any and all defects including latent and patent defects.

**4.2 The Lessee will not:**

- (a) make any objection, requisition or claim for loss, damage or compensation because of, or arising out of:
  - (i) the state of repair or condition of the Improvements; or
  - (ii) the suitability of the Improvements for any particular use or purpose; or
- (b) require the Trustee to carry out any work in respect of the Improvements on the grounds that there are latent or patent defects in the Improvements.

**5. RISK**

- 5.1 The parties acknowledge that the Improvements are at the risk of the Lessee from 5.00pm on the first business day after the Date of this Agreement.

**6. PAYMENT OF THE PURCHASE PRICE**

- 6.1 The Lessee must pay the Purchase Price to the Trustee on the Settlement Date in exchange for ownership of the Improvements.

**7. SETTLEMENT**

- 7.1 Settlement must occur at the Place for Settlement between 9.00am and 5.00pm on the Settlement Date.

**7.2 On the Settlement Date:**

- (a) the Lessee must pay the Purchase Price together with the GST amount calculated under clause 8, if applicable, to the Trustee by bank cheque as the Trustee directs; and
- (b) the Trustee must deliver to the Lessee a valid Tax Invoice under clause 8, if applicable.

**8. GST**

**8.1 The parties acknowledge that:**

- (a) the Purchase Price is exclusive of GST; and
- (b) GST may be payable on a Supply under this Agreement.

- 8.2 Where GST is payable upon any Supply under this Agreement, the consideration payable by the recipient for the Supply is adjusted in accordance with clauses 8.3 and 8.4.

8.3 Subject to the supplier issuing a valid Tax Invoice, the consideration payable by the recipient to the supplier for the Supply is increased by the amount equal to that which the supplier is obliged to remit as GST on the Supply.

8.4 If for any reason including:

- (a) any amendment to the GST Act;
- (b) the issue of a ruling or advice by the Commissioner of Taxation;
- (c) a refund to the supplier in respect of a Supply made under this Agreement; or
- (d) a decision of any tribunal or court,

the amount of GST paid by a party under this Agreement differs from the amount of GST paid or payable to the Commissioner of Taxation, then the party making the Supply must issue an appropriate GST adjustment note and the difference must be paid by or to the other party as the case may be.

8.5 The parties agree to exchange with each other such information as may be necessary to enable each party to accurately assess its rights and obligations under this clause 8.

## **9. NOTICES**

9.1 Any notice, request, consent or approval under this Agreement must be in writing and may be delivered by hand, by registered mail, by facsimile, or by email to the addresses specified in Item 8 in Schedule 1, or any substitute address as may have been notified by the relevant addressee from time to time or the party's solicitor named in Schedule 1.

9.2 Subject to clause 9.3, notices will be deemed to be given:

- (a) if posted – 5 business days after deposit in the mail with the postage prepaid;
- (b) if delivered – on the date of delivery;
- (c) if faxed – on the date on which an apparently successful transmission is noted by the sender's facsimile machine; or
- (d) if emailed – on the date of the email,

as the case may be.

9.3 An email or facsimile transmission received after 5.00pm on any day will be deemed to be received at the start of the next business day.

9.4 Notices by:

- (a) the Trustee must be on the Trustee's letterhead and signed by an authorised person; and
- (b) the Lessee must be signed by the Lessee.



- 9.5 Notices may be given by or to a party's solicitor by any of the means specified in clause 9.1.

## **10. COSTS**

- 10.1 Each party must pay their own costs of and incidental to the negotiation, preparation and execution of this Agreement.
- 10.2 The Lessee must pay any stamp duty payable on this Agreement.

## **11. GENERAL PROVISIONS**

- 11.1 This Agreement constitutes the entire agreement between the parties and supersedes all prior negotiations, arrangements and agreements between the parties.
- 11.2 Any failure by a party at any time to enforce a clause of this Agreement, or any forbearance, delay or indulgence granted by a party to the other, will not constitute a waiver of the party's rights.
- 11.3 No provision of this Agreement will be deemed to be waived unless the waiver is in writing and signed by the waiving party.
- 11.4 A waiver by a party of a breach of any provision of this Agreement will not operate as a waiver of any subsequent breach of the same provision nor as a waiver of any other provision.
- 11.5 This Agreement is governed by the laws of Queensland and each party submits to the jurisdiction of the courts of Queensland.
- 11.6 If any part of this Agreement is determined to be invalid, unlawful or unenforceable for any reason then that part will be severed from the rest of the Agreement to the extent of the invalidity, unlawfulness or unenforceability and the remaining terms and conditions will continue to be valid and enforceable to the fullest extent permitted by law.
- 11.7 A party may not assign or novate their interest in this Agreement, except with the prior consent of the other party or parties.
- 11.8 This Agreement may only be varied by a written agreement executed by the parties.

**SCHEDULE 1**

**Item**

- |     |                             |  |
|-----|-----------------------------|--|
| 1.  | <b>Trustee</b>              | <b>Torres Strait Island Regional Council</b>   |
| 2.  | <b>Lessee</b>               | <b>Celsia Bethel BANI<br/>Mary Laurah WHAP</b>   |
| 3.  | <b>Improvements</b>         | <b>1 x 3 bedroom dwelling</b>  |
| 4.  | <b>Land</b>                 | <b>Lot 17 SP277431, (17 JDL Road, Masig Island)</b>  |
| 5.  | <b>Perpetual Lease</b>      | <b>715653368</b>   |
| 6.  | <b>Purchase Price</b>       | <b>\$1.00 (exclusive of GST)</b>   |
| 7.  | <b>Place for Settlement</b> | <b>Torres Strait Island Regional Council</b>   |
|     | <b>Address for Notices</b>  |  |
| 8.  | <b><u>Trustee</u></b>       |  |
|     | <b>Delivery Address:</b>    | <b>Torres Strait Island Regional Council<br/>111- 115 Grafton Street, Cairns, Qld 4870</b> |
|     | <b>Postal Address:</b>      | <b>PO Box 7336, Cairns QLD 4870</b>  |
|     | <b>Attention:</b>           | <b>CEO</b>   |
|     | <b>Facsimile:</b>           |  |
|     | <b>Email:</b>               |  |
|     | <b><u>Lessee</u></b>        |  |
|     | <b>Delivery Address:</b>    | <b>C/- Post Office Mabuiag Island Qld 4875</b>   |
|     | <b>Postal Address:</b>      | <b>n/a</b>   |
| 9.  | <b>Trustee's Solicitor</b>  | <b>n/a</b>   |
| 10. | <b>Lessee's Solicitor</b>   | <b>n/a</b>   |

AGREEMENT FOR TRANSFER OF DWELLING

Executed as a deed by the parties on the respective dates appearing below.

**SIGNED SEALED and DELIVERED**

for and on behalf of the )  
**Torres Strait Island Regional Council** ) .....  
as Trustee ) (signature)  
)  
..... (name) )  
Mayor/Chief Executive Officer )  
in the presence of: ) ..... / ..... / .....  
(date)

.....  
(signature of witness)

.....  
(print name of witness)

**SIGNED SEALED and DELIVERED**

By Celsia Bethel Bani )  
as lessee ) ..... Celsia Bethel Bani  
) (signature)  
in the presence of: )  
) ..... 15 / 12 / 20  
(date)

W. Remedio  
.....  
(signature of witness)

Wayne Remedio  
.....  
(print name of witness)

**SIGNED SEALED and DELIVERED**

By Mary Laurah Whap )  
as lessee ) ..... Mary Laurah Whap  
) (signature)  
in the presence of: )  
) ..... 09 / 10 / 2020  
(date)

.....  
(signature of witness)

.....  
(print name of witness)

# **TORRES STRAIT ISLAND REGIONAL COUNCIL**

## **AGENDA REPORT**

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### **ORDINARY MEETING**

**DATE:** June 2021

**ITEM:**

**SUBJECT:** Agreement to transfer a Land Holding Act House on Lot 20 on SP277431 on Masig from TSIRC to Ted Fraser Nai and Cynthia Elma Mabo.

**AUTHOR:** Peter Krebs, Senior Legal Counsel

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### **PERSONAL INTERESTS**

Councillors are reminded to inform the meeting of any prescribed conflicts of interests or declarable conflicts of interests.

### **RECOMMENDATION**

*That Council agrees to the transfer of its social house (Asset No. 1002958) on Lot 20 on SP277431 on Masig to Ted Fraser Nai and Cynthia Elma Mabo and remove it from the Social Housing and Assets Register and authorises the Mayor or Chief Executive Officer to sign the Agreement for transfer of Dwelling.*

### **PURPOSE**

The purpose of this report is to seek Council endorsement on the application for the transfer of TSIRC social house on Masig to Katter lease holders Ted Fraser Nai and Cynthia Elma Mabo and to remove it from the Social Housing and Assets Register.

### **BACKGROUND**

A paper was presented (Attachment 1) to the 15 November 2018 Ordinary meeting regarding the resolution of LHA (Katter) Lease entitlements seeking Council endorsement amongst other things for the transfer of a social house on a Katter lease to the Katter lease holder for a peppercorn.

The decision to transfer for a peppercorn was the result of negotiations between the Department of Housing and TSIRC back in February 2015 where it was agreed that the houses be transferred to the Katter lease holder upon the State bringing the condition of the houses to a safe standard.

At the 15 November 2018 Ordinary Council meeting, due to the fact that a majority of Councillors present had a conflict of interest due to the fact that they were Katter lease holders or had family members who were Katter lease holders and therefore there was no quorum, the matter was then put over to the 23 November 2018 for consideration.

At the Council Ordinary meeting on 23 November 2018 the following resolutions were passed due to the lack of a quorum and recorded in the minutes (Attachment 2).

**RESOLUTION:**

*Moved: Cr Pearson; Second: Cr Levi*

**1. That Council delegate deciding the matter to the Chief Executive Officer under section 257 of the *Local Government Act 2009 (Qld)*, due to a majority of Councillors informing the meeting that they have a personal interest in the matter.**

**MOTION CARRIED**

**RESOLUTION:**

*Moved: Kaigey; Second: Cr Akiba*

**2. That Council reserve its rights in relation to its financial interest in the houses affected by Land Holding Act/ LHA lease interests.**

**MOTION CARRIED**

**RESOLUTION:**

*Moved: Cr Nona; Second: Cr Akiba*

**3. That Council delegate to the CEO the power to execute all documents necessary to give effective to Land Holding Act (LHA) lease interests.**

**MOTION CARRIED**

Council received a letter dated 8 June 2021 in which was attached an agreement for Transfer of Dwelling from the Department of Communities, Housing and Digital Economy (Attachment 3). The Transfer has been signed by both Ted Frasier Nai and Cynthia Elma Mabo. The Transfer requires either the Mayor or CEO signature to come into effect.

Under Council's Trustee Policy PO 19, Council is committed to facilitating private homeownership within the TSIRC Municipality.

Since this involves the transfer of an asset which would exceed the CEO's delegation of \$200,000, the matter has been brought to council for a decision.

### **CONSULTATION**

Cr. Mosby  
TSIRC Housing Department  
TSIRC Assets  
Department of Housing and Public works

### **LINKS WITH STRATEGIC PLANS**

Corporate Plan

### **STATUTORY REQUIREMENTS**

*Local Government Act 2009 (Qld)*  
*Local Government Regulation 2012 (Qld)*  
*Torres Strait Islander Land Holding Act 2013 (Qld)*  
*Land Act 1994 (Qld)*

### **FINANCE AND RISK**

*Removal of Asset from Register*

*Loss of rental income.*

*Operating Cost*

*NIL*

*Risk Assessment*

### **SUSTAINABILITY**

N/A

## **CONCLUSION**

As presented.

A handwritten signature in black ink, appearing to read 'David Baldwin', with a long horizontal flourish extending to the right.

David Baldwin

**A/CEO**

A handwritten signature in black ink, appearing to read 'Peter Krebs', with a stylized 'P' and 'K'.

Peter Krebs

**Senior Legal Counsel**

## **ATTACHMENTS:**

1. Late Agenda report – Council OM 15 November 2018
2. Minutes of Meeting – Council OM 15 & 23 November 2018
3. Agreement to Transfer Dwelling

**TORRES STRAIT ISLAND REGIONAL COUNCIL**  
**LATE AGENDA REPORT**

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**ORDINARY MEETING**

**DATE:** 15–16 November 2018

**SUBJECT ITEM:** Resolution of LHA (Katter) Lease entitlements

**AUTHOR:** Julia Maurus, Manager Legal Services

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**PERSONAL INTERESTS**

Councillors are reminded to declare any personal interests relating to:

- Registered LHA leases where the house is owned by TSIRC
- LHA lease entitlements where the house is owned by TSIRC

**RECOMMENDATION**

1. *That Council endorse the following methodology for the transfer of a social housing dwelling located on lease land for (i) a lease granted under the Aborigines and Torres Strait Islanders (Land Holding) Act 1985 or (ii) a lease granted or proposed to be granted under the Aboriginal and Torres Strait Islander Land Holding Act 2013:*
  - a. *Where applicants registered an Expression of Interest to purchase the dwelling with their lease application, these dwellings may be considered owned or paid for by the lessee, and ownership may be transferred administratively; and*
  - b. *Where there is no record that the applicants registered an Expression of Interest to purchase the dwelling, the value of the dwelling is a “peppercorn”.*
2. *That the CEO and Mayor make deputations to the State to seek compensation from the State to Council for the financial impact of transferring to private ownership the social houses subject to*



*perpetual lease interests.*

## **PURPOSE**

The purpose of this report is to allow Council to make a resolution on its position regarding the transfer of social houses for the purpose of resolving Katter/LHA lease entitlements.

## **BACKGROUND**

For the purpose of resolving LHA/Katter lease entitlements, there are three “tranches”, with Tranche 1 being the most straight-forward and Tranche 3 being the most complex:

**Tranche 1:** Land and private houses

**Tranche 2:** Applicant or beneficiary resides in the house (social house)

**Tranche 3:** Tenant is not the applicant or beneficiary (social house)

For the purpose of house (asset) ownership, the categories are as follows:

**Category 1:** Leases are LHA leases which have been granted – they have a Governor-in-Council approval.

**Category 2:** Leases are LHA leases which are Granted OR Entitlements – that have an EOI approval.

**Category 3:** Leases are LHA leases which are Granted OR Entitlements – that have no EOI.

**Attachment 1** is a “Current Summary of Granted Leases, Lease Entitlements and Invalid Applications made under the *Aborigines and Torres Strait Islanders (Land Holding) Act 1985* for Torres Strait Communities as at 13 November 2018”.

Council's adopted house price methodology only applies to 99-year home-ownership leases and any freehold option land. For LHA leases, there has been correspondence between TSIRC, DHPW and DNRM relating to lease entitlements, which confirms that there is peppercorn/no purchase price for a Katter lease house. However, there is no Council resolution confirming this "Council position".

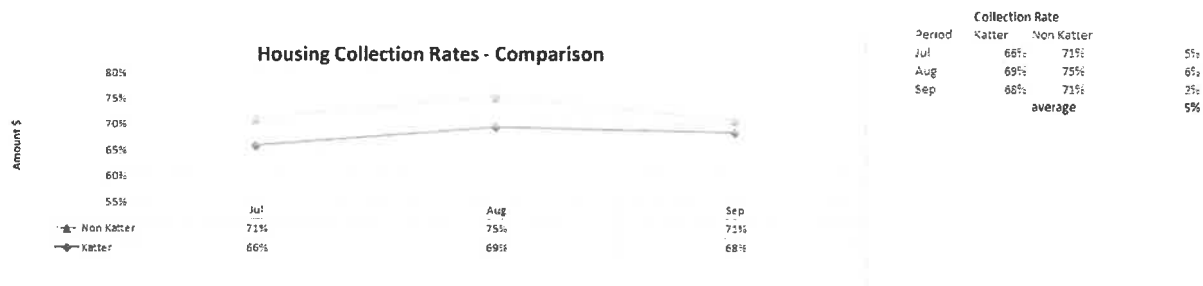
**Attachment 2** is the letter from DHPW to TSIRC dated 16 February 2015 that, relevantly, proposed the following:

- Where applicants registered an Expression of Interest to purchase the dwelling with their lease application, these dwellings are considered owned or paid for by the lessee, and ownership will be transferred administratively in these categories.
- Where applications did not register an Expression of Interest to purchase the dwelling, it is proposed that dwellings be transferred at a "peppercorn" rate.

**Attachment 3** is email correspondence from TSIRC to DNRM confirming Council's support for the above to points, and confirming that in each case the State must undertake maintenance and/or improvements to bring the houses to a safe standard.

Included as **Attachment 4** is financial modelling of the potential impact on Council of the proposed methodology for Katter (LHA) lease houses.

At present, the difference in the rent collection rate between houses affected by LHA interests and houses not affected by LHA interests is 5% (July to September 2018 average):



It should be noted that many of the social houses affected by LHA entitlements have rent arrears. If/when these houses are converted to private ownership, Council could continue to pursue rental debts, however there is limited legal action the Housing team is able to take under the *Residential Tenancies and Rooming Accommodation Act*, and it likely that the majority of debt will be written off via the statute-barred debt process.

The reasons for the peppercorn/nil house price are:

1. An original agreement for some tranche 1 and tranche 2 entitlements that a number of years' rent (up to 100 months) be taken as payment for the dwelling;
2. The length of time applicants have waited for their leases to be granted (around 30 years);
3. The length of time applicants have waited for house ownership to be transferred (around 30 years);
4. Fairness, considering that applicants have been charged rent to date and the houses have not been maintained to the same standard as non-LHA social houses in the region; and
5. To avoid any further impediments to resolving rights under the LHA regime.
6. The intention of the LHA lease regime was to provide for home ownership. Therefore, even where there is no record of an Expression of Interest, it can be assumed that applicants did want

home ownership.

The methodology is also consistent with the approach taken in transferring five (5) dwellings at Poruma in April 2018 from TSIRC to registered Katter lease holders/beneficiaries. These Katter lease holders are in Category 3 (no EOI to purchase the house). These houses were transferred for peppercorn consideration (\$1.00).

At the September 2018 Ordinary Meeting, Council advised that there would be no price charged to the entitlement holders for the social houses, but that Council should make a deputation to the State about the impact of the Katter leases on Council's social housing rent revenue. The matter was recorded as follows:

**THIS ITEM IS LEFT LYING ON THE TABLE**

**ACTION:** Mayor and CEO to have a deputation with the Minister for Housing and Local member, Ms Cynthia Lui regarding housing entitlements and sub leases.

**ACTION:** SEA to place on the November workshop agenda LHA Katter Lease – sub lease category to be workshopped by Councillors.

**OFFICER COMMENT**

MLS has drafted a letter to Minister Mick de Brenni, the Minister for Housing and Public Works. The draft is included as **Attachment 5** for Council's consideration. Mayor Gela has not confirmed his support for this letter because there is no Council resolution confirming this position, and it is a departure from TSIRC's policy to date in advocating for the resolution of LHA lease entitlements. This report has therefore been prepared to allow Council to consider all issues and risks involved and to make a resolution confirming its position.

The Katter lease house price is addressed in section 62 of the *Aboriginal*

*and Torres Strait Islander Land Holding Act 2013 (Qld), as follows:*

*62 – Use of valuation methodology for social housing dwelling*

*1) This section applies if—*

*(a) a social housing dwelling is located on the lease land for a 1985 Act granted lease, a new Act granted lease or a proposed new Act granted lease; and*

*(b) the owner of the dwelling is—*

*i. the State; or*

*ii. the trustee of the trust area, or the part of the trust area, where the dwelling is located; or*

*iii. if the lease land is also the subject of a townsite lease under ALA or TSILA—the lessee under the townsite lease.*

*2) The owner of the dwelling may transfer the dwelling to a person who is or is to become the lessee under the lease.*

*3) The value of the dwelling for the transfer is—*

*(a) if in the trust area there is in operation a valuation methodology agreed under ALA, section 128(2) or TSILA, section 93 (2)—the value decided by using the methodology; or*

*(b) otherwise—the value decided by using the valuation methodology decided by the housing chief executive.*

*4) Subsection (3) does not apply if the value is decided by the Land Court in deciding an application for—*

*(a) a contested deferred grant; or*

*(b) an agreed boundary relocation; or*

*(c) a contested boundary relocation.*

The intention of DHPW, in its letter dated 16 February 2015, was that the peppercorn/nil purchase price would fall under subsection (3)(b) above.

That is, although TSIRC has adopted a valuation methodology under the ALA and TSILA, in the case of Katter lease houses, DHPW has decided a separate methodology (peppercorn/nil purchase price).

## **CONSULTATION**

Chief Executive Officer

Mayor

Financial Services

Executive Manager Housing Services

Department of Housing and Public Works (DHPW)

Department of Natural Resources and Mines (DNRME)

Department of Aboriginal and Torres Strait Islander Partnerships  
(DATSIP)

## **LINK WITH STRATEGIC PLAN**

- Environment - (3) Healthier communities by improving wellbeing and living standards with affordable, appropriate housing.
- Economic Participation - (2) Growth in the local economy through economic change.

## **RISK AND SUSTAINABILITY**

- Affordability of housing.
- Consistent approach to the resolution of LHA rights.
- Political risk (perception if Council changes its policy and delays the grant of LHA leases, essentially “holding the State to ransom”).
- Need to resolve LHA rights.
- Recoverability of rent arrears for social houses affected by LHA entitlements.
- Divestment of Council assets (reduces Council’s social housing

stock and tenancy revenue).

- State is bearing the cost of bringing houses up to a safe standard before ownership transfer.

## **STATUTORY REQUIREMENTS**

*Torres Strait Islander Land Holding Act 2013 (Qld)*

*Aboriginal Land Act 1991 (Qld)*

*Torres Strait Islander Land Act 1991 (Qld)*

*Local Government Act 2009 (Qld)*

*Land Act 1994 (Qld)*

## **CONCLUSION**

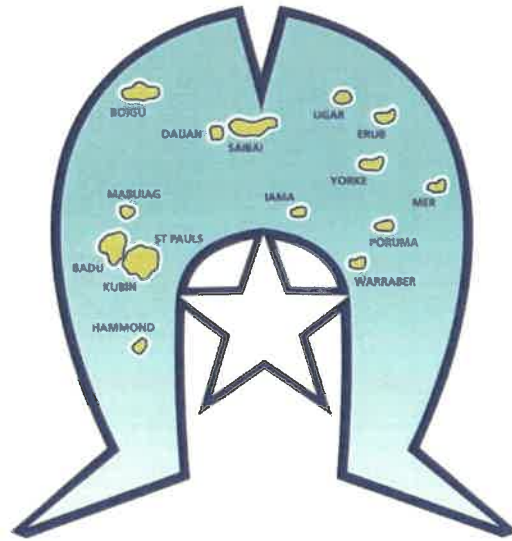
As presented.

Bruce Ranga  
CEO

Julia Maurus  
Manager Legal Services

## **Attachments**

1. Current Summary of Granted Leases, Lease Entitlements and Invalid Applications made under the *Aborigines and Torres Strait Islanders (Land Holding) Act 1985* for Torres Strait Communities as at 17 May 2018. (DNRME)
2. Letter from DHPW to TSIRC dated 16 February 2015.
3. Email from TSIRC to DHPW dated 27 July 2015.
4. Financial modelling of the potential impact on Council of the proposed methodology.
5. Draft letter to Minister Mick de Brenni



# **Torres Strait Island**

REGIONAL COUNCIL

## **MINUTES**

### **ORDINARY MEETING**

Thursday 15 November 2018: 9:00am to 5:00pm  
Friday 23 November 2018: 9:00am to 5:00pm

Lagoon Room, Shangra La Marina, Pier Point Road, CAIRNS



**Thursday 15 November 2018**

**Present**

Cr Fred Gela, Mayor

Cr Dimas Toby, Division 1 – Boigu Island

Cr Keri Akiba, Division 3 – Saibai Island

Cr Keith Fell, Division 4 – Mabuiag Island

Cr Laurie Nona, Division 5 – Badu Island

Cr David Bosun, Division 6 – Kubin Community at Moa Island

Cr John Levi, Division 7 – St Pauls Community at Moa Island

Cr Mario Sabatino, Division 8 – Kirriri Island

Cr Getano Lui Jnr, Division 9 – Iama

Cr Clara Tamu, Division 10 – Warraber Island

Cr Francis Pearson, Division 11 – Poruma Island

Cr Ted Nai, Division 12 – Masig Island

Cr Rocky Stephen, Division 13 – Ugar

Cr Patrick Thaiday, Division 14 – Erub Island

Cr Bob Kaigey, Division 15 – Mer Island

Mr Bruce Ranga, Chief Executive Officer (CEO)

Ms Jan Pool, Chief Operating Officer (COO)

Mr David Baldwin, Executive Manager Engineering Services (EMES)

Mr David Abednego, Executive Manager Community Services (EMoCS)

Ms Hollie Faithfull, Acting Executive Manager Financial Services (AEMFS)

Ms Julia Maurus, Manager Legal Services (MLS)

Mrs Ursula Nai, Senior Executive Assistant (SEA)

Mrs Kathy Cochran, Secretariat Officer (SO)

**Apologies**

Cr Torenzo Elisala, Division 2 – Dauan Island

1. **9:15am – 9:19am** **Opening Prayer by Cr Pearson and Welcome by Mayor Gela**

**Mayor Gela, Welcome and Opening Remarks**

Mayor Gela welcomed everyone and apologised for the late start. Mayor invited Cr Pearson to open the meeting in prayer.

Mayor Gela acknowledges the traditional owners of the land we're meeting on today in Cairns. He acknowledges the traditional owners throughout Zenadth Kes and paid respects to all elders past, present and emerging. Mayor Gela further acknowledged Councillors, the CEO and staff.

2. **9:19am – 9:19am** **Apologies**

Cr Elisala applied for leave of absence in advance at the October Ordinary meeting.

**RESOLUTION:**

*Moved:* Cr Kaigey; *Second:* Cr Stephen

**That Council accept the apology from Cr Elisala for his absence at this meeting.**

**MOTION CARRIED**

3. **9:19am – 9:23am** **Declaration of Conflict of Interest (COI) or Material Personal Interest (MPI)**

<b>Name of Councillor</b>	<b>Agenda Item</b>	<b>COI/MPI</b>
Cr Gela	10. LEGAL – Resolution of LHA Lease Entitlements	COI – representative/ spokesperson for in-laws who are LHA applicants
Cr Nona	10. LEGAL – Resolution of LHA Lease Entitlements	MPI – Katter Lease recipient
Cr Nai	10. LEGAL – Resolution of LHA Lease Entitlements	MPI – Katter Lease recipient
Cr Tamu	10. LEGAL – Resolution of LHA Lease Entitlements	MPI – Husband recipient of a Katter Lease
Cr Stephen	10. LEGAL – Resolution of LHA Lease Entitlements	MPI – Father is a recipient of a Katter Lease
Cr Pearson	10. LEGAL – Resolution of LHA Lease Entitlements	MPI – Family members recipient of a Katter lease
Cr Toby	10. LEGAL – Resolution of LHA Lease Entitlements	COI – generally assists LHA Lease applicants – Council agrees Cr Toby has no conflict of interest.

Mayor encouraged Councillors to make their disclosures, either COI/MPI be known at any time throughout the meeting.

4. **9:30am – 9:38am** **Confirmation of October 2018 Ordinary Meeting Minutes**

Amendments/ corrections;

- Page 2 – correction Dimus to read “Dimas”
- Page 3 – insert “Cr Fell” as the Councillor who second the for Apology resolution for Cr Elisala.
- Page 8 – In resolution “Development” should read “Deed”
- Page 9 – Item 16 – delegation should read the “CEO” not “COO”

- Page 9 – Item 16 – in put before the resolution “No quorum, Councillors re-joined the meeting.
- Page 12 – Item 22 – in put before the resolution “No quorum, Councillors re-joined the meeting.

**RESOLUTION:**

*Moved: Cr Fell; Second: Cr Kaigey*

**That the minutes of the Ordinary Meeting held in October 2018 be adopted as a true and accurate record of that meeting taking into account the above amendments.**

**MOTION CARRIED**

**5.      9:38am – 9:42am                      Outstanding Strategic Ordinary Meeting Action items**

1. Discussion with Sea Swift regarding their part in the mail service to Ugar – Manager Procurement waiting on Australia Post to mail volume. Work in progress.
2. Circulate the ALGA National key areas to Councillors - completed
3. Invite DATSIP Director General to our next OM in Cairns – Dr Sarra will be invited to an OM in 2019. Update at Jan 2019 OM.
4. Badu Lease Options – Lot 623 – report being tabled December 2018
5. SARG terms of reference – update to reflect the minute exemptions per Council resolution. Completed.
6. Ugar Community visit – Mayor and CEO. Currently in progress.
7. Mayor and CEO community visit across the region. SEA will provide dates to Councillors at December OM.

**6.      9:42am – 9:44am                      HOUSING – Policy Approval**

**RESOLUTION**

*Moved: Nil*

**That Council adopts Housing Services Department’s policy for a period of two years, being:**

***Maintenance Debt Policy***

If it is established that a tenant or their guest/s has damaged a Council property, Council will request that tenants pay for the repair on the basis of 50% of the standard average cost for a similar repair in a remote region.

Council will identify the charge onto the tenant rental account as maintenance debt.

**ITEM LEFT LYING ON THE TABLE**

**Assess whether the proposal is justified and consistent with our role as registered housing provider.**

Mayor Gela advised the Policies needs to run parallel with the governing Act.

**7.      9:44am – 10:10am                      Mayoral Update**

Mayor Gela updated the Councillor on the following matters;

- Belcarra Report – complying with disclosure recommendations
- Budget for 2020 – factor in budget, cost of a by-election
- Drought Relief funds – extra financial support – water issues
- LGAQ Board meeting and conference – FAGS grant – need to change the methodology for distribution of funds.
- Comlek discussions – waste management, power generation and by product. Anaerobic system – Councillors to visit places with these system.

- Sherlock – data collating and collection
- Minister Mick DeBrenni - \$40m for new housing Qld wide. Mayor Gela nominated as the FNQ Rep on the Steering committee.
- Rental income – reviewing our model
- Commonwealth Government released the residual funding of \$115m for new builds to be built by Dec 2019.
- First Start Program - \$3m to create and support 400 apprenticeships. COO to note.
- DATSIP update later

#### **10:10am – 10:30am – Morning Tea break**

#### **8. 10:30am – 11:19am PRESENTATION: AUDIT Committee Update – Mr Eric Muir (Chair)**

Mayor Gela welcomes Mr Eric Muir, Chairman of the Audit Committee and Mr Paul Shipperley a committee member. He thanked them both for their work and coming today to provide Council with an overview of the year.

#### **9. 11:19am – 11:46am LEGAL – Resolution of Land Holding Act Lease Entitlements**

MLS spoke to this report.

Cr Sabatino clarified that Mayor cannot vote on trustee matters (Local Government Act section 85 & 86).

- Cr Gela declared a conflict of interest (COI)
  - COI details: Cr Gela is a spokesperson for his in-laws who are LHA applicants.
  - How the Councillor proposed to deal with the COI: Cr Gela left the room.
- Cr Nona declared a material personal interest (MPI)
  - MPI details: Cr Nona is a LHA recipient.
  - How the Councillor proposed to deal with the MPI: Cr Nona left the room.
- Cr Tamu declared a material personal interest (MPI)
  - MPI details: Cr Tamu's husband is a LHA recipient
  - How the Councillor proposed to deal with the MPI: Cr Tamu left the room.
- Cr Pearson declared a material personal interest (MPI)
  - MPI details: Cr Pearson's direct family members are LHA recipients.
  - How the Councillor proposed to deal with the MPI: Cr Pearson left the room.
- Cr Stephen declared a material personal interest (MPI)
  - MPI details: Cr Stephen's father is a LHA recipient.
  - How the Councillor proposed to deal with the MPI: Cr Stephen left the room.
- Cr Nai declared a material personal interest (MPI)
  - MPI details: Cr Nai is a LHA recipient.
  - How the Councillor proposed to deal with the MPI: Cr Nai left the room.
- Cr Bosun declared a conflict of interest (COI)
  - COI details: Cr Bosun's father in law is a LHA recipient.

- How the Councillor proposed to deal with the COI: Cr Bosun left the room due to public perception.
- Cr Levi declared a conflict of interest (COI)
  - COI details: Cr Levi's mother in law is a LHA lease holder.
  - How the Councillor proposed to deal with the COI: Cr Levi left the room due to public perception.
- Cr Toby declared a potential conflict of interest (COI)
  - COI details: Cr Toby's uncle is a LHA recipient.
  - How the Councillor proposed to deal with the COI: Council noted the perceived conflict and decided that Cr Toby could stay in the room.

There being no quorum to consider the matter, all Councillors re-enter the room at 11:43am and Council decided to defer the matter to 2pm on Friday, 23<sup>rd</sup> November 2018, being day two of and the continuation of the Ordinary Meeting.

**ACTION: SO to place on the Agenda at 2pm on Friday 23<sup>rd</sup> November 2018.**

**10.     11:46am – 11:46am                     COUNCIL MOVE INTO TRUSTEE**

**RESOLUTION:**

*Moved:* Cr Levi; *Second:* Cr Kaigey

**That in accordance with Section 83 of the Local Government Act 2009 (QLD) management of Community Deeds of Grant in Trust, the meeting of the Trustee of Community DOGIT be convened and conducted as separate meetings from the Indigenous Regional Council.**

**MOTION CARRIED**

**11.     11:32am – 11:44am                     TRUSTEE - LEGAL – Trustee Policy**

MLS spoke to this report. Council does not currently have a Trustee Policy. The Queensland Government Leasing Torres Strait Islander DOGIT Land: Manual for Trustees recommends that trustees of DOGIT land have internal policies relating to the leasing of land. The purpose of the report is to present a new policy, called the Trustee Policy, for Trustee consideration.

**RESOLUTION:**

*Moved:* Cr Fell; *Second:* Cr Toby

**That the Trustee endorse the Trustee Policy P029, as presented with amendments to 6(b), 6(c), 6(d), 8(a), 11 and 12 and removal of 10.**

**MOTION CARRIED**

**ACTION:** Council to do a reconciliation of trustee (DOGIT) land occupation fees versus licence fees paid to TSIRC as Local Government asset owner.

**12:30pm – 1:50pm – Lunch Break**

**1:50pm**             Team Building discussion with SEA. Cr Lui raised the issue of whether Council will reach the required 75% of Resolution with some reports not having a quorum to deal with the matters.

**12.     1:57pm - 2:40pm                     TRUSTEE - LEGAL – Home Affairs Lease – Poruma Lot 5 and Erub Lot 29**

MLS spoke to this report. Cr Bosun requested a copy of the Regional ILUA.

Note: - Cr Pearson is not present during the discussions. Cr Pearson enters the room at 2:09pm

Mayor Gela also mentioned Cr Nai has given apology for the afternoon session as he is attending the Queensland Health Board meeting. Mayor Gela will deal with the apology after this report.

**RESOLUTION:**

*Moved:* Cr Pearson; *Second:* Cr Levi

**That pursuant to the Torres Strait Islander Land Act 1991 (Qld), the Trustee grant, subject to registration of an Indigenous Land Use Agreement to which Council is a party, development approval (if required), and subject to surrender of existing lease 704936762, a standard lease to the Commonwealth of Australia represented by the Department of Home Affairs, over Lot 5 of SP270862 (1,349m<sup>2</sup>) at Poruma Island, title reference 51078104, for the purpose of operating and maintaining a radio telecommunications tower and affixed infrastructure, and delegate to the Chief Executive Officer the power to conclude the terms of the lease.**

**MOTION CARRIED**

**RESOLUTION:**

*Moved:* Cr Thaiday; *Second:* Cr Nona

**That pursuant to the Torres Strait Land Act 1991 (Qld), the Trustee grant, subject to registration of an Indigenous Land Use Agreement to which Council is a party, development approval (if required), and subject to surrender of existing lease 705779898, a standard lease to the Commonwealth of Australia represented by the Department of Home Affairs over Lot 29 on SP270873 (2,273m<sup>2</sup>) at Erub (Darnley Island), title reference 51073553, with rent charged at \$10.80 per square metre per annum subject to 3% increase annually, the lease being for the purpose of operating and maintaining a radio telecommunications tower and affixed infrastructure, and delegate to the Chief Executive Officer the power to conclude the terms of the lease.**

**MOTION CARRIED**

Cr Sabatino queried the planning and asked if the tower will be like for like.

**ACTION:** MLS to obtain from Home Affairs the specifications of the current towers and the certified drawings of the new towers including emissions, radiation and frequencies, to confirm whether planning approval is required.

**13.     2:40pm – 2:44am                     TRUSTEE - LEGAL – TCHHS Mabuiag (Lease HA on SP28766)**

- Cr Tamu declared a conflict of interest (COI)
  - COI details: Cr Tamu is an employee of Queensland Health
  - Council decided Cr Tamu had a potential perceived conflict only and could participate and vote on the matter.

MLS spoke to this report. It was noted that Lease HA on SP287766 is proposed to be described as Lot 18 on DP273192 (draft community survey plan not yet endorsed by Council).

**RESOLUTION:**

*Moved:* Cr Fell; *Second:* Cr Sabatino

***That the Trustee, pursuant to the Torres Strait Islander Land Act 1991 (Qld), grant Torres and Cape Hospital and Health Service (TCHHS) an extension to 28 February 2019 of the date for the satisfaction of the Minister and Treasurer's approval condition in relation to proposed Lease HA on SP287766 (Mabuiag Island), and delegate to the Chief Executive Officer the power to conclude the terms of this lease with TCHHS.***

**MOTION CARRIED**

14. 2:45pm – 2:45pm COUNCIL MOVE OUT OF TRUSTEE

**RESOLUTION:**

*Moved:* Cr Kaigey; *Second:* Cr Akiba  
That Council move out of Trustee.

**MOTION CARRIED**

15. 2:45am – 2:45pm COUNCIL MOVE INTO CLOSED BUSINESS

**RESOLUTION**

*Moved:* Cr Nona; *Second:* Cr Kaigey  
That Council move into Closed Business.

**MOTION CARRIED**

- 17. ENGINEERING - MIP6 Water Supply Cover Tender Award
- 18. BUSINESS SERVICES - TSIRC2016-90 Preferred Supplier Arrangement
- 19. BUSINESS SERVICES – Other Exemption to Preferred Supplier arrangements
- 20. BUSINESS SERVICES - Lease of Residential Accommodation in Cairns
- 21. LEGAL - TCICA

16. 2:45pm – 2:46pm COUNCIL MOVE OUT OF CLOSED BUSINESS

**RESOLUTION:**

*Moved:* Cr Fell; *Second:* Cr Pearson  
That Council move out of Closed Business

**MOTION CARRIED**

17. 2:46pm – 2:47pm ENGINEERING – MIP6 Water Supply Cover Tender Award

**RESOLUTION:**

*Moved:* Cr Fell; *Second:* Cr Sabatino  
That Council resolves to:

- Award Contract TSIRC 2018-120 to GDT Linings to the amount of \$5m,376,501.19 (GST Exclusive), with works ordered based on available budget, subject to advice from the MIP Trustee
- Delegate authority to the Chief Executive Officer in accordance with the Local Government Act 2009 to negotiate, finalise and execute any and all matters associated with or in relation to this project and contract subject to normal procurement practices and policies.

**MOTION CARRIED**

18. 2:47pm - 2:48pm BUSINESS SERVICES – TSIRC 2016-90 Preferred Supplier Arrangements

**RESOLUTION:**

*Moved:* Cr Fell; *Second:* Cr Akiba  
That pursuant to the *Local Government Act 2009* (Qld) and *Local Government Regulation 2012* (Qld), Council resolve to extend the TSIRC 2016-90 Preferred Supplier Contracts listed below from the expiry of the initial Contract term to 31 March 2019 and delegate all power, financial and otherwise, to the Chief Executive Officer to execute agreements and approve purchase orders in accordance with the adopted budget.

**Service/Trade**

<b>1, 2 &amp; 4. Accommodation, Air Transport Services, Travel Agency Services- Torres Strait &amp; Cairns Region</b>
Cairns Oasis Resort (Novotel)
Grosvenor In Cairns
Cape Air Transport
Independent Aviation Pty Ltd
Torres Strait Air Pty Ltd
Cairns Business Leisure Travel (BLT)
Flight Centre Travel Group
<b>3. Air-conditioning Supply and Service - Cairns Region</b>
Coral Coast Air conditioning and Refrigeration
Evercool Air conditioning
Source Logistics
Brown Brothers Electrical
Corporate Cleaning Services
MIPEC
<b>4. Air Transport Services -Torres Strait Region (above)</b>
<b>5. Asset services</b>
APV Valuers and Asset Management
Asset Advance Valuers
Innovative Facility Solutions
ARUP
Rushton AssetVal Group - Asset Services
<b>6. Auto parts supply</b>
East Coast Lubes
REPCO
Truck & Equipment Hire
<b>7. Auto and heavy machinery windscreen supply</b>
Truck & Equipment Hire
<b>8. Batteries, Tyres, Tubes - Heavy Machinery and Motor Vehicles</b>
AAA Battery
Bridgestone Australia
Cairns Tyre Service
Mareeba Tyre Service
Truck & Equipment Hire



REPCO
<b>9. Bus Provider - Torres Strait Region</b>
<b>10. Bus Provider - Cairns Region</b>
Emerson Bus Service
McDonald Charter Boats
Rebel Tours - Torres Strait Tours
<b>11. Catering - Cairns Region</b>
<b>12. Catering - Torres Strait Region</b>
<b>13. Civil engineering services - Torres Strait Region</b>
AURECON
Black & Moore
Cardo Civil Engineering
AECOM Engineering
ARUP
Flanagan Consulting
Geoghegan Project Management
GHD Engineering Design Services (Local Buy)
Minor Project Support Services
RECS Consulting Engineers and Building Designers
Thirkell Consulting Engineers
WSP Parsons Brinckerhoff - Engineering
<b>14. Cleaning and general maintenance - Cairns Region</b>
<b>15. Cleaning and general maintenance -Torres Strait Region</b>
Corporate Cleaning Services
STI & Associates
MIPEC
Tosco Office National
<b>16. Community Development consultant - Torres Strait Region</b>
Buckly Vann Planning & Development
Ipsos Public Affairs Social Research

<b>17. Compressor and blower supply and service - Torres Strait Region</b>
Queensland Air Compressors
REPCO
<b>18. Computer - LED Monitors</b>
<b>19. Computer - HP Laser Jet and Multi-Function Devices</b>
<b>20. Computer - Lenovo Tiny Desktop PC</b>
<b>21. Computer - Lenovo ThinkPad Notebook Series</b>
Future Computers
Think Office Technology - Aust Print
Brilliant Technologies
Office Works
Tosco Office National
<b>22. Counselling and mental services - Employee Assistance Program</b>
<b>23. Design and Media Services</b>
Interactivink Design and Media
Bolton Printing
Visual Obsession
Cardzilla
<b>24. Electrical Services - Cairns Region</b>
<b>25. Electrical Services - Torres Strait Region</b>
Amped Up Solar Electrical Services
AUSTEK Electrical Services
Brown Brothers Electrical
JM Switchboards
Babinda Electrics
Serene Contraction Cimaruta
Corporate Cleaning Services
MIPEC
Zenadth Kes Electrical
<b>26. Engineering Design - Torres Strait Region</b>
360 Engineering
ADG Engineering
AECOM Engineering
ARUP
AURECON
Cardo Civil Engineering

ERSCON Consulting Services
RECS Consulting Engineers and Building Designers
Thirkell Consulting Engineers
WSP Parsons Brinckerhoff - Engineering
Indij Architectural & Interior Design
Black & Moore
Harris Kmon Solutions
<b>27. Ferry Service - Torres Strait Region</b>
McDonald Charter Boats
Rebel Tours - Torres Strait Tours
<b>28. Financial and Accounting Services</b>
Altius Advisors Chartered Accountants
BDO Financial and Accounting Services
Bri Ferrier Accountants and Financial Services
Pacifica Financial Accountants
<b>29. Funeral Director - Torres Strait Region</b>
<b>30. Hire - Equipment and Heavy Machinery - Torres Strait Region</b>
Coates Hire
Flexi Hire
Tutt Bryant Hire
Rebel Tours - Torres Strait Tours
<b>31. HR - Recruitment Services - Cairns Region</b>
HR Dynamics
LOGO Appointments
Northern Staff
Precruitment
Strait Support Services
MIPEC

<b>32. HR - Vaccinations/Medicals - Cairns Region</b>
<b>33. HR - Vaccination/Medicals - Torres Strait Region</b>
<b>34. HR - Registered Training Organisation                      Torres Strait Region</b>
Industry Training Queensland
Aptitude Training and Safety
Queensland TAFE NQ
Training Services QLD
McLeod Training Organisation
<b>35. Lagoon liner and covers supply, install and repair - Torres Strait Region</b>
<b>36. Mowing and beautification - Torres Strait Region</b>
Roy Boiiz Cleaning & Gardening Services Pty
Corporate Cleaning Services
<b>37. Printing Services - Cairns Region</b>
<b>38. Printing Services - Torres Strait Region</b>
Bolton Printing
Brilliant Printing Services
Cairns Plan Printing
Expressway Signage
Lotsa Printing
Cardzilla
Office Works
Southern Cross Safety & Workwear
<b>39. Promotional goods - cups/mugs, etc.</b>
Cardzilla
Cairns Link
Southern Cross Safety & Workwear
Tosco Office National
<b>40. Pump and pipe fittings supply</b>
Pressure Pumps North Queensland
<b>41. Records Management/Storage</b>
Grace Removalist and Storage
Total Records Management
<b>42. Rustproofing - vehicles and heavy machinery</b>
Roland Graff Auto Centre
Truck & Equipment Hire
<b>43. Safety equipment supplies</b>



Southern Cross Safety & Workwear
Totally Workwear
Cairns Link
Kelly's Crane Hire
<b>44. Stationary Supplies</b>
Office Works
Cairns Link
<b>45. Towing Services - Cairns Region</b>
Truck & Equipment Hire
<b>46. Training room providers - Cairns Region</b>
McLeod Training Organisation
Queensland TAFE NQ
Training Services QLD
<b>47. Travel Agency Services</b>
<b>48. Tree and Mangrove lopping services - Torres Strait Region</b>
Branching Out
Torres Strait Tree Management
Corporate Cleaning Services
Roy Boiiz Cleaning & Gardening Services Pty
<b>49. Vehicle, Tractor and heavy machinery supply - Cairns Region</b>
<b>50. Waste Removal Services - Cairns Region</b>
<b>51-54 Water and Sewer</b>
JPMI Water & Sewerage
MIPEC (Water and Sewer)
Water Treatment Services Australia
360 Engineering
AUSTEK Electrical Services
Babinda Electrics
George Yamashita Electrical
JM Switchboards
Serene Contraction Cimaruta

**MOTION CARRIED**

20. **2:49pm – 2:50pm**

**BUSINESS SERVICES – Lease of Residential Accommodation in Cairns**

Council noted the report.

**ACTION:** Team to find a unit in Cairns for a twelve (12) month lease.

**21.     4:11pm – 4:18pm                     LEGAL – TCICA**

**RESOLUTION:**

*Moved:* Cr Nona; *Second:* Cr Kaigey

**1. That Council request the Mayor and CEO to act in the role of Members of the Torres and Cape Indigenous Council Alliance (TCICA) Inc. Management Committee.**

**MOTION CARRIED**

**RESOLUTION:**

*Moved:* Cr Sabatino; *Second:* Cr Fell

**2. That Council request from TCICA a certificate of currency in respect of its professional indemnity and public liability insurance policies, and a copy of the policy terms.**

**MOTION CARRIED**

**22.     4:18pm – 4:22pm                     Leave in Advance**

The following Councillors applied for leave in advance for the December meeting at Poruma from 11-12 December 2018.

- Cr Toby
- Cr Tamu
- Cr Sabatino
- Cr Nona and
- Cr Nai

Council had a brief discussion about the December meeting.

**23.     4:22pm – 4:29pm                     Apology – Cr Nai**

Cr Nai applied for leave of absence in advance at the October Ordinary meeting.

**RESOLUTION:**

*Moved:* Cr Fell; *Second:* Cr Sabatino

**That Council accept the apology from Cr Nai for his absence at this meeting.**

**MOTION CARRIED**

**Meeting Closed at 4:29pm - Prayer by Cr Fell**

## **Friday 23 November 2018**

### **Present**

Cr Fred Gela, Mayor  
Cr Dimas Toby, Division 1 – Boigu Island  
Cr Torenzo Elisala, Division 2 – Dauan Island (via telephone)  
Cr Keri Akiba, Division 3 – Saibai Island  
Cr Laurie Nona, Division 5 – Badu Island  
Cr David Bosun, Division 6 – Kubin Community at Moa Island  
Cr John Levi, Division 7 – St Pauls Community at Moa Island  
Cr Getano Lui Jnr, Division 9 – Iama  
Cr Clara Tamu, Division 10 – Warraber Island  
Cr Francis Pearson, Division 11 – Poruma Island  
Cr Ted Nai, Division 12 – Masig Island  
Cr Stephen, Division 13 – Ugar  
Cr Patrick Thaiday, Division 14 – Erub Island  
Cr Bob Kaigey, Division 15 – Mer Island  
Mr Bruce Ranga, Chief Executive Officer (CEO)  
Mr David Baldwin, Executive Manager Engineering Services (EMES)  
Ms Julia Maurus, Manager Legal Services, Office of the CEO (MLS)  
Mr David Abednego, Executive Manager, Community Services (EMoCS)  
Ms Jan Pool, Chief Operating Officer (COO)

### **Apologies**

Cr Keith Fell, Division 4 – Mabuiag Island  
Cr Mario Sabatino, Division 8 – Kirriri Island  
Ms Ursula Nai, Senior Executive Assistant (SEA)  
Mrs Kathy Cochran – Secretariat Officer (SO)  
Ms Hollie Faithfull, Acting Executive Manager Financial Services (AEMFS) – away on Council business

**24. 9.00am – 9.05am Opening Prayer by Cr i and Welcome by Deputy Mayor**

Mayor Gela welcomed everyone to the meeting and Cr Nai opened the meeting in prayer.

**25. 9:05am – 10:00am PRESENTATION 1: Meet and greet Council – Minister Furner – Minister for Agriculture Industry Development and Fisheries.**

Mayor Welcomed Minister Furner to the meeting, and informed Councillors of the recent Launch of the Torres Strait and Northern Peninsula Area Biosecurity Strategy at Thursday Island on Thursday 22 November.

Minister Furner thanked Mayor Gela and acknowledged the Torres Strait and Northern Peninsula Area Biosecurity Strategy, especially all three levels of Government working together to implement the strategy going forward.

Cr Lui raised concerns in relation to screening of goods prior to shipping it up to the Islands Mayor Gela – also advised Minister Furner that Torre Strait has never had cane toads; there really is no legislative framework to monitor and control movements of pests up North.

Cr Nona – advised Minister Furner that Biosecurity Officers on ground needs to have the ability to enforce compliance instead of monitoring.

Minister Furner acknowledged issues raised by Cr Lui and Mayor Gela – informed Council that these issues raised should be addressed as part implementation of the Biosecurity Strategy. He also advised Council that Biosecurity Officers on the islands are responsibility of the Commonwealth, and Council should lobby directly with Member for Leichardt – Warren Entsch.

Cr Lui – sought clarification whether Minister Furner is a member of the PZJA – fisheries seems to be the focus of the PZJA and a review should be done to capture issues under the Treaty. Council does not have the opportunity to meet with Federal Minister.

Minister Furner's responded to Cr Lui – he is not a member of the PZJA, this is the responsibility of the Federal Minister who is a member of the PZJA, and he will raise the issue with the Minister. Cr Nai – talked at length regarding Aqua Culture options in the Torres Strait.

Mayor Gela thanked Minister Furner for taking time to attend Council Meeting and advised that Council will write to him regarding issues surround Biosecurity Matters within the Torres Strait Region, and looking forward to working closely with him on Aqua Culture in the Torres Strait.

**ACTION: Council write to Minister Furner regarding issues surrounding Biosecurity matters in the Torres Strait.**

**Morning Tea break – 10:00am – 10:30am**

**26. 10:30am – 11:15am PRESENTATION 2: Indigenous Connection Plan (Reconciliation Action Plan) – Mr Neville HOEHNE, Indigenous Connection Project Manager, Energy Queensland Limited.**

Mayor welcomed Neville Hoehne to the meeting.

Neville thanked Council for inviting Ergon along to discuss the Indigenous Connection Plan (Reconciliation Action Plan) He then provided a power point presentation on the Indigenous Action Plan to see whether Council would be interested in being a part of the plan.



Cr Lui asked whether the plan is culturally appropriate for use on ground - Neville advised that part of the presentation today is seeking input from Council to ensure that the plan is culturally appropriate going forward.

Mayor Gela informed Neville as part of the process of the plan to ensure that Ergon reviews and look at the current tariff rates for the Torres Strait, he also requested that Ergon should provide an opportunity for locals in the community to do tree lopping, other than bringing external contractors into cut trees that are a hazard for the power lines.

Cr Lui asked if there are any incentives for the local Ergon Energy workers on the islands.

Neville noted both Mayor Gela questions and will provide a response, and advised that there will be an annual workshop held on TI for Ergon workers to attend. Cr Lui advised Neville that the workshop on TI won't necessarily be the views of the Outer Islands, and the workers from the outer islands should also attend the workshop.

Mayor Gela advised Neville to liaise with Ursula in relation to the plan and to ensure that the engagement is done effectively on ground.

**27. 11:15am – 12:00noon PRESENTATION 3: Skytrans – Mr Michael Thinee, CEO and Ms Rebecca Hyde, Business Development Manager, Skytrans & West Wing Aviation.**

Mayor Welcomed Michael from Skytrans to the meeting.

Michael thanked Council for giving him an opportunity to present and discuss the Flight Training and Engineering Centre.

Michael advised Council that Skytrans is looking at setting up a Flight Training Centre focusing on upskilling people in the area of Engineering. He then went through his power point presentation explaining the initiative Skytrans is considering and wants to encourage local people from Torres Strait to participate in the program.

Mayor advised Michael that Council would like to work in collaboration with Skytrans once the program has been established, as this is a good opportunity for locals who are interested in Flight Engineering.

Cr Bosun also raised concerns regarding access to the Caravan on communities. The issue is the exhaust coming out of the plane when passengers are exiting and entering the aircraft, particularly young mothers with babies, and the elderly.

Michael advised that unfortunately it will cost Skytrans if the plane is shut down whilst on the airstrip, and this will be an added cost to the community members travelling, and he does not want to see community members have this additional charge on their tickets.

Cr Lui advised Michael he had to use his discretionary funds to assist community member's travel into TI for the Festival, as he thought there was capacity for passenger to access the Local Fare Scheme to attend the festival, as per Skytrans presentation in August at St Pauls.

Michael was unsure as to why there was no LFS for Iama community members to utilise for the Festival, he will follow up with staff and advise Cr Lui.

**Lunch Break – 12:00noon – 1:00pm**

**28. 1:00pm – 3:15pm PRESENTATION 4: Comlek – Mr John Cruz**

Mayor welcomed representatives from COMLEK.

Jon introduced the delegates who were present and thanked Council for inviting them to the meeting.

Jon then went through his presentation and discussed further a paper on Waste Management Solutions and was seeking Councils feedback in relation to the proposal.

There was a very lengthy discussion on the proposal, and it was suggested that Jon works closely with Councils Chief Operating Officer and Engineering Team to look at the proposal on Waste Management.

Jon then introduced a member of the team to discuss briefly on the training offered by Jigsaw. Council was provided with the information back in September, and wanted reiterated what training was being offered, and whether Council would be interested in the training.

CEO advised them to work closely with Councils HR Department in relation to training for staff on ground.

**29. 3:15pm – 3:16pm Cr Elisala attend the OM by teleconference**

**RESOLUTION:**

*Moved: Cr Tamu; Second: Cr Akiba*

**That Council approve Cr Elisala to attend the Ordinary meeting by teleconference.**

**MOTION CARRIED**

**30. 3:16pm – 3:45pm LEGAL – Resolution of Land Holding Act Lease Entitlements**

- Cr Gela declared a potential conflict of interest (COI)
  - COI details: Cr Gela is a spokesperson for his in-laws who are LHA applicants, in particular the LHA interest of Veronica Sabatino.
  - How the Councillor proposed to deal with the COI: Cr Gela chose to leave the room.
- Cr Nona declared a material personal interest (MPI)
  - MPI details: Cr Nona's mother, Rita Nona, is a beneficiary of an LHA lease interest.
  - How the Councillor proposed to deal with the MPI: Cr Nona left the room.
- Cr Tamu declared a material personal interest (MPI)
  - MPI details: Cr Tamu's husband, Samuel Tamu, is a LHA beneficiary
  - How the Councillor proposed to deal with the MPI: Cr Tamu left the room.
- Cr Pearson declared a potential conflict of interest (COI)
  - COI details: Cr Pearson's nephew Jim Larry has an LHA lease interest.
  - How the Councillor proposed to deal with the MPI: Cr Pearson chose to leave the room due to public perception.
- Cr Stephen declared a material personal interest (MPI)
  - MPI details: Cr Stephen's is a potential beneficiary because his father, Daniel Stephen, has an LHA lease interest.
  - How the Councillor proposed to deal with the MPI: Cr Stephen left the room.
- Cr Nai declared a material personal interest (MPI)

- MPI details: Cr Nai is a potential beneficiary of a granted LHA lease interest (the leaseholder is deceased).
- How the Councillor proposed to deal with the MPI: Cr Nai left the room.
- Cr Levi declared a potential conflict of interest (COI)
  - COI details: Cr Levi's wife, Catherine Levi, is an eventual beneficiary to a LHA lease granted to his father-in-law and currently held by his mother-in-law.
  - How the Councillor proposed to deal with the COI: Cr Lui left the room due to public perception.
- Cr Bosun declared a conflict of interest (COI)
  - COI details: Cr Bosun's wife's involvement in the LHA lease interest of his father-in-law, Horace Baira Snr.
  - How the Councillor proposed to deal with the COI: Cr Bosun left the room.
- Cr Elisala confirmed he had no interest to declare in this matter
- Quorum could not be established because only six Councillors remained in the room (Cr Fell and Cr Sabatino were unable to attend the meeting).
- All Councillors then re-entered the room and discussed options to deal with this matter.

#### **RESOLUTION:**

*Moved:* Cr Pearson; *Second:* Cr Levi

**1. That Council delegate deciding the matter to the Chief Executive Officer under section 257 of the *Local Government Act 2009 (Qld)*, due to a majority of Councillors informing the meeting that they have a personal interest in the matter.**

**MOTION CARRIED**

#### **RESOLUTION:**

*Moved:* Kaigey; *Second:* Cr Akiba

**2. That Council reserve its rights in relation to its financial interest in the houses affected by Land Holding Act/ LHA lease interests.**

**MOTION CARRIED**

#### **RESOLUTION:**

*Moved:* Cr Nona; *Second:* Cr Akiba

**3. That Council delegate to the CEO the power to execute all documents necessary to give effective to Land Holding Act (LHA) lease interests.**

**MOTION CARRIED**

### **29. 3:45pm – 4:15pm**

#### **Surrender of Leases – Badu LHA ILUA**

- Cr Nona declared a material personal interest (MPI)
  - MPI details: Cr Nona's mother, Rita Nona, is beneficiary of an LHA Lease interest. Cr Nona also noted he is the Chair of Mura Badulgal (Torres Strait Islanders) Corporation RNTBC, currently in caretaker mode.
  - Cr Nona left the room.
- Cr Bosun declared a conflict of interest (COI)
  - COI details: Cr Bosun's wife's involvement in the LHA lease interest of his father-in-law, Horace Baira Snr.

- How the Councillor proposed to deal with the COI: Cr Bosun left the room.

**RESOLUTION:**

*Moved: Cr Toby; Second: Cr Akiba*

**1. That Council surrender to Mura Badulgal (Torres Strait Islanders) Corporation RNTBC the following lots from lease dealing number 715599235, upon receipt of written notice from the Department of Housing and Public Works consenting to such surrender**

- Lot 58 on SP 274784 Title Reference 51066859
- Lot 145 on SP 274784 Title Reference 51066914
- Lot 226 on SP 274784 Title Reference 51066961
- Lot 227 on SP 274784 Title Reference 51066962
- Lot 300 on SP 274784 Title Reference 51067009
- Lot 333 on SP 274784 Title Reference 51067035

**for the purpose of granting the following Land Holding Act leases in accordance with the Badu Island Land Holding Act ILUA QI2018/013:**

LHA Application Number	Street Address	LHA Lease Entitlement Area
BA2/89	58 Nona Street, Badu	Lot 58 on SP274784
BA5/89	145 Mairu Street, Badu	Lot 145 on SP274784
BA8/89	300 Chapman Street, Badu	Lot 300 on SP274784
BA10/89	227 Chapman Street, Badu	Lot 227 on SP274784
BA13/89	226 Chapman Street, Badu	Lot 226 on SP274784
BA14/89	317B Gulkaunaw Street, Badu	Lot 333 on SP274784

**MOTION CARRIED**

Cr Nona and Cr Bosun re-entered the meeting.

**31. 4:15pm – 4:15pm COUNCIL MOVE INTO TRUSTEE**

**RESOLUTION:**

*Moved: Cr Nai; Second: Cr Levi*

**That in accordance with Section 83 of the Local Government Act 2009 (QLD) management of Community Deeds of Grant in Trust, the meeting of the Trustee of Community DOGIT be convened and conducted as separate meetings from the Indigenous Regional Council.**

**MOTION CARRIED**

**32. 4:15pm – 4:30pm TRUSTEE – LEGAL – Resolution of LHA Lease Entitlements**

- Cr Gela declared a potential conflict of interest (COI)
  - COI details: Cr Gela is a spokesperson for his in-laws who are LHA applicants, in particular the LHA interest of Veronica Sabatino.
  - How the Councillor proposed to deal with the COI: Cr Gela chose to leave the room.
- Cr Nona declared a material personal interest (MPI)
  - MPI details: Cr Nona's mother, Rita Nona, is a beneficiary of an LHA lease interest.
  - How the Councillor proposed to deal with the MPI: Cr Nona left the room.
- Cr Tamu declared a material personal interest (MPI)
  - MPI details: Cr Tamu's husband, Samuel Tamu, is a LHA beneficiary

- How the Councillor proposed to deal with the MPI: Cr Tamu left the room.
- Cr Pearson declared a potential conflict of interest (COI)
  - COI details: Cr Pearson's nephew Jim Larry has an LHA lease interest.
  - How the Councillor proposed to deal with the MPI: Cr Pearson chose to leave the room due to public perception.
- Cr Stephen declared a material personal interest (MPI)
  - MPI details: Cr Stephen's is a potential beneficiary because his father, Daniel Stephen, has an LHA lease interest.
  - How the Councillor proposed to deal with the MPI: Cr Stephen left the room.
- Cr Nai declared a material personal interest (MPI)
  - MPI details: Cr Nai is a potential beneficiary of a granted LHA lease interest (the leaseholder is deceased).
  - How the Councillor proposed to deal with the MPI: Cr Nai left the room.
- Cr Levi declared a potential conflict of interest (COI)
  - COI details: Cr Levi's wife, Catherine Levi, is an eventual beneficiary to a LHA lease granted to his father-in-law and currently held by his mother-in-law.
  - How the Councillor proposed to deal with the COI: Cr Lui left the room due to public perception.
- Cr Bosun declared a conflict of interest (COI)
  - COI details: Cr Bosun's wife's involvement in the LHA lease interest of his father-in-law, Horace Baira Snr.
  - How the Councillor proposed to deal with the COI: Cr Bosun left the room.
- Cr Elisala confirmed he had no interest to declare in this matter
- Quorum could not be established because only six Councillors remained in the room (Cr Fell and Cr Sabatino were unable to attend the meeting).
- All Councillors then re-entered the room and discussed options to deal with this matter.

**RESOLUTION:**

*Moved:* Cr Kaigey; *Second:* Cr Pearson

**1. That the Trustee delegate deciding the matter to the Chief Executive Officer under section 257 of the *Local Government Act 2009 (Qld)*, due to a majority of Councillors informing the meeting that they have a personal interest in the matter.**

**MOTION CARRIED**

**RESOLUTION:**

*Moved:* Cr Nona; *Second:* Cr Bosun

**2. That the Trustee delegate to the CEO the power to execute all documents necessary to give effect to Land Holding Act/ LHA lease interests.**

**MOTION CARRIED**

Cr Nai advised the he is unable to attend the December Ordinary Meeting and 10<sup>th</sup> Anniversary celebrations, and congratulated TSIRC on 10 years.

**Meeting closed at 4:30pm – Closing prayer by Cr Fell**

8 June 2021

Torres Strait Regional Council  
PO Box 7336 Cairns QLD 4870  
Manager, Legal Services

Dear Julia Maurus

**Re. Agreement for Transfer of Dwelling**

Between: Torres Strait Regional Council  
and  
Ted Fraser Nai  
Cynthia Elma Mabo  
Address: 38 JDL Road Masig Island

Please find attached the original ATD for signing by the CEO or Mayor.

Please sign and return the original to:

DCHDE – Remote Home Ownership  
PO BOX 2556 Cairns 4870  
Attention to Jamie Lupson

This document needs to be signed for the home ownership of the above address to be finalised and the property to be taken off TSIRC asset register.

**THIS IS AN ORIGINAL DOCUMENT – PLEASE SIGN AND RETURN TO THE ADDRESS LISTED ABOVE**

If you have any questions, please contact Rebecca De-Lai on (07) 4036 5520 or by email at [Rebecca.De-Lai@chde.qld.gov.au](mailto:Rebecca.De-Lai@chde.qld.gov.au). You may also contact Jamie Lupson on (07) 4036 5503 or by email at [jamie.lupson@chde.qld.gov.au](mailto:jamie.lupson@chde.qld.gov.au).

Yours sincerely

Jamie Lupson  
Senior Program Officer - Remote Home Ownership  
Aboriginal and Torres Strait Islander Housing Unit  
Department of Communities, Housing and Digital Economy

**AGREEMENT FOR TRANSFER OF  
LAND HOLDING ACT HOUSE**

*Between*

**TORRES STRAIT ISLAND REGIONAL COUNCIL**

*and*

**TED FRASER NAI  
CYNTHIA ELMA MABO**

**THIS AGREEMENT** is made

**BETWEEN:**    **The party named in Item 1 of Schedule 1** ('the Trustee')

**AND:**           **The party named in Item 2 of Schedule 1** ('the Lessee')

## **RECITALS**

- A.    The Trustee is the owner of the Improvements located on the Land.
- B.    The Trustee is the lessor under the Perpetual Lease which has been granted to the Lessee over the Land under the *Aborigines and Torres Strait Islander (Land Holding) Act 1985*.
- C.    The Perpetual Lease does not include the Improvements.
- D.    The Improvements have been used as Social Housing, and may include other structures, such as sheds.
- E.    The Trustee wishes to transfer and the Lessee wishes to accept a transfer of the Improvements on the terms and conditions specified in this Agreement.
- F.    The parties wish to record the terms of their agreement.

## **AGREED TERMS**

### **1.    DEFINITIONS & INTERPRETATION**

- 1.1   In this Agreement, the following definitions will apply:

*Agreement* includes this document and all schedules to this document;

*Date of this Agreement* means the date on which this Agreement is executed by the parties and if executed on different dates, the later of those dates;

*GST* has the meaning given in GST Act;

*GST Act* means *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

*Housing Chief Executive* means the chief executive of the department which administers the *Housing Act 2003*;

*Improvements* means the improvements specified in Item 3 in Schedule 1;

*Land* means the land described in Item 4 in Schedule 1;

*Lessee* means the person specified in Item 2 in Schedule 1;



***Lessee's Solicitor*** means the person specified in Item 10 in Schedule 1;

***Perpetual Lease*** means the lease granted under section 9 of the *Aborigines and Torres Strait Islander (Land Holding) Act 1985* and specified in Item 5 in Schedule 1;

***Place for Settlement*** means the place specified in Item 7 in Schedule 1;

***Purchase Price*** means the amount specified in Item 6 in Schedule 1;

***Settlement Date*** means that date which is 10 business days after the Date of this Agreement;

***Social Housing*** means housing used to provide subsidised housing for residential use;

***Supply*** has the meaning given in the GST Act;

***Tax Invoice*** has the meaning given in the GST Act;

***Trustee*** means the party identified in Item 1 of Schedule 1; and

***Trustee's Solicitor*** means the person identified in Item 9 in Schedule 1.

1.2 In this Agreement:

- (a) all monetary amounts refer to Australian money;
- (b) a reference to legislation includes subordinate legislation and any legislation amending, consolidating or replacing it;
- (c) a reference to an individual or person includes a corporation or other legal entity;
- (d) a reference to a clause or schedule means a clause or schedule to this Agreement;
- (e) the headings are included for convenience of reference only and are not intended to affect the meaning of this Agreement;
- (f) if an expression is defined, other grammatical forms of that expression will have corresponding meanings;
- (g) a reference to days or months means calendar days or months;
- (h) if the day on which any act or thing is to be done under this Agreement is a Saturday, Sunday or public holiday in the place where the act or thing is to be done, the act or thing may be done on the next business day in that place;
- (i) if any conflict arises between the clauses in this Agreement and the contents of any schedule, the clauses prevail; and
- (j) an obligation on the part of two or more persons binds them jointly and each of them individually.

**1.3** If a government department, agency or statutory authority mentioned in this Agreement:

- (a) ceases to exist; or
- (b) is reconstituted, renamed or replaced;

and its powers or functions are transferred to another government department, agency, or statutory authority, a reference to the government department, agency or statutory authority will include that other government department, agency or statutory authority.

**2. TRANSFER OF HOUSE**

- 2.1** The Trustee agrees to transfer and the Lessee agrees to accept a transfer of the Improvements, free of all encumbrances.

**3. WARRANTIES**

- 3.1** The Trustee warrants that the Purchase Price has been determined in accordance with the requirements of section 62(3) of the *Aboriginal and Torres Strait Islander Land Holding Act 2013*.

- 3.2** The Trustee warrants that, except as disclosed in this Agreement, at the time the Trustee executes this Agreement, it has free and unqualified capacity and power to enter into this Agreement and to complete the obligations created by this Agreement.

- 3.3** The Lessee warrants that except as disclosed in this Agreement, each of the following statements is accurate at the time the Lessee executes this Agreement:

- (a) it has free and unqualified capacity and power to enter into this Agreement and to complete the obligations created by this Agreement; and
- (b) it is not under any legal disability which affects the Lessee's capacity to contract and to complete the obligations created by this Agreement.

- 3.4** The Trustee warrants that, as far as it is aware, except as disclosed in this Agreement, each of the following statements is accurate at the time the Trustee executes this Agreement:

- (a) there is no current litigation by any person claiming an estate or interest in the Improvements;
- (b) there is no unsatisfied judgement, order, or writ of execution which affects the Improvements.

**4. CURRENT CONDITION**

- 4.1** The Lessee acknowledges that the Improvements are being transferred in the condition at the time of transfer. This includes any and all defects including latent and patent defects.

4.2 The Lessee will not:

- (a) make any objection, requisition or claim for loss, damage or compensation because of, or arising out of:
  - (i) the state of repair or condition of the Improvements; or
  - (ii) the suitability of the Improvements for any particular use or purpose; or
- (b) require the Trustee to carry out any work in respect of the Improvements on the grounds that there are latent or patent defects in the Improvements.

## **5. RISK**

5.1 The parties acknowledge that the Improvements are at the risk of the Lessee from 5.00pm on the first business day after the Date of this Agreement.

## **6. PAYMENT OF THE PURCHASE PRICE**

6.1 The Lessee must pay the Purchase Price to the Trustee on the Settlement Date in exchange for ownership of the Improvements.

## **7. SETTLEMENT**

7.1 Settlement must occur at the Place for Settlement between 9.00am and 5.00pm on the Settlement Date.

7.2 On the Settlement Date:

- (a) the Lessee must pay the Purchase Price together with the GST amount calculated under clause 8, if applicable, to the Trustee by bank cheque as the Trustee directs; and
- (b) the Trustee must deliver to the Lessee a valid Tax Invoice under clause 8, if applicable.

## **8. GST**

8.1 The parties acknowledge that:

- (a) the Purchase Price is exclusive of GST; and
- (b) GST may be payable on a Supply under this Agreement.

8.2 Where GST is payable upon any Supply under this Agreement, the consideration payable by the recipient for the Supply is adjusted in accordance with clauses 8.3 and 8.4.

8.3 Subject to the supplier issuing a valid Tax Invoice, the consideration payable by the recipient to the supplier for the Supply is increased by the amount equal to that which the supplier is obliged to remit as GST on the Supply.

8.4 If for any reason including:

- (a) any amendment to the GST Act;
- (b) the issue of a ruling or advice by the Commissioner of Taxation;
- (c) a refund to the supplier in respect of a Supply made under this Agreement; or
- (d) a decision of any tribunal or court,

the amount of GST paid by a party under this Agreement differs from the amount of GST paid or payable to the Commissioner of Taxation, then the party making the Supply must issue an appropriate GST adjustment note and the difference must be paid by or to the other party as the case may be.

8.5 The parties agree to exchange with each other such information as may be necessary to enable each party to accurately assess its rights and obligations under this clause 8.

## **9. NOTICES**

9.1 Any notice, request, consent or approval under this Agreement must be in writing and may be delivered by hand, by registered mail, by facsimile, or by email to the addresses specified in Item 8 in Schedule 1, or any substitute address as may have been notified by the relevant addressee from time to time or the party's solicitor named in Schedule 1.

9.2 Subject to clause 9.3, notices will be deemed to be given:

- (a) if posted – 14 days after deposit in the mail with the postage prepaid;
- (b) if delivered – on the date of delivery;
- (c) if faxed – on the date on which an apparently successful transmission is noted by the sender's facsimile machine; or
- (d) if emailed – on the date of the email,

as the case may be.

9.3 An email or facsimile transmission received after 5.00pm on any day will be deemed to be received at the start of the next business day.

9.4 Notices by:

- (a) the Trustee must be on the Trustee's letterhead and signed by an authorised person; and

(b) the Lessee must be signed by the Lessee.

9.5 Notices may be given by or to a party's solicitor by any of the means specified in clause 9.1.

## **10. COSTS**

10.1 Each party must pay their own costs of and incidental to the negotiation, preparation and execution of this Agreement.

10.2 The Lessee must pay any stamp duty payable on this Agreement.

## **11. GENERAL PROVISIONS**

11.1 This Agreement constitutes the entire agreement between the parties and supersedes all prior negotiations, arrangements and agreements between the parties.

11.2 Any failure by a party at any time to enforce a clause of this Agreement, or any forbearance, delay or indulgence granted by a party to the other, will not constitute a waiver of the party's rights.

11.3 No provision of this Agreement will be deemed to be waived unless the waiver is in writing and signed by the waiving party.

11.4 A waiver by a party of a breach of any provision of this Agreement will not operate as a waiver of any subsequent breach of the same provision nor as a waiver of any other provision.

11.5 This Agreement is governed by the laws of Queensland and each party submits to the jurisdiction of the courts of Queensland.

11.6 If any part of this Agreement is determined to be invalid, unlawful or unenforceable for any reason then that part will be severed from the rest of the Agreement to the extent of the invalidity, unlawfulness or unenforceability and the remaining terms and conditions will continue to be valid and enforceable to the fullest extent permitted by law.

11.7 A party may not assign or novate their interest in this Agreement, except with the prior consent of the other party or parties.

11.8 This Agreement may only be varied by a written agreement executed by the parties.

## SCHEDULE 1

**Item**

- |     |                             |  |
|-----|-----------------------------|--|
| 1.  | <b>Trustee</b>              | <b>Torres Strait Island Regional Council</b>   |
| 2.  | <b>Lessees</b>              | <b>Ted Fraser NAI, Cynthia Elma MABO</b>   |
| 3.  | <b>Improvements</b>         | <b>4 bedroom house, constructed 1994</b>   |
| 4.  | <b>Land</b>                 | <b>Lot 20 on SP 277431, 38 JDL Road, Masig</b>   |
| 5.  | <b>Perpetual Lease</b>      | <b>715653361</b>   |
| 6.  | <b>Purchase Price</b>       | <b>\$1.00 (exclusive of GST)</b>   |
| 7.  | <b>Place for Settlement</b> | <b>Torres Strait Island Regional Council</b>   |
|     | <b>Address for Notices</b>  |  |
| 8.  | <b><u>Trustee</u></b>       |  |
|     | <b>Delivery Address:</b>    | <b>Lot 12 Francis Road, Hammond Island QLD</b>   |
|     | <b>Postal Address:</b>      | <b>PO Box 7336, Cairns QLD 4875</b>  |
|     | <b>Attention:</b>           | <b>Manager Legal Services</b>  |
|     | <b>Facsimile:</b>           | <b>07 4034 5750</b>  |
|     | <b>Email:</b>               | <b>Julia.Maurus@tsirc.qld.gov.au</b>   |
|     | <b><u>Lessees</u></b>       | <b>Ted Fraser Nai &amp; Cynthia Elma Mabo</b>  |
|     | <b>Delivery Address:</b>    | <b>PO Box 1026, Thursday Island, Qld 4875</b>  |
|     | <b>Email:</b>               | <b><a href="mailto:zenadth21@gmail.com">zenadth21@gmail.com</a></b>  |
| 9.  | <b>Trustee's Solicitor</b>  | <b>Manager Legal Services<br/>Torres Strait Island Regional Council<br/>Phone 4034 5763<br/>Email <a href="mailto:Julia.Maurus@tsirc.qld.gov.au">Julia.Maurus@tsirc.qld.gov.au</a></b> |
| 10. | <b>Lessee's Solicitor</b>   | <b>n/a</b>   |

AGREEMENT FOR TRANSFER OF LAND HOLDING ACT HOUSE

Executed as a deed by the parties on the respective dates appearing below.

**SIGNED SEALED and DELIVERED**

for and on behalf of the )  
Torres Strait Island Regional Council )  
as Trustee )

.....  
(signature)

..... (name) )

Mayor/Chief Executive Officer )  
in the presence of: )

..... / ..... / .....  
(date)

.....  
(signature of witness)

.....  
(print name of witness)

**SIGNED SEALED and DELIVERED**

By Ted Fraser Nai )  
as lessee )

.....  
(signature)

in the presence of: )

14 / 12 / 20  
(date)

Kar .....  
(signature of witness)

Karina Martini  
(print name of witness)

**SIGNED SEALED and DELIVERED**

By Cynthia Elma Mabo )  
as lessee )

Cmabo  
(signature)

in the presence of: )

14 / 12 / 2020  
(date)

.....  
(signature of witness)

ADAM SHAFER  
(print name of witness)

# **TORRES STRAIT ISLAND REGIONAL COUNCIL**

## **AGENDA REPORT**

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### **SARG MEETING**

**DATE:** June 2021

**ITEM:**

**SUBJECT:** Religious Church Services using Council  
Community Halls and other facilities

**AUTHOR:** Peter Krebs, Senior Legal Counsel

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### **BACKGROUND**

This matter came before SARG at its June 2021 meeting and it has been referred to the full council to decide and provide guidance.

Legal Services advises on queries relating to local law permits issued within Council's region and manages all leases and occupancy licence agreements with organisations and individuals for TSIRC owned facilities. Trustee policy for Church leases is the payment of a peppercorn rent (ie no rent as such), and guidance is sought on whether this policy should be extended to the grant of occupancy licences for church and religious purposes which occur on a regular basis at TSIRC facilities.

For one-off religious events such as church fellowships and weddings, a local law permit or Council facility hire agreement is appropriate. However, for regular and ongoing use of TSIRC facilities for church and religious purposes, Legal Services recommends 12-monthly licence agreements as the most appropriate mechanism to regulate this facility use.

There are concerns regarding the payment of utility charges as well as who is responsible for cleaning up after a church service and the burden this may place on Divisional staff and additional cost to TSIRC.

There are also issues regarding the possible conflicting need of TSIRC or other community members to use the facility at the same time that a Church group is using it.

Currently there is no policy in place to deal with these situations and guidance is sought on the formulation of a policy.



## **OFFICER COMMENT**

Over the last few years, there has been some noticeable momentum within our local communities of several religious/church groups formed under various denominations. Most of these other groups are not associated to the existing/current religious groups that are already present within a community on a long-term basis and which most cases have their own long-standing church infrastructure.

The table below is a sample of religious/church groups and where their services are normally held at Council facilities:

<b>Group &amp; Location</b>	<b>Facilities</b>
Barbara Guilgo - Badu	Jack Ahmat Stadium
Synod of the Diocese Church of the Torres Strait – Badu	Community Hall
Parish of St Phillips Independent – Badu	Ugarie Hall
Independent Church Parish of Ascension – Dauan	Community Hall

The current approach taken by Legal Services to date regarding the terms of licence agreements for church and religious groups is based upon advice from former Mayor Gela, as follows:

- Use on every Sunday between 10am to 12pm
- Use on Religious holidays between 10am to 12pm
- Use on Good Friday, Ash Wednesday, Christmas Eve and New Year's Eve
- Licensee to reschedule church service if the premises are required by TSIRC or a third party for another activity
- Any condition otherwise approved in writing by the Chief Executive Officer
- Peppercorn licence fee and no utilities or outgoings payable

Public liability also needs to be considered for any licence. Council's insurer, LGM Liability, has advised (correspondence 26 May 2021) that public liability coverage is only provided to Council and its employees and to the liability of casual hirers to third parties. For the "casual hirer" coverage to apply, the "casual hirer" must be non-commercial, not incorporated, not involved in high-risk sport and can hire the Council facility no more than 12 times per year. Council's public liability insurance therefore does not cover frequent/regular hirers of Council facilities or hire for commercial purposes such as regular church services, organised sports, coaching or fundraising, or other hire by incorporated entities. For

risk management, it is important that church groups that wish to use Council's facilities regularly have their own public liability insurance.

## **CONCLUSION**

In order to prepare a policy regarding occupancy licences to church and religious groups, the following guidance is sought from Council on the following matters:

1. Will any occupancy licence be for a peppercorn rent?
2. Will TSIRC cover the utility charges?
3. Will any occupancy licence contain a condition that the lessee be responsible for cleaning up after a service?
4. Should one-off church and religious group use be processed as a permit?
5. In the event that TSIRC requires the use of the facility, should it be a condition that upon TSIRC giving 14 days' notice, that the church or religious group will have to make other arrangements?
6. Should any occupancy licence for church and religious groups be restricted to Sundays or any other holy days thereby allowing other uses outside these times?
7. Should any grant of an occupancy licence for a church and religious group be subject to approval from the Divisional councillor and/or Island PBC?
8. Should the term of the occupancy licence be for only 12 months?
9. Should any variation of the terms and condition be approved in writing by the Chief Executive Officer?
10. Should it be a condition of any licence that the church and religious group have their own public liability insurance?

Upon obtaining guidance from Council on the above matters, then a policy can be drafted up and presented to council for consideration.



**David Baldwin**  
**A/CEO**



**Peter Krebs**  
**Senior Legal Counsel**

## AGENDA REPORT

<b>ORDINARY MEETING:</b>	June 2021
<b>DATE:</b>	29 & 30 June 2021
<b>ITEM:</b>	Agenda Item for Resolution by Council
<b>SUBJECT:</b>	Complaint (Public Official) Policy review
<b>AUTHOR:</b>	Julia Maurus, Manager Legal Services

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### Recommendation:

Council resolves to adopt the updated SPO29 Complaint (Public Official) Policy, as presented, under section 48A of the *Crime and Corruption Act 2001*.

### Executive Summary:

This report represents for Council's consideration proposed updates to the policy for dealing with complaints about the public official.

### Background:

Section 48A of the *Crime and Corruption Act 2001* (the Act) places an obligation on public officials to prepare a policy about how they will deal with a complaint about corrupt conduct against the public official themselves. This includes the ability of a public official to nominate a person (other than the public official) to deal with any complaint of corruption against the public official, and notify the Crime & Corruption Commission of the same.

Section 48A states:

*Policy about how complaints involving public official are to be dealt with*

*(1) A public official must, in consultation with the chairperson, prepare a policy about how the unit of public administration for which the official is responsible will deal with a complaint that involves or may involve corruption of the public official.*

*(2) The policy may nominate a person other than the public official to notify the commission of the complaint under section 37 or 38, and to deal with the complaint under subdivision 1 or 2, on behalf of the public official.*

*(3) If the policy includes a nomination as mentioned in subsection (2), this Act applies as if a reference about notifying or dealing with the complaint to the public official were a reference to the nominated person.*

*Example of operation of subsection (3)—*

*If a policy prepared under this section for a unit of public administration includes a nomination as mentioned in subsection (2)—*

*(a) under section 38 as applying under subsection (3), the nominated person must notify the commission of complaints about the relevant public official that the person suspects involve or may involve corrupt conduct; and*

*(b) under section 35(1)(b) as applying under subsection (3), the commission may refer complaints about the relevant public official to the nominated person for the nominated person to deal with; and*

*(c) under section 42 or 44 as applying under subsection (3), the nominated person must deal with complaints about the relevant public official referred to the nominated person by the commission.*

*(4) In this section—*

*complaint includes information or matter.*

### **Comment:**

Council updated SPO29 Complaint (Public Official) Policy on 20 May 2019. The Policy is due for review this month. Manager Legal Services has reviewed the Policy and MacDonnells Law has provided recommendations for updating the Policy.

The policy is proposed to be updated as marked up in **Attachment 1**, as follows:

1. Update review date to 30 June 2022.
2. Update Corporate Plan links to reflect current Corporate Plan.
3. Update Mayor details to current Mayor.
4. Clause 5 inserts a process, recommended by MacDonnells Law, for how the Mayor can deal with any conflict of interest: "Where the Mayor has a conflict of interest, the Mayor may nominate another Councillor as delegated nominated person."
5. Signatories (Mayor and CEO) updated to current Mayor and A/CEO.

The proposed policy updates are required for statutory compliance and best-practice complaint management.

### **Considerations**

#### Risk Management

Risk Assessment: The proposed policy updates are required for statutory compliance and are recommended for best-practice complaint management.

#### Council Finance

Capital Cost: NIL

Operating Cost: NIL

### **Consultation:**

- Legal Services Division
- MacDonnells Law
- Audit Committee
- Crime and Corruption Commission

### **Links to Strategic Plans:**

TSIRC Corporate Plan 2020–2025

Outcome 4: We are a transparent, open and engaging council.

Outcome 8: We manage Council affairs responsibly for the benefit of our communities.

### **Statutory Requirements:**

*Local Government Act 2009*

*Local Government Regulation 2012*

*Crime and Corruption Act 2001*

### **Conclusion:**

It is recommended that Council resolve to adopt the updated SPO29 Complaint (Public Official) Policy, as presented, under section 48A of the *Crime and Corruption Act 2001*.

*Julia Maurus*

**Recommended:**

Julia Maurus  
Manager Legal Services

*David Baldwin*

David Baldwin  
Acting Chief Executive Officer

## COMPLAINT (PUBLIC OFFICIAL) POLICY

SPO 29

**Responsible Manager:** Chief Executive Officer

**Head of Power:** *Local Government Act 2009 (Qld)*  
*Crime and Corruption Act 2001 (Qld)*

**Authorised by:** Council

**Authorised on:** ~~20 May 2019~~ **INSERT DATE**

**Implemented from:** 20 May 2019

**Last Reviewed:** 2021

**Review History:**

**Review Date:** 30 June ~~2021~~ 2022

**Corporate Plan:** TSIRC Corporate Plan 2020–2025

Outcome 4: We are a transparent, open and engaging council.

Outcome 8: We manage Council affairs responsibly for the benefit of our communities.<sup>1</sup> — Ngalpin Idid — Art, Culture, People

~~4 Local Government services meeting Community Needs in a transparent, effective and accountable manner.~~

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## 1. OBJECTIVE

- a. The Chief Executive Officer (CEO) is the public official of Council.
- b. The objective of this policy is to set out how Council will deal with a complaint (also information or matter) that involves or may involve corrupt conduct of its CEO as defined in the *Crime and Corruption Act 2001* (CC Act).

## 2. POLICY RATIONALE

This policy is designed to assist Council to:

- a. Comply with section 48A of the *Crime and Corruption Act 2001*
- b. Promote public confidence in the way suspected corrupt conduct of Council's CEO is dealt with (section 34(c) CC Act)
- c. Promote accountability, integrity and transparency in the way Council deals with a complaint that is suspected to involve, or may involve, corrupt conduct of the CEO.

## 3. DEFINITIONS & INTERPRETATION

Unless otherwise stated, all statutory references are to the *Crime and Corruption Act 2001*.

Crime and Corruption Commission (CCC)	the Commission continued in existence under the <i>Crime and Corruption Act 2001</i>
CC Act	<i>Crime and Corruption Act 2001</i>
Chief Executive Officer (CEO)	means the Chief Executive Officer of Council
Complaint	includes information or matter. See definition provided by s48A(4) of the <i>Crime and Corruption Act 2001</i>
Contact details (nominated person)	<u>Cr Phillemon Mosby</u> <u>Mayor, Torres Strait Island Regional Council</u> <u>Add: Poruma Island, Queensland 4875</u> <u>Tel: 07 4034 5775</u> <u>Email: Cr.Phillemon.Mosby@tsirc.qld.gov.au</u> <u>Mayoral email: mayor@tsirc.qld.gov.au</u> <u>Cr Fred Gela</u> <u>Mayor, Torres Strait Island Regional Council</u>

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	<del>Add: Lot 12 Francis Road, Hammond Island, Queensland 4875</del> <del>Tel: 07 4034 5775</del> <del>Email: cr.fred.gela@tsirc.qld.gov.au</del>
Corruption	see Schedule 2 (Dictionary) of the <i>Crime and Corruption Act 2001</i>
Corrupt conduct	see section 15 of the <i>Crime and Corruption Act 2001</i>
<i>Corruption in Focus</i>	<a href="https://www.ccc.qld.gov.au/publications/corruption-focus">https://www.ccc.qld.gov.au/publications/corruption-focus</a> ; see chapter 2, page 2.6 <a href="http://www.ccc.qld.gov.au/corruption/information-for-the-public-sector/corruption-in-focus">http://www.ccc.qld.gov.au/corruption/information-for-the-public-sector/corruption-in-focus</a> ; see chapter 2, page 2.5-6
Council	Council means Torres Strait Island Regional Council
Deal with	see Schedule 2 (Dictionary) of the <i>Crime and Corruption Act 2001</i>
Nominated person	see item 5 of this policy
Public Official/CEO	see Schedule 2 (Dictionary) and also s48A of the <i>Crime and Corruption Act 2001</i>
Unit of public administration (UPA)	see section 20 of the <i>Crime and Corruption Act 2001</i>

Field Code Changed

#### 4. POLICY APPLICATION

This policy applies:

- a. if there are grounds to suspect that a complaint may involve corrupt conduct of Council's CEO.
- b. to all local government employees, Councillors, contractors and agents of Council.

For the purpose of this policy a complaint includes information or matter.<sup>1</sup>

#### 5. NOMINATED PERSON

- a. Having regard to section 48A(2) and (3) of the CC Act, this policy nominates Council's Mayor as the nominated person to notify<sup>2</sup> the CCC of the complaint and to deal with the complaint under the CC Act.<sup>3</sup> The Mayor shall refer any such complaint for external

<sup>1</sup> See section 48(4) CC of the CC Act.

<sup>2</sup> Under ss37 or 38 of the CC Act.

<sup>3</sup> Under Chapter 2, Part 3, Division 4, Subdivisions 1 & 2 of the CC Act.



investigation. Where the Mayor has a conflict of interest, the Mayor may nominate another Councillor as delegated nominated person.

- b. The CC Act applies as if a reference about notifying or dealing with the complaint to the public official/CEO is a reference to the nominated person.<sup>4</sup>

## 6. COMPLAINTS ABOUT THE CEO

- a. If a complaint may involve an allegation of corrupt conduct of the CEO, the complaint may be reported to:
- the nominated person, or
  - a person to whom there is an obligation to report under an Act<sup>5</sup> (this does not include an obligation imposed by sections 37, 38 and 39(1) of the CC Act).
- b. If there is uncertainty about whether or not a complaint should be reported, it is best to report it to the nominated person.
- c. If the nominated person reasonably suspects the complaint may involve corrupt conduct of the CEO, the nominated person must:
- notify the CCC of the complaint,<sup>6</sup> and
  - deal with the complaint, subject to the CCC's monitoring role, when —
    - directions issued under section 40 apply to the complaint, if any, or
    - pursuant to section 46, the CCC refers the complaint to the nominated person to deal with.<sup>7</sup>
- d. If the CEO reasonably suspects that the complaint may involve corrupt conduct on their part, the CEO must:
- report the complaint to the nominated person as soon as practicable and may also notify the CCC, and
  - take no further action to deal with the complaint unless requested to do so by the nominated person in consultation with the elected Council.

~~e. If directions issued under section 40 apply to the complaint:~~

- ~~i. the nominated person is to deal with the complaint, and~~
- ~~i. the CEO is to take no further action to deal with the complaint unless requested to do so by the nominated person in consultation with the elected Council.~~

Commented [EW1]: Council do not have a s40 agreement in place so no need to include this section

<sup>4</sup> See section 48A(3) CC Act.

<sup>5</sup> See section 39(2) of the CC Act.

<sup>6</sup> Under section 38, subject to section 40 of the CC Act.

<sup>7</sup> Under sections 43 and 44 of the CC Act.

## **7. RECORDKEEPING REQUIREMENTS**

Should the nominated person decide that a complaint, or information or matter, about alleged corrupt conduct of the CEO is not required to be notified to the CCC under s. 38 of the CC Act, the nominated person must make a record of the decision that complies with section 40A of the CC Act.

## **7-8. RESOURCING THE NOMINATED PERSON**

- a. Council will ensure that sufficient resources are available to the nominated person enable them to deal with the complaint appropriately.<sup>8</sup>
- b. The nominated person must ensure that consultations, if any, for the purpose of securing resources sufficient to deal with the complaint appropriately are confidential and are not disclosed, other than to the CCC, without:
  - i. authorisation under a law of the Commonwealth or the State, or
  - ii. the consent of the nominated person.
- c. The nominated person must, at all times, use their best endeavours to act independently, impartially and fairly having regard to the:
  - i. purposes of the CC Act,<sup>9</sup>
  - ii. the importance of promoting public confidence in the way suspected corrupt conduct in the Council is dealt with,<sup>10</sup> and
  - iii. the Council's statutory, policy and procedural framework.
- d. The nominated person:
  - i. is delegated the same authority, functions and powers as the CEO to direct and control Council employees, contractors and agents as if the nominated person is the CEO for the purpose of dealing with the complaint only.
  - ii. is delegated the same authority, functions and powers as the CEO to enter into contracts on behalf of Council for the purpose of dealing with the complaint.
  - iii. does not have any authority, function or power that cannot — under the law of the Commonwealth or the State — be delegated by either the elected Council or the CEO, to the nominated person.

<sup>8</sup> See the CCC's corruption purposes and function set out in sections 4(1)(b), 33, 34, 35 and Council's relevant statutory, policy and procedural framework which help inform decision making about the appropriate way to deal with the complaint.

<sup>9</sup> See sections 57 and the CCC's corruption purposes and function set out in sections 4(1)(b), 33, 34, 35 of the CC Act.

<sup>10</sup> See section 34(c) CC Act.

#### **8-9. LIAISING WITH THE CCC**

The CEO is to keep the CCC and the nominated person informed of:

- a. the CEO's contact details
- b. the nominated person's contact details
- c. any proposed changes to this policy

#### **9-10. CONSULTATION WITH THE CCC**

The CEO will consult with the CCC when preparing any policy about how Council will deal with a complaint that involves or may involve corrupt conduct of the CEO.

#### 10.11. AUTHORISATION

This policy was duly authorised by Council as the Torres Strait Island Regional Council Complaint (Public Official) Policy (SPO 29) on ~~20 May 2019~~ **INSERT DATE**, and shall hereby supersede any previous policies of the same intent.

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Date:

~~Bruce Ranga~~ David Baldwin

**Acting Chief Executive Officer**

Add: PO Box 7336, Cairns, Queensland 4870

Tel: 07 4048 62043 ~~Mobile: 0418 933 318~~

Fax: ~~07 4034 5750~~

Email: ~~bruce.ranga@tsirc.qld.gov.au~~

CEO email: ceo@tsirc.qld.gov.au

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\_\_\_\_\_  
Date:

Cr ~~Phillemon Mosby~~ Fred Gela

**Mayor**

Add: ~~Lot 12 Francis Road, Hammond~~ Poruma Island, Queensland 4875

Tel: 07 4034 5775

Email: ~~er.fred.gela~~ Cr.Phillemon.Mosby@tsirc.qld.gov.au

Mayoral email: mayor@tsirc.qld.gov.au

## AGENDA REPORT

<b>ORDINARY MEETING:</b>	June 2021
<b>DATE:</b>	29 & 30 June 2021
<b>ITEM:</b>	Agenda Item for Resolution by Council
<b>SUBJECT:</b>	Delegations Update: Environmental Protection Regulation
<b>AUTHOR:</b>	Julia Maurus, Manager Legal Services

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### **Recommendation:**

That under section 257 of the *Local Government Act 2009*, Council delegate to the Chief Executive Officer the exercise of powers under the *Environmental Protection Regulation 2019* (Qld) (ENPR), and these powers must be exercised subject to Ailan Kastom and any limitations contained in Schedule 2 of the attached Instrument of Delegation.

### **Executive Summary:**

This report presents statutory powers to Council for endorsement of updated Council delegations to the CEO. Council previously directed Legal Services to put proposed delegations update through the Governance and Leadership Standing Committee prior to tabling them with Council, whilst ensuring statutory compliance.

### **Background:**

#### **Delegation of statutory power from Council to CEO**

1. The powers of Local Government are exercised through its officers, with the principal officer being the Chief Executive Officer. Instruments of Delegation allow certain Local Government powers to be exercised by appropriately qualified local government employees to ensure operational efficiency.
2. Council may only exercise those powers delegated to it by State legislation. The Chief Executive Officer may only exercise those powers given to him directly or delegated to him by Council. Local Government employees may only exercise those powers delegated to them by the Chief Executive Officer.
3. An update of Instruments of Delegations must occur regularly (at least annually) to ensure exercise of powers according to law.
4. As part of its retainer arrangement with MacDonnells Law, TSIRC subscribes to a monthly delegations update service provided by MacDonnells Law. This service allows new and amended statutory powers to be presented to Council on a monthly basis for adoption, to ensure that TSIRC's delegations instruments are always up-to-date.
5. Following Council resolution at the February 2021 Ordinary Meeting, all local government delegations and trustee delegations were brought up-to-date to meet legislative changes as advised through the MacDonnells Law subscription service.
6. The individual instruments of delegation have been updated to reflect the February 2021 Council resolutions and have been uploaded to Council's intranet for staff reference.

## Status of sub-delegations (CEO to employee or contractor) and appointment of authorised persons

7. An Instrument of Delegations from CEO to COO was approved by CEO on 21 November 2018 because a review was required following Council's corporate restructure.
8. The current Instrument of Delegations of CEO 2018 was approved by the CEO on 22 August 2019 and includes powers sub-delegated to appropriately qualified local government employees.
9. The sub-delegations register requires updating, both to reflect legislative changes and to reflect changes to Council's corporate structure. Council adoption is not required for sub-delegations.
10. The statutory delegation instruments that have been endorsed by Council and the Trustee now need to be reviewed by the A/CEO and Manager Legal Services to consider appropriate sub-delegations. Updated sub-delegations will then be made by the A/CEO and recorded by Legal Services.
11. Authorised Persons have been appointed under the *Local Government Act 2009* following training undertaken in 2020.

### Comment:

12. The *Environmental Protection Regulation 2019* delegations were endorsed by Council in February 2021.
13. MacDonnells Law has advised that:
  - a. The *Environmental Protection Regulation 2019* was amended by the Environmental Protection (Commercial Cropping and Horticulture Activities in Great Barrier Reef Catchment) Amendment Regulation 2021 (Qld) which commences on 1 June 2021. The amendment has resulted in a minor amendment to Council's ability to approve applications for relevant activities.
  - b. This minor law reform requires changes to the Table of Delegable Powers.
14. The proposed updated Instrument of Delegation is included as **Attachment 1**. The relevant change is to the power delegated under Regulation 41AA(3):

Administering Authority	41AA(3)	Power to consider: (a) the relevant activity will, or may, have a residual impact, and (b) having regard to the matters mentioned in the water quality offset policy, the residual impact will not be adequately counterbalanced by offset measures.-
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15. Regulation 41AA(3) is copied below this report, for reference.
16. Powers that Council previously declined to delegate have not been recommended for delegation.
17. Powers that MacDonnells Law recommends not be delegated have not been recommended for delegation.
18. Powers not recommended for delegation are marked "N/A" in the delegations document.

19. All conditions included in previous delegations have been carried over.
20. Conditions imposed on all delegations have been updated to state that whilst exercising a power, the delegate must (not may) take into account Ailan Kastom. Ailan Kastom is defined in section 6 of the Torres Strait Islander Land Act 1991 (Qld). Section 9(3) of the Local Government Act 2009 states “may take into account” and therefore makes this discretionary; however, Council instructed that the delegate must take Ailan Kastom into account.
21. For continued operational efficiency and statutory compliance in all Departments, the delegations update is submitted to Council for adoption.
22. The change is a minor amendment and is recommended for Council's endorsement.

## **Considerations**

### Risk Management

MacDonnells Law has identified a significant risk of non-compliance if Council's delegations are not updated. This is because without up-to-date delegations, the CEO and Council staff are more likely to make decisions without the necessary delegated authority; those decisions are invalid and could be challenged.

For continued operational efficiency and statutory compliance in all Departments, the delegations update is submitted to Council for adoption.

### Council Finance

No finance implications.

## **Consultation:**

- MacDonnells Law
- Chief Executive Officer
- Audit Committee
- Governance and Leadership Standing Committee (21 June 2021)

## **Links to Strategic Plans:**

TSIRC Corporate Plan 2020–2025

Delivery Pillar: People

Outcome 4: We are a transparent, open and engaging council.

Delivery Pillar: Sustainability

Outcome 8: We manage council affairs responsibly for the benefit of our communities

## **Statutory Requirements:**

*Local Government Act 2009*

*Local Government Regulation 2012*

*Environmental Protection Regulation 2019*

## **Conclusion:**

That that under section 257 of the *Local Government Act 2009*, Council delegate to the Chief Executive Officer the exercise of powers under the *Environmental Protection Regulation 2019* (Qld) (ENPR), and these powers must be exercised subject to Ailan Kastom and any limitations contained in Schedule 2 of the attached Instrument of Delegation.



**Recommended:**  
Julia Maurus  
Manager Legal Services



**Endorsed:**  
David Baldwin  
Acting Chief Executive Officer

## Environmental Protection Regulation 2019

### **41A Release of particular contaminants to Great Barrier Reef catchment waters and other waters**

- (1) This section applies to the administering authority for making an environmental management decision relating to an activity (the **relevant activity**) that is, or will be, carried out in—
- (a) the Great Barrier Reef catchment; or
  - (b) the coastal waters of the State that are between the following geodesic lines—
    - (i) a line running north from the point that is the most northern coastline of the State in the Great Barrier Reef catchment;
    - (ii) a line running east from the point that is the most southern coastline of the State in the Great Barrier Reef catchment.
- (2) However, this section does not apply to—
- (a) a prescribed ERA mentioned in [schedule 2, section 16](#), to the extent the activity is dredging in waters mentioned in subsection (1)(b); or
  - (b) a prescribed ERA mentioned in [schedule 2, section 13A](#).
- (3) The administering authority must refuse to grant the application if the authority considers that—
- (a) the relevant activity will, or may, have a residual impact; and
  - (b) having regard to the matters mentioned in the water quality offset policy, the residual impact will not be adequately counterbalanced by offset measures for the relevant activity.
- (4) A **residual impact** of a relevant activity is the presence of fine sediment, or dissolved inorganic nitrogen, in Great Barrier Reef catchment waters, or waters mentioned in subsection (1)(b), that—
- (a) was released to the water because of the relevant activity; and
  - (b) remains, or is likely to remain, in the water despite mitigation measures for the relevant activity.
- (5) For subsection (4), the presence of fine sediment must be detected by measuring total suspended solids.
- (6) **Mitigation measures**, for a relevant activity, are activities carried out to avoid or minimise the release of fine sediment, or dissolved inorganic nitrogen, to Great Barrier Reef catchment waters, or waters mentioned in subsection (1)(b), because of the relevant activity being carried out.
- (7) **Offset measures**, for a relevant activity, are activities carried out to reduce the load of fine sediment, or dissolved inorganic nitrogen, in Great Barrier Reef catchment waters, or waters mentioned in [subsection 1\(b\)](#).
- (8) For subsections (6) and (7), a mitigation measure, or an offset measure, for a relevant activity may be carried out at the place where the relevant activity is carried out or elsewhere.
- (9) In this section—
- load**, of fine sediment, or dissolved inorganic nitrogen, in water, means the total mass of the fine sediment, or dissolved inorganic nitrogen, in the water, measured over a period of time.
- water quality offset policy** means the document called ‘Point source water quality offsets policy 2019’ published on the department’s website.



# **INSTRUMENT OF DELEGATION**

## **Torres Strait Island Regional Council** ***Environmental Protection Regulation 2019 ("ENPR")***

Under section 257 of the *Local Government Act 2009*, Torres Strait Island Regional Council resolves to delegate the exercise of the powers contained in Schedule 1 to the Chief Executive Officer.

These powers must be exercised subject to the limitations contained in Schedule 2.

All prior resolutions delegating the same powers to the Chief Executive Officer are repealed.

***Environmental Protection Regulation 2019 ("ENPR")*****CHAPTER 3 – ENVIRONMENTALLY RELEVANT ACTIVITIES****Part 1 – Environmentally relevant activities – general matters****Division 3 – Development application relating to concurrence ERAs**

Entity power given to	Section of ENPR	Description
Assessment Manager or Referral Agency	21(4)	Power to consider the specified benchmarks under section 22(2).

**CHAPTER 4 – REGULATORY REQUIREMENTS<sup>1</sup>****Part 2 – Regulatory requirements for all environmental decision**

Entity power given to	Section of ENPR	Description
Administering Authority	35(1)	<p>Power to when making an environmental management decision relating to an environmentally relevant activity, other than the prescribed ERA;</p> <ul style="list-style-type: none"> <li>(a) carry out an environmental objective assessment against the environmental objective and performance outcomes mentioned in schedule 8, part 3, division 1 and 2; and</li> <li>(b) consider the environmental values declared under this regulation; and</li> <li>(c) if the activity is to be carried out in a strategic environmental area – consider the impacts of the activity on the environmental attributes for the area under the <i>Regional Planning Interests Act 2014</i>; and</li> <li>(d) consider each of the following under any relevant environmental protection policies- <ul style="list-style-type: none"> <li>(i) the management hierarchy;</li> <li>(ii) environmental values;</li> <li>(iii) quality objectives;</li> <li>(iv) the management intent; and</li> </ul> </li> <li>(e) if the bilateral agreement requires the matters of national environmental significance to be consider- consider those matters.</li> </ul>
Administering Authority	35(3)	<p>In the specified circumstances, power to:</p> <ul style="list-style-type: none"> <li>(a) carry out an environmental objective assessment against the environmental objective and performance outcomes mentioned in schedule 8, part 3, division 1; and</li> </ul>

<sup>1</sup> The powers under Chapter 4 may only be exercised by a local government for a matter the enforcement and administration of which has been devolved to the local government under Chapter 8, Part 1, Division 1 and which has not been excluded by Chapter 8, Part 1, Division 2.

		(b) consider the matters mentioned in subsection (1)(b), (c) and (d).
Administering Authority	35(4)	<p>In the specified circumstances, power to:</p> <p>(a) carry out an environmental objective assessment against the environmental objectives for water and groundwater mentioned in schedule 8, part 3, division 1, to the extent the performance outcomes for the environmental objectives relate to fine sediment, or dissolved inorganic nitrogen, entering the water of the Great Barrier Reef;</p> <p>(b) consider each environmental value, declared under this regulation, to the extent the value relates to fine sediment, or dissolved inorganic nitrogen, entering the water of the Great Barrier Reef; and</p> <p>(c) if the activity is to be carried out in a strategic environmental area – consider the impacts of the activity on each environmental attribute for the area under the <i>Regional Planning Interests act 2014</i>, to the extent the attribute relates to fine sediment, or dissolved inorganic nitrogen, entering the water of the Great Barrier Reef; and</p> <p>(d) consider each of the following matters under a relevant environmental protection policy, to the extent the matter relates to fine sediment, or dissolved inorganic nitrogen, entering water of the Great Barrier Reef:</p> <ul style="list-style-type: none"> <li>(i) the management hierarchy;</li> <li>(ii) environmental values;</li> <li>(iii) quality objectives;</li> <li>(iv) the management intent.</li> </ul>
Administering Authority	36(1)	Power to, when making an environmental management decision relating to an activity, consider whether to impose conditions about each of the specified matters.
Administering Authority	37(1)	Power to, when making an environmental management decision relating to an activity, consider whether to impose monitoring conditions about the release of contaminants from the activity on the receiving environment.
Administering Authority	37(2)	Power to, when considering whether to impose a monitoring condition, consider the specified matters.

**Part 3 – Additional regulatory requirements for particular environmental management decisions**

Entity power given to	Section of ENPR	Description
Administering Authority	40(2)	In the specified circumstances, power to refuse to grant an application if the authority considers that, because of the activity, the wetland may be destroyed or reduced in size or the biological integrity of the wetland may not be maintained.
Administering Authority	41(2)	In the specified circumstances, power to refuse to grant an application if the authority considers one of the specified matters to be relevant.
Administering Authority	41AA(3)	<p>Power to consider:</p> <p>(a) the relevant activity will, or may, have a residual impact; and</p>

		(b) having regard to the matters mentioned in the water quality offset policy, the residual impact will not be adequately counterbalanced by offset measures.
Administering Authority	41AB	In the specified circumstances, power to refuse to grant an application if the authority considers that a transshipping activity is to be carried out within a particular area.

## CHAPTER 5 – MATTERS RELATING TO ENVIRONMENTAL MANAGEMENT AND ENVIRONMENTAL OFFENCES

### Part 1 – Categorisation of commercial waste and industrial waste

#### Division 3 – Notification, reporting and record keeping

Entity power given to	Section of ENPR	Description
Generator of waste	51(2)	In the specified circumstances, power to notify the administering authority of the change in waste types within 24 hours after receiving the test results for the retesting.
Generator of waste	51(3)	In the specified circumstances, within 10 business days of receiving the test results for the retesting of the waste, power to give the administering authority a written report stating the specified things.
Generator of waste	52(1)	Power to, for each load of the waste transported to a receiver, record the prescribed information for the load in the approved form.
Generator of waste	52(2)	Power to, before or when the load is given to a receiver, give the prescribed information for the load to the receiver.
Receiver of tested waste	53(2)	In the specified circumstances, power to, before or when the receiver is given the load, record the prescribed information for the load in the approved form.
Receiver of tested waste	53(3)	In the specified circumstances, power to within 24 hours after becoming aware of an omission or inaccuracy in the prescribed information, give written notice of the omission or inaccuracy to the administering authority.

### Part 9 – Waste tracking

#### Division 4 – Miscellaneous

Entity power given to	Section of ENPR	Description
Waste Handler	90(1)(b)	In the specified circumstances, power to enter into a written agreement with another person to do the thing for the waste handler.
Person	93(1)	In the specified circumstances, power to apply to the administering authority for a consignment number.
Person	94(1)	Power to apply to the administering authority for an exemption for the transportation of trackable waste for which this part applies.

Person	97	Power to apply to the administering executive for a generator identification number.
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## CHAPTER 6 – WASTE MANAGEMENT BY LOCAL GOVERNMENTS<sup>2</sup>

### Part 2 – Waste management in local government areas

#### Division 1 – Storage of general waste

Entity power given to	Section of ENPR	Description
Local Government	101(1)(b)	Power to require the owner or occupier of a relevant premises in a local government area to supply at the relevant premises, enough waste containers, other than standard general waste containers, to store the general waste produced at the relevant premises.
Local Government	101(2)	Power to determine the amount of standard general waste containers reasonably required at a premises, and to supply to the relevant premises that number of standard general waste containers.
Local Government	102(1)(a)	Power to require the occupier of a relevant premises to store general waste at the relevant premises in another type of waste container than a standard general waste container.
Local Government	101(3)	In the specified circumstance, power to recover the reasonable costs of supplying the container as a debt payable by the owner or occupier of the relevant premises to the local government.
Local Government	102(1)(a)	Power to require the occupier of a relevant premises to store general waste at the relevant premises in another type of waste container than a standard general waste container.
Local Government	103(1)(a)	In the specified circumstances, power to require that the occupier of serviced premises ensure that a waste container supplied for the premises is kept at a particular place at the premises.
Local Government	103(2)(a)	In the specified circumstances, power to arrange to collect waste from the container at a place.
Local Government	104(2)	In the specified circumstances, power to require the person to ensure each of the specified things is supplied at the premises.
Local Government	104(2)(a)(i)	Power to specify a level required by the local government for an elevated stand holding all waste containers.
Local Government	104(2)(a) (ii)	Power to require an imperviously paved area where all waste containers can be placed to be drained.

<sup>2</sup> Chapter 6 does not apply to a local government area while there is a local law in force about waste management for the area that has replaced Chapter 6 (repealed Chapter 5A).

## Division 2 – Removal of general waste

Entity power given to	Section of ENPR	Description
Local Government	105(2)	In the specified circumstances, power to give the occupier of the relevant premises a written notice stating the specified things.
Local Government	106(2)(a)	In the specified circumstances, power to give a written approval (a <b>relevant approval</b> ) to the owner or occupier of the relevant premises for depositing or disposing of the waste.
Local Government	106(2)(b)	In the specified circumstances, power to impose conditions on the approval.

## Division 3 – Storage and treatment of industrial waste

Entity power given to	Section of ENPR	Description
Local Government	107(1)	Power to require the occupier of relevant premises where there is industrial waste to do the specified things.
Local Government	107(2)	In the specified circumstances, the power to supply industrial waste containers at the premises.
Local Government	107(4)	Power to approve a type of waste container for storing industrial waste at premises within the local government's area.
Local Government	108	Power to determine the standard that industrial waste must be treated to for disposal of the waste at a waste facility.
Local Government	108	Power to require the occupier of relevant premises where there is industrial waste to treat the waste to a standard for disposal of the waste at a waste facility.

## Part 3 – Requirements and restrictions for waste facilities

Entity power given to	Section of ENPR	Description
Waste Facility Owner or Operator	112(1)	Power to consent to a person: (a) entering the facility other than to deposit waste; or (b) remaining on the facility after depositing waste; or (c) interfering with waste at, or removing the waste from, the facility.
Waste Facility Owner or Operator	113(2)(a)	In the specified circumstances, the power to display signs giving reasonable directions at the facility,
Waste Facility Owner or Operator	113(2)(b)	In the specified circumstances, the power to give reasonable instructions to a person who transports and delivers waste to the waste facility
Waste Facility Owner or Operator	113(2)(c)	In the specified circumstances, the power to request the person who transports and delivers waste to waste facility to give information to the owner or operator about the type and amount of waste being delivered.

## **CHAPTER 9 – FEES**

### **Part 3 – Annual Fees**

#### **Division 3 – Amendment application for environmental authorities**

<b>Entity power given to</b>	<b>Section of ENPR</b>	<b>Description</b>
Administering Authority	173(2)	Power to require, by written notice, the holder of a relevant authority to pay the authority the difference between the annual fee and the reduced annual fee.

## **LIMITATIONS TO THE EXERCISE OF POWER**

1. Where Council in its budget or by resolution allocates an amount for the expenditure of Council funds in relation to a particular matter, in exercising delegated power in relation to that matter, the delegate will only commit Council to reasonably foreseeable expenditure up to the amount allocated.
2. The delegate will not exercise any delegated power in relation to a matter which, to the delegate's knowledge, adversely affects, or is likely to adversely affect, Council's relations with the public at large.
3. The delegate will not exercise any delegated power contrary to a resolution or other decision of Council (including a policy decision relating to the matter).
4. The delegate will not exercise any delegated power in a manner, or which has the foreseeable effect, of being contrary to an adopted Council policy or procedure.
5. The delegate will only exercise a delegated power under this resolution in a manner which complies with the requirements of Council's Planning Scheme, and any exercise of power which involves a departure from or variation of those requirements will only be undertaken by Council.
6. The delegate will not exercise any delegated power which cannot lawfully be the subject of delegation by Council.

[2021 06 01 - ENPR - Delegation Instrument]

### **Conditions imposed on all Delegations**

1. Delegated powers must be read in the context of other powers and subject to conditions stipulated therein;
2. Delegated powers must be exercised consistently with the provisions of Local Government Acts or Regulations, Council Policies and Procedure, Local Laws and Subordinate Local Laws;
3. Any decisions must be made within the financial delegation of the delegate;
4. The delegate shall not give Council opinions and if opinions are to be provided, may only provide personal opinions of the delegate, not in an official capacity as an employee of the Council;
5. Delegated powers only apply to the delegate to the extent that they relate to a delegate's scope of duties as particularised in the Position Description pertaining to that delegate, or as otherwise approved in writing by the CEO or by Council Policy;
6. A delegate may not sub-delegate a power provided for in this Register to a subordinate staff member without the express written consent of the Chief Executive Officer or under a Policy or Procedure adopted by Council;
7. Any power that is not delegable under a Local Government Act or Regulation, shall not be delegable under this instrument;
8. All delegations are subject to conditions imposed in the original delegation to CEO contained in the Instrument of Delegations of Local Government;



9. Whilst exercising a power, the delegate must take into account Ailan Kastom as defined in section 6 of the *Torres Strait Islander Land Act 1991* (Qld); and
10. All Powers delegated to the Chief Executive Officer in this Instrument shall be subject to prior Council consultation where exercise of such Power in all reasonable likelihood shall:
  - 
  - a. impact on land and/or sea; and/or
  - b. involve payment of compensation regarding land; and/or
  - c. require a budget amendment.

## **DELEGABLE POWERS UNDER THE ENVIRONMENTAL PROTECTION REGULATION 2019 ("ENPR")**

### **CHAPTER 3 – ENVIRONMENTALLY RELEVANT ACTIVITIES**

**Part 1 – Environmentally relevant activities – general matters**

**Division 3 – Development application relating to concurrence ERAs**

<b>Entity power given to</b>	<b>Section of ENPR</b>	<b>Description</b>	<b>Delegation to the CEO / Date of Resolution</b>	<b>Sub-Delegation to Officers</b>	<b>Date of Sub-Delegation</b>	<b>Limitations and Conditions</b>
Assessment Manager or Referral Agency	21(4)	Power to consider the specified benchmarks under section 22(2).	23 February 2021			

## CHAPTER 4 – REGULATORY REQUIREMENTS<sup>3</sup>

### Part 2 – Regulatory requirements for all environmental decision

Entity power given to	Section of ENPR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administerin g Authority	35(1)	<p>Power to when making an environmental management decision relating to an environmentally relevant activity, other than the prescribed ERA;</p> <p>(a) carry out an environmental objective assessment against the environmental objective and performance outcomes mentioned in schedule 8, part 3, division 1 and 2; and</p> <p>(b) consider the environmental values declared under this regulation; and</p> <p>(c) if the activity is to be carried out in a strategic environmental area – consider the impacts of the activity on the environmental attributes for the area under the <i>Regional Planning Interests Act 2014</i>; and</p> <p>(d) consider each of the following under any relevant environmental protection policies-</p> <p>(i) the management hierarchy;</p> <p>(ii) environmental values;</p> <p>(iii) quality objectives;</p>	23 February 2021			

<sup>3</sup> The powers under Chapter 4 may only be exercised by a local government for a matter the enforcement and administration of which has been devolved to the local government under Chapter 8, Part 1, Division 1 and which has not been excluded by Chapter 8, Part 1, Division 2.

		<ul style="list-style-type: none"> <li>(iv) the management intent; and</li> <li>(e) if the bilateral agreement requires the matters of national environmental significance to be considered - consider those matters.</li> </ul>				
Administering Authority	35(3)	<p>In the specified circumstances, power to:</p> <ul style="list-style-type: none"> <li>(a) carry out an environmental objective assessment against the environmental objective and performance outcomes mentioned in schedule 8, part 3, division 1; and</li> <li>(b) consider the matters mentioned in subsection (1)(b), (c) and (d).</li> </ul>	23 February 2021			
Administering Authority	35(4)	<p>In the specified circumstances, power to:</p> <ul style="list-style-type: none"> <li>(a) carry out an environmental objective assessment against the environmental objectives for water and groundwater mentioned in schedule 8, part 3, division 1, to the extent the performance outcomes for the environmental objectives relate to fine sediment, or dissolved inorganic nitrogen, entering the water of the Great Barrier Reef;</li> <li>(b) consider each environmental value, declared under this regulation, to the extent the value relates to fine sediment, or dissolved inorganic nitrogen, entering the water of the Great Barrier Reef; and</li> <li>(c) if the activity is to be carried out in a strategic environmental area – consider the impacts of the activity on each environmental attribute for the area under the <i>Regional Planning Interests act 2014</i>, to the extent the attribute</li> </ul>	23 February 2021			

		<p>relates to fine sediment, or dissolved inorganic nitrogen, entering the water of the Great Barrier Reef; and</p> <p>(d) consider each of the following matters under a relevant environmental protection policy, to the extent the matter relates to fine sediment, or dissolved inorganic nitrogen, entering water of the Great Barrier Reef:</p> <ul style="list-style-type: none"> <li>(i) the management hierarchy;</li> <li>(ii) environmental values;</li> <li>(iii) quality objectives;</li> <li>(iv) the management intent.</li> </ul>				
Administerin g Authority	36(1)	Power to, when making an environmental management decision relating to an activity, consider whether to impose conditions about each of the specified matters.	23 February 2021			
Administerin g Authority	37(1)	Power to, when making an environmental management decision relating to an activity, consider whether to impose monitoring conditions about the release of contaminants from the activity on the receiving environment.	23 February 2021			
Administerin g Authority	37(2)	Power to, when considering whether to impose a monitoring condition, consider the specified matters.	23 February 2021			

**Part 3 – Additional regulatory requirements for particular environmental management decisions**

<b>Entity power given to</b>	<b>Section of ENPR</b>	<b>Description</b>	<b>Delegation to the CEO / Date of Resolution</b>	<b>Sub-Delegation to Officers</b>	<b>Date of Sub-Delegation</b>	<b>Limitations and Conditions</b>
Administerin g Authority	40(2)	In the specified circumstances, power to refuse to grant an application if the authority considers that, because of the activity, the wetland may be destroyed or reduced in size or the biological integrity of the wetland may not be maintained.	23 February 2021			
Administerin g Authority	41(2)	In the specified circumstances, power to refuse to grant an application if the authority considers one of the specified matters to be relevant.	23 February 2021			
Administerin g Authority	41AA(3)	Power to consider: (a) the relevant activity will, or may, have a residual impact; and (b) having regard to the matters mentioned in the water quality offset policy, the residual impact will not be adequately counterbalanced by offset measures.				
Administerin g Authority	41AB	In the specified circumstances, power to refuse to grant an application if the authority considers that a transshipping activity is to be carried out within a particular area.	23 February 2021			

**CHAPTER 5 – MATTERS RELATING TO ENVIRONMENTAL  
MANAGEMENT AND ENVIRONMENTAL OFFENCES**

**Part 1 –       Categorisation of commercial waste and  
                  industrial waste**

**Division 3 – Notification, reporting and record  
                  keeping**

<b>Entity power given to</b>	<b>Section of ENPR</b>	<b>Description</b>	<b>Delegation to the CEO / Date of Resolution</b>	<b>Sub-Delegation to Officers</b>	<b>Date of Sub- Delegation</b>	<b>Limitations and Conditions</b>
Generator of waste	51(2)	In the specified circumstances, power to notify the administering authority of the change in waste types within 24 hours after receiving the test results for the retesting.	23 February 2021			
Generator of waste	51(3)	In the specified circumstances, within 10 business days of receiving the test results for the retesting of the waste, power to give the administering authority a written report stating the specified things.	23 February 2021			
Generator of waste	52(1)	Power to, for each load of the waste transported to a receiver, record the prescribed information for the load in the approved form.	23 February 2021			
Generator of waste	52(2)	Power to, before or when the load is given to a receiver, give the prescribed information for the load to the receiver.	23 February 2021			

Receiver of tested waste	53(2)	In the specified circumstances, power to, before or when the receiver is given the load, record the prescribed information for the load in the approved form.	23 February 2021			
Receiver of tested waste	53(3)	In the specified circumstances, power to within 24 hours after becoming aware of an omission or inaccuracy in the prescribed information, give written notice of the omission or inaccuracy to the administering authority.	23 February 2021			

**Part 9 – Waste tracking**

**Division 4 – Miscellaneous**

<b>Entity power given to</b>	<b>Section of ENPR</b>	<b>Description</b>	<b>Delegation to the CEO / Date of Resolution</b>	<b>Sub-Delegation to Officers</b>	<b>Date of Sub-Delegation</b>	<b>Limitations and Conditions</b>
Waste Handler	90(1)(b)	In the specified circumstances, power to enter into a written agreement with another person to do the thing for the waste handler.	23 February 2021			
Person	93(1)	In the specified circumstances, power to apply to the administering authority for a consignment number.	23 February 2021			
Person	94(1)	Power to apply to the administering authority for an exemption for the transportation of trackable waste for which this part applies.	23 February 2021			



Person	97	Power to apply to the administering executive for a generator identification number.	23 February 2021			
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## CHAPTER 6 – WASTE MANAGEMENT BY LOCAL GOVERNMENTS<sup>4</sup>

### Part 2 – Waste management in local government areas

#### Division 1 – Storage of general waste

Entity power given to	Section of ENPR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	101(1)(b)	Power to require the owner or occupier of a relevant premises in a local government area to supply at the relevant premises, enough waste containers, other than standard general waste containers, to store the general waste produced at the relevant premises.	23 February 2021			
Local Government	101(2)	Power to determine the amount of standard general waste containers reasonably required at a premises, and to supply to the relevant premises that number of standard general waste containers.	23 February 2021			

<sup>4</sup> Chapter 6 does not apply to a local government area while there is a local law in force about waste management for the area that has replaced Chapter 6 (repealed Chapter 5A).

Local Government	102(1)(a)	Power to require the occupier of a relevant premises to store general waste at the relevant premises in another type of waste container than a standard general waste container.	23 February 2021			
Local Government	101(3)	In the specified circumstance, power to recover the reasonable costs of supplying the container as a debt payable by the owner or occupier of the relevant premises to the local government.	23 February 2021			
Local Government	102(1)(a)	Power to require the occupier of a relevant premises to store general waste at the relevant premises in another type of waste container than a standard general waste container.	23 February 2021			
Local Government	103(1)(a)	In the specified circumstances, power to require that the occupier of serviced premises ensure that a waste container supplied for the premises is kept at a particular place at the premises.	23 February 2021			
Local Government	103(2)(a)	In the specified circumstances, power to arrange to collect waste from the container at a place.	23 February 2021			
Local Government	104(2)	In the specified circumstances, power to require the person to ensure each of the specified things is supplied at the premises.	23 February 2021			

Local Government	104(2)(a)(i)	Power to specify a level required by the local government for an elevated stand holding all waste containers.	23 February 2021			
Local Government	104(2)(a)(ii)	Power to require an imperviously paved area where all waste containers can be placed to be drained.	23 February 2021			

### Division 2 – Removal of general waste

Entity power given to	Section of ENPR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	105(2)	In the specified circumstances, power to give the occupier of the relevant premises a written notice stating the specified things.	23 February 2021			
Local Government	106(2)(a)	In the specified circumstances, power to give a written approval (a <b>relevant approval</b> ) to the owner or occupier of the relevant premises for depositing or disposing of the waste.	23 February 2021			
Local Government	106(2)(b)	In the specified circumstances, power to impose conditions on the approval.	23 February 2021			

**Division 3 – Storage and treatment of industrial waste**

<b>Entity power given to</b>	<b>Section of ENPR</b>	<b>Description</b>	<b>Delegation to the CEO / Date of Resolution</b>	<b>Sub-Delegation to Officers</b>	<b>Date of Sub-Delegation</b>	<b>Limitations and Conditions</b>
Local Government	107(1)	Power to require the occupier of relevant premises where there is industrial waste to do the specified things.	23 February 2021			
Local Government	107(2)	In the specified circumstances, the power to supply industrial waste containers at the premises.	23 February 2021			
Local Government	107(4)	Power to approve a type of waste container for storing industrial waste at premises within the local government's area.	23 February 2021			
Local Government	108	Power to determine the standard that industrial waste must be treated to for disposal of the waste at a waste facility.	23 February 2021			
Local Government	108	Power to require the occupier of relevant premises where there is industrial waste to treat the waste to a standard for disposal of the waste at a waste facility.	23 February 2021			

**Part 3 – Requirements and restrictions for waste facilities**

<b>Entity power given to</b>	<b>Section of ENPR</b>	<b>Description</b>	<b>Delegation to the CEO / Date of Resolution</b>	<b>Sub-Delegation to Officers</b>	<b>Date of Sub-Delegation</b>	<b>Limitations and Conditions</b>
Waste Facility Owner or Operator	112(1)	Power to consent to a person: (a) entering the facility other than to deposit waste; or (b) remaining on the facility after depositing waste; or (c) interfering with waste at, or removing the waste from, the facility.	23 February 2021			
Waste Facility Owner or Operator	113(2)(a)	In the specified circumstances, the power to display signs giving reasonable directions at the facility,	23 February 2021			
Waste Facility Owner or Operator	113(2)(b)	In the specified circumstances, the power to give reasonable instructions to a person who transports and delivers waste to the waste facility	23 February 2021			
Waste Facility Owner or Operator	113(2)(c)	In the specified circumstances, the power to request the person who transports and delivers waste to waste facility to give information to the owner or operator about the type and amount of waste being delivered.	23 February 2021			

## CHAPTER 9 – FEES

### Part 3 – Annual Fees

#### Division 3 – Amendment application for environmental authorities

Entity power given to	Section of ENPR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub- Delegation	Limitations and Conditions
Administerin g Authority	173(2)	Power to require, by written notice, the holder of a relevant authority to pay the authority the difference between the annual fee and the reduced annual fee.	N/A			

[2021 06 01 - ENPR - Delegation Table]

**Torres Strait Island Regional Council**  
***Environmental Protection Regulation 2019 ("ENPR")***

**David Baldwin**  
Acting Chief Executive Officer  
**Torres Strait Island Regional Council**

**Position:** Insert Position  
**Position Code:** Insert Position Code



## POWERS SUB-DELEGATED

### *Environmental Protection Regulation 2019 ("ENPR")*

#### CHAPTER 3 – ENVIRONMENTALLY RELEVANT ACTIVITIES

##### Part 1 – Environmentally relevant activities – general matters

##### Division 3 – Development application relating to concurrence ERAs

Entity power given to	Section of ENPR	Description
Assessment Manager or Referral Agency	21(4)	Power to consider the specified benchmarks under section 22(2).

#### CHAPTER 4 – REGULATORY REQUIREMENTS<sup>5</sup>

##### Part 2 – Regulatory requirements for all environmental decision

Entity power given to	Section of ENPR	Description
Administering Authority	35(1)	<p>Power to when making an environmental management decision relating to an environmentally relevant activity, other than the prescribed ERA;</p> <ul style="list-style-type: none"> <li>(a) carry out an environmental objective assessment against the environmental objective and performance outcomes mentioned in schedule 8, part 3, division 1 and 2; and</li> <li>(b) consider the environmental values declared under this regulation; and</li> <li>(c) if the activity is to be carried out in a strategic environmental area – consider the impacts of the activity on the environmental attributes for the area under the <i>Regional Planning Interests Act 2014</i>; and</li> <li>(d) consider each of the following under any relevant environmental protection policies- <ul style="list-style-type: none"> <li>(i) the management hierarchy;</li> <li>(ii) environmental values;</li> <li>(iii) quality objectives;</li> <li>(iv) the management intent; and</li> </ul> </li> <li>(e) if the bilateral agreement requires the matters of national environmental significance to be consider- consider those matters.</li> </ul>
Administering Authority	35(3)	In the specified circumstances, power to:

<sup>5</sup> The powers under Chapter 4 may only be exercised by a local government for a matter the enforcement and administration of which has been devolved to the local government under Chapter 8, Part 1, Division 1 and which has not been excluded by Chapter 8, Part 1, Division 2.

		<p>(a) carry out an environmental objective assessment against the environmental objective and performance outcomes mentioned in schedule 8, part 3, division 1; and</p> <p>(b) consider the matters mentioned in subsection (1)(b), (c) and (d).</p>
Administering Authority	35(4)	<p>In the specified circumstances, power to:</p> <p>(a) carry out an environmental objective assessment against the environmental objectives for water and groundwater mentioned in schedule 8, part 3, division 1, to the extent the performance outcomes for the environmental objectives relate to fine sediment, or dissolved inorganic nitrogen, entering the water of the Great Barrier Reef;</p> <p>(b) consider each environmental value, declared under this regulation, to the extent the value relates to fine sediment, or dissolved inorganic nitrogen, entering the water of the Great Barrier Reef; and</p> <p>(c) if the activity is to be carried out in a strategic environmental area – consider the impacts of the activity on each environmental attribute for the area under the <i>Regional Planning Interests act 2014</i>, to the extent the attribute relates to fine sediment, or dissolved inorganic nitrogen, entering the water of the Great Barrier Reef; and</p> <p>(d) consider each of the following matters under a relevant environmental protection policy, to the extent the matter relates to fine sediment, or dissolved inorganic nitrogen, entering water of the Great Barrier Reef:</p> <ul style="list-style-type: none"> <li>(i) the management hierarchy;</li> <li>(ii) environmental values;</li> <li>(iii) quality objectives;</li> <li>(iv) the management intent.</li> </ul>
Administering Authority	36(1)	Power to, when making an environmental management decision relating to an activity, consider whether to impose conditions about each of the specified matters.
Administering Authority	37(1)	Power to, when making an environmental management decision relating to an activity, consider whether to impose monitoring conditions about the release of contaminants from the activity on the receiving environment.
Administering Authority	37(2)	Power to, when considering whether to impose a monitoring condition, consider the specified matters.

**Part 3 – Additional regulatory requirements for particular environmental management decisions**

Entity power given to	Section of ENPR	Description
Administering Authority	40(2)	In the specified circumstances, power to refuse to grant an application if the authority considers that, because of the activity, the wetland may be destroyed or reduced in size or the biological integrity of the wetland may not be maintained.

Administering Authority	41(2)	In the specified circumstances, power to refuse to grant an application if the authority considers one of the specified matters to be relevant.
Administering Authority	41AA(3)	Power to consider: (a) the relevant activity will, or may, have a residual impact; and (b) having regard to the matters mentioned in the water quality offset policy, the residual impact will not be adequately counterbalanced by offset measures.
Administering Authority	41AB	In the specified circumstances, power to refuse to grant an application if the authority considers that a transshipping activity is to be carried out within a particular area.

## CHAPTER 5 – MATTERS RELATING TO ENVIRONMENTAL MANAGEMENT AND ENVIRONMENTAL OFFENCES

### Part 1 – Categorisation of commercial waste and industrial waste

#### Division 3 – Notification, reporting and record keeping

Entity power given to	Section of ENPR	Description
Generator of waste	51(2)	In the specified circumstances, power to notify the administering authority of the change in waste types within 24 hours after receiving the test results for the retesting.
Generator of waste	51(3)	In the specified circumstances, within 10 business days of receiving the test results for the retesting of the waste, power to give the administering authority a written report stating the specified things.
Generator of waste	52(1)	Power to, for each load of the waste transported to a receiver, record the prescribed information for the load in the approved form.
Generator of waste	52(2)	Power to, before or when the load is given to a receiver, give the prescribed information for the load to the receiver.
Receiver of tested waste	53(2)	In the specified circumstances, power to, before or when the receiver is given the load, record the prescribed information for the load in the approved form.
Receiver of tested waste	53(3)	In the specified circumstances, power to within 24 hours after becoming aware of an omission or inaccuracy in the prescribed information, give written notice of the omission or inaccuracy to the administering authority.

### Part 9 – Waste tracking

#### Division 4 – Miscellaneous

Entity power given to	Section of ENPR	Description
Waste Handler	90(1)(b)	In the specified circumstances, power to enter into a written agreement with another person to do the thing for the waste handler.

Person	93(1)	In the specified circumstances, power to apply to the administering authority for a consignment number.
Person	94(1)	Power to apply to the administering authority for an exemption for the transportation of trackable waste for which this part applies.
Person	97	Power to apply to the administering executive for a generator identification number.

## CHAPTER 6 – WASTE MANAGEMENT BY LOCAL GOVERNMENTS<sup>6</sup>

### Part 2 – Waste management in local government areas

#### Division 1 – Storage of general waste

Entity power given to	Section of ENPR	Description
Local Government	101(1)(b)	Power to require the owner or occupier of a relevant premises in a local government area to supply at the relevant premises, enough waste containers, other than standard general waste containers, to store the general waste produced at the relevant premises.
Local Government	101(2)	Power to determine the amount of standard general waste containers reasonably required at a premises, and to supply to the relevant premises that number of standard general waste containers.
Local Government	102(1)(a)	Power to require the occupier of a relevant premises to store general waste at the relevant premises in another type of waste container than a standard general waste container.
Local Government	101(3)	In the specified circumstance, power to recover the reasonable costs of supplying the container as a debt payable by the owner or occupier of the relevant premises to the local government.
Local Government	102(1)(a)	Power to require the occupier of a relevant premises to store general waste at the relevant premises in another type of waste container than a standard general waste container.
Local Government	103(1)(a)	In the specified circumstances, power to require that the occupier of serviced premises ensure that a waste container supplied for the premises is kept at a particular place at the premises.
Local Government	103(2)(a)	In the specified circumstances, power to arrange to collect waste from the container at a place.
Local Government	104(2)	In the specified circumstances, power to require the person to ensure each of the specified things is supplied at the premises.
Local Government	104(2)(a)(i)	Power to specify a level required by the local government for an elevated stand holding all waste containers.

<sup>6</sup> Chapter 6 does not apply to a local government area while there is a local law in force about waste management for the area that has replaced Chapter 6 (repealed Chapter 5A).

Local Government	104(2)(a) (ii)	Power to require an imperviously paved area where all waste containers can be placed to be drained.
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### Division 2 – Removal of general waste

Entity power given to	Section of ENPR	Description
Local Government	105(2)	In the specified circumstances, power to give the occupier of the relevant premises a written notice stating the specified things.
Local Government	106(2)(a)	In the specified circumstances, power to give a written approval (a <b>relevant approval</b> ) to the owner or occupier of the relevant premises for depositing or disposing of the waste.
Local Government	106(2)(b)	In the specified circumstances, power to impose conditions on the approval.

### Division 3 – Storage and treatment of industrial waste

Entity power given to	Section of ENPR	Description
Local Government	107(1)	Power to require the occupier of relevant premises where there is industrial waste to do the specified things.
Local Government	107(2)	In the specified circumstances, the power to supply industrial waste containers at the premises.
Local Government	107(4)	Power to approve a type of waste container for storing industrial waste at premises within the local government's area.
Local Government	108	Power to determine the standard that industrial waste must be treated to for disposal of the waste at a waste facility.
Local Government	108	Power to require the occupier of relevant premises where there is industrial waste to treat the waste to a standard for disposal of the waste at a waste facility.

### Part 3 – Requirements and restrictions for waste facilities

Entity power given to	Section of ENPR	Description
Waste Facility Owner or Operator	112(1)	Power to consent to a person: (a) entering the facility other than to deposit waste; or (b) remaining on the facility after depositing waste; or (c) interfering with waste at, or removing the waste from, the facility.
Waste Facility Owner or Operator	113(2)(a)	In the specified circumstances, the power to display signs giving reasonable directions at the facility,
Waste Facility Owner or Operator	113(2)(b)	In the specified circumstances, the power to give reasonable instructions to a person who transports and delivers waste to the waste facility
Waste Facility Owner or Operator	113(2)(c)	In the specified circumstances, the power to request the person who transports and delivers waste to waste facility to give

		information to the owner or operator about the type and amount of waste being delivered.
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## CHAPTER 9 – FEES

### Part 3 – Annual Fees

#### Division 3 – Amendment application for environmental authorities

Entity power given to	Section of ENPR	Description
Administering Authority	173(2)	Power to require, by written notice, the holder of a relevant authority to pay the authority the difference between the annual fee and the reduced annual fee.

## **LIMITATIONS TO THE EXERCISE OF POWER**

7. Where Council in its budget or by resolution allocates an amount for the expenditure of Council funds in relation to a particular matter, in exercising delegated power in relation to that matter, the delegate will only commit Council to reasonably foreseeable expenditure up to the amount allocated.
8. The delegate will not exercise any delegated power in relation to a matter which, to the delegate's knowledge, adversely affects, or is likely to adversely affect, Council's relations with the public at large.
9. The delegate will not exercise any delegated power contrary to a resolution or other decision of Council (including a policy decision relating to the matter).
10. The delegate will not exercise any delegated power in a manner, or which has the foreseeable effect, of being contrary to an adopted Council policy or procedure.
11. The delegate will only exercise a delegated power under this resolution in a manner which complies with the requirements of Council's Planning Scheme, and any exercise of power which involves a departure from or variation of those requirements will only be undertaken by Council.
12. The delegate will not exercise any delegated power which cannot lawfully be the subject of delegation by Council.

[2021 06 01 - ENPR - Sub-Delegation Instrument]

### **Conditions imposed on all Delegations**

1. Delegated powers must be read in the context of other powers and subject to conditions stipulated therein;
2. Delegated powers must be exercised consistently with the provisions of Local Government Acts or Regulations, Council Policies and Procedure, Local Laws and Subordinate Local Laws;
3. Any decisions must be made within the financial delegation of the delegate;
4. The delegate shall not give Council opinions and if opinions are to be provided, may only provide personal opinions of the delegate, not in an official capacity as an employee of the Council;
5. Delegated powers only apply to the delegate to the extent that they relate to a delegate's scope of duties as particularised in the Position Description pertaining to that delegate, or as otherwise approved in writing by the CEO or by Council Policy;
6. A delegate may not sub-delegate a power provided for in this Register to a subordinate staff member without the express written consent of the Chief Executive Officer or under a Policy or Procedure adopted by Council;
7. Any power that is not delegable under a Local Government Act or Regulation, shall not be delegable under this instrument;
8. All delegations are subject to conditions imposed in the original delegation to CEO contained in the Instrument of Delegations of Local Government;

9. Whilst exercising a power, the delegate must take into account Ailan Kastom as defined in section 6 of the *Torres Strait Islander Land Act 1991* (Qld); and
10. All Powers delegated to the Chief Executive Officer in this Instrument shall be subject to prior Council consultation where exercise of such Power in all reasonable likelihood shall:
  - 
  - a. impact on land and/or sea; and/or
  - b. involve payment of compensation regarding land; and/or
  - c. require a budget amendment.





# TORRES STRAIT ISLAND REGIONAL COUNCIL

## AGENDA REPORT

<b>ORDINARY MEETING:</b>	June 2021
<b>DATE:</b>	29th & 30th June
<b>ITEM:</b>	Agenda Item for <u>Noting</u> by council
<b>SUBJECT:</b>	BSU Update
<b>AUTHOR:</b>	Peter Jacques- Head of Building

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### **Recommendation:**

That Council resolves:

- To note this report

### **Purpose:**

This report serves to advise and update Council on the Progress of the Building Services Unit.

### **Staffing:**

- Once budget has been finalised BSU will place the Three (3) assistant Supervisors
- BSU will commence a temp 3 days pw as of 14/6/21
- 2 new Casuals employed as of the 6/6/21

### **Business Partners and Agreements**

A meeting was held on 2 June between Qbuild Executives, A/CEO, COO and HOB to discuss TSIRC work capacity. At that meeting and agreement on timeframes was put forward by Qbuild for TSIRC to ratify. TSIRC has agreed to two parts of the agreement concerning R & M Jobs and Home Ownership, and are still in the process of ratifying the Upgrades

BSU will not be getting the Carport Program budgeted for, and we lose Education Departments Work, which leaves a deficit in our Budget, However QBUILD have advised that they will release 70 new Home Ownership's and 200 new upgrades. That in turn will balance out.

The Budget review in December should balance out with the advent of new work.

## **CAPITAL WORKS**

A Report is being prepared by the CFO on all W4Q jobs Remaining

Capital Works Programs are as follows:

W4Q.R3 Ugar Guesthouse Upgrade	The Guest House Internal Demolition Completed, New windows Installed and Kitchen & Bathroom Cupboards, Bathroom fixtures have arrived. The Electrical system to be upgraded shortly along with tiling and painting. Works still expected to be completed by June 30 however Ugar is unpredictable with freight and contractors.
Lot 162 St Pauls - House Rebuild	Contract awarded to Mark Milbourne work starting this month
Masig Mechanic Shed Repairs Insurance	QBE Loss adjuster has stated we now need to go out for tender to prove QS. Released to QS awaiting documents
Dauan Basketball Court and Grandstand	Onsite meeting with Departments DG, Project Manager, HOB arranged for 22 June as they want a visual of the grounds before committing to extra Funds, TSRA have been written to regarding funding of 300k awaiting response initial indications are that TSRA may contribute 300k to project
Saibai Fuel Infrastructure Upgrade	Tender evaluation has been completed and will be sent for Council Resolution in June
Ugar Fuel Bowser (TSRA)	Meeting with Council Stephen on 14 June for his advise regarding design
Mer Fuel Bowser	Awaiting PBC decision
Poruma Airport Waiting Shed	Starting as soon as Materials arrive Councilor has agreed approved final drawings
Saibai Airport Waiting Shed	Site location and design details to be further determined with Councilors input

## **New Builds**

BSU has quote to build 3 plug ins on Badu which have been quoted and submitted, this is from the Housing and Communities Fund, if successful Start date will also be July 1<sup>st</sup>.

- **Home Ownership**
- BSU has 12 Home Ownership left for completion by EOFY BSU is on Track to meet the completion dates and are due to get another 70
- **DOE Hip**
- 8 jobs on the go at present at various stages on track for completion by December 2021
- **Up Grades**
- 155 Upgrades on the go with approx. 9% being Katter leases on Tract for completion at various stages of Completion
- **Warrabar Duplex**
- Job is underway with currently sitting at around 70% complete, on track

## **FINANCIAL (per BSA Natasha Nelson)**

Year to date impacts on net result

Warrabar duplex delays - \$1.3m of remaining contract value still to be claimed

Backpays made to current employees - \$260k

Management hours on capital projects are now being recovered.

## **Future impacts on net result**

Backpays to former employees to be made in June – BSU value unknown at this stage

Warrabar duplex will not be completed by 30 June 2020. Expenditure to date exceeds revenue by \$320k (timing differences).

## **Issues**

Credit notes – BSU have recovered many previously rejected invoices, however emphasis to be placed on ensuring milestone requirements are met (photos/certs) to avoid future rejections.

R&Ms – ageing of jobs has been an issue which has impacted the overall margin on R&Ms. Supervisors to focus on aged jobs per discussion with QBuild.

## **Other Matters**

R&M Service Agreement – BSU and QBuild have agreed on revised 12-month rates. This is an opportunity to recover more travel costs. To date BSU have recovered \$380,000 in Travel costs

Given this is the final month of the financial year, it is important that as many R&Ms jobs as possible are completed and invoiced, and that Upgrade milestones are reached.

This is the month to tie-up loose ends, so they do not drag into the new financial year.

## **Increase in material prices**

Timber prices in Cairns are up 193% due to the high demand in construction and the home buyers grants

On Friday 4/5/2021 the price of Timber per thousand board feet jumped \$1,048, That's an all-time high and up 193% from a year ago, BSU prices have been adjusted accordingly and in some cases, we have had reduced margins.

The raw price of steel rose 4.1% in March with a further 25.3% rise in June.

*Solution:* Investigate Bulk Purchase of Steel (Roofing) Timber Miscellaneous goods and storage on Badu.

## **Delay in shipping of materials**

Freight delays: breakdowns, Damaged goods are out of BSU's control, but impact heavily on our bottom line, Freight represents 45% of all our tenders. Sea Swift take all care but most of this is out of there control as well.

## **Statutory Requirements:**

*Local Government Act  
2009 Local Government  
Regulation 2012*

## **Conclusion:**

That the Council resolves to note this report as tabled

*Peter Jacques*

**Author:**

Peter Jacques

Position - Head of Building

A handwritten signature in black ink, appearing to read 'Ilario Sabatino'.

**Endorse:**

Ilario Sabatino

Position - Chief Operating Officer

A handwritten signature in black ink, appearing to read 'David Baldwin'.

**Recommend:**

David Baldwin

Position - A/Chief Executive Officer



# TORRES STRAIT ISLAND REGIONAL COUNCIL

## AGENDA REPORT

<b>ORDINARY MEETING:</b>	June 2021
<b>DATE:</b>	29 & 30 June 2021
<b>ITEM:</b>	Agenda Item for Discussion and Noting
<b>SUBJECT:</b>	DH&PW Interim/Forward Capital Works Funding
<b>AUTHOR:</b>	Peter Jacques

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### Recommendation:

- That Council discuss, agree and resolve on allocation of the funding across each Division.
- That Council considers BSU example of the utilisation of proposed allocations.
- Upon response from the DHPW Council resolution will be sought to confirm acceptance of allocation outcomes.

### Executive Summary:

This report serves seeks Councils' discussion, direction, and endorsement of potential equitable allocations for each Division. Furthermore, this report serves to advise Council on what can be potentially achieved for the disbursement of the Department of Housing and Public Works (DHPW) Program for the capital works program moving forward.

Once the allocation has been determined BSU and CS will work with each divisional Councillor to complete the Housing Investment Plan for their division (within their allocation).

Upon completion, the plan will be forwarded to the department of housing for consideration. If approved – the Agreement will be executed.

### Background:

The Australian Government committed \$105m to address overcrowding in remote and discrete communities. At this time, a Mayors Workshop was held in February 2020 to discuss the allocation methodology for these funds.

In the workshop the Mayors agreed to a methodology for distribution of the funds with weightings given for population 60%, overcrowding 30% and homelessness 10% and applying a Building Price Indices using Rawlinson's Construction Cost Guide.

#### **A. TSIRC's allocation from this amount is \$14.428m.**

The funding will be paid in stages to council at the completion of key milestones. For example, 30% payable for Stage 1, 60% for Stage 2 and 10% for Stage 3:

- A. Stage 1 (Planning and preparation) works need to be completed and evidence provided to the department before funding can be provided.
- B. Stage 2 works (Building)
- C. Stage 3 payment paid upon satisfactory completion of the works.

To support the distribution of the funds, the DHPW are now requesting a formal proposal from TSIRC for how the forward capital program should be delivered in the TSIRC Area.

This will be articulated via the Housing Investment Plan (HIP) 2020-2021 (Template attached). Once the template is completed this will be returned to the department for consideration. The council team will initiate contact with department for support.

**Comment:**

*Key Issue:* Distribution of 14.428m across each division. It was proposed that funds are divided equally, which will equate to approximately \$961,866 per division.

The following is provided as an example (not exhaustive) of what can be achieved:

**Option 1.** Based on Data to hand BSU can build 2 (two) x 2 Bedroom 1-bathroom plugins on each island for approx. \$480,930 each.

- Pricing for Plug Ins and Designs are in place and have been QS and Architecturally approved. (**note:** each project would have to be repriced dependant on when and if approved) Attachment 1 is a plan of the style currently in use.
- The choice of who would get the Plug ins can be taken from the Housing Divisions Priority list for overcrowding (see table), i.e., the **top** 2 from all islands. Excluding Badu as those two plugins would be the ones dropped from the 2.35m remote capital works funding.

The following Register of Need (March 2021) for each division is made of those experiencing Overcrowding and Homelessness. Majority are classed as A (very High Need) and B (High Need) categories which means they urgently need Housing Assistance because of their living situation.

<u>Division</u>	<u>Register of Need</u>	<u>Vacants</u>
BADU ISLAND	43	2
BOIGU ISLAND	25	0
DAUAN ISLAND	29	2
IAMA ISLAND	33	2
MABUIAG ISLAND	12	0
MURRAY ISLANDS	20	1
PORUMA ISLAND	19	1
SAIBAI ISLAND	16	1
ST PAULS	30	2
WARRABER ISLAND	9	0
ERUB ISLAND	17	1
YORKE ISLAND	27	4
HAMMOND ISLAND	19	0
UGAR ISLAND	5	0
Total	304	16

If the 50/50 allocation across all divisions was supported, collectively this will see the funds being allocated to the BSU to design and Build 26 x 2-bedroom 1-bathroom plug ins on all 15 Islands to help address in part the large issue of overcrowding. Noting that this would in addition to the 5-plug ins from the Interim Capital Works Program.

**Option 2:** [Example only: RLB attachment of components and pricing considerations]

BSU can Build a home on each Island based on current pricing as listed below these prices are based on the build for St Pauls (example only: RLB attachment) plus the loading for each island. New Homes would have to be designed and would invoke a new ILUA which would be costed in at around 200k on top of the prices listed.

Location	3 Bedroom	4 Bedroom
Badu	\$738 k	\$790k
Boigu	\$900k	\$940k
Duan	\$849 k	\$900K
Iama	\$850k	940k
Mabuyag	\$738 k	\$790K
Murray	\$849k	880k
Poruma	\$790k	840k
Saibai	\$900k	\$940k
St Pauls	\$738 293	\$790k

Warrabar	\$812,122	\$850k
Erub	\$849 036	\$890k
Yorke	\$849 036	\$890k
Ugar	\$849 036	\$890k
Kubin	\$738 293	\$790k

Again, once the allocation has been determined BSU and CS will work with each divisional councillor to complete the Housing Investment Plan for their division (within their allocation). Upon completion the plan will be forwarded to the department of housing for consideration. If approved – the Agreement will be executed.

## **Considerations**

### **Risks**

#### Reputational and Financial

- Potential loss of funding to assist in addressing the overcrowding throughout the Region.
- Negative reflection of response to core social and economic responsibility to the region.
- New Homes would have to be designed and costed exactly.
- ILUA costs have not been calculated.

### **Consultation:**

- COO
- Head of Building Services
- Head of Community Services
- Manager Housing
- Project Managers BSU

### **Links to Strategic Plans:**

#### **Outcome 2: Our communities are safe, healthy, and active.**

2.3 Facilitate community-led strategy for public social behaviour concerns.

2.4 Lead a strategic approach to healthy and active lifestyles.

#### **Outcome 7: Our communities are consulted around liveable places, aligned to lifestyle and environmental suitability.**

7.1 Facilitate improvement to community housing awareness and information.

7.2 Advocate for the development of more environmentally and culturally appropriate housing designs

7.3 Advocate for the increase to available options to overcome housing shortages and overcrowding.

### **Statutory Requirements:**

*Local Government Act 2009 Local Government Regulation 2012*



**Conclusion:**

That council endorse recommendations as outlined.

**Author:**

*Peter Jacques*

Peter Jacques

Position – Head of Building Services

**Endorsed:**

Ilario Sabatino

Position – Chief Operating Officer

**Recommended**

David Baldwin

Position – A/Chief Executive Officer



# TORRES STRAIT ISLAND REGIONAL COUNCIL

## AGENDA REPORT

### Ordinary Meeting

June 2021

### DATE:

28th & 29th June 2021

### ITEM:

Agenda for **resolution**

QBUILD timeframe agreements

### SUBJECT:

Peter Jacques- Head of Building Services

### AUTHOR:

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#### **Resolution:**

Council resolves to

- To delegate the Head of Building power to create and lodge quotes/tenders on behalf of Council for any and all work associated with Construction on the Torres Strait Islands, up to the monetary value to \$150,000.00, under *Local Government Act 2009* and *Local Government Regulation 2012*
- Delegate the CEO to approve and lodge Quotes/Tenders on behalf of Council for any and all works associated with Construction on the Torres Strait Islands, up to the Monetary value to \$300,000.00 under *Local Government Act 2009* and *Local Government Regulation 2012*

*And*

- If the delegations are approved, be written into Councils Procurement and Ethical sourcing Policy

#### **Executive Summary:**

To provide Council with update on the QBUILD timeframes agreements for all future Construction programs along with recommendations to achieve business continuity.

**Background:**

A meeting was held between QBuild Executives and TSIRC A/CEO, COO and HOBS regarding forward planning and BSU Capacity to complete works. QBuild set forward a program for BSU works, the following is a brief synopsis of BSU agreement

- To have all responsive work orders over 180 days completed and invoiced by 30 September 2021.
- To have all responsive work orders over 120 days completed and invoiced by 31 December 2021.
- To have all responsive work orders over 90 days completed and invoiced by 31 March 2022
- Council confirms completion of 18 **NAHA** Projects a month
- BSU to have 24% of projects (54) completed by 30 September 2021.
- BSU to have 60% of projects (130) completed by 30 December 2021.
- BSU to have 80% of projects (174) completed by 30 March 2022.
- Council Confirms the completion of all 37 Projects by EOFY.
- BSU confirms to complete 2 Home Ownership jobs per Month for the 70 Home ownership jobs.

**Current Risk: *Delays in having approving Tenders go before Council.*** On average it takes 35 days to approve a tender over 200k through Council the risk here is High, as TSIRC has to seek extensions of time to, if a quote has to be approved by Council and BSU misses, or it comes in after the OM we have to wait to go before the next Council Meeting in these circumstances BSU has to:

- ☐ Put in an extension to tender for the price.
- ☐ Put in extension for approval.
- ☐ Put in an extension to start the works.

This effectively puts BSU in a diminished capacity.

## **FINANCIAL RISK**

The risk to Council of losing work because of delays, thereby losing revenue, is regarded as extremely High. Qbuild will be allowed to take over our works and revenue will be taken out of the community

## **REPUTATIONAL**

The loss of works equates to Council being perceived as not having the ability to undertake works and allows Qbuild to take over our work.

## **Further risks matrix**

No	Risk Item	Risk Rating	Risk Controls (Prevention)	Proposed Treatments (Mitigation)	Risk Rating
1.1	Loss of Key Projects	Med	Quotes are submitted on Time	Faster Turnaround times Maintains cash flow	Low
1.2	Overall schedule adherence	Med	Schedule's control/updating. Monthly reporting. Project meeting review	Critical path analysis Regular updating Regular reporting and meetings	Low
1.4	Effective Communication between Stakeholders and External Consultants	Med	Schedule control/updating. Monthly reporting. Project meeting review	Regular updating Regular reporting and meetings	Low
1.5	Freight Delivery	High	Procurement scheduling	Schedule for lost time	Low
1.6	Builders' accommodation availability	High	Contractor to supply their own accommodation facilities	Book accommodation through Building Services Unit. Schedule works around other projects to maximise accommodation availability.	Med
1.7	Facility not constructed in time (delayed PC) / certificate of occupancy.	High	Scheduling & Reporting	Schedule and Report LD's for late completion	Med
1.8	odgment delays	High	Planning Procurement	Early procurement of equipment.	

In order to meet exceed time frames and obligations BSU strongly recommends the following:

- ☐ Council resolves to approve the aforementioned resolutions.

**REPORTING:**

BSU will compile a report for each SARG and OM on all Quotes and Tenders along with any variation to Pricing in order for Council to remain abreast of all works taking place on each and every island.

**Links to Strategic Plans:**

Strategic Planning 7.1

Strategic Planning 7.2

Strategic Planning 7.3

**Statutory Requirements:**

*Local Government Act 2009*

*Local Government Regulation 2012*

**Conclusion:** Council resolves

- To delegate the Head of Building power to create and lodge quotes/tenders on behalf of Council for any and all work associated with Construction on the Torres Strait Islands, up to the monetary value to \$150,000.00, under *Local Government Act 2009* and *Local Government Regulation 2012*
  - Delegate the CEO to approve and lodge Quotes/Tenders on behalf of Council for any and all works associated with Construction on the Torres Strait Islands, up to the Monetary value to \$300,000.00 under *Local Government Act 2009* and *Local Government Regulation 2012*
- And*
- If the delegations are approved, be written into Councils Procurement and Ethical sourcing Policy

**Author:**

*Peter Jacques*

Peter Jacques  
Head of Building Services



**Endorsed:**  
Ilario Sabatino  
Chief Operating Officer

**Approved:**

*David Baldwin*

David Baldwin

Acting Chief Executive Officer



# TORRES STRAIT ISLAND REGIONAL COUNCIL

## AGENDA REPORT

<b>ORDINARY MEETING:</b>	June 2021
<b>ITEM:</b>	Agenda Item for <u>Resolution</u> by Council
<b>SUBJECT:</b>	Award of Purchase Orders for Poruma Seawall
<b>AUTHOR:</b>	David Stevens – Senior Project Engineer, Capital Works

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### **Recommendation:**

For the undertaking of the Poruma seawalls project, Council resolves to:

- Award of freight services to Sea Swift Pty Ltd to an amount of \$355,000.00 excluding GST,
  - Award of air transportation services to Cape Air Transport to an amount of \$255,000.00 excluding GST,
  - Award of plant hire services to Coates Hire Operations Pty Ltd to an amount of \$340,000.00 excluding GST,
- and
- Delegate authority to the Chief Executive Officer in accordance with the *Local Government Act 2009*:
    - power to make, amend or discharge these Purchase Orders, and
    - power to negotiate, finalise and execute any and all matters associated with or in relation to these Purchase Orders including without limitation any options and/or variations.

### **Purpose:**

The purpose of this Agenda Report is to provide Council with a recommendation to approve Purchase Orders for Sea Swift, Cape Air Transport and Coates Hire Pty Ltd which exceed \$200,000 excluding GST for the Poruma Seawalls project.

### **Background:**

The Poruma Seawall capital works project is designed in 5 Stages, using geobags to form the coastal defence structure (seawall).

Stage 1 was completed by Council's Civil Construction Crew in late 2018, with Stages 2 – 5 yet to be constructed under the Torres Strait Seawalls Programme Stage 2 MIOP Capital Works Grant Agreement.

In the March 2021 Council Ordinary Meeting, Council resolved to submit an In-House Bid for Council's Civil Construction Crew to perform the construction of the Poruma Seawall, Stages 2 – 5, for an estimated value of \$5,000,000 excluding GST. This In-House Bid (IHB) has since been conditionally approved by the Project Governance Committee.



Figure 1: Staged Design for Poruma Seawall Project

### Works Scope:

Stages 2 – 5 are planned to be constructed in numerical order, commencing mid 2021. Construction of all stages is expected to be completed by August 2022.

Stage	Approx Length (m)	Estimated Construction Duration
Stage 2	175	2 months
Stage 3	120	2 months
Stage 4	460	6 months
Stage 5*	300	4 months

\*Note that Stage 5 is subject to final project costings.

### Sea Swift

The works for Sea Swift include for;

- Charter barge freight to mobilise all relevant plant and materials required to commence construction.
- Ongoing freight requirements throughout the project, such as freight of geobags for later stages of the project.
- The demobilisation of plant and materials as required.

### Cape Air Transport

The works for Cape Air Transport include for;

- Charter flights to transport all personnel to the construction site, and return them to their place of residence at the end of each 11-day work period.
- Charter flights for visiting personnel where value for money is presented.

### Coates Hire

The works for Coates Hire include for;

- Plant hire required for the construction of the seawall, which cannot be sourced internally.

### Funding

The Torres Strait Seawalls Programme Stage 2 is funded by State and Commonwealth Government administered by TSRA. MIOP Capital Works Grant Agreement between TSRA and TSIRC, includes for coastal defence structures at Boigu, Poruma, Masig, Warraber and Iama, with a total grant funding of \$40M.

The submitted \$5M IHB for the Poruma Seawalls has been submitted and conditionally approved. The Poruma Seawall project presents an opportunity for Council to provide significant value for money during construction, by utilising TSIRC's internal Civil Construction Crew to execute the construction works.

**Procurement Process:**

As per Council's Procurement and Ethical Sourcing Policy, exemptions to procurement guidelines are provided for under sections 229-235 of the Local Government Regulation 2012. All three suppliers are prequalified as per contract TSIRC 2019-209. Value for money was determined by requesting quotation for each scope item and comparing it against the expected market value and previous benchmark projects.

**Considerations**Risk Management

Schedule risk - delaying Council Resolution to award these orders at the June Council Meeting will directly impact the construction commencement date.

Council Finance

The project In-House bid was endorsed by Council for an estimated value of \$5,000,000 excl. GST. There is no contribution required from TSIRC as part of these works.

**Links to Strategic Plans:**

The nominated works fit within Council's adopted 2020-2025 Corporate Plan - Objective 6.1 – *Protect communities through seawall and other coastal defence construction.*

**Consultation:**

- Department of State Development, Infrastructure, Local Government and Planning
- Torres Strait Regional Authority (TSRA)
- Torres Strait Island Regional Council (TSIRC)
- Relevant design Consultants

**Statutory Requirements:**

*Local Government Act 2009*

*Local Government Regulation 2012*

**Conclusion**

That Council resolves to award services to Sea Swift Pty Ltd to an amount of \$355,000.00 excluding GST, Cape Air Transport to an amount of \$255,000.00 excluding GST and Coates Hire Operations Pty Ltd to an amount of \$340,000.00 excluding GST, as well as delegate authority to the Chief Executive Officer under the provisions of the *Local Government Act 2009*.

**Author:**

David Stevens  
Senior Project Engineer

**Recommended:**

Adeah Kabai  
Acting Chief Engineer

**Approved:**

David Baldwin  
Acting Chief Executive Officer





# TORRES STRAIT ISLAND REGIONAL COUNCIL

## COUNCIL REPORT

<b>ORDINARY MEETING:</b>	June 2021
<b>DATE:</b>	29-30 June 2021
<b>ITEM:</b>	Agenda Item for Resolution
<b>SUBJECT:</b>	Policy Matter – Investigation Policy
<b>AUTHOR:</b>	Mette Nordling, Manager of Governance and Compliance

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### Recommendation:

That Council resolve to:

1. amend the Torres Strait Island Regional Council's Investigation Policy previously endorsed by Council at its Ordinary Meeting on 28 April 2021 in the terms presented to Council at today's Ordinary Meeting and endorse the same
- and
2. delegate authority to the Chief Executive Officer in accordance with the *Local Government Act 2009* to exercise the functions and powers assigned to the Chief Executive Officer under the amended and endorsed policy, including the power to make any further minor administrative amendments to the policy as they arise.

### Executive Summary:

In accordance with *Local Government Act 2009* Council is required to adopt an investigation policy. This policy was adopted by Council in April 2021 but following legislative changes later in 2021 now requires re-adoption. Regular monitoring and review of policies are necessary to reflect legislative changes, operational governance and to continuously improve Council governance.

### Comment:

Section 150AE of the *Local Government Act 2009* provides that Council must adopt, by resolution, a policy about how it deals with the suspected inappropriate conduct of councillors referred, by the assessor to the local government to be dealt with.

The then, Department of Local Government, Racing and Multicultural Affairs, provided a template policy for Council's to adopt following the introduction of this requirement. This was the policy originally adopted by Council.

Following updates to legislation and to ensure consistency in application the template policy has been updated by the Department of State Development, Infrastructure, Local Government and Planning, and this is the policy put forward for adoptions by Council.

### Consultation:

Department of State Development, Infrastructure, Local Government and Planning.

**Links to Strategic Plans:**

This policy strategically aligns to specific delivery objectives under all 3 pillars of Council's Corporate Plan, being *People, Sustainability and Prosperity*.

**Risk:**

There is a risk to Council, if Council does not endorse the updated policy, as the current policy only is in date until 30 June 2021.

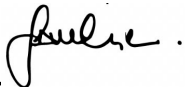
**Statutory Requirements:**

*Local Government Act 2009*

*Local Government Regulation 2012*


**Conclusion:**

That Council endorse the amended policy and delegates to the Chief Executive Officer to make further minor administrative amendments as they arise.



**Endorsed:**

Luke Ranga  
Head of Corporate Affairs



**Recommended:**

Hollie Faithfull  
Chief Financial Officer



**Approved:**

David Baldwin  
A/Chief Executive Officer

**Attachments:**

- Amended Investigation Policy

# Investigations Policy

<b>Responsible Manager:</b>	Head of Corporate Affairs
<b>Head of power:</b>	<i>Local Government Act 2009</i> <i>Local Government Regulation 2012</i>
<b>Authorised by:</b>	Council
<b>Authorised on:</b>	
<b>Implemented from:</b>	1 July 2021
<b>Last reviewed:</b>	May 2021
<b>Review history:</b>	2020
<b>To be reviewed:</b>	June 2022
<b>Corporate Plan:</b>	People, Sustainability and Prosperity

## 1. Authority

This is Torres Strait Island Regional Council's investigation policy for how complaints about the inappropriate conduct of Councillors will be dealt with as required by the section 150AE of the *Local Government Act 2009* (the LGA). However, this policy does not relate to more serious Councillor conduct.

## 2. Commencement

The investigation policy was adopted by Council resolution on 2x June 2021 and applies from 1 July 2021.

## 3. Scope

This investigation policy applies to investigations and determinations of a complaint about the alleged inappropriate conduct of a Councillor/s which has been referred by the Independent Assessor.

## 4. Definitions

**Assessor** means the Independent Assessor appointed under section 150CV of the LGA

**Behavioural standard** means a standard of behaviour for Councillors set out in the Code of Conduct [for Councillors in Queensland](#) approved under section 150E of the LGA

**Conduct** includes -

- (a) failing to act; and
- (b) a conspiracy, or attempt, to engage in conduct

**Councillor conduct register** means the register required to be kept by Council as set out in section 150DX of the LGA

**Inappropriate conduct** see section 150K of the LGA

**Investigation policy**, refers to this policy, as required by section 150AE of the LGA

**Investigator** means the person responsible under this investigation policy for carrying out the investigation of the suspected inappropriate conduct of a Councillor or Mayor

**LGA** means the *Local Government Act 2009*

**Local government meeting** means a meeting of—

- (a) a local government; or
- (b) a committee of a local government.

**Misconduct** see section 150L of the LGA

**Model procedures** see section 150F of the LGA

~~**Natural justice**—a set of principles to ensure fair and just decision making, including a fair hearing, an absence of bias, decisions based on evidence, and the proper examination of all issues.~~

**Referral notice** see section 150AC of the LGA

**Tribunal** means the Councillor Conduct Tribunal as established under section 150DK of the LGA

**Unsuitable meeting conduct** see section 150H of the LGA



## 5. Confidentiality

Matters of suspected inappropriate conduct of a Councillor are confidential except as otherwise specifically provided for either in the LGA or this investigation policy.

Note: It must be kept in mind that the matter is an allegation only and not yet proven. Further, there will be circumstances where the detail of the referral will need to remain confidential to the *Local Government*. Any release of ~~confidential~~ information that a *Councillor* knows, or should reasonably know, to be confidential to the local government, may be contrary to section 171(3) of the LGA and dealt with as misconduct.

## 6. Natural Justice

Any investigation of suspected inappropriate conduct of a Councillor/s must be carried out in accordance with natural justice. An overview of the principles of natural justice follows.

"Natural justice" or procedural fairness, refers to three key principles:

- that the person being investigated has a chance to have his or her say before adverse formal findings are made and before any adverse action is taken (fair hearing)
- that the investigator(s) should be objective and impartial (absence of bias), ~~and~~
- that any action taken is based on evidence (not suspicion or speculation).

A fair hearing means the Councillor who is the subject of the suspected inappropriate conduct matter must be told of the case against them including any evidence and be provided with an opportunity to put their case in writing with the investigation report provided to the Councillors as part of the meeting agenda.

An absence of bias means that any investigation must not be biased or be seen to be biased in any way. This principle embodies the concept of impartiality.

~~Decisions~~Ensuring decisions are based on evidence requires that the investigation should not be based on mere speculation or suspicion but instead must be based upon evidence material.

A proper examination of all issues means the investigation must give a proper and genuine consideration to each party's case.

## 7. Assessor's referral

The Council ~~may~~will receive from the Assessor a referral notice about the suspected inappropriate conduct of a Councillor/s. ~~Council~~The referral notice will include details of the conduct and any complaint received about the conduct, state why the assessor reasonably suspects that the councillor has engaged in inappropriate conduct, and include information about the facts and circumstances that form the basis of the assessor's reasonable suspicion.

The referral notice may be accompanied by a recommendation from the assessor about how the local government may also receive referrals directly investigate or deal with the conduct. The recommendation of the assessor may be inconsistent with this policy.

The investigation must be conducted in a way consistent with:

- any recommendation of the assessor
- to the extent that this policy is not inconsistent with the recommendation of the assessor

- this investigation policy, or  
(iii) in another way the local government decides by resolution.

A resolution under subsection (iii) must state the decision and the reasons for the decision.

## **8. Receipt of Assessor's referral**

On receipt of a referral notice about the suspected inappropriate conduct of a Councillor/s from the Assessor, the Council's Chief Executive Officer will forward a copy of that referral notice to the Mayor and all ~~Councillors as a confidential document.~~

~~Should the Mayor or a Councillor/s (councillors,~~ other than the councillor who is the subject of the complaint, ~~or the complainant,~~ if the complainant is a councillor, as a confidential document.

Should the mayor or a councillor/s disagree with any recommendation accompanying the Assessor's referral notice, or form the opinion that the complaint should be dealt with in a way other than under this policy, the Mayor or Councillor may request the matter be placed on the agenda of the next Council meeting for the council to decide ~~on,~~ by resolution, the appropriate process to investigate the complaint. Such a request must be made in accordance with the Council's meeting procedure requirements.

## **9. Investigator**

Unless otherwise resolved by Council, the Mayor will manage the investigation of suspected inappropriate conduct of other Councillors.

If the suspected inappropriate conduct involves conduct ~~that~~where, in the circumstances, the Mayor believes, it is in the best interests of the investigation to refer the matter for external investigation, then the Chief Executive Officer ~~must~~may refer the suspected inappropriate conduct to the President of the Councillor Conduct Tribunal (the Tribunal) or other entity to investigate and make recommendations to the Council about dealing with the conduct.

If the suspected inappropriate conduct involves:

- an allegation about the conduct of the Mayor, or
- the Mayor as the complainant, then

the Chief Executive Officer ~~must~~may refer the suspected inappropriate conduct to the President of the Tribunal, or another entity, to investigate and make recommendations to the Council about dealing with the conduct.

## **10. Early resolutions**

Before beginning an investigation, the investigator ~~must~~should consider whether the matter is appropriate for resolution prior to the investigation. This consideration ~~includes~~can include any ~~recommendation~~recommendations made by the Assessor.

A matter is only appropriate for early resolution if the parties to the matter both voluntarily agree to explore early resolution.

The investigator may engage an independent person with suitable qualifications or experience to facilitate this process.

If the matter cannot be resolved, the matter will then be investigated as outlined in this

investigation policy.

If the matter is resolved prior to investigation, the investigator will advise the Chief Executive Officer of this outcome. In turn, the Chief Executive Officer will advise the Mayor (if the Mayor is not the investigator) and all Councillors that the matter has been resolved. The Chief Executive Officer will also update the Councillor Conduct Register to reflect this.

## 11. Timeliness

The investigator will make all reasonable endeavours to complete the investigation and provide a report for inclusion on the agenda of a Council meeting no more than eight weeks after the receipt of the complaint.

Note: If the investigator is of the opinion that it may take longer than eight weeks to complete the investigation, the matter should be raised with the *Mayor* (if the *Mayor* is not the investigator) to seek an extension of time.

## 12. Assistance for investigator

If the Mayor, or another councillor appointed by council resolution, is the investigator of a matter of suspected inappropriate conduct, the Mayor or councillor may use section 170A of the LGA to seek assistance during the investigation.

The Mayor is authorised by Council to expend money as reasonably needed to engage contractors in accordance with the Council's procurement policy.

## 13. Possible misconduct or corrupt conduct

If during the course of an investigation the investigator obtains information which indicates a Councillor/s may have engaged in misconduct, the investigator must cease the investigation and advise the Chief Executive Officer. The Chief Executive Officer will then notify the Assessor of the possible misconduct.

If during the course of an investigation, the investigator obtains information ~~which~~that indicates a Councillor/s may have engaged in corrupt conduct, the investigator must cease the investigation and advise the Chief Executive Officer. The Chief Executive Officer will then notify the Crime and Corruption Commission of the possible corrupt conduct.

Instances of suspected misconduct or corrupt conduct may be referred back to the Council if determined by the Assessor or Crime and Corruption Commission to be inappropriate conduct.

## 14. Completion of investigation

On the completion of an investigation, the investigator will provide a report to ~~the Council outlining a council meeting outlining as appropriate: the investigation process, the investigation findings, any recommendations about dealing with the conduct and a record of the investigation costs.~~

- the investigation process
- any witnesses interviewed
- documents or other evidence obtained
- a statement of the relevant facts ascertained
- confirmation that the subject councillor has been provided with an opportunity to respond to



- the complaint and the evidence gathered
- the investigation findings
- a statement of any relevant previous disciplinary history
- any recommendations about dealing with the conduct
- a record of the investigation costs.

If there is a risk to the health and safety of the complainant, under s 254J of the LGR the council may resolve that the meeting be closed to the public for the councillors to consider the investigation report and any recommendations.

The Council (with the exception of the councillor the subject of the investigation and the complainant, if another councillor) will consider the findings and recommendations of the investigator's report and decide whether the Councillor has engaged in inappropriate conduct and, if so, what action it will take under section 150AH of the LGA. In accordance with s275(3) of the LGR, the resolution in relation to what action is to be taken as a result of the investigation must be made after the meeting has been re-opened to the public and the decision recorded in the meeting minutes. The chief executive officer is also required to ensure the details are entered into the councillor conduct register.

~~Provisions for internal and external review of decisions are set out in sections 150CO to 150CS of the LGA.~~

## **15. Disciplinary action against councillors**

~~If the council decides at the completion of decisions are set out the investigation that the councillor has engaged in sections 150CO to 150CS inappropriate conduct, the council may:~~

- ~~(i) order that no action be taken against the councillor, or~~
- ~~(ii) make an order outlining action the councillor must undertake in accordance with section 150AH(1)(b) of the LGA.~~

## **15.16. Notice about the outcome of investigation**

After an investigation is finalised, the Council must give notice about the outcome of the investigation to the person who made the complaint about the Councillor/s' conduct that was the subject of the investigation and the subject councillor.

## **15.17. Councillor conduct register**

The ~~Chief Executive Officer of the respective Council~~ chief executive officer must ensure decisions about suspected inappropriate conduct of a Councillor/s ~~must be~~ are entered into the ~~Councillor~~ councillor conduct register.

Where a complaint has been resolved under section 10 of this policy, ~~the Chief Executive Officer or otherwise withdrawn by the complainant, the chief executive officer~~ will update the register to reflect that the complaint was withdrawn.

## **15.18. Expenses**

Council must pay any reasonable expenses of Council associated with the ~~informal early resolution or~~ investigation of suspected inappropriate conduct of a Councillor including any costs of:

- the president of the Tribunal in undertaking an investigation for Council
- ~~a mediator engaged under this investigation policy~~

- ~~a private~~ an independent investigator engaged on behalf of, or by the Tribunal
- an independent investigator engaged on behalf of ~~or by the investigator~~ local government
- travel where the investigator needed to travel to undertake the investigation, or to interview witnesses
- seeking legal advice
- engaging an expert.

Note: Council may order the subject Councillor reimburse it for all or some of the costs arising from the Councillor's inappropriate conduct. Any costs incurred by complainants or the subject councillors will not be met by council.

~~Any costs incurred by complainants or the subject Councillors will not be met by Council.~~



# TORRES STRAIT ISLAND REGIONAL COUNCIL

## COUNCIL REPORT

<b>ORDINARY MEETING:</b>	June 2021
<b>DATE:</b>	29-30/06/2021
<b>ITEM:</b>	Agenda Item for Resolution by Council
<b>SUBJECT:</b>	Policy Matter – Financial Policies Review
<b>AUTHOR:</b>	Mette Nordling, Manager, Governance and Compliance

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### **Recommendation:**

Council resolves to:

1. amend the Torres Strait Island Regional Council's

- Investment Policy;
- Debt Policy;
- Revenue Policy;
- Fiscal Governance Policy;
- Entertainment and Hospitality Policy;
- Information Technology Policy; and
- Procurement and Ethical Sourcing Policy,

previously endorsed by Council in June 2020, in the terms presented to Council at today's Ordinary Meeting and endorse the same

and

2. delegate authority to the Chief Executive Officer in accordance with the *Local Government Act 2009* to exercise the functions and powers assigned to the Chief Executive Officer under the amended and endorsed policies, including the power to make any further minor administrative amendments to the policies as they arise.

### **Executive Summary:**

In accordance with *Local Government Act 2009* and the *Local Government Regulation 2012* Council is required to have a number of written policies and procedures. Regular monitoring and review of these are necessary to reflect legislative changes and to continuously improve Council governance.

The listed policies have been drafted to include all legislative requirements and to provide an overview to Councillors, Council officers and communities of how Council functions.

These policies were presented to the SARG Committee in June 2021.

### **Background:**

These policies were previously endorsed in June 2020 with an annual review date of June 2021. Statutory policies are mandated under the *Local Government Regulation 2012*.

**Comment:**

Policies to be endorsed:

- Investment Policy (*Local Government Regulation 2012*, section 191)
- Debt Policy (*Local Government Regulation 2012*, section 192)
- Revenue Policy (*Local Government Regulation 2012*, section 193)
- Fiscal Governance Policy
- Entertainment and Hospitality Policy (*Local Government Regulation 2012*, section 191)
- Information Technology Policy
- Procurement and Ethical Sourcing Policy (*Local Government Regulation 2012*, section 198)

Policy	Changes
Investment Policy	Due to expire and minor grammatical changes
Debt Policy	Due to expire, minor grammatical changes and update of balance of existing borrowings as at 31 May 2021.
Revenue Policy	Due to expire and minor grammatical changes
Fiscal Governance Policy	Due to expire, minor formatting changes and position name change
Entertainment and Hospitality Policy	Due to expire and addition of criteria for appropriate entertainment and hospitality expenditure
Information Technology Policy	Due to expire, no changes
Procurement and Ethical Sourcing Policy	Due to expire, formatting changes and amendments to Appendix 1 – Financial and Contractual Delegations.

**Consultation:**

Key personnel from Council's Corporate Affairs, Information Technology and Finance departments.

**Links to Strategic Plans:**

These policies strategically align to specific delivery objectives under all 3 pillars of Council's Corporate Plan, being *People*, *Sustainability* and *Prosperity*.

**Risk:**

As some of these policies must be updated annually there is a risk to Council if the updated policies are not endorsed.

**Statutory Requirements:**

*Local Government Act 2009*

*Local Government Regulation 2012*

*Public Service Act 2008*

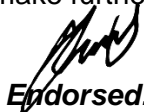
*Public Sector Ethics Act 1994*

*Statutory Bodies Financial Arrangements Act 1982*

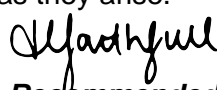
*Statutory Bodies Financial Arrangements Regulation 2007*

**Conclusion:**

That Council resolves to endorse the listed policies and delegates to the Chief Executive Officer to make further minor administrative amendments as they arise.

**Endorsed:**

Nicola Daniels  
Head of Financial Services

**Recommended:**

Hollie Faithfull  
Chief Financial Officer

**Approved:**

David Baldwin  
A/Chief Executive Officer

**Attachments:**

- Investment Policy
- Debt Policy
- Revenue Policy
- Fiscal Governance Policy
- Entertainment and Hospitality Policy
- Information Technology Policy
- Procurement and Ethical Sourcing Policy

# Investment Policy

<b>Responsible Manager</b>	Chief Financial Officer
<b>Head of power</b>	<i>Local Government Act 2009</i> <i>Local Government Regulation 2012</i> Statutory Bodies Financial Arrangements Act 1982 Statutory Bodies Financial Arrangements Regulation 2007
<b>Authorised by</b>	Council
<b>Authorised on</b>	xx June 2021
<b>Implemented from</b>	1 July 2021
<b>Last reviewed</b>	2021
<b>Review history</b>	2012, 2013, 2015, 2016, 2017, 2018, 2019, 2020
<b>To be reviewed on</b>	June 2022
<b>Corporate Plan</b>	People, Sustainability and Prosperity

## 1. Purpose

To provide Torres Strait Island Regional Council with guidelines for the investment of Council's surplus cash in compliance with section 191 of the *Local Government Regulation 2012* and the *Statutory Bodies Financial Arrangements Act 1982*. This policy supports Council's investment and risk philosophy and the process for undertaking investment activities.

## 2. Application

This policy applies to the investment of all cash holdings of the Torres Strait Island Regional Council.

## 3. Definitions

**Surplus Cash Balances** are Council's cash holdings available for investment at any one time after consideration of the amount and timing of Council's cash flow needs. Surplus cash balances do not include Council's trust account balances.

## 4. Legislation/Policies

The following sets out the Investment Policy as required by chapter 5, part 4, and section 191 of the *Local Government Regulation 2012*.

Torres Strait Island Regional Council has been granted authority to exercise Category 1 investment power under Part 6 of the *Statutory Bodies Financial Arrangements Act 1982* and Schedule 2 Section 5 of the *Statutory Bodies Financial Arrangements Regulation 2007*.

All investments are to be made in accordance with:

- *Statutory Bodies Financial Arrangements (SBFA) Act 1982*
- *Statutory Bodies Financial Arrangements (SBFA) Regulation 2007*
- *Local Government Act 2009*
- *Local Government Regulation 2012*

## 5. Ethics and Conflicts of Interest

### (a) Prudent Person Standard

The standard of prudence is to be used by investment officers when managing the overall portfolio. Investments will be managed with the care, diligence and skills that a prudent person would exercise in managing the affairs of other persons. This includes having in place appropriate reporting requirements that ensure the investments are being reviewed and overseen regularly.

Investment officers are to manage the investment portfolios not for speculation, but for investment and in accordance with the spirit of this policy. Investment officers are to avoid any transaction that might harm confidence in Torres Strait Island Regional Council. They will consider the safety of capital and income objectives when making an investment decision.

### (b) Ethics and conflicts of interest

Investment officers and employees shall refrain from personal activities that would conflict with the proper execution and management of Council's investment portfolio. This includes activities that would impair the investment officer's or employee's ability to make impartial decisions as outlined in Council's Code of Conduct. This policy requires

that employees and investment officials disclose to the Chief Financial Officer any conflict of interest or any investment positions that could be related to the investment portfolio.

**(c) Delegation of Authority**

Authority for implementation of the Investment Policy is delegated by Council to the Chief Executive Officer in accordance with sections 257 of the *Local Government Act 2009*.

Authority for the ~~day-to-day~~ day-to-day management of Council's Investment Portfolio is delegated by the Chief Executive Officer to the Chief Financial Officer in accordance with section 259 of the *Local Government Act 2009* and is subject to regular reviews with the Chief Executive Officer.

## **6. Investment Objectives**

As the custodian of public monies, Council chooses to secure its capital base but takes the opportunity to produce revenue from cash assets as far as possible within established risk adverse constraints. At a minimum, any financial investment should offset the devaluing effects of inflation.

### **Investment Risk Philosophy**

In order of priority, the objective of undertaking investment activities shall be preservation of capital, maintenance of liquidity and return on investment. Council maintains a conservative and risk adverse investment philosophy for its surplus cash investments.

### **Preservation of capital**

Preservation of capital shall be the principal objective of the investment portfolio. This can be achieved by managing credit and interest rate risk with given risk management parameters and avoiding any transaction that would prejudice confidence in Council or its associated entities.

### **Credit Risk**

Council will evaluate and assess credit risk prior to investment. Credit risk is the risk of loss due to the failure of an investment issuer or guarantor. The investment officer will minimise credit risk in the investment portfolio by pre-qualifying all transactions including the brokers/securities dealers with which they do business, diversify the portfolio and limit transactions to secure investments

### **Interest Rate Risk**

Minimising the risk of a change in the market value can be managed by maintaining Council's investment portfolio in line with cash flow requirements and limiting investments to short term investments.

### **Maintenance of Liquidity**

The investment portfolio will maintain sufficient liquidity to meet all reasonably anticipated operating cash flow requirements of Council, as and when they fall due, without incurring significant transaction costs due to being required to sell an investment. Options for surplus funds and a list of approved investments for short term cash surpluses.



## 7. Investment Procedures

### Authorised Investments

Authorised investments are as permitted in accordance with Category 1 Investment Powers applicable to Torres Strait Island Regional Council under the *Statutory Bodies Financial Arrangements Regulation 2007*

### Credit risk guidelines

Cash (surplus and working capital) is only to be invested within QIC, QTC or the Council nominated banker who is required to attain a long-term credit rating of:

- AA, AA+ or AAA (Fitch Australia Pty Ltd); or
- Aa2, Aa1 or AAA (Moody's Investors Service Pty Ltd); or
- AA, AA+ or AAA (Standard and Poor's (Australia) Pty Ltd).

### New Investments

New investments are to be with either Queensland Investment Corporation or Queensland Treasury Corporation.

The available investment arrangements are as listed below:

- Queensland Investment Corporation Cash Fund
- Queensland Treasury Corporation Capital Guaranteed Cash Fund
- Queensland Treasury Corporation Fixed Rate Deposit (up to 12 months)
- Queensland Treasury Corporation Working Capital Facility

A new investment product requires a full risk assessment. It is permissible for working capital (non-surplus cash) to remain in the Torres Strait Island Regional Council's nominated operating accounts.

Manager Responsible for Review:

Chief Financial Officer

Adopted: ~~24/06/2020~~

Due for revision: 30/06/2024<sup>2</sup>

Chief Executive Officer

# Debt Policy

<b>Responsible Manager</b>	Chief Financial Officer
<b>Head of power</b>	<i>Local Government Act 2009</i> <i>Local Government Regulation 2012</i>
<b>Authorised by</b>	Council
<b>Authorised on</b>	xx June 2021
<b>Implemented from</b>	1 July 2021
<b>Last reviewed</b>	2021
<b>Review history</b>	2011, 2013, 2015, 2016, 2017, 2018, 2019, 2020
<b>To be reviewed on</b>	June 2022
<b>Corporate Plan</b>	People, Sustainability and Prosperity

## 1. Purpose

Torres Strait Island Regional Council is strongly committed to ensuring robust financial management of Council's existing and future debt.

This policy provides Council with a debt management strategy based on sound financial management principles and guidelines.

## 2. Application

This policy applies to all borrowings associated with Torres Strait Island Regional Council and associated enterprises.

## 3. Legislation/Policies

This policy is established with reference to obligations specified in the *Local Government Act 2009*, ~~and the *Local Government Regulation 2012*, and the *Statutory Bodies Financial Arrangements Acts 1982*~~.

## 4. Principles

The following principles are accepted financial management principles associated with non-current liability management.

- (a) Borrowings will not be utilised to fund recurrent operations;
- (b) The term of any borrowings should not exceed the life of the asset being funded, unless a longer term is recommended by the Queensland Treasury Corporation~~Borrowings will be "matched" with the profile of the asset (asset life will exceed the term of any loans);~~
- (c) Borrowings for new assets should be linked with income producing assets that create wealth;
- (d) Before any ~~b~~Borrowings are undertaken a full risk evaluation and financial analysis on the asset or works is required to be undertaken to enable Council to make a fully informed decision and ensure it is receiving 'value for money';
- ~~(e) The ratio of Interest and Redemption to Grant Income should remain less than ten (10) percent;~~
- ~~(f)~~(e) Borrowings will only be for capital expenditure which has been approved through the annual budget and/or other documentation of a strategic nature e.g. State/Federal Government Planning;
- ~~(g) Where transactions are considered "off-balance sheet", a full financial analysis including a risk assessment is to be undertaken in accordance with State Government Guidelines to ensure that the Council is receiving "value for money".~~
- (f) Council will fund its capital works from revenue, grants and subsidies, contributions or specific reserves.
- ~~(h)~~(g) All borrowings will be considered in line with Council's long-term financial forecast and asset management plans.

## 6. Existing and Planning Borrowings

### Current Borrowings

Existing Loan	Amount outstanding as at 31 May 2020	Term Remaining
Island Co-ordinating Council	\$ <del>55,403.62</del> 129,070.65(MV), \$ <del>54,449.01</del> 122,621.16(BV)	<del>01.42</del> 5 years

### Borrowings planned for the next ten financial years

Council's current Long-Term Financial Plan does not identify any new borrowings for the next 10 financial years.

Manager Responsible for Review:

Chief Financial Officer

Adopted: ~~24/06/2020~~

Due for revision: 30/06/202~~1~~2

Chief Executive Officer

# Revenue Policy

<b>Responsible Manager</b>	Chief Financial Officer
<b>Head of power</b>	<i>Local Government Act 2009</i> <i>Local Government Regulation 2012</i>
<b>Authorised by</b>	Council
<b>Authorised on</b>	xx June 2021
<b>Implemented from</b>	1 July 2021
<b>Last reviewed</b>	2021
<b>Review history</b>	2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020
<b>To be reviewed in</b>	June 2022
<b>Corporate Plan</b>	People, Sustainability and Prosperity

## 1. Purpose

The purpose of this policy is to provide details of the principles applied by Council when:

- a) Levying rates and charges; and
- ~~b)~~ c) Granting concessions for rates and charges; and
- ~~b)c)~~ The purpose of concessions
- ~~e)d)~~ Recovering overdue rates and charges; and
- ~~e)e)~~ Cost recovery methods; and
- ~~e)f)~~ The purpose of concessions
- ~~f)g)~~ Infrastructure charges for a new development

## 2. Application

This policy applies to Torres Strait Island Regional Council and associated enterprises.

## 3. Legislation/Policies

This policy is established with reference to obligations specified in the *Local Government Act 2009* and the *Local Government Regulation 2012*.

## 4. Provisions

### Making and Levying Rates and Charges

In levying rates and charges the following principles will be applied:

- Consider the level of revenue that can be achieved from direct user charges, grants and subsidies, contributions and other sources;
- Consider the cost of maintaining existing facilities and necessary services and the need for additional facilities and services;
- Make clear what is the Council's and each ratepayer's responsibility to the rating system;
- Timing any rates and charges to ensure a sustainable cash flow for the operation of Council and to spread the burden to the ratepayer over the financial year;
- Equity through flexible payment arrangements for ratepayers with a lower capacity to pay;
- Transparency in the making of rates and charges;
- ~~Having in place a rating regime that is~~ Making the system for paying rates and charges simple and inexpensive to administer;
- Equity by taking account of the different levels of capacity to pay within the local community;
- Flexibility to take account of changes to the local economy;
- Council will consider National Competition Policy when considering utility charges;
- Council may consider levying special and separate rates and charges where appropriate, to recover the cost associated with a particular service, project of facility that provides direct or additional benefit to the ratepayers or class of ratepayers.

### Concessions for Rates and Charges

In considering the application of concessions, Council will be guided by the principles of:

- Equity by having regard to the different levels of capacity to pay within the local community;
- The same treatment of ratepayers with similar circumstances;
- Transparency by making clear the requirements necessary to receive concessions;
- Flexibility to allow Council to respond to local economic issues.

Council may give consideration to granting a concession to a class of landowners without the need for an individual application in accordance with section 122(4) of the *Local Government Regulation 2012*.

### **The Purpose of Concessions**

Council will support community objectives through the application of concessions to:

- Reduce the financial burden of rates and charges payable by pensioners;
- Support the community activities of not for profit organisations and support their economic development;
- Provide assistance to ratepayers suffering genuine financial hardship;
- Encourage the economic development of all or part of the local government area.

### **Recovery of ~~Unpaid Amounts of~~Overdue Rates and Charges**

Council will exercise its recovery powers in order to reduce the overall burden on ratepayers. It will be guided by the principles of:

- Transparency by making clear the obligations of ratepayers and the processes used by Council in assisting them to meet their financial obligations;
- Making the processes used to recover outstanding rates and charges clear, simple to administer and cost effective;
- Capacity to pay in determining appropriate arrangements for different sectors of the community;
- Equity by having regard to providing the same treatment for ratepayers with similar circumstances;
- Flexibility by responding where necessary to changes in the local economy;
- Council may charge interest on overdue rates and charges;
- Council's Debt Recovery Procedure PR-PO4-7 sets out the detail of the processes used to recover outstanding rates and charges.

### **Cost Recovery Methods**

Section 97 of the *Local Government Act 2009* allows Council to set cost-recovery fees. ~~Council recognises the validity of fully imposing the user pays principle for its cost-recovery fees, unless the imposition of the fee is contrary to its express social, economic, environmental and other corporate goals. Cost-recovery fees are fixed to cover the costs, including allocated administrative costs of each cost-recovery regime. These fees will not be set at more than the cost to Council for providing the service or taking the action for which the fee is charged. The user-pays principle is applied in setting the fees unless the imposition of the fee is contrary to its express social, economic, environmental and other corporate goals.~~

This is considered to be the most equitable and effective revenue approach and is founded on the basis that the Region's rating base cannot subsidise the specific users or clients of Council's regulatory products and services. ~~However, in setting its cost-recovery fees, Council will be cognisant of the requirement that such a fee must not be more than the cost to Council of providing the service or taking the action to which, the fee applies~~

All cost-recovery fees set by Council are included in the Fees and Charges Register which is open for inspection at Council offices or on its website.

### **Infrastructure Charges for a New Development**

While it is expected that developers will contribute to new physical and social infrastructure when they commence a new development, the amount of their contribution and how much of the infrastructure they fund may vary. This will depend on many factors and will be assessed for each development. The processes used in determining the contribution, however, will be transparent, fair and equitable

Manager Responsible for Review:

Chief Financial Officer

Adopted: ~~XX23~~/06/202~~10~~  
Due for revision: 30/06/202~~21~~<sup>24</sup>

Chief Executive Officer



# Fiscal Governance Policy

<b>Responsible Manager</b>	Chief Financial Officer
<b>Head of power</b>	<i>Local Government Act 2009</i> <i>Local Government Regulation 2012</i>
<b>Authorised by</b>	Council
<b>Authorised on</b>	xx June 2021
<b>Implemented from</b>	1 July 2021
<b>Last reviewed</b>	2021
<b>Review history</b>	2013, 2015, 2016, 2017, 2018, 2019, 2020
<b>To be reviewed on</b>	June 2022
<b>Corporate Plan</b>	People, Sustainability and Prosperity

## 1. Purpose

Torres Strait Island Regional Council is strongly committed to ensuring robust fiscal governance.

## 2. Application

This policy applies to all local government employees, Councillors, contractors and agents of Council.

## 3. Legislation/Policies

This policy is established with reference to obligations specified in the *Local Government Act 2009* and the *Public Sector Ethics Act 1994*.

## 4. Principles

Council, local government employees, Councillors, contractors and agents of Council shall conduct itself/themselves strictly in accordance with the Local Government Principles set out in:

~~s~~Section 4(2) of the *Local Government Act 2009*; and the Ethics Principles set out in section 4(2) of the *Public Sector Ethics Act 1994*, namely:—

- (a) transparent and effective processes, and decision-making in the public interest; and
- (b) sustainable development and management of assets and infrastructure, and delivery of effective services; and
- (c) democratic representation, social inclusion and meaningful community engagement; and
- (d) good governance of, and by, local government; and
- (e) ethical and legal behaviour of Councillors and local government employees; and

Section 4(2) of the *Public Sector Ethics Act 1994*

- 1) integrity and impartiality; and
- 2) promoting the public good; and
- 3) commitment to the system of government; and
- 4) accountability and transparency.

~~Council shall employ a proactive approach to efficient identification, minimisation and reporting of events and procurement in accordance with the requirements of the *Local Government Regulation 2012* by with reference to the sound contracting principles:~~

- ~~• value for money;~~
- ~~• open and effective competition;~~
- ~~• development of competitive local business and industry;~~
- ~~• environmental protection;~~
- ~~• ethical behaviour and fair dealing~~

## 5. Write-off Delegations

- The Chief Executive Officer has delegated authority to write-off amounts of up to \$1,000 for any one loss or series of losses arising out of one original source or cause, in respect of lost and stolen Council property. Amounts in excess of \$1,000 can only be written off by Council resolution.

- The Chief Executive Officer has delegated authority to write-off amounts of up to \$1,000 for rates, charges and sundry debtors, including interest and legal costs, per account as a bad debt.
- The Chief Executive Officer has delegated authority to write-off up to \$200,000 against a statute barred debtor or deceased debtor per account as a bad debt. Amounts in excess of \$200,000 can only be written off by Council resolution.
- The Chief Financial Officer has delegated authority to write-off debt amounts of up to \$500 for rates, charges and sundry debtors, including interest and legal costs, per account as a bad debt.

Debt is “**bad debt**” where the Chief Executive Officer or Chief Financial Officer is satisfied that:

- the debtor is deceased and, as a matter of policy, Council should not seek to recover against the deceased estate; and/or
- pursuant to the Limitation of Actions Act 1974 (Qld), it is statute-barred debt and therefore cannot be legally enforced in a Court of competent jurisdiction; and/or
- it would not be commercial to pursue debt recovery, taking into account the anticipated time and cost of debt recovery.

## 6. Reversals and Adjustments

The ~~Financial Controller~~Head of Financial Services and Chief Financial Officer are delegated authority to approve the reversal of a charge or an adjustment of a charge that is deemed an administrative error.

A charge is an “**administrative error**” where the delegated officer is satisfied that Council has incorrectly levied a charge, for one or more of the following reasons:

- the wrong debtor account and or amount has been charged;
- GST was charged incorrectly;
- the charge involved a data keying error (typographical error), for example Council charged \$3,000 instead of \$300, or the narration (description of the charge) requires correction;
- there is no source documentation or data to substantiate the charge
- a charge has been duplicated;
- for a social housing–related charge where:
  - rent charges were increased without a rent increase notice being served properly;
  - rent charges continued after the termination of a tenancy;
  - change in rent charges was implemented after change date;
  - there is no tenancy documentation to substantiate the charge;
- for local government charges, the debtor was not occupying the land or building and has no legal obligation to pay the charge confirmed by Councils Legal Services.

Manager Responsible for Review:

Chief Financial Officer

Adopted: ~~23/06/2020~~

Due for revision: 30/06/2024~~2~~

Chief Executive Officer

# Entertainment and Hospitality Policy

<b>Responsible Manager</b>	Chief Financial Officer
<b>Head of power</b>	<i>Local Government Act 2009</i> <i>Local Government Regulation 2012</i>
<b>Authorised by</b>	Council
<b>Authorised on</b>	x June 2021
<b>Implemented from</b>	1 July 2021
<b>Last reviewed</b>	2021
<b>Review history</b>	2008, 2009, 2014, 2015, 2016, 2017, 2018, 2019, 2020
<b>To be reviewed on</b>	June 2022
<b>Corporate Plan</b>	People, Sustainability and Prosperity

## 1. Purpose

The purpose of this policy is to provide clarity as to what Torres Strait Island Regional Council considers reasonable entertainment.

## 2. Application

This policy applies to the Torres Strait Island Regional Council and associated Enterprises and applies to all entertainment and hospitality expenses.

## 3. Legislation/Policies

This policy is established with reference to obligations specified in the *Local Government Regulation 2012*.

### 3.4. Definitions

**Charter** means a contracted flight outside of scheduled RPT movements.

**Civic Duty** means the responsibility to attend (within Queensland) Sad News, Funerals and/or Tombstone Unveiling, by the Mayor or Deputy Mayor (deputised by the Mayor) and the Divisional Councillor for the Division / Island that the past Leader represented.

**Chief Executive Officer** means Chief Executive Officer of Council

**Council** means the Torres Strait Island Regional Council (TSIRC) and its Councillor(s)

**Deputy Mayor** means Deputy Mayor of TSIRC

**Ferry** means a local operating ferry service with scheduled movements for transport

**Funeral** means ceremony for a deceased person prior to burial / cremation

**Mayor** means Mayor of TSIRC

**Regular Passenger Transport (RPT)** means a Government Contracted transporter for passengers operating in the Torres Strait.

**Sad News** means terminology referring to the passing of a person

**Tombstone** means a cultural event where the headstone is unveiled, and the spirit of the deceased has joined other ancestors and marks the end of the mourning period

### 4.1. Legislation/Policies

This policy is established with reference to obligations specified in the *Local Government Regulation 2012*.

## 5. Principles

Council understands that part of its role is to engage in entertainment activity at local, national and international levels and that the engagement is to further the economic, social and cultural development of the Torres Strait.

The provision of support further strengthens the cultural and social fabric of Torres Strait Communities.

As a publicly funded body, however, it must ensure that public sector standards of accountability are maintained, and that practice is consistent across the organisation. The guiding principles are that expenditure must be reasonable, able to be justified as of benefit to the Torres Strait Communities, and properly documented.

## 5.1 Roles

The Council, Councillors or Council Officers may undertake the following roles:

- (a) Building relationships with dignitaries (both local and international) that will benefit the Torres Strait in terms of access to people, services, goods and resources;
- (b) Forming regional links to ensure the continued economic development of the Torres Strait region;
- (c) Working within the Torres Strait community to further develop the social and cultural fabric binding the region;
- (d) Working with employees to recognise service and performance; and
- (e) Attendance at Council hosted events e.g., Australia Day Awards.

Additionally;

- (f) The Mayor or Deputy Mayor (deputised by the Mayor) and an individual Councillor may undertake the Civic Duty role of attendance (within Queensland) at Sad News, Funerals and/or Tombstone Unveilings

Attendance is restricted to events associated with past leaders, parent(s) of existing Councillor, elder statesmen or others generally recognised as contributing to the advancement of the Torres Strait.

In performing any of the aforementioned roles, it may be necessary from time to time for Council and its Officers to engage in entertainment activities.

Entertainment and hospitality expenditure will be considered appropriate if it conforms with the following criteria:

- it is considered reasonable and cost effective;
- it can be supported within adopted budget allocation;
- it is able to withstand public scrutiny;
- it serves an official purpose; and
- it complies with legal, financial, audit and ethical requirements.

All expenditure for entertainment and hospitality purposes must be pre-authorised and Council officers must not authorise their own expenditure. In assessing whether expenditure is reasonable, the person claiming the expenditure must be comfortable in publicly disclosing the expense, should that be required, and be able to identify the benefit for Council. Similarly the officer approving the payment or reimbursement should be comfortable that the claim was reasonable and meets the aforementioned criteria.

Table 1 lists the types of entertainment considered appropriate for Council business and who authorised to approve such expenditure.

**Table 1 Types of Roles**

Type of Function	Authorising Officer	Administration Roles
Mayoral Reception	Mayor / CEO	Budget Monitoring - CEO Budget to be expressly stated at Original Budget adoption Documentation required: <ul style="list-style-type: none"> <li>• Purpose</li> <li>• Number of Invitees</li> <li>• Breakdown of Cost</li> </ul>
Council Hosted Function	Mayor / CEO	Budget Monitoring - CEO Budget to be expressly stated at Original Budget adoption Documentation required: <ul style="list-style-type: none"> <li>• Purpose</li> <li>• Number of Invitees / Council Officers</li> <li>• Breakdown of Cost</li> <li>• Appropriate FBT form required</li> <li>• Tax Invoices from Suppliers</li> </ul>
Civic Duty	Council (or quorum of Council by Email / Fax)	Budget Monitoring - CEO Budget to be expressly stated at Original Budget adoption Documentation required: <ul style="list-style-type: none"> <li>• Purpose</li> <li>• Number of Travel Attendees</li> <li>• Breakdown of Cost</li> <li>• Payment in Advance or Arrears</li> <li>• (Payment to maximum of RPT Flight costs where Charters are utilised)</li> <li>• Council staff to make bookings where required for Mayor / Deputy Mayor / Councillor</li> <li>• Tax Invoices from Suppliers</li> </ul>

Only Entertainment associated with afore mentioned roles will be allowed. Entertainment is taken to be the provision of meals and beverages as part of official business.

**Mayoral Receptions** are hosted by the Council to demonstrate hospitality, courtesy or provide recognition for a milestone, for example, Cultural Ceremonies, Launch of New Initiatives or the Welcome for a Conference.

**Council Hosted Function** are those functions that improve the relationship and linkage within the region and internationally.

**Civic Duty functions** are functions of significance which brings Community together. It may be necessary from time-to-time for the Mayor or Deputy Mayor or Councillor's to access travel, accommodation and meals to attend such functions. The provision of such shall be at Council expense.

Should a Councillor travel for Civic Duty purposes it is an express requirement that the Councillor is the Divisional Councillor for the Division / Island that the past Leader represented in a public office capacity.

Civic Duty expenses shall be ratified by the whole Council. Where this is not possible due to timing, a quorum of Councillor(s) responses to the CEO shall provide the CEO with direction to proceed with expenditure or not – a quorum is taken to be eight (8) duly elected Councillors of the TSIRC. Eight positive responses from Councillors to the CEO are required before any travel is to be undertaken. Phone conversations are not considered a response.

Civic Duty travel is taken to be part of official business with the Mayor or Deputy Mayor or Councillor representing the Council at these significant events in the Community.

Civic Duty travel costs are to be recognised and kept to a reasonable limit. Payment by the Council shall occur at Council adopted travel rates.

Civic Duty payments made in advance shall require receipts to be furnished to justify expenditure. Should payment not be in advance, re-imbursement of expense shall be made payable in the next available Creditor Payment run.

Civic Duty payments for travel will be paid via the following methods:

- Payments for travel within the Torres Strait region will be limited to Regular Passenger Transport (RPT) services and/or ferry runs. Should a charter be required the Council shall reimburse the Mayor or Deputy Mayor the value of the RPT flight and/or ferry run only.
- Travel outside of the Torres Strait region will be paid direct to the supplier by Council.

## **5.2 Hospitality**

Council provides a \$750 per annum Hospitality Budget for each Councillor.

Council provides a \$2,500 per annum Hospitality Budget for the Mayor.

The Mayor and the Councillor's will provide evidence of the expenditure to the CEO or at an ordinary meeting. The Council or the CEO will deem the appropriateness of the expenditure, that being for the purpose of providing hospitality to a third party, not related to the Mayor or Councillor.

Hospitality is the provision of food, drinks or entertainment. Fundamentally the event must be directly related to Council activities.



### 5.3 Fringe Benefit Tax

A Fringe Benefit Tax (FBT) Declaration for Entertainment and Hospitality Expenditure Form is to be completed for all of functions, meals or entertainment and events provided by Council which is attended by Council employees.

“Entertainment” is defined in the Income Tax Assessment Act (ITAA) (1997) section 32-10 as below;

- (a) Entertainment by way of food, drink, or recreation or
- (b) Accommodation or travel to do with providing entertainment by way of food, drink or recreation

Table 2 gives examples of the types of expenditure that would be considered Entertainment and therefore attract FBT, along with some examples of expenditure that would not be considered entertainment.

**Table 2 Types of Entertainment**

Note: only entertainment provided to employees and their associates (spouse) is subject to FBT.

Type of Food and Drink Provided	Meal Entertainment
Friday drinks at the office	Y
Food and drink consumed at a social function held on or off business premises (i.e. Christmas Party, Melbourne Cup lunch)	Y
Food and drink consumed at a café or restaurant whilst working overtime	Y
A business lunch at a café or restaurant	Y
Tea / coffee provided for on-going consumption on business premises (i.e. for all employees and visitors)	N
Food and drink except for alcoholic drinks consumed during a work meeting or training session on business premises	N
Birthday cakes consumes on business premises during morning / afternoon tea	N
Food and drink consumed by an employee whilst travelling on business	N
Food and drink provided to employees at eligible seminar; Conference, workshop, meeting, training session course lasting at least four (4) hours.	N

### Record Keeping and Costing

Entertainment can be provided to employees and their associates, customers, clients or suppliers. However, only entertainment provided to employees and their associates is subject to fringe benefit tax.

Employees are required to keep the following records when entertainment expenses occur:

- Total cost of food and drinks consumed
- Duration of the event (i.e. hours)
- Total number of employees and associates, and other parties participating in the event

All entertainment and hospitality expenditure is to be charged to natural account 63462 in order to capture accurate financial information.

Manager Responsible for Review:

Chief Financial Officer

Adopted: ~~23/06/2020~~

Due for revision: 30/06/202~~4~~2

Chief Executive Officer

# Information Technology Policy

<b>Responsible Manager</b>	Manager, Information Technology Services
<b>Head of power</b>	<i>Local Government Act 2009</i> <i>Local Government Regulation 2012</i>
<b>Authorised by</b>	Council
<b>Authorised on</b>	xx June 2021
<b>Implemented from</b>	1 July 2021
<b>Last reviewed</b>	2021
<b>Review history</b>	2017, 2020
<b>To be reviewed on</b>	June 2022
<b>Corporate Plan</b>	People, Sustainability and Prosperity

## 1. Purpose

Torres Strait Island Regional Council is strongly committed to implementing a standard for the management, governance and utilisation of all Information Technology [IT] infrastructure and data necessary to facilitate the delivery of Council functions. Such standard is required to:

- minimise the risk of loss or corruption of Council information;
- ensure availability and timeliness of Council electronic communications;
- enhance the efficiency and effectiveness of Council programmes; and
- ensure accountability.

## 2. Application

This policy applies to Councillors, Council employees, contractors, vendors and agents who use Council IT equipment and infrastructure.

This policy covers all software and hardware including, but not limited to computers, servers, smartphones, tablets and other technology devices owned by Council and/or utilising a Council carriage service.

Privately-owned devices accessing non-Council carriage services are not included in the scope of this Policy.

## 3. Legislation/Policies

This policy is established with reference to obligations specified in the *Local Government Act 2009* and the *Local Government Regulation 2012*.

Manager Responsible for Review:

Chief Financial Officer

Adopted: ~~24/06/2020~~

Due for revision: 30/06/202~~1~~2

Chief Executive Officer

# Procurement and Ethical Sourcing Policy

<b>Responsible Manager:</b>	Head of Corporate Affairs
<b>Head of power:</b>	<i>Local Government Act 2009</i> <i>Local Government Regulation 2012</i>
<b>Authorised by:</b>	Council
<b>Authorised on:</b>	
<b>Implemented from:</b>	July 2021
<b>Last reviewed:</b>	June 2021
<b>Review history:</b>	2012, 2013, 2014, 2017, 2018, 2019, 2020
<b>To be reviewed:</b>	June 2022
<b>Corporate Plan:</b>	People, Sustainability and Prosperity

## 1. Purpose

This policy aims to provide Torres Strait Island Regional Council with a procurement framework which is open and transparent and provides value for money in compliance with Section 198 of the *Local Government Regulation 2012*.

The Council is committed to better target their procurement activities to ensure local Indigenous businesses have equitable access to the procurement opportunities that exist within Council and deliver improved economic, environmental and social outcomes for the Torres Strait region holistically.

## 2. Application

This policy applies to all Council procurement activities.

## 3. Legislation

All Council procurement must be carried out in compliance with the *Local Government Act 2009* and the *Local Government Regulation 2012*.

## 4. Procurement

Procurement means to purchase, hire, lease, rental, exchange or any other commercial transaction involving the outlay of funds in return for the provision of goods, equipment and or services. The purchase of goods, works, or services shall not be broken down into unreasonable components or reduced order quantities in order to avoid the necessity to comply with the dollar limit requirements under this Policy.

## 5. Sustainable and Social Procurement

### Torres Strait Islander and Social Procurement

Council is committed to the development of local Torres Strait Islander businesses and social procurement, a strategic approach to meeting social objectives through procurement and contracting, and in particular facilitating employment opportunities to communities within Council's jurisdiction and the Torres Strait region.

Torres Strait Islander and social procurement delivers benefits to Council including:

- Developing and attracting Torres Strait Islander businesses and social enterprises;
- Encouraging local businesses to include Torres Strait Islander, social or community objectives into daily business practices;
- Promoting employment opportunities and inclusive and accessible work environments for young people or older persons who are unemployed and people with disabilities;
- Building the skills, knowledge and ability of not-for-profit community groups to enable them to access funds and expand services.

Council intends to use a portion of its annual procurement spend to engage suppliers that provide a direct benefit to the communities within Council's jurisdiction and the Torres Strait region, including offering quoting opportunities directly to Torres Strait Islander businesses, social enterprises and social benefit suppliers.

## **Sustainable Procurement**

Council is committed to protecting the environment and doing business with ethical and socially responsible suppliers and procuring goods and services that achieve sustainability outcomes such as those that have a reduced negative impact on the environment and/or an improved social outcome. When procuring goods and services, Council will consider:

- Strategies to avoid unnecessary consumption and manage demand;
- Minimising environmental impacts over the whole-of-life of the goods and /or services;
  - Products that are durable and long lasting e.g. avoiding or reducing disposable products and single use plastics;
  - Products that consume less energy, fuel or water in their operation;
- Supplier's socially responsible practices; and
- Value for money over the whole-of-life of the goods and/or services, rather than just initial cost.

Torres Strait Islander, social and sustainable procurement must be conducted in line with consideration to the sound contracting principles and other legislative requirements.

## **5.6. Provisions**

### **Introduction**

~~All Council procurement must be carried out in compliance with the *Local Government Act 2009* and the *Local Government Regulation 2012*.~~

### **Objectives**

Council's procurement activities aim to achieve beneficial outcomes by:

- Promoting value for money with probity and accountability;
- Advancing Council's economic, social and environmental policies;
- Providing reasonable opportunity for local Indigenous businesses to supply to Council;
- Promoting compliance with relevant legislation; and
- Promoting continuous improvement and best practice in procurement activities.

### **Responsibility**

Council officers are required to:

- Adhere to the sound contracting principles as stipulated in the *Local Government Act 2009*;
- Preserve Council's integrity in the procurement process to ensure that council acts beyond reproach in all dealings; and
- Obtain best value whole of life costs.

During the entire procurement process, any officers who intend to have any input or influence should ensure they have read Council's Code of Conduct as well as the supporting documents to this Policy.

All officers involved in procurement and contracting activity must comply with the following interlinked principles and objectives of probity:

- Use of a competitive process;
- Fairness and impartiality;
- Transparency of process;
- Independence through effective management of conflicts of interest;
- Accountability of process; and
- Security and confidentiality of information and materials.

Officers participating in procurement and contracting activities must comply with the requirements of Council's Code of Conduct, and the supporting documents to this Procurement Policy and must:

- Notify the Strategic Sourcing Manager immediately they become aware of any conflict of interest (perceived, potential or actual);
- Not accept gifts from parties related to any procurement or contracting activity; and
- Action the pre and post offer declarations of conflict of interest and confidentiality as applicable.

Councillors and staff must ensure that they do not participate in any action, which may be deemed to be:

- Canvassing by any party with a material interest in the procurement; or
- Releasing commercial in confidence information; or
- Collusion - i.e. collaboration between parties involved in the procurement process.

Any approach or known evidence of canvassing, breach of confidentiality or collusion must be reported to the Chief Executive Officer.

## **6.7. Sound Contracting Principles**

Council officers must have regard to the sound contracting principles set out in section 104(3) of the *Local Government Act 2009*:

- a) value for money;
- b) open and effective competition;
- c) the development of competitive local business and industry;
- d) environmental protection;
- e) ethical behaviour and fair dealing.

### **Value for money**

The objective of the value for money principles is to ensure that all procurement and contracting activities represent the best return and performance for money spent from a whole-of-life cost perspective to assist Council to effectively and efficiently use public money.

Value for money should not be limited to price alone. In assessing value for money, officers must consider:

- The contribution to the advancement of Council priorities and vision, including buying from local Torres Strait Island businesses and organisations as first preference, community and social benefits, and suitability considerations consistent with and supporting the strategic direction of the Corporate Plan;



- Factors such as fit for purpose, innovation, maintenance and support, relevant experience and performance, availability and suitability of staff, plant and equipment, application of relevant and sound systems of operational management, risk, legal and reputation exposure and business continuity; and
- Cost related factors including whole-of-life costs, transactional costs and risk exposure associated with the acquisition, use, administration, holding, maintenance and disposal of the goods and/or services.

As the application of the value for money principle may not necessarily favour the lowest price, contracting decisions must substantiate how application of the principles ensures council is receiving the most advantageous outcome for our community.

### **Open and effective competition**

Procurement processes must be open and transparent to suppliers and the public and result in effective competition in the provision of all goods and services. Council must give fair and equitable consideration to all prospective suppliers.

### **Development of competitive local business and industry**

Council will proactively support local Torres Strait Islander owned businesses, organisations and industry to provide jobs within Council's jurisdiction, and the greater Torres Strait region, in recognition of the economic and social benefits that this brings. When applying these principles Council will:

- Buy from local Torres Strait Islander businesses and organisations as first preference;
- Reserve the right to invite only local Torres Strait Islander owned businesses, organisations and industry to quote for appropriate contracts; and
- Include a statement in its invitation to quote/tender documentation that Council, through this policy, encourages the development of competitive local Torres Strait Islander businesses, organisations and industry.

A local supplier means a supplier that maintains a workforce whose usual place of residency is located within Council's jurisdiction and/or the Torres Strait region. If a capable local supplier does not exist within the Torres Strait region, the area should be extended to include the Cape York and Cairns region and then extended progressively to Queensland, then Australia until a suitable supplier is identified.

### **Environmental protection**

The objective of the principle of environmental protection is to maintain commitment to long-term ecological sustainability through procurement and contracting activities that conserve resources, save energy, minimise waste, protect human health and maintain environmental quality and safety.

In undertaking procurement activities council will endeavour to:

- Promote the procurement of environmentally friendly goods and services that satisfy the value for money criteria;
- Foster the development of products and processes of low environmental and climatic impact;
- Provide an example to business, industry and the community by promoting the use of climatically and environmentally friendly goods and services:

- Ensure suppliers clean up construction sites and remove all plant and equipment from islands; and
- Encourage environmentally responsible activities.

### **Ethical behaviour and fair dealing**

Council officers must behave with impartiality, fairness, independence, openness, integrity and professionalism in their discussions and negotiations with suppliers and their representatives.

It is the responsibility of Council officers to report any actual, potential or perceived conflict of interest to their branch manager prior to and during any business dealings.

## **7-8. Budgetary Provisions**

Procurement must be in accordance with the adopted Annual Budget or a Council resolution and sufficient funds must be available to meet the full cost of the proposed procurement.

## **8-9. Procurement Guidelines**

### **Procurement Thresholds**

<b>Value threshold (GST excl.)</b>	<b>RFQ Documentation</b>
Under \$2,000	1 written quote
\$2,000 to \$14,999	2 written quotes
\$15,000 to under \$200,000	3 written quotes
≥ \$200,000	Public tender

When seeking quotations, officers should consider the likelihood of exceeding the value thresholds listed above in a financial year. If there is a risk that these limits will be exceeded, then the appropriate number of quotes or a public tender should be sought. All thresholds are cumulative thresholds. If the anticipated value of goods or services of a similar nature procured from the same supplier exceeds \$200,000 in a financial year, or over the proposed term of the contractual arrangement, then a public tender is required.

## **9-10. Exemptions to Procurement Guidelines**

Legislation obligates Council to utilise a public tender process (or a closed tender process if

an expression of interest has first been called to shortlist tenderers) before making a contract for the carrying out of work, or the supply of goods and services involving a value of \$200,000 or more, unless there is a legislative exemption.

Council officers must follow the procurement guidelines unless they utilise a legislative exemption. Exemptions are provided for under sections 229-235 of the *Local Government Regulation 2012*. These exemptions are:

- A quote or tender consideration plan
- A contractor on an approved contractor list
- A supplier on a register of pre-qualified suppliers
- A supplier on a preferred supplier arrangement
- A supplier on another LGA arrangement, e.g. LGAQ (LocalBuy).

Further exemptions exist if:

- Council resolves (Council resolution obtained) it is satisfied that there is only one supplier who is reasonably available (sole suppliers); or
- Council resolves that, because of the specialised or confidential nature of the services that are sought, it would be impractical or disadvantageous for the local government to invite quotes or tender; or
- A genuine emergency exists; or
- The contract is for the purchase of goods and is made by public auction; or
- The contract is for the purchase of second-hand goods; or
- The contract is made with, or under an arrangement with, a government agency e.g. Queensland State Government arrangements.

Refer to sections 230-235 of the *Local Government Regulation 2012* for further details on the above exemptions.

### **Register of Pre-qualified Suppliers (ROPS)**

Council may establish a ROPS for carrying out of works, goods, services or ICT, by inviting public tenders. Suppliers must submit a tender response and if successful following the evaluation process, suppliers are appointed to the ROPS for a term of up to three years. Once the ROPS is established, further quotes or cost estimates from selected suppliers are required to ensure value for money.

### **Preferred Supplier Arrangement (PSA)**

Council can establish a PSA where better value for money can be obtained by aggregating the demand for goods and services. Council must invite public tenders and evaluate submissions from suppliers in order for suppliers to be successfully appointed to the PSA. Prices or a schedule of rates are usually fixed for the duration of the arrangement.

### **Sole Suppliers**

Where the required goods or services are available only from one original source or available from only one stockist, agent or supplier with relative ease of accessibility to Council, the supply of those goods and or services can be applied for under a sole supplier arrangement via Council resolution.

Procurement provides a report on an annual basis listing all proposed sole supplier arrangements, for the financial year, for adoption by Council. A report is presented to Council bi-annually listing expenditure on sole suppliers.

### **Emergencies**

In recognition that full compliance with existing Council procurement procedures may not support Council's needs during a critical or emergency incident, an alternative procurement process may operate during the incident. This alternative process aims to accommodate urgent Council needs, while ensuring that the procurement process adopted is reasonable and conducted with appropriate consideration of standard procurement principles.

Any emergency procurement must be authorised by the Chief Executive Officer, once a critical or emergency incident has been declared. Such incidents are:

- A state of disaster declared under the *Disaster Management Act 2003*, or any other emergency declaration made by the State's Premier under an enactment;
- Any incident declared by the Chief Executive Officer where the safety or security of any person or property associated with the Council is threatened; and
- An external incident to which the Chief Executive Officer has authorised the provision of urgent support.

Once the immediacy of the incident has passed, purchase orders must be raised to record the expenditure in the same way as they would have been in normal circumstances.

As soon as practical upon cessation of the emergency, a report must be presented to Council to authorise the unapproved expenditure, where this expenditure exceeds delegation, and the methodology by which it was incurred. The Council Resolution must define the genuine emergency situation (such as natural disaster), as well as delegate authority.

### **10.11. Financial Delegation**

The Chief Executive Officer has procurement authority of \$200,000. Any amount greater than this requires Council approval.

The Chief Executive Officer further has delegation to issue requests for quotes and tenders for any project up to any amount.

Other officers may only incur expenditure on behalf of Council if:

- The officer has been granted the financial delegation by the Chief Executive Officer and this delegation has been recorded in the Register of Financial Delegations, and
- The expenditure is provided for in Council's budget, and
- The officer has received training in Council's procurement systems and procedures, or
- There is a disaster/genuine emergency.

No officer, except the Chief Executive Officer may have procurement delegation exceeding \$200,000.

The Chief Executive Officer must approve all financial delegations by recording them in a register of financial delegations to enable procurement activities to occur.

Appendix 1 lists the delegations for all management positions.

## **11.12. Variations to Purchases**

For the purposes of this policy, variation refers solely to a financial deviation from original contract value. The contract can be a Council purchase order or agreement signed by a delegated Council officer with an external service provider/organisation. Other variations such as non-financial scope changes, extension of time etc are to be managed by delegated Council officers.

Variation procedures are as follows:

- Each variation can only be approved by an officer up to their authorised contractual and financial delegation;
- All variations are to be approved in writing;
- Each variation requires an additional line item on the original purchase order stating the scope and cost.

## **~~12.1. Sustainable and Social Procurement~~**

### **~~Torres Strait Islander and Social Procurement~~**

~~Council is committed to the development of local Torres Strait Islander businesses and social procurement, a strategic approach to meeting social objectives through procurement and contracting, and in particular facilitating employment opportunities to communities within Council's jurisdiction and the Torres Strait region.~~

~~Torres Strait Islander and social procurement delivers benefits to Council including:~~

- ~~• Developing and attracting Torres Strait Islander businesses and social enterprises;~~
- ~~• Encouraging local businesses to include Torres Strait Islander, social or community objectives into daily business practices;~~
- ~~• Promoting employment opportunities and inclusive and accessible work environments for young people or older persons who are unemployed and people with disabilities;~~
- ~~• Building the skills, knowledge and ability of not for profit community groups to enable them to access funds and expand services.~~

~~Council intends to use a portion of its annual procurement spend to engage suppliers that provide a direct benefit to the communities within Council's jurisdiction and the Torres Strait region, including offering quoting opportunities directly to Torres Strait Islander businesses, social enterprises and social benefit suppliers.~~

## **Sustainable Procurement**

~~Council is committed to protecting the environment and doing business with ethical and socially responsible suppliers and procuring goods and services that achieve sustainability outcomes such as those that have a reduced negative impact on the environment and/or an improved social outcome. When procuring goods and services, Council will consider:~~

- ~~• Strategies to avoid unnecessary consumption and manage demand;~~
- ~~• Minimising environmental impacts over the whole of life of the goods and /or services;~~
  - ~~○ Products that are durable and long lasting e.g. avoiding or reducing disposable products and single use plastics;~~
  - ~~○ Products that consume less energy, fuel or water in their operation;~~
- ~~• Supplier's socially responsible practices; and~~
- ~~• Value for money over the whole of life of the goods and/or services, rather than just initial cost.~~

~~Torres Strait Islander, social and sustainable procurement must be conducted in line with consideration to the sound contracting principles and other legislative requirements.~~

Manager Responsible for Review:

Head of Corporate Affairs

**Adoption:**

**Due for Revision:**

Chief Executive Officer

## Appendix 1 — Financial and Contractual Delegations

Officers may incur expenditure on behalf of Council but only if the expenditure is provided for in Council's budget the officer's position has been delegated the power to enter into contracts up to an amount not less than the amount of the expenditure proposed to be incurred.

Each delegation to an officer of the power to enter into contract must be delegated by the Chief Executive Officer.

The delegation is a positional delegation and remains in force unless revoked by the Chief Executive Officer.

Any officer incurring expenditure on behalf of Council must do so in accordance with any constraints imposed by Council or the Chief Executive Officer.

Position	Delegation (ex GST)
Chief Executive Officer	\$200,000
Chief Operating Officer	\$50,000
Chief Financial Officer	\$50,000
Chief Engineer	\$50,000
<u>Head of Department and Functional Manager</u> <del>-or- Regional Manager</del>	<del>\$235,000</del>
<u>Regional Manager</u>	<u>\$25,000</u>
<u>Regional Building Supervisor</u>	<u>\$25,000</u>
<u>Senior Executive Assistant to Mayor and CEO</u>	<u>\$25,000</u>
Divisional Manager	\$10,000
<u>Other officers where financial delegation is considered an operational requirement, CEO discretion</u>	<u>\$10,000</u>

Council further delegate to the Chief Executive Officer the authority to negotiate, finalise and execute recurring operational expenditure, that are within the adopted budget. ~~These for example include~~ rent on leased Council premises, Council rates, electricity, telephone, freight, fuel, vehicle registration and others, regardless of whether the value of the expenditure is more or less than \$200,000.

# TORRES STRAIT ISLAND REGIONAL COUNCIL

## COUNCIL REPORT

<b>ORDINARY MEETING:</b>	June 2021
<b>DATE:</b>	29-30/06/2021
<b>ITEM:</b>	Agenda Item for Resolution
<b>SUBJECT:</b>	Policy Matter – Strategic External Grant Funding Policy
<b>AUTHOR:</b>	Mette Nordling, Manager Governance and Compliance

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### Recommendation:

That Council resolves to:

1. adopt the Strategic External Grant Funding Policy in the terms presented to Council at today's Ordinary Meeting and endorse the same  
And
2. delegate authority to the Chief Executive Officer in accordance with the *Local Government Act 2009* to exercise the functions and powers assigned to the Chief Executive Officer under the endorsed policy, including the power to make any further minor administrative amendments to the policy as they arise

### Executive Summary:

The proposed Strategic External Grant Funding Policy seeks to ensure effective management of external grant funding acquisition and donor management related activities by establishing a framework for managing the external grant funding process. It provides for a proactive and consistent approach to external funding opportunities aligned to Council's adopted Corporate Plan.

This Policy was presented to the SARG Committee in June 2021.

### Background:

Council is reliant on external grant funding to be able to provide services to our communities, upgrade and maintain existing infrastructure, as well as building new essential for life infrastructure.

It was deemed necessary to draft a policy covering this area to ensure that a proactive and consistent approach is taken to the external grant funding process.

### Comment:

The purpose of the proposed Strategic External Grant Funding Policy is to ensure effective management of external grant funding acquisition and donor management related activities.

The key aim is to establish a framework for managing the external grant funding process and provide a consistent and objective analysis of external funding opportunities. This will be done by ensuring alignment to Council's adopted Corporate Plan, bearing in mind Council's capacity to comply with all conditions of the external grant funding. The policy will enable a strategic approach to grant administration and operational management.



The proposed policy recognises that Council provides a diverse range of programs and projects to meet the needs of our communities and internal stakeholders. To meet these needs, Council must balance cost pressures with community and internal stakeholder expectations.

The policy also recognises the variability of the domestic grant landscape, particularly in eligibility criterion, thus acknowledging that in applying for a grant, it is important to ensure Council fully complies with the terms of the grant, through a rigorous funding acquisition process, which includes:

As the elected Council regularly review the priority projects for each community, and these are well documented, there is a continuous focus on researching funding opportunities aligned to these priority areas.

The policy takes into account that a lot of funding opportunities are announced with very short timeframes to respond and submit a compliant funding application.

Funding applications that require Council own funds, which have not been budgeted, will require endorsement from Council.

Formal Council resolution is required prior to the execution of grant funding agreements for amounts over \$1,000,000.00. The Chief Executive Officer must execute all other agreements.

**Consultation:**

- Acting Chief Executive Officer (Ilario Sabatino)
- Enterprise Development and Delivery Team
- Finance Department

**Links to Strategic Plans:**

This project strategically aligns to specific delivery objectives under the Prosperity, People, and Sustainability pillars of Council's Corporate Plan.

**Finance & Risk:**

There is a financial risk to Council if Council is not able to secure the funding required to provide the services and infrastructure that is needed in our Communities. This risk is mitigated by having a proactive and consistent approach to external grant funding as per the proposed policy.

**Sustainability:**

The proposed policy will be reviewed on continuously to ensure that it meet the requirements of Council and adapts to the ever-changing State and Commonwealth funding landscape.

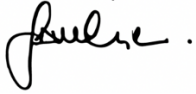
**Statutory Requirements:**

*Local Government Act 2009*

*Local Government Regulation 2012*

**Conclusion:**

That Council resolves to adopt the proposed External Strategic Grant Funding Policy.



Luke Ranga  
Head of Corporate Affairs



**Recommended:**  
Hollie Faithfull  
Chief Financial Officer



**Approved:**  
David Baldwin  
A/Chief Executive Officer

# Strategic External Grant Funding Policy

<b>Responsible Manager</b>	Head of Corporate Affairs
<b>Head of power</b>	<i>Local Government Act 2009</i> <i>Local Government Regulation 2012</i>
<b>Authorised by</b>	Council
<b>Authorised on</b>	
<b>Implemented from</b>	2021
<b>Last reviewed</b>	March 2021
<b>Review history</b>	
<b>To be reviewed on</b>	June 2023
<b>Corporate Plan</b>	People, Sustainability and Prosperity

## 1. Purpose

The purpose of this policy is to ensure effective management of external grant funding acquisition and donor management related activities. The key aim is to:

- a. establish a framework for managing, monitoring and evaluating grants and grant funded initiatives, and
- b. provide a consistent and objective analysis of external funding opportunities, ensuring:
  - i. alignment to Council's integrated planning and reporting, and
  - ii. Council's capacity to comply with all conditions of the external grant funding.
- c. Enable a strategic approach to grant administration and operational management.

## 2. Scope

This policy applies to all grants that require applications to be made. The policy applies to all Council Officers, including contingent employees, and Elected Members:

- a. where Council is submitting an external funding application,
- b. where Council is one of a number of partners in a joint external funding application,
- c. where Council auspices an external grant on behalf of another organisation,
- d. where an application is being made for renewal of a currently held grant, and
- e. where funding provided approves a grant application with variations to the original proposal.

## 3. Legislation/Policies

This policy is established with reference to the *Local Government Act 2009* and the *Local Government Regulation 2012* as well as the following Council policies and key documents:

- Acceptable Request and Communication Protocol Policy
- Grants Management Procedure
- 5-Year Corporate Plan
- Annual Operational Plan
- Annual Budget (incl. Long Term Financial Plan)
- Asset Management Plans

## 4. Definitions

Acquittal	The process of evaluating and reporting on the outcomes and expenditure of external grant funding provided by the Donor. All necessary documents should demonstrate that Council has spent the external grant funding as specified in the funding agreement.
Capacity	Council's ability to deliver the donors criteria set forth in the funding agreement, typical factors include: <ol style="list-style-type: none"><li>a. Resources,</li><li>b. Capability,</li><li>c. Infrastructure, and</li><li>d. Time.</li></ol>
Donor	The organisation, which is typically State, Federal or non-government agencies, who is providing the external grant funding.

Eligibility	Council's ability to meet the required application conditions, as stipulated by the Donor.
External Grant Funding	Assistance by way of a sum of money or other resource provided to Council by Donor on the condition that the assistance is used to deliver a specific project, provide a new service or enhance an existing service.
Funding Acquisition Tool	Council's in-house tool, developed to facilitate funding acquisition activities, donor management and associated reporting.
Funding Agreement	A legally enforceable agreement setting out the terms and condition governing funding determined by the Donor. The form of the agreement will depend on the intent of the grant and the degree of control required. The forms of enforceable funding agreements include: <ul style="list-style-type: none"> <li>a. Deed,</li> <li>b. Contract, and</li> <li>c. Exchange of letters.</li> </ul>
Integrated Planning & Reporting	Council's 5-year corporate and annual operational plans, and other related legislative documents such as the annual budget and asset management plans.

## 5. Provisions

This policy recognises that Council provides a diverse range of programs and projects to meet the needs of our communities and internal stakeholders. To meet these needs, Council must balance cost pressures with community and internal stakeholder expectations.

The policy also recognises the variability of the domestic grant landscape, particularly in eligibility criterion, thus acknowledging that in applying for a grant, it is important to ensure Council fully complies with the terms of the grant, through a rigorous funding acquisition process, which includes:

### a. Approval

Approval must be obtained from the appropriate Executive prior to applying for funding. Further approval must also be obtained from the Head of Financial Services or Chief Financial Officer for any applications that require Council own funds as already budgeted or in-kind contributions. Once all approvals have been obtained the Enterprise Development & Delivery team are authorised to submit the application on behalf of Council as the Authorised Representative.

Funding applications that require Council own funds, which have not been budgeted, will require endorsement from Council.

Formal Council resolution is required prior to the execution of grant funding agreements for amounts over \$1,000,000.00. The Chief Executive Officer must execute all other agreements.

### b. Funding qualification considerations

Before applying for a grant, an assessment should be carried out on the likely impact of the grant on Council. Questions to consider include:

- i. Does the grant align with Council's Integrated Planning?

- ii. What are the links and/or partnerships it will provide?
- iii. What impacts will it have on Community and Council?
- iv. Does Council have the capacity and expertise to carry out the project or service for which we are receiving the grant?
- v. Are the necessary processes and requirements in place i.e. legal, governance, supervision, record-keeping etc.?
- vi. What are the risks and emerging issues that may affect council's obligations to fulfil the obligations under the grant?
- vii. Whole of Life cost impacts if relevant.
- viii. Councils required contribution (both cash and in-kind).
- ix. Does the funding agreement cover multiple years?

**c. Conflict of Interest**

Council's Elected Members must be committed to make decisions without bias and in the best interests of the whole community and comply with the relevant conflict of interest provisions of the *Local Government Act 2009* and the *Local Government Regulation 2012*.

**d. Recognition Treatment**

Grant revenue recognition will comply with Australian Accounting Standards and Interpretations issued by the Australian Accounting Standards Board (AASB). Council is a not-for-profit entity for financial reporting purposes and complies with Australian Accounting Standards as applicable to not-for-profit entities.

**e. Reporting**

Monthly information reports will be made available through Council's Funding Acquisition Tool and presented to the Executive Leadership Team, articulating the following:

- i. funding needs and forecasting,
- ii. funding application statuses,
- iii. application scope changes, and
- iv. completed and/or acquitted funding expenditure.

Appropriate records will be kept in accordance with Council's legislative requirements.



# TORRES STRAIT ISLAND REGIONAL COUNCIL

## COUNCIL REPORT

<b>ORDINARY MEETING:</b>	June 2021
<b>DATE:</b>	29-30 June 2021
<b>ITEM:</b>	Agenda Item for Resolution
<b>SUBJECT:</b>	Policy Matter – Councillor Remuneration, Reimbursement and Facilities Provision Policy
<b>AUTHOR:</b>	Mette Nordling, Manager of Governance and Compliance

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### Recommendation:

That Council resolves to:

1. amend and endorse the Torres Strait Island Regional Council's Councillor Remuneration, Reimbursement and Facilities Provision Policy previously endorsed by Council at its Ordinary Meeting on 25 May 2021 in the terms presented to Council
- and
2. delegate authority to the Chief Executive Officer in accordance with the *Local Government Act 2009* to exercise the functions and powers assigned to the Chief Executive Officer under the amended and endorsed policy, including the power to make any further minor administrative amendments to the policy as they arise.

### Executive Summary:

In accordance with *Local Government Act 2009* and the *Local Government Regulation 2012* Council is required to endorse a Councillor remuneration policy. Regular monitoring and review of these are necessary to reflect legislative changes, operational governance and to continuously improve Council governance.

The Councillor Remuneration, Reimbursement and Facilitates Provision Policy has been updated to reflect the Local Government Remuneration Commission Annual Report 2020 and advice received from internal audit in relation hire cars.

### Comment:

On 25 November 2020, the Local Government Remuneration Commission (Commission) concluded its determination of the levels of remuneration for Mayors, Deputy Mayors and Councillors of Queensland local governments (excluding Brisbane City Council) as required by section 177(c) of the *Local Government Act 2009* and Chapter 8, Division 1 of the *Local Government Regulation 2012*. The Commission's determinations on these matters, together with the Remuneration Schedule apply from 1 July 2021.

### **Extract from Commission's report:**

The Commission decided not to increase the maximum remuneration levels for Mayors, Deputy Mayors and Councillors from 1 July 2021. The levels remain as set at the amounts fixed for 1 July 2020.

In making its determination, the Commission considered the following:

- Decrease in the Consumer Price Index (CPI) for the financial year ended 30 June 2020 (percentage change from previous financial year)
  - Weighted average of the eight capital cities: -0.3 per cent
  - Brisbane: -1.0 per cent
- Increases in the Wage Price Index (WPI) for the financial year ended 30 June 2020
  - Australia (All Industries): +2.1 per cent
  - Australia (Public Sector): +2.3 per cent
  - Queensland (All Industries and Public Sector): +1.9 per cent
- Queensland Weekly Payroll Jobs and Wages for the period of:
  - 14 March to 27 June 2020: Jobs -5.2 per cent; Wages -1.2 per cent
  - 14 March to 19 September 2020: Jobs -2.5 per cent; Wages -1.7 per cent
  - 14 March to 31 October 2020: Jobs -2.0 per cent; Wages -3.3 per cent
- As in 2019, in 2020 the Commission considered Brisbane City Council's Independent Councillor Remuneration Tribunal (ICRT) remuneration determination a potentially relevant factor, however, the ICRT reviews and resets Brisbane City Councillor remuneration arrangements every five years. The last increase was in 2017, at which time the ICRT accorded a two per cent increase to salaries effective 1 July 2018. In its 20 November 2019 Report, the ICRT determined not to make any changes outside of its four yearly remuneration review cycle.
- In its 13 August 2020 determination of the Base and Additional Salary Rates and Allowance System, the Queensland Independent Remuneration Tribunal (QIRT) determined by majority (with dissent from the Chair) to provide a zero per cent increase to the base and additional salary levels of members for the years commencing 1 September 2019, 2020, 2021 and 2022. The Commission notes the QIRT Chair's dissent that a decision to impose a 'salary freeze' on members for a period of five years is unreasonable and that the Chair would have determined to increase the base and additional salaries by 2.5 per cent from 1 September 2021 and 1 September 2022.

The Commission considers that its own obligation to conduct an annual review of the maximum levels of remuneration affords the Commission the flexibility to consider and respond to the short and long term impacts of the COVID-19 pandemic which is not necessarily available to the QIRT and ICRT.

- Decision of the Salaries and Allowances Tribunal of Western Australia determination dated 8 April 2020: no increase.
- Decision of the New South Wales Local Government Remuneration Tribunal Determination and Annual Report dated 10 June 2020: no increase.
- Decision of the Victorian Minister for Local Government: two per cent increase effective on 1
- December 2019. It is noted that the 1 December 2020 Victorian decision was unavailable at the date of this determination.
- Tasmania is the only jurisdiction that has increased the remuneration for local government councillors. The increase, effective 1 November 2020, is an automatic indexation of local government allowances provided for under the Tasmanian Local Government Act 1993 by multiplying the allowances for the previous year by the inflationary factor (determined by calculating the current year's June quarter Wage Price Index divided by the previous years' June Wage Price Index).
- The application of principles of consistency and austerity, and general consideration of recent conservative wage review practices in both the public and private sectors.



- The Commission's inability to project the short and long-term impacts of COVID-19 with certainty.

The Commission also had regard to anecdotal reports and submissions received about:

- The impact of economic hardship experienced by local communities during and following the COVID-19 pandemic and natural disasters of 2019-2020.
- The potential disproportional impact of COVID-19 pandemic restrictions on rural and remote communities.
- The economic cost to communities of interruption to businesses.
- The significant economic volatility and contraction during 2020.
- The need to ensure sustainability for local governments and their communities.
- Local governments role in Queensland's post COVID-19 economic recovery and development.

The Commission gratefully acknowledges the submissions received this year which have assisted in its discharge of its statutory obligations.

As required by section 246 of the *Local Government Regulation 2012* the Local Government Remuneration Commission have prepared a remuneration schedule for the 2021/22 Financial Year:

Position	Remuneration amount effective 1 July 2021
Mayor	\$108,222
Deputy Mayor	\$62,435
Councillor	\$54,110*

\*The Commission has determined that for Category 1 Councils, including Torres Strait Island Regional Council, Councillors remuneration will be paid a base salary of \$36,073.28 (50%) from 1 July 2021 and a meeting fee of \$1,503.06 per calendar month is payable for attendance at, and participation in, scheduled Council meetings. The Mayor or Chief Executive Officer must certify the attendance and participation. This determination does not include the Mayor and the Deputy Mayor, who are to receive the full annual remuneration.

#### ***Provision of Hire cars:***

Following recommendations from internal audit it is deemed necessary to amend the provisions regarding hire cars for Mayor and Councillor when attending meetings outside of the region.

Recommendation per Internal Audit Report:

*In order to protect Councillors, it is strongly recommended that management revise the Councillor Expense Remuneration, Reimbursement and Facilities Provision Policy (and any other relevant policies and Code of Conduct) to ensure the provisions arising from 'Operational Belcarra' have been adopted and a more conservative approach to personnel entitlements (Councillors and officers) generally, including in relation to hire car expenses.*

Following this recommendation, a cost analysis on various transportation options based on a two-week workshop in Cairns was undertaken by Council's Finance Department which showed the following:

Hire Car Option (May 2021 actual cost)	\$ 25,115.00
Taxi Option	\$ 7,360.00
Minibus Option - Self Drive	\$ 4,968.00
Minibus Option - Driver	\$ 3,120.00

Based on internal audit recommendation and cost analysis completed, the policy has been updated with the below:

*If the Chief Executive Officer consider it an operational advantage or that savings can be achieved by hiring a car for the Mayor or Councillors, this is at the Chief Executive Officer's discretion.*

**Consultation:**

- Internal Audit
- Local Government Remuneration Commission

**Links to Strategic Plans:**

This policy strategically aligns to specific delivery objectives under all the *Sustainability* pillar of Council's Corporate Plan.

**Risk:**

1. There is a risk to Council and Councillors if Council does not endorse the updated Councillor Remuneration, Reimbursement and Facilities Provision Policy, as the current policy only is current until 30 June 2021.
2. There is a reputational risk to Council if Council decides not to adopt the recommendations in this report, as there is a requirement to note the reason for not adopting Officer recommendations in the minutes of a meeting, as per section 254H of the *Local Government Regulation 2012*.
3. There is a risk to Council's financial sustainability if measures are not taking to reduce costs and find efficiencies and savings.

**Statutory Requirements:**

*Local Government Act 2009*

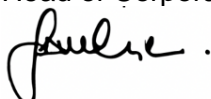
*Local Government Regulation 2012*

**Conclusion:**

That Council resolves to adopt the amended policy and delegates to the Chief Executive Officer to make further minor administrative amendments as they arise.

**Endorsed:**

Luke Ranga  
Head of Corporate Affairs



**Approved:**

David Baldwin  
A/Chief Executive Officer



**Recommended:**

Hollie Faithfull  
Chief Financial Officer



**Attachments:**

- Amended Councillor Remuneration, Reimbursement and Facilities Provision Policy
- Local Government Remuneration Commission report 2020

# Councillor Remuneration, Reimbursement and Facilities Provision Policy

<b>Responsible Manager:</b>	Head of Corporate Affairs
<b>Head of power:</b>	<i>Local Government Act 2009</i> <i>Local Government Regulation 2012</i>
<b>Authorised by:</b>	Council
<b>Authorised on:</b>	<del>25 May</del> <u>June</u> 2021
<b>Implemented from:</b>	<del>25 May</del> <u>1 July</u> 2021
<b>Last reviewed:</b>	<del>May</del> <u>June</u> 2021
<b>Review history:</b>	2020, 2021
<b>To be reviewed:</b>	June 2024 <del>2</del>
<b>Corporate Plan:</b>	People, Sustainability and Prosperity

## 1. Purpose

To clarify the extent of remuneration, expense reimbursement and support provided to Torres Strait Island Regional Council Councillors.

## 2. Application

This policy applies to all duly elected representatives of Torres Strait Island Regional Council.

## 3. Legislation

In accordance with section 250 of the *Local Government Regulation 2012* (Regulation) Council must prepare an Expenses Reimbursement Policy and adopt this by resolution. The discussion and resolution of this policy must be conducted in open session.

This policy must provide for:

- Payment of reasonable expenses incurred, or to be incurred, by Councillors discharging their duties and responsibilities as councillors
- Provision of facilities to the councillors for that purpose

## 4. Councillor Remuneration

In accordance with section 177 of the *Local Government Act 2009*, the Local Government Remuneration Commission is responsible for deciding the maximum amount of remuneration that is payable to Councillors. The Commission must annually decide and publish the maximum amount of remuneration payable from 1 July of the following year to a Mayor, Deputy Mayor or a Councillor of a local government.

As required by section 246 of the Regulation the Local Government Remuneration Commission have prepared a remuneration schedule for the 2020~~1~~/~~2~~<sup>1</sup> Financial Year:

Position	Remuneration amount effective 1 July 2020 <sup>1</sup>
Mayor	\$108,222
Deputy Mayor	\$62,435
Councillor	\$54,110*

\*The Commission has determined that for Category 1 Councils, including Torres Strait Island Regional Council, Councillors remuneration will be paid a base salary of \$36,073.28 (50%) from 1 July 2020<sup>1</sup> and a meeting fee of \$1,503.06 per calendar month is payable for attendance at, and participation in, scheduled Council meetings. The Mayor or Chief Executive Officer must certify the attendance and participation. This determination does not include the Mayor and the Deputy Mayor, who are to receive the full annual remuneration.

~~For the period between the 2020 Statutory Meeting and the commencement of the above~~

~~2020/21 remuneration schedule the following shall apply:~~

<b>Position</b>	<b>Remuneration amount effective 1 July 2019</b>
Mayor	\$106,100
Deputy Mayor	\$61,211
Councillor	\$53,049*

~~\*Base salary of \$35,366 pro rata and meeting fee \$1,473.60.~~

The remuneration fixed above is all inclusive and no additional remuneration is payable for sick leave, annual leave, or any other benefits otherwise applicable to employees other than superannuation. Remuneration payments are made in fortnightly instalments.

Councillors who serve only part of a given financial year, shall receive remuneration pro-rata only.

### **Advance Payment**

Meaning in this section:

**Advance Payment** means a payment of a Councillor's base salary in advance of when it is due to be paid.

This section applies to Advance Payments and the circumstances in which an Advance Payment may be paid to a Councillor on approval from the Chief Executive Officer. Any requests by Councillors which do not meet the requirements of this Policy will need to go to a Council meeting.

Upon a request being received by a Councillor, the Chief Executive Officer may approve for payment to a Councillor an Advance Payment if:

1. the Chief Executive Officer is satisfied that the Advance Payment is for:
  - financial hardship;
  - emergency relief; or
  - for another genuine reason
2. a Councillor has made the request in writing and has provided the information required to complete the Advance Payment Repayment Form demonstrating how it is intended to be repaid (attached as Appendix A to this Policy);
3. the payment of an Advance Payment is not requested to be made within the first two months of the Councillor's term;
4. the payment of an Advance Payment is not requested to be made within the last six months of the Councillor's term;
5. the total of Advance Payment/s made to any one Councillor does not exceed one fortnight's base salary.

All Advance Payments are to be repaid to Council by the Councillor within the following fortnightly pay period for the Councillor.

The Chief Executive Officer, may at the Chief Executive Officer's discretion, request a Councillor to produce material to substantiate their application for an Advance Payment which the Chief Executive Officer considers relevant to their assessment.

The Chief Executive Officer, in their discretion, can refuse any application by a Councillor for an Advance Payment whatsoever. Any approval given by the Chief Executive Officer must be in writing.

This section only applies to an Advance Payment, relating to a Councillor's base salary component, and does not cover or permit any other advance. To avoid any doubt, a Councillor's meeting fee component cannot be paid in advance.

Before any Advance Payment is made a signed copy of the Advance Payment Repayment Form must be provided.

### **Tax**

At the beginning of each financial year, Councillors must nominate a tax withholding amount to be applied by Council.

### **More than one meeting per month**

If there are two or more meetings scheduled in a given calendar month, Councillors shall be required to meet attend and participate in each meeting in order to be entitled to the meeting fee for that month. If a particular meeting commences in one calendar month and continues into the next calendar month, the meeting is treated as having taken place in the calendar month in which the meeting commenced.

### **Attendance at Meetings**

There is a requirement that the Councillor attend the whole of the monthly meeting to ensure that the meeting fee is paid, unless there is an emergency circumstance approved the Mayor and CEO. The payment for partial attendance approval via emergency circumstances will be by a formal approval by the Mayor and CEO.

### **Approved Leave**

Council will pay the monthly meeting fee to a Councillor who is absent from the monthly meeting only following approval being granted at that meeting and only for the following reasons:

1. Death of an immediate family member
2. Councillor attending other previously approved official Council business
3. Councillor or immediate family member is unwell or needing urgent medical attention
4. Councillor is required to attend court or tribunal as a witness
5. As a result of a natural disaster

The leave application must be provided to the Mayor and CEO prior to leave being taken.

## **5. Provision of Facilities and Support**

Certain equipment separately identified in this policy is provided to the Councillor once; this equipment will remain the property of the Councillor upon the completion of the entire term of Council. All other equipment and facilities not separately identified remain the property of Council and must be returned to Council when a Councillor's term expires.

### **Private use of Council owned facilities**

Based on the principle, that no private benefit is to be gained, the facilities provided to Councillor's by Council owned facilities are to be used only for Council business unless prior approval has been granted by resolution of Council.

## **Office Facilities**

Councillors will be provided with the following facilities and support:

- Mayor: Separate office accommodation on home island, Thursday Island and in Cairns Office with Secretarial and Executive Assistant Support
- Deputy Mayor and Councillors: Office accommodation and administrative support in accordance with the established staff structure and Council's Communications Guidelines (Acceptable Request Guidelines) on the Councillor's home island.

Councillors are provided with access to shared facsimile, scanner, printer, photocopier and paper shredder for business use.

Use of Council landline telephones and internet access in Council offices for Council business.

## **Uniform Provision**

The Council will provide Councillors with a Council uniform allocation, aligned to the general employee uniform allowance.

## **Motor Vehicles**

On the choice of the Mayor or Councillor:

Council will provide a 2WD dual cab utility or similar vehicle dependent upon availability on a full private use basis, that being, any member of the Councillor's family with a current driver's licence can drive this vehicle and transport passengers.

The Councillor will pay \$25 a week as hire and provide all fuel.

The Council will be responsible for the routine maintenance and insurance of the vehicle and all fair wear and tear repairs. Where repairs are required other than as a result of fair wear and tear, the Councillor will pay the full cost (including any freight costs) of rectification or, if the vehicle cannot be repaired, replacement of the vehicle. Repair or replacement must be carried out in a timely manner– within two months of damage being identified, or as soon as reasonably practicable.

Vehicle hire may be suspended for a period of time where the vehicle is taken out of operation for repairs and maintenance and an alternative vehicle is not available.

Motor vehicles will not be allocated to Councillors with outstanding unpaid charges for maintenance and unfair wear and tear repairs from previous hire arrangements through Council.

Council shall retain property in the vehicle. At the end of the Councillor's term the vehicle shall be returned to Council in the same condition as when the vehicle was provided, subject to fair wear and tear.

A Councillor will not be entitled to access any other Council vehicle, for Council business or private.

## **Computers and Telecommunication**

Council will only provide one mobile phone handset and one piece of portable IT hardware equipment to a Councillor at the start of their term of office. At the conclusion of the term these items will become the property of the Councillor. A standard suite of Council software will be provided with each piece of portable IT hardware equipment issued to the Councillor.



Any additional software provision and/or installation will be at the discretion of the CEO and must comply with licencing and ICT Standard Operating Environment Procedure. This software will be removed at the end of the Councillor's term.

Support for the Council supplied IT hardware will be provided through the Information Services Helpdesk (within standard business hours). If rectification requires more than phone support the Council provided IT hardware must be returned to the Cairns office by the Councillor.

Any lost, damaged, stolen or superseded devices will be repaired or replaced by Council at the sole discretion of the Chief Executive Officer, who shall consider the reasonableness of the request.

Use of IT equipment provided by Council must comply with IT Policy and Procedures and in particular the ICT Acceptable Use Procedure.

A voice and data plan will be paid for by Council for business use only during the term of the Councillor.

### **General legal advice**

General legal advice is available to Councillors on Council-related matters. Legal advice is provided by Council's Legal Services Team.

## **6. Reimbursement of Expenses**

### **Representing Council**

Where Council resolves, or the Mayor and Chief Executive Officer consider relevant, that Councillors are required to attend study tours, conferences or workshops to either deliver a paper, to receive knowledge or as a delegate of Council; Council will pay for or reimburse expenses, associated with attending the event since participation is part of the business of Council.

Each Councillor who attends an event on behalf of Council must provide a written report to the whole Council at the second ordinary meeting after the event and a verbal report upon request.

#### Mandatory professional development

Where Council resolves or the Mayor and CEO consider, that all Councillors are to attend training courses or workshops for skills development related to a Councillor's role, the Council will pay for or reimburse expenses, being the total cost of the course plus associated expenses.

#### Discretionary professional development

Where a Councillor identifies a need to attend a conference, workshop or training to improve skills, other than mandatory training, Council will pay for or reimburse expenses to a maximum of \$5,000 for the current term of their office. The professional development must be related to the skill development of the Councillor in their capacity as Councillor.

## Travel as required to represent Council

A local government may pay for or reimburse local, interstate and overseas travel expenses (e.g. flights, car, accommodation, meals and associated registration fees) deemed necessary to achieve the business of Council where:

- A Councillor is an official representative of Council; and
- The activity/event and travel have been endorsed by resolution of Council; or
- The Mayor and Chief Executive Officer consider necessary to incur the travel on behalf of Council

Council will pay for reasonable expenses incurred for overnight accommodation. All travel expenses will be paid in advance of travel with any unused allowance recovered from future claims.

If a Councillor travels using their private vehicle, a log is to be kept of the kilometres travelled and the reimbursement will be on a cents-per-kilometre method in accordance with the Australian Taxation Office rulings for the engine capacity of the vehicle used. Claim can only be made to a maximum of 5,000 business kilometres per year per vehicle.

If a Councillor travels using a private vessel, reimbursement will be based on actual costs incurred (such as fuel costs). A log is to be kept and receipts provided to substantiate reimbursement of expenses. The claim must not exceed the cost of the same travel using economy flights plus taxi transfers.

## Travel bookings

All Councillor approved air travel will be booked and paid for by Council. For the purpose of travelling for Council (not as a result of a third-party request and payment) economy class is to be used, however for journeys of two (2) hours or more, business class may be used where available.

Class of travel for third-party travel requests such as attendance at board or other meetings of the third party will be at the discretion of the Chief Executive Officer.

Airline tickets are not transferable and can only be procured for the Councillor's travel on Council business. They cannot be used to offset other unapproved expenses. (e.g. cost of partner or spouse accompanying the Councillor.)

## Travel transfer costs

Any travel transfer expenses associated with Councillors travelling for Council approved business will be reimbursed. For example: trains, taxis, buses and ferry fares as well as possible hire cars.

Cab charge fast cards may also be used where Councillors are required to undertake duties relating to the business of Council. Cab charge statements are reviewed monthly by Councils Senior Executive Assistant to the Mayor and CEO against approved Council travel dates.

~~On the mainland only, for travel periods of longer than 3 days, the Councillor has an option of obtaining a hire car. The hire car will be the equivalent of the Avis car classes being either Full Size or Standard class vehicle. This is to be arranged by Council. All fuel costs and non-direct hire costs (e.g. cleaning) associated with the hire car will be borne by the Councillor.~~

If the Chief Executive Officers consider it an operational advantage or that savings can be achieved by hiring a car ~~of a higher class~~, this is at the Chief Executive Officer's discretion.

~~In exceptional circumstances where there is no Council vehicle or taxi service reasonably available, a hire car may be approved, for travel periods of less than 3 days, at the CEO discretion.~~

Travel costs including taxi, car-hire, parking costs and fuel, ~~when attending conferences,~~ will be considered by the Chief Executive Officer on a case by case basis. ~~For example: hire car including fuel and parking to attend a conference or other official Council business requiring road-based travel from the nearest airport.~~

NOTE: Any fines incurred while travelling in Council-owned vehicles or Council arranged hire vehicles when attending to Council business, will be the responsibility of the Councillor incurring the fine.

Costs listed on invoices to Council which are not covered by the Council hire arrangement including fines, fees, refuelling, vehicle repairs and cleaning will be recovered by Council from the next payment made to the Councillor. A copy of the invoice will be forwarded to the Councillor to support the deduction made for the cost recoveries.

### Accommodation

Council will pay for the most economical deal available. Where possible, the minimum and maximum standard for Councillors' accommodation will be four (4) star rating. Where particular accommodation is recommended by conference organisers, Council will take advantage of the package deal that is the most economical and convenient to the event.

For Cairns events Council has a list of pre-qualified suppliers who offer accommodation services, Councillors will be able to make a choice from these suppliers.

Where a Councillor prefers to organise their own accommodation, an accommodation allowance will be paid as per the Australian Taxation Office Tax Determination for accommodation expenses current at the date of travel. This arrangement must be pre-approved by the CEO.

Tax withholding rate for non-commercial accommodation allowance is a minimum of 20%. If Councillor's ordinary withholding rate is higher than 20%, the tax withholding rate will be at the Councillor's ordinary rate.

### Meals

Council will provide an allowance for meals, in accordance with the Australian Taxation Office ruling on travel expenses current at the date of travel, for a Councillor when a meal is not provided:

- Within the registration costs of the approved activity/event
- During an approved flight
- Any time Councillor is on Council Business

No alcohol will be paid for by Council. If the Councillor is away from home or commences their travel before 8 am or concludes after 9 am a breakfast entitlement is provided. If the Councillor is away from home or commences travel before 12 noon or concludes after 1 pm a lunch entitlement is provided. If the Councillor is away from home or commences travel before 6 pm or concludes after 7 pm a dinner entitlement is provided.

### Incidental allowance

Payment will be made for any overnight travel only; the calculation is to pay on the first day of travel, on the last day of travel and for any day in between. In effect the minimum payment will be two days entitlement.

### Reimbursement of Travel Costs

In the event that a Councillor is absent without approved leave, from a workshop, training or any organised Council business event for which travel costs have been incurred and/or travel allowance paid, the Councillor will be liable for reimbursement of travel costs and/or travel allowance paid.

## **7. Legal Representation for Councillors**

Councillors can seek legal representation by written request to the Chief Executive Officer in relation to a matter that arises from the Councillor's performance of his or her functions. Former Councillors may also request legal representation.

There are four major criteria for determining whether Council will pay the legal representation costs of a Councillor.

These are:

- the legal representation costs must relate to a matter that arises from the performance, by the Councillor, of his or her functions;
- the legal representation cost must be in respect of legal proceedings that have been, or may be, commenced;
- in performing his or her functions, to which the legal representation relates, the Councillor must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct; and
- the legal representation costs do not relate to a matter that is of a personal or private nature.

If the above four (4) criteria are satisfied, Council may approve the payment of legal representation costs:

- where proceedings are brought against a Councillor in connection with his or her functions – for example, an action for defamation or negligence arising out of a decision made or action taken by the Councillor; or
- to enable proceedings to be commenced and/or maintained by a Councillor to permit the Councillor to carry out his or her functions – for example, where a Councillor seeks to take action to obtain a restraining order against a person using threatening behaviour to the Councillor; or
- where exceptional circumstances are involved – for example, where a person or organisation is lessening the confidence of the community in Council by publicly making adverse personal comments about Councillors.

Council shall only approve the payment of legal representation costs if the Councillor has signed a written statement confirming that the Councillor:

- has acted in good faith, and has not acted unlawfully or in a way that constitutes corrupt conduct or misconduct, in relation to the matter to which the request for legal representation relates;
- has read, and understands, the terms of this Policy relating to legal assistance and associated costs;
- acknowledges that any approval of legal representation costs is conditional on the repayment provisions of subclause R below and any other conditions to which the approval is subject; and
- undertakes to repay to Council any legal representation costs in accordance with subclause R. G. Council will not provide or fund legal advice or representation for

Councillors in relation to personal or private matters.

Council will not, unless under exceptional circumstances, provide or fund legal advice or representation for a defamation action or a negligence action instituted by a Councillor.

Council will not, unless under exceptional circumstances, pay for legal advice or representation obtained by a Councillor where the Councillor has not obtained prior written approval from the Chief Executive Officer.

In assessing a request, Council may have regard to any insurance benefits that may be available to the Councillor under Council's insurance policies.

Council may:

- refuse;
- grant; or
- grant subject to conditions a Councillor's request for payment of legal representation costs.

Conditions may include, but are not restricted to:

- Council specifying who will provide the legal services (e.g. Council's Legal Services Division or an external law firm or legal services provider);
- a financial limit;
- a requirement to enter into a formal agreement, including a security agreement, relating to the payment, and repayment, of legal representation costs; and/or
- an obligation on the Councillor to act reasonably and to disclose to Council anything that could affect representation.

If Council approves a request for payment of legal representation costs, Council:

- shall confirm the scope of the approved legal representation;
- shall take advice on the estimated costs of the matter and set a limit on the costs to be paid by Council;
- shall require full and detailed accounts from the lawyer providing the legal representation to ensure that the representation complies with the scope of Council's approval;
- may make payment of approved legal representation costs either by a direct payment to the approved lawyer (or the relevant firm), or a reimbursement to the Councillor; and
- shall not make payment for any legal services that are outside the scope of Council's approval.

A Councillor may make a further request to Council in respect of the same matter.

Council may at any time revoke or vary an approval, or any conditions of approval, for the payment of legal representation costs.

Council may, subject to below, determine that a Councillor whose request for legal representation costs has been approved has, in respect of the matter for which legal representation costs were approved –

- not acted in good faith, or has acted unlawfully or in a way that constitutes corrupt conduct or misconduct; or
- given false or misleading information in respect of the request.

A determination under the above may be made by Council only on the basis of, and consistent with, the findings of a court, tribunal or inquiry. Where Council makes a

determination under the above, the legal representation costs paid by Council are to be repaid by the Councillor:

- all or part of those costs – in accordance with a determination by Council as per above;
- as much of those costs as are available to be paid by way of set-off – where the Councillor receives monies paid for costs, damages or settlement in respect of the matter for which Council paid the legal representation costs.

Council may take action in a court of competent jurisdiction to recover any monies due to it under this policy.

## **8. Insurance cover**

Councillors will be covered under relevant Council insurance policies while discharging civic duties. Specifically, insurance cover will be provided for public liability, professional indemnity, Councillors liability and personal accident.

Manager Responsible for Review:

Head of Corporate Affairs

**Adoption:** xx June 2021

**Due for Revision:** June 2022

~~A/~~Chief Executive Officer



## TORRES STRAIT ISLAND REGIONAL COUNCIL COUNCILLOR ADVANCE PAYMENT REPAYMENT FORM

### ADVANCE PAYMENT REPAYMENT AUTHORITY FORM

Surname or Family Name:

First Given Name:

Creditor ID:

Division:

### Councillor Authorisation

I authorise and request Torres Strait Island Regional Council (**TSIRC**) to deduct the sum of \$\_\_\_\_\_ from my fortnightly base salary which represents the total amount of Advance Payment.

In the event that I cease being a Councillor for any reason before the total amount of the Advance Payment has been repaid, I agree that the entire remaining balance then owing is to be deducted from any monies which are or which may become payable to me.

This authorisation is to remain in force until the Councillor has repaid the Advance Payment Amount.

Details/Comments

---

Frequency of repayment: Fortnightly base salary

### INFORMATION PRIVACY STATEMENT

Your Personal Information is protected by law and can only be released to someone else where authorised by law or where you give your permission. Council is collecting your personal information contained in this document for the purpose of Councillor's Remuneration Payment. This collection of Personal Information is authorised by law under the Local Government Act 2009. It is Council's usual practice that the Personal Information contained in this document is disclosed to Queensland Audit Office or its Agent(s) as part of its regulatory requirements under the Local Government Act 2009. Council is aware that Queensland Audit Office and its Agent (s) may pass your Personal Information on to Department of Infrastructure Local Government and Planning as part of its own regulatory requirements.

Councillor Signature: \_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Local Government  
Remuneration Commission  
**Annual Report 2020**



**Queensland**  
Government



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Any references to legislation are not an interpretation of the law. They are to be used as a guide only. The information in this publication is general and does not consider individual circumstances or situations. Where appropriate, independent legal advice should be sought.

An electronic copy of this report is available at [www.dlgrma.qld.gov.au](http://www.dlgrma.qld.gov.au).

30 November 2020

The Honourable Steven Miles MP  
Deputy Premier  
Minister for State Development, Infrastructure, Local Government and Planning  
1 William Street  
Brisbane QLD 4000

Dear Deputy Premier

On 25 November 2020, the Local Government Remuneration Commission (Commission) concluded its determination of the levels of remuneration for mayors, deputy mayors and councillors of Queensland local governments (excluding Brisbane City Council) as required by section 177(c) of the *Local Government Act 2009* and Chapter 8, Division 1 of the *Local Government Regulation 2012*.

Our determinations on these matters, together with the Remuneration Schedule to apply from 1 July 2021 are included in the enclosed Report, which we commend to you.

Yours sincerely



Robert (Bob) Abbot OAM  
Chair Commissioner

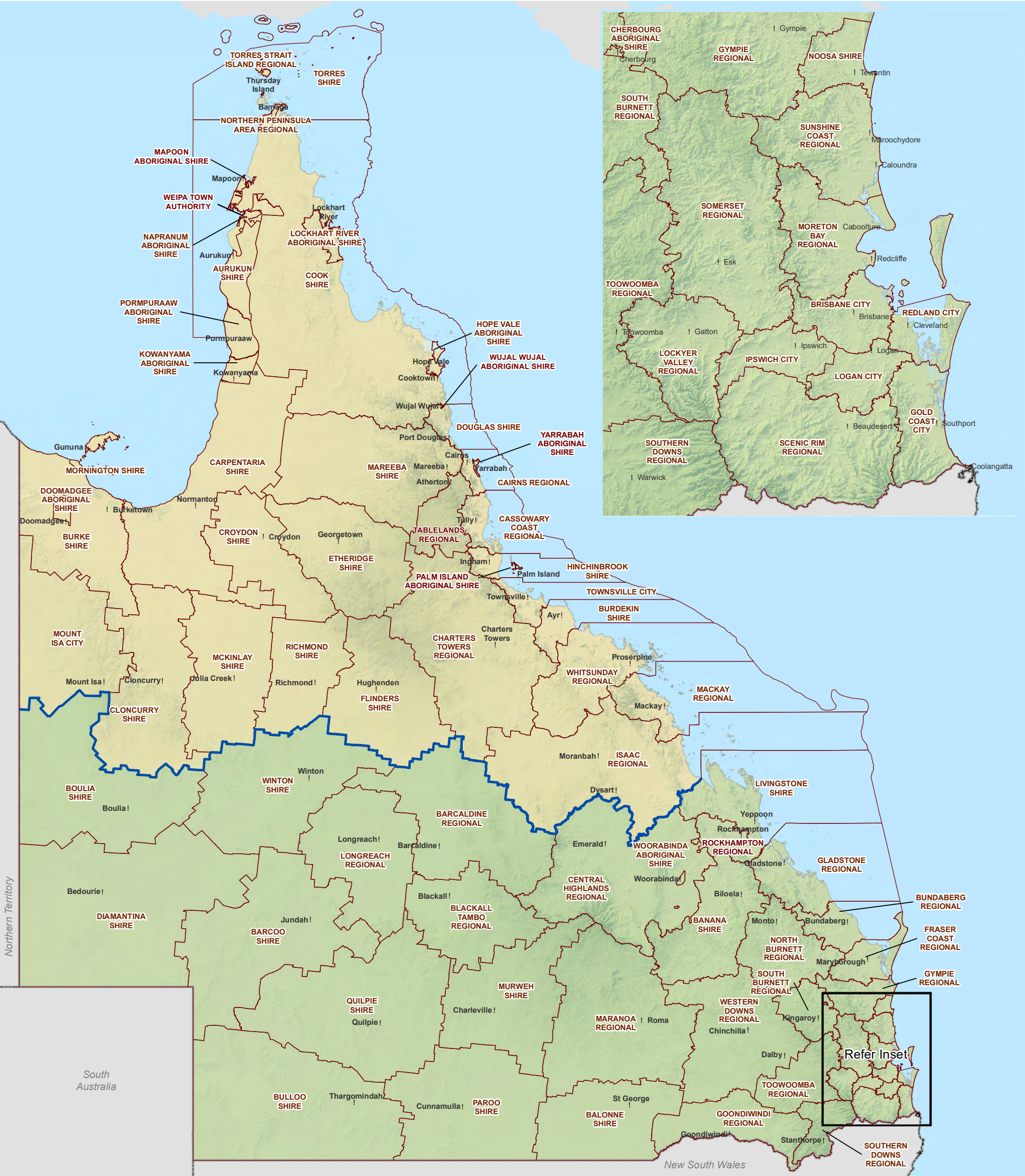


Andrea Ranson  
Commissioner



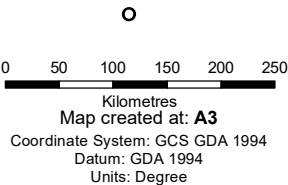
Reimen Hii  
Commissioner





- Legend**
- ! Population centres
  - LGA boundary
  - DLGRMA - LGD north/south region division

- DLGRMA regions**
- North region
  - South region



## 2019 Local Government Division North & South Regions

Map produced by the Department of State Development,  
Manufacturing, Infrastructure and Planning  
Spatial Services Unit, 18/07/2019





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## 2020 Report key determinations

In its 2019 report, the Commission determined not to make any category changes. The Commission did, however, state its intention to undertake an analysis of the categories in the period 2020-2021, after the 2020 quadrennial Queensland Local Government Elections. The Commission's anticipated analysis has been delayed in 2020 due to the impact of the COVID-19 global pandemic. COVID-19 has inevitably resulted in an increased focus on other priorities for Queensland local government. The Commission commends all local government members for their on-going contribution to their communities and the State of Queensland.

The Commission still intends to undertake a category review during 2021 and will engage with and invite submissions from councils and stakeholders commencing in early 2021.

The Commission has decided not to increase the maximum remuneration levels for mayors, deputy mayors and councillors from 1 July 2021. The levels will remain as set at the amounts fixed for 1 July 2020.

In making its determination, the Commission considered the following:

- Decrease in the Consumer Price Index (CPI) for the financial year ended 30 June 2020 (percentage change from previous financial year)<sup>1</sup>
  - Weighted average of the eight capital cities: -0.3 per cent
  - Brisbane: -1.0 per cent
- Increases in the Wage Price Index (WPI) for the financial year ended 30 June 2020<sup>2</sup>
  - Australia (All Industries): +2.1 per cent
  - Australia (Public Sector): +2.3 per cent
  - Queensland (All Industries and Public Sector): +1.9 per cent
- Queensland Weekly Payroll Jobs and Wages<sup>3</sup> for the period of:
  - 14 March to 27 June 2020: Jobs -5.2 per cent; Wages -1.2 per cent
  - 14 March to 19 September 2020: Jobs -2.5 per cent; Wages -1.7 per cent
  - 14 March to 31 October 2020: Jobs -2.0 per cent; Wages -3.3 per cent
- As in 2019, in 2020 the Commission considered Brisbane City Council's Independent Councillor Remuneration Tribunal (ICRT) remuneration determination a potentially relevant factor, however, the ICRT reviews and resets Brisbane City Councillor remuneration arrangements every five years. The last increase was in 2017, at which time the ICRT accorded a two per cent increase to salaries effective 1 July 2018. In its 20 November 2019 Report, the ICRT determined not to make any changes outside of its four yearly remuneration review cycle.

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<sup>1</sup> Source: *Consumer Price Index (report), June quarter 2020*, Queensland Government Statisticians Office, Queensland Treasury

<sup>2</sup> Source: *Wage price index, Queensland and Australia, 1997–98 to 2019–20*, Queensland Government Statisticians Office, Queensland Treasury; and *Wage Price Index Australia, June 2020*, All WPI Series: Original (Financial Year Index Numbers for year ended June quarter), Australian Bureau of Statistics (ABS) 6345.0.

<sup>3</sup> Source: *Weekly Payroll Jobs and Wages in Australia, Week ending 27 June 2020, Week ending 19 September 2020, Week ending 31 October 2020*, ABS 6160.0.55.001.

- In its 13 August 2020 determination of the Base and Additional Salary Rates and Allowance System, the Queensland Independent Remuneration Tribunal (QIRT) determined by majority (with dissent from the Chair) to provide a zero per cent increase to the base and additional salary levels of members for the years commencing 1 September 2019, 2020, 2021 and 2022. The Commission notes the QIRT Chair's dissent that a decision to impose a 'salary freeze' on members for a period of five years is unreasonable and that the Chair would have determined to increase the base and additional salaries by 2.5 per cent from 1 September 2021 and 1 September 2022.

The Commission considers that its own obligation to conduct an annual review of the maximum levels of remuneration affords the Commission the flexibility to consider and respond to the short and long term impacts of the COVID-19 pandemic which is not necessarily available to the QIRT and ICRT.

- Decision of the Salaries and Allowances Tribunal of Western Australia determination dated 8 April 2020: no increase.
- Decision of the New South Wales Local Government Remuneration Tribunal Determination and Annual Report dated 10 June 2020: no increase.
- Decision of the Victorian Minister for Local Government: two per cent increase effective on 1 December 2019. It is noted that the 1 December 2020 Victorian decision was unavailable at the date of this determination.
- Tasmania is the only jurisdiction that has increased the remuneration for local government councillors. The increase, effective 1 November 2020, is an automatic indexation of local government allowances provided for under the *Tasmanian Local Government Act 1993* by multiplying the allowances for the previous year by the inflationary factor (determined by calculating the current year's June quarter Wage Price Index divided by the previous years' June Wage Price Index).
- The application of principles of consistency and austerity, and general consideration of recent conservative wage review practices in both the public and private sectors.
- The Commission's inability to project the short and long-term impacts of COVID-19 with certainty.

The Commission also had regard to anecdotal reports and submissions received about:

- The impact of economic hardship experienced by local communities during and following the COVID-19 pandemic and natural disasters of 2019-2020.
- The potential disproportional impact of COVID-19 pandemic restrictions on rural and remote communities.
- The economic cost to communities of interruption to businesses.
- The significant economic volatility and contraction during 2020.
- The need to ensure sustainability for local governments and their communities.

- Local governments role in Queensland's post COVID-19 economic recovery and development.

The Commission gratefully acknowledges the submissions received this year which have assisted in its discharge of its statutory obligations.

# 1. The Commission

## Formation and composition

The Local Government Remuneration Commission (Commission) is an independent entity established under the *Local Government Act 2009* (the Act). On 1 October 2019, His Excellency the Governor, acting by and with the advice of the Executive Council, approved three new appointees to the Commission for a term of four years.

This is the second report of the new Commission, and the fourteenth report including the reports of the former Local Government Remuneration and Discipline Tribunal and the Local Government Remuneration Tribunal.

The current Chair and Commissioners of the Commission are:

### **Mr. Robert (Bob) Abbot OAM**

#### **Chair**

Mr. Abbot has extensive experience in the local government sector with 32 years as an elected councillor and mayor. Mr. Abbot has experience working at state and national local government organizations and has held board and panel positions, including Deputy Chair of the South East Queensland Council of Mayors, Director of the Local Government Association of Queensland (LGAQ), and Director of the Australian Local Government Association. Mr. Abbot has been a mentor for newly elected mayors on behalf of the LGAQ, with a particular focus on mentoring Queensland Indigenous mayors.

In the Australia Day 2020 Honours List, Mr. Abbot was the recipient of an Order of Australia (OAM) for his service to local government and to the communities of Noosa and the Sunshine Coast.

### **Ms. Andrea Ranson**

#### **Commissioner**

Ms. Ranson is a lawyer with extensive experience in public and private sector business and governance. Ms. Ranson brings substantial legal experience in commercial, industrial, and equal opportunity law, ethics, and justice. Ms. Ranson is a Nationally Accredited Mediator currently working with the Queensland Civil and Administrative Tribunal (QCAT), and a member of the Department of Justice Dispute Resolution Panel and Aboriginal Working Group. Ms. Ranson is appointed as a Non-Executive Director to the Board of North Queensland Bulk Ports Corporation, a government owned corporation. Ms. Ranson is Chair of the Corporate Governance & Planning Committee and a Member of the Audit & Financial Risk Management Committee of that Board. Ms. Ranson holds a Master of Laws (LLM), Bachelor of Laws (Hons) and Bachelor of Arts from Monash University. She is a Graduate of the Australian Institute of Directors (GAICD) and a Fellow of the Governance Institute of Australia (FGIA).



## **Mr. Reimen Hii**

### **Commissioner**

Mr. Hii is a barrister and Nationally Accredited Mediator. He holds the degrees of Bachelor of Laws and Bachelor of Arts. He is a practicing lawyer with extensive knowledge in public administration and community affairs, and a particular interest in civil and commercial law. Mr. Hii is experienced in professional discipline matters, including investigations, public administration, corporate and public governance, public sector ethics and finance. Mr. Hii has a culturally and linguistically diverse background and experience working with diverse communities. Mr. Hii has previously been recognized as Australian Young Lawyer of the Year by the Law Council of Australia, in recognition of his significant contribution to access to justice and diversity advocacy. Mr Hii provides a deep understanding of diversity and brings well respected analytic skill, together with legal and business acumen to the role.

## Remuneration responsibilities

Chapter 6, Part 3 of the Act, proclaimed into force on 3 December 2018, established the Local Government Remuneration Commission to assume the remuneration functions of the former Local Government Remuneration and Discipline Tribunal which ceased to exist on 3 December 2018.

Section 177 of the Act provides the functions of the Commission are:

- to establish the categories of local governments, and
- to decide the category to which each local government belongs, and
- to decide the maximum amount of remuneration payable to the councillors in each of the categories, and
- to consider and make recommendations to the Minister about the following matters relating to councillor advisors—
  - (i) whether or not to prescribe a local government under section 197D(1)(a);
  - (ii) the number of councillor advisors each councillor of a local government may appoint;
  - (iii) the number of councillor advisors a councillor of the council under the *City of Brisbane Act 2010* may appoint; and
- another function related to the remuneration of councillors if directed, in writing, by the Minister.

Chapter 8, Part 1, Division 1 of the *Local Government Regulation 2012* (Regulation) sets out the processes of the Commission in deciding the remuneration that is payable to councillors.

The Regulation requires the Commission to review the categories of local governments once every four years, in the year prior to each quadrennial election, to determine whether the categories and the assignment of local governments to those categories require amendment.

After determining the categories of local governments, the Regulation also requires the Commission to decide annually, before 1 December each year, the maximum amount of remuneration to be paid to mayors, deputy mayors and councillors in each category from 1 July of the following year.

In addition, section 248 of the Regulation allows a local government to make a submission to the Commission to vary the remuneration for a councillor, or councillors, to a level higher than that stated in the remuneration schedule where the local government considers exceptional circumstances apply. The Commission may, but is not required to, consider any such submission. If the Commission is satisfied that exceptional circumstances exist, the Commission may approve payment of a higher amount of remuneration.

On 12 October 2020, the *Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020* and section 197A of the *Local Government Act 2009* came into force. These changes formed part of the Queensland Government rolling reform agenda in the local government sector to further strengthen transparency, accountability and integrity measures that apply to the system of local government in Queensland.

Section 197A of the Act established requirements for councils that wish to employ councillor advisors and councilor administrative support staff to assist councillors complete their duties. The role of councillor advisors is currently restricted to Brisbane City Council and to those councils within category 4 to 8 as prescribed by this Commission.

The requirements in relation to the appointment of councillor advisors include the following:

- must vote to pass a resolution to create councillor advisor positions (except Brisbane City Council)
- appoint advisor, at the discretion of councillors and only until the councillor's term ends, unless re-appointed by a new councillor
- must report the costs of councillor advisors to the community, for example through the council's annual report.

Requirements for councillor advisors include the following:

- they must submit registers of interests and keep them up-to-date
- they must follow a new Code of conduct for councillor advisors in Queensland
- they must comply with the local government principles and can be found guilty of integrity offences.

A dedicated telephone hotline (07 3452 6747 – available between the hours of 8.30 am to 5.00 pm, Monday to Friday) has been established by the Department of State Development, Infrastructure, Local Government and Planning to respond to any questions regarding councillor advisors.

Alternatively, email enquiries can be forwarded to [lgreforms@dlgrma.qld.gov.au](mailto:lgreforms@dlgrma.qld.gov.au).

The Commission is yet to receive any submissions or enquiries in relation to councillor advisors as at the date of its determination.

## 2. Remuneration determination

### Remuneration determination for councillors

As required by section 246 of the Regulation the Commission has prepared a remuneration schedule for the 2021-2022 financial year, applicable from 1 July 2021 (the Schedule), which appears below.

Arrangements have been made to publish the Schedule in the Queensland Government Gazette and for this Report to be printed and presented to the Minister for Local Government.

### Methodology

The Commission had regard to the matters in section 244 and 247 (2), (5) of the Regulation in determining the Schedule. The Commission also noted and had regard to the matters listed on pages 6 to 8 of this Report to determine the appropriate maximum remuneration in each category of local government.

The Commission notes it did not receive any specific submissions from councils in relation to setting the remuneration schedule for the 2020-2021 financial year and has continued to adopt a conservative approach to setting remuneration levels.

### Matters not included in the remuneration schedule

Section 244(3) of the Regulation states that the remuneration cannot include any amount for expenses to be paid or facilities to be provided to councillors under a council's expenses reimbursement policy.

During the 2020 consultation period, Townsville City Council sought clarification and consistency in relation to the application of Motor Vehicle Policies by local government across Queensland.

The Commission notes section 244(3) of the Regulation states that remuneration decided by the Commission cannot include "any amount for expenses to be paid or facilities to be provided to councillors under a council's expenses reimbursement policy". The Commission is of the view that the application of Motor Vehicle policy falls within section 244(3) exclusions and that the Commission cannot prescribe whether or how a vehicle policy is applied by individual council's as the Commission does not prescribe expenses and reimbursement policies.

The Commission notes that practices may differ within or between individual councils, however, as the matter falls outside of council's statutory functions the Commission is unable to decide to direct council.

The Commission has informed Townsville City Council of this determination.

### Pro rata payment

Should an elected representative hold a councillor position for only part of a financial year, she or he is only entitled to remuneration to reflect the portion of the year served.

## Remuneration schedule to apply from 1 July 2021

		Remuneration determined (from 1 July 2021)		
		(\$ per annum; see Note 1)		
Category	Local governments assigned to categories	Mayor	Deputy mayor	Councillor
<b>Category 1</b> (see Note 2)	Aurukun Shire Council Balonne Shire Council Banana Shire Council Barcaldine Regional Council Barcoo Shire Council Blackall-Tambo Regional Council Boulia Shire Council Bulloo Shire Council Burdekin Shire Council Burke Shire Council Carpentaria Shire Council Charters Towers Regional Council Cherbourg Aboriginal Shire Council Cloncurry Shire Council Cook Shire Council Croydon Shire Council Diamantina Shire Council Doomadgee Aboriginal Shire Council Douglas Shire Council Etheridge Shire Council Flinders Shire Council Goondiwindi Regional Council Hinchinbrook Shire Council Hope Vale Aboriginal Shire Council Kowanyama Aboriginal Shire Council Lockhart River Aboriginal Shire Council Longreach Regional Council Mapoon Aboriginal Shire Council McKinlay Shire Council Mornington Shire Council Murweh Shire Council Napranum Aboriginal Shire Council North Burnett Regional Council Northern Peninsula Area Regional Council Palm Island Aboriginal Shire Council Paroo Shire Council Pormpuraaw Aboriginal Shire Council Quilpie Shire Council Richmond Shire Council Torres Shire Council Torres Strait Island Regional Council Winton Shire Council Woorabinda Aboriginal Shire Council Wujal Wujal Aboriginal Shire Council Yarrabah Aboriginal Shire Council	\$108,222	\$62,435	\$54,110
<b>Category 2</b>	Mareeba Shire Council Mount Isa City Council Somerset Regional Council	\$124,869	\$74,923	\$62,435

<b>Category 3</b>	Cassowary Coast Regional Council Central Highlands Regional Council Gympie Regional Council Isaac Regional Council Livingstone Shire Council Lockyer Valley Regional Council Maranoa Regional Council Noosa Shire Council Scenic Rim Regional Council South Burnett Regional Council Southern Downs Regional Council Tablelands Regional Council Western Downs Regional Council Whitsunday Regional Council	\$133,196	\$83,247	\$70,759
<b>Category 4</b>	Bundaberg Regional Council Fraser Coast Regional Council Gladstone Regional Council Rockhampton Regional Council	\$158,168	\$104,059	\$91,571
<b>Category 5</b>	Cairns Regional Council Mackay Regional Council Redland City Council Toowoomba Regional Council	\$183,143	\$124,869	\$108,222
<b>Category 6</b>	Ipswich City Council Townsville City Council	\$208,117	\$141,520	\$124,869
<b>Category 7</b>	Logan City Council Moreton Bay Regional Council Sunshine Coast Regional Council	\$233,091	\$161,499	\$141,520
<b>Category 8</b>	Gold Coast City Council	\$258,066	\$178,981	\$154,006

#### Notes to the remuneration schedule

In its 2014 report the then Tribunal explained the rationale behind the adoption of a system of remuneration which comprised a base payment (of two thirds of the annual remuneration) and a monthly payment based upon attendance at, and participation in, the 12 mandated council meetings.

Note 1 The monetary amounts shown are the per annum figures to apply from 1 July 2021. If an elected representative only serves for part of a full year (that is, 1 July to 30 June) they are only entitled to a pro rata payment to reflect the portion of the year served.

Note 2 For councillors in category 1 councils, a base payment of \$36,073.28 is payable for the 12 months commencing on 1 July 2021. A meeting fee of \$1,503.06 per calendar month (or fortnightly equivalent) is payable for attendance at, and participation in, scheduled meetings of council subject to certification by the mayor and/or chief executive officer of the council. Mayors and deputy mayors in category 1 councils are to receive the full annual remuneration level shown.

### 3. Matters raised with the Commission during the remuneration review program

A summary table of submissions made to the Commission during the review period and the Commission's determination is provided below.

#### Meetings and deputations

Local governments were provided with the opportunity to engage with the Commission at the 124<sup>th</sup> Annual Conference of the LGAQ at the Gold Coast Convention and Exhibition Centre held from 19 to 21 October 2020.

Townsville City Council and South Burnett Regional Council provided the Commission with oral deputations during the LGAQ Conference.

Considering the restrictions imposed by COVID-19 the Commission determined and advised councils that the date for written submissions would be extended from 26 October 2020 to 30 October 2020. Five submissions were received from the Central Highlands Regional Council, Torres Strait Island Regional Council, Isaac Regional Council, North Burnett Regional Council and Pormpuraaw Aboriginal Shire Council by 30 October 2020.

After the extended due date, the Commission also receive a written submission from Somerset Regional Council on 2 November 2020, and from Barcaldine Regional Council and Toowoomba Regional Council on 5 November 2020.

In making its determination, the Commission had regard to all submissions it received, together with the matters on pages 6 to 8 of this report.

Key points raised with the Commission during the 2020 review period were not dissimilar to 2019 and included increasing demands on councils in relation to sustainability, industry and innovation, potential recognition of differential council and councillor workloads. Councils also raised the impact and future uncertainty of the COVID-19 pandemic with particular emphasis on concerns for the wellbeing of their community constituents, future economic growth, development, and sustainability, especially in regional areas.

#### Table – Summary of 2020 submissions

1	<b>Date received</b>	<b><u>Oral Submission</u></b> made at LGAQ Gold Coast Conference, Monday 19 October 2020
	<b>Received from</b>	<b><u>Townsville City Council</u></b> : Councillor Anne Marie Greaney and Councillor Rehbein
	<b>Summary of submission</b>	Council sought clarity on areas of law for Motor Vehicle Policy options. Council further requested consistency in relation to Vehicle Policies across Queensland. Currently, nine councillors have vehicles subject to novated leasing and three councillors use their own vehicles.

	<b>Determination</b>	Application of a Motor Vehicle Policy by Council is outside of the scope of the LGRC. The Commission does not prescribe expenses and reimbursement policies.
2	<b>Date received</b>  <b>Received from</b>  <b>Summary of submission</b>  <b>Determination</b>	<p><b><u>Oral Submission</u></b> made at LGAQ Gold Coast Conference, Monday 19 October 2020</p> <p><b><u>South Burnett Regional Council</u></b>: Mayor Brett Otto, Deputy Mayor Gavin Jones, and Chief Executive Officer Mark Pitt</p> <p>Councils expressed views about the challenges of dealing with the Grants Commission, with operational funding and consistency being the key challenges to enable council to plan and budget moving forward. Expressed that councillors face more complex economic growth, large geographical area with complex diversity, ageing population, 3200km road network, large corporate proponents requiring strategic level engagement by mayor and deputy mayor with local, state, and federal governments. Enterprise is transitioning and strategic management is required.</p> <p>The Commission will consider the matters raised and invite further submissions and/or engagement with councils in 2021 when the Commission intends to undertake an analysis of the current methodology, remuneration categories and application.</p> <p>In relation to the Grants Commission, the functions and operation of the Grants Commission is outside of the scope and authority of the LGRC. The broader considerations raised have, however, been noted and council will be invited to engage further during the Commission's intended 2021 consultation and analysis period.</p>
3	<b>Date received</b>  <b>Received from</b>  <b>Summary of submission</b>	<p><b><u>Written Submission</u></b> on 21 October 2020</p> <p><b><u>Pormpuraaw Aboriginal Shire Council</u></b>, Chief Executive Officer Edward A Natera</p> <p>Remuneration for Pormpuraaw ASC is considered by council to be "very reasonable and generous in comparison to our broader community".</p> <p>Council noted that it seeks to build up capacity (rotating its deputy mayor each three months) and have Portfolio Holders attend meetings with the CEO and managers. Some of the challenges include attendance at meetings by elected members. Councillors meet each</p>



	<b>Determination</b>	<p>fortnight for briefing and project/programs/issues which are tabled for the management team to follow up at the last Thursday monthly council meetings.</p> <p>Submission received and noted. No change requested on behalf of council.</p>
4	<p><b>Date received</b></p> <p><b>Received from</b></p> <p><b>Summary of submission</b></p> <p><b>Determination</b></p>	<p><b><u>Written Submission</u></b> on 5 November 2020</p> <p><b><u>Barcaldine Regional Council</u></b>, Acting Chief Executive Officer Brett Walsh</p> <p>Council advised the Commission that it had passed a Resolution on or about 28 October 2020 in the following terms: <i>“Council receives the report and provides feedback to the Commission that it is the position of Barcaldine Regional Council that Mayor and Councillor remuneration for the 2021-2022 financial year remain at the same level as the 2020-2021 financial year.”</i></p> <p>The Commission has noted council's Resolution passed for no change in mayor and councillor remuneration for the 2021-2022 financial year.</p>
5	<p><b>Date received</b></p> <p><b>Received from</b></p> <p><b>Summary of submission</b></p>	<p><b><u>Written Submission</u></b> on 30 October 2020</p> <p><b><u>Central Highlands Regional Council</u></b>, Chief Executive Officer Scott Mason on behalf of council</p> <p>Council is currently identified by the LGRC as a category 3 council. Council repeats its submission that it does not consider category 4 as appropriate, however, it should be differentiated from other category 3 councils.</p> <p>Council advocates for a new category between category 3 and 4 to separate councils that fall outside criteria and can be justified recognising the extraordinary diversity of industry. The following factors were relied upon in council's submission:</p> <ul style="list-style-type: none"> <li>• Central Highlands contributes a significant amount to Queensland's Gross Domestic Product by way of its resource and agricultural, sectors.</li> <li>• There are 11 operating coal mines in the region generating \$813 million of local spend and significant royalties for the state.</li> <li>• The gross value of agricultural commodities produced within the Central Highlands is greater than \$800 million per annum.</li> </ul>

	<p><b>Determination</b></p>	<ul style="list-style-type: none"> <li>• Coal and agricultural sectors have significant impact on elected members in relation of the need to understand the operational complexities of each sector but the elected members also deal with tourism, retail, support services to various industries, education and facilitating a lifestyle of choice for residents of the region.</li> <li>• Significant stakeholder engagement is required by mayor and councillors outside of their ordinary standard central duties, especially in the context of drought.</li> <li>• Mining resources are quantifiably more intensive than other regions (for example, natural gas).</li> <li>• Submitted that Central Highlands is unique due to the presence of two significant industries in its region.</li> </ul> <p>Council identified that similar challenges facing both Central Highlands and Isaac Regional Council supported the creation of two new categories.</p> <p>Key issues raised in support of council's submission included increased (and significant) demand particularly around the resource and agricultural sectors, infrastructure growth, innovation, and regional sustainability. Resident and non-resident population demands were also cited as creating additional workload for councillors. Council has repeated its questioning of whether councillors could properly be considered as 'part-time' given increasing community and industry expectations upon council regarding regional sustainability.</p> <p>The Commission will consider the matters raised and invite further submissions and/or engagement with councils in 2021 when the Commission intends to undertake an analysis of the current methodology, remuneration categories and application.</p>
6	<p><b>Date received</b></p> <p><b>Received from</b></p> <p><b>Summary of submission</b></p>	<p><b><u>Written Submission</u></b> on 30 October 2020</p> <p><b><u>Isaac Regional Council</u></b>, Chief Executive Officer Gary Stevenson</p> <p>Council relied on its previous submissions dated 24 October 2018 and 21 October 2019, together with representations made to the Commission at the LGAQ Conference on 15 October 2019 by Deputy Mayor Kelly Vea and Senior Advisor Mary-Anne Uren.</p>

Council has previously requested that mayors of like councils in category 3 be remunerated at a higher level than their counterparts, to recognize the mayor's role demands full-time hours where the local government area has a geographical spread of more than 50,000km<sup>2</sup>, a resident and non-resident population total more than 30,999 and the local government area has a significant diversity of Industry.

The practical request that council repeats in its 2020 submission to the Commission is that the existing category 3 councils become category 3A councils and that a new category 3B be introduced which includes Isaac Regional Council and Central Highlands Regional Council and sets remuneration for the mayor of each of these two councils in accordance with the remuneration determined for category 4 mayors. Council requests that the remuneration of the deputy mayor and councillors be consistent with the remuneration of category 3A councils.

Council states that resource sector requirements, community expectations to ensure regional benefit and the increased regulatory oversight of mining practices, together with the impact of an extensive agricultural sector creates requirements for the mayor to participate in stakeholder engagement activities outside of their ordinary standard central duties, especially in the context of drought.

Council's submission states further that whilst it is acknowledged that category 4 mayors are not full-time – Isaac Regional Council considers that a minimum increase of the mayor's remuneration to the level requested is warranted.

Additionally, council submitted that data utilised to inform the categories for remuneration where based on Census information, is subject to a significant lag bias. The council referenced the Bowen Basin population report, produced by the Queensland Governments Statistician's Office, and submitted that this report would provide a more relevant, up-to-date, reference for populations being managed by Isaac Regional Council.

Council submitted that the additional level of engagement required by the mayor stemming from the non-resident population is considerable and that continuous engagement is required through advocacy to state and

		<p>federal governments to fund infrastructure and services, advocacy and engagement with resource and renewables proponents in the region to manage and mitigate impacts and seek opportunities from economic developments in the region.</p> <p>Strategic planning for a sustainable future with diversity of industries in the Isaac region. Submission stated to relate to increased remuneration for mayor only.</p> <p>The Commission will consider the matters raised and invite further submissions and/or engagement with councils in 2021 when the Commission intends to undertake an analysis of the current methodology, remuneration categories and application.</p>
7	<p><b>Determination</b></p> <p><b>Date received</b></p> <p><b>Received from</b></p> <p><b>Summary of submission</b></p> <p><b>Determination</b></p>	<p><b><u>Written Submission</u></b> on 30 October 2020</p> <p><b><u>North Burnett Regional Council</u></b>, Mayor Rachel Chambers</p> <p>Council seeks an understanding and clarity regarding LGRC remuneration methodology. Submits that category 1 is not reflective of the effort and skill of council. Identified issues council faces in undertaking their role and that the current remuneration does not reflect the actual role and duties undertaken daily which include – 20,000km<sup>2</sup> area with six distinct townships, current salary makes it difficult to attract younger candidates needed to be involved in planning for the future, roles are full-time (long hours, after hours, public holidays and on call) and all councils are under the same legislative conditions and subject to the same obligations to achieve financial sustainability and positive socio-economic outcomes. Questioned lack of qualifications or skills needed as part of the methodology. Challenged whether 'conditions are different' equates to 'workload is different'. Economic development is a factor for all councils.</p> <p>Pursuant to section 242 of the Regulation, in establishing categories of local governments, the Commission <b>must have regard to the following criteria:</b> -</p> <ul style="list-style-type: none"> <li>(a) The size, and geographical and environmental terrain, of local government areas.</li> <li>(b) The population of local government areas, including the areas' demographics, the spread of population serviced by the local governments and the extent of the</li> </ul>

		<p>services the local governments provide; and</p> <p>(c) The Commission <b>may have regard to other matters</b> the Commission considers relevant to the effectiveness, efficiency, and sustainability of local governments.</p> <p>The Commission intends to analyse the application of the regulated criteria and its applicability to best service the needs of local government representatives and their constituents moving forward. The Commission will be inviting further engagement with local government in 2021 with formulating an understanding of the challenges and demands faced by mayors, deputy mayors and councillors with increasing demands for councillor participation in growth, development, innovation, infrastructure and sustainability.</p> <p>The Commission understands that additional clarity regarding methodology has been requested and in 2021 the Commission intends to formulate a general guide to assist council/s better engage and communicate with the Commission.</p> <p>The Commission will consider the matters raised and invite further submissions and/or engagement with councils in 2021..</p>
8	<p><b>Date received</b></p> <p><b>Received from</b></p> <p><b>Summary of submission</b></p>	<p><b><u>Written Submission</u></b> on 2 November 2020</p> <p><b><u>Somerset Regional Council</u></b>, Chief Executive Officer Andrew Johnson for Mayor Graeme Lehmann</p> <p>Council submitted that council categories and selection criteria should be reviewed to ensure that the level of workload is reflected by the constituents serviced. Council requests that remuneration is reinstated comparable to at least that at the time of amalgamation.</p> <p>Council submitted that the service level and expectation of communities and workloads are increasing. Council contends that alternative formulas should be considered as part of determining categories to ensure adequate compensation is given to elected members. Changes in legislation (Belcarra Reform, etc.) have added increased burden to elected members, once again, raising the risk and workload of elected members.</p> <p>Council argued that Remuneration in the Somerset Region had reduced since</p>

	<b>Determination</b>	<p>amalgamation, while Somerset continues to grow.</p> <p>The Commission will consider the matters raised and invite further submissions and/or engagement with councils in 2021 when the Commission intends to undertake an analysis of the current methodology, remuneration categories and application.</p>
9	<p><b>Date received</b></p> <p><b>Received from</b></p> <p><b>Summary of submission</b></p>	<p><b><u>Written Submission</u></b> on 5 November 2020</p> <p><b><u>Toowoomba Regional Council</u></b>, Chief Executive Officer Brian Pidgeon</p> <p>Council repeated its previous submission to the LGRC that the current category 5 status should be elevated to category 6.</p> <p>Council notes that it shares category 5 with Cairns, Mackay, and Redland, and submits that it is more appropriately benchmarked, on a variety of measures, with those councils in category 6, specifically Ipswich and Townsville. Factors submitted by council included:</p> <ul style="list-style-type: none"> <li>• size of Toowoomba Regional Council area being 12 times larger in area than Ipswich and 3.4 larger in area than Townsville</li> <li>• geographical and environmental terrain of Toowoomba Region</li> <li>• population of Toowoomba Region including demographics; spread of population across 12,973km<sup>2</sup></li> <li>• extent of services and diversity of communities</li> <li>• extent of development in the region (one of the most diverse and robust economies in Australia)</li> <li>• councillor workload given one city and 28 independent towns and villages are incorporated in the Toowoomba Region</li> <li>• managing challenges with being in a highly productive, growth region, with large infrastructure projects requiring significant investment by council including Toowoomba Bulk Water Supply; Cressbrook Dam Spillway Upgrade; Reservoir and Treatment Plant upgrades; Toowoomba Region Sports Precinct; Cooby Dam Spillway Upgrade and additional projects specifically identified by council in its detailed submission</li> </ul>

		<ul style="list-style-type: none"> <li>ongoing challenges related to aligning the community following amalgamation of eight councils</li> <li>re-categorisation of Toowoomba Regional Council as category 6 would promote relativities between councils and ensure appropriate remuneration with confidence in what council has identified as being a “demanding environment”.</li> </ul> <p>The Commission will consider the matters raised and invite further submissions and/or engagement with councils in 2021 when the Commission intends to undertake an analysis of the current methodology, remuneration categories and application.</p>
10	<p><b>Determination</b></p> <p><b>Date received</b></p> <p><b>Received from</b></p> <p><b>Summary of submission</b></p>	<p><b>Written Submission</b> on 30 October 2020</p> <p><b>Torres Strait Island Regional Council,</b> Mayor Phillemon Mosby</p> <p>Submission that TSIRC should not be classified as a category 1 council and should be in a category of its own. Mayor, deputy mayor and councillors inadequately remunerated under category 1.</p> <p>TSIRC is one of three local councils in the Torres Strait region. TSIRC manages the treaty agreement between the border of Australia and Papua New Guinea (PNG) and identifies itself as the only local council in Australia with this added responsibility. TSIRC services fifteen separate communities spread across 42,000km<sup>2</sup> of open sea, each with its own unique characteristics and service requirements. As an Indigenous Regional Council under the <i>Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984</i> (Qld), it is submitted that TSIRC has additional responsibilities in managing Deed of Grant in Trust (DOGIT) communities as Trustee, as well as providing for local government services. TSIRC submits that there are several matters which are unique to it and that these matters add to the responsibilities of councillors. These matters include: treaty obligations between Australia and PNG; high cost of living and travel in and to the region; limited employment (meaning that the mayor and councillor salary is in most cases the only source of income); over 800 social houses under banner of responsibility; no revenue from rates base and completely reliant on state and commonwealth funding; responsible for management of air and sea</p>

**Determination**

ports in 15 island communities; multilingual language challenges and Native Title determinations add a layer of complexity to the functions as a local government.

The Commission notes the increasing pressure on councils in relation to sustainability and strategic development. The Commission further notes the specific matters raised by TSIRC regarding consideration of a future category change and/or creation of a new category.

The Commission will consider the matters raised and invite further submissions and/or engagement with councils in 2021 when the Commission intends to undertake an analysis of the current methodology, remuneration categories and application.



## 4. Other activities of the Commission

Exceptional circumstances submissions (matters raised under *Local Government Regulation 2012*, section 248):

Nil.

## 5. Commission's future priorities

The Commission intends to undertake its comprehensive analysis of the council categories in 2021 and looks forward to engaging with local government and its stakeholders over the next 12 months.

Further information about the Commission and/or the Councillor Conduct Tribunal can be located at [www.dlgrma.qld.gov.au](http://www.dlgrma.qld.gov.au)

### **Local Government Remuneration Commission**

PO Box 15009  
City East Qld 4002

1 William Street  
Brisbane Qld 4000

Email: [LGRcenquiries@dlgrma.qld.gov.au](mailto:LGRcenquiries@dlgrma.qld.gov.au)

Phone: (07) 3452 6735

Website: [www.dlgrma.qld.gov.au](http://www.dlgrma.qld.gov.au)



# TORRES STRAIT ISLAND REGIONAL COUNCIL

## COUNCIL REPORT

<b>ORDINARY MEETING:</b>	June 2021
<b>DATE:</b>	29 & 30 June 2021
<b>ITEM:</b>	Agenda Item for Resolution by Council
<b>SUBJECT:</b>	Policy Matter – People and Wellbeing Policies Review
<b>AUTHOR:</b>	Tracey Burrell, Acting Head of People & Wellbeing

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### Recommendation

Council resolves to:

1. Amend the Torres Strait Island Regional Council's

- Code of Conduct Policy;
- Equal Employment Opportunity Policy; and
- Recruitment Policy;

previously endorsed by Council, in the terms presented to Council at today's Ordinary Meeting and endorse the same

and

2. Delegate authority to the Chief Executive Office in accordance with the Local Government Act 2009 to exercise the functions and powers assigned to the Chief Executive Officer under the amended and endorsed policies, including the power to make any further minor administrative amendments to the policies as they arise.

### Executive Summary:

The policies contained in this report needed redrafting and updating due to either having expired or changes to legislation. To ensure compliance with legislation and already existing policies, these have been updated to reflect legislative changes or changes internally at Council.

The Code of Conduct Policy; Equal Employment Opportunity Policy; and Recruitment Policy were presented to and noted by the Audit Committee at its meeting on 12 April 2021 and to SARG Committee at its meeting on 15 June 2021.

**Officer Comment:**

The table below show the policies and procedures contained in this report:

Policy	Changes
Code of Conduct Policy	Had expired and updated to reflect internal changes.
Equal Employment Opportunity Policy	Had expired and updated to reflect internal changes.
Recruitment Policy	Had expired and updated to reflect internal changes.

**Links to Strategic Plans:**

These policies strategically align to specific delivery objectives under all 3 pillars of Council's recently adopted Corporate Plan, being People, Sustainability and Prosperity.

**Risk:**

There is a risk to Council's reputation and compliance if policies are not updated and endorsed as required. By having these policies updated and endorsed reflecting legislative changes, Council will be able to update the associated procedures and thereby mitigating these risks.

**Statutory Requirements:**

*Local Government Act 2009 (Qld)*  
*Local Government Regulation 2012 (Qld)*  
*Public Service Act 2008*  
*Industrial Relations Act 1999*  
*Anti-Discrimination Act 1991*  
*Sex Discrimination Act 1984*  
*Racial Discrimination Act 1975 (Cth)*  
*Disability Discrimination Act 1992 (Cth)*  
*Human Rights and Equal Opportunity Act 1986 (Cth)*  
*Public Sector Ethics Act 1994*  
*Crime and Corruption Act 2001*

**Conclusion:**

That Council approves the attached policies.



Tracey Burrell  
**Acting Head of People and Wellbeing**



Hollie Faithfull  
**Chief Financial Officer**

A handwritten signature in black ink, appearing to read "David Baldwin", with a stylized flourish at the end.

David Baldwin  
**Acting Chief Executive Officer**

**Note:** Following Council adoption, final document to be published as an employee handbook, rather than policy format.

## EMPLOYEE CODE OF CONDUCT

<b>Responsible Manager</b>	Head of People and Wellbeing
<b>Head of power</b>	<i>Local Government Act 2009 (Qld)</i> <i>Local Government Regulation 2012 (Qld)</i> <i>Public Service Act 2008</i> <i>Industrial Relations Act 1999</i> <i>Anti-Discrimination Act 1991</i> <i>Sex Discrimination Act 1984</i> <i>Racial Discrimination Act 1975 (Cth)</i> <i>Disability Discrimination Act 1992 (Cth)</i> <i>Human Rights and Equal Opportunity Act 1986 (Cth)</i> <i>Public Sector Ethics Act 1994</i> <i>Crime and Corruption Act 2001</i>
<b>Authorised by</b>	Chief Executive Officer
<b>Authorised on</b>	May 2021
<b>Implemented from</b>	TBC 2021
<b>Last reviewed</b>	June 2018
<b>Review history</b>	2013, 2014, 2016, 2018, 2021
<b>To be reviewed on</b>	June 2023
<b>Corporate Plan</b>	People, Sustainability and Prosperity

## 1. PURPOSE

The purpose of this Code of Conduct (Code) is to provide a set of standards and behaviours related to the way we do our work. It puts a responsibility on each of us to use sound judgement.

It aims to deliver best practice by ensuring those standards are clear and guided by sound ethic. By consistently applying these standards, we enhance public trust and confidence in Council through the actions of each of us. Nothing in the Code interferes with your rights a private citizen or a community member.

The Code does not cover every situation. However, the values, ethics, standards and behaviours it outlines are a reference point to help make decisions in situations not covered by the Code. If you act in good faith and in keeping with the spirit of the Code, you can expect to be supported by your colleagues, your team leader/supervisor and by Council.

## 2. POLICY STATEMENT

It is the policy of Torres Strait Island Regional Council to operate in a manner that provides and preserves a harmonious place for all our workers within the bounds of the applicable industrial relations instruments including agreements and awards, and where all levels of management are focused on ensuring that all work is carried out with minimal disruption and with maintained industrial harmony.

Torres Strait Island Regional Council conducts its business with integrity, honesty and fairness, and complies with all relevant laws, regulations, codes and corporate standards.

Everyone working for Torres Strait Island Regional Council must follow the highest standards of ethical behaviour when dealing with customers and each other. Our leaders must encourage a culture where ethical conduct is recognised, valued and followed at all levels.

Council actively supports, encourages, develops and expects its employees to:

- **Deliver value** by operating safely, ethically and responsibly. We drive productivity and efficiency to ensure we are a financially sustainable organisation.
- **Act as 'One Council'** by working together to provide seamless service to our residents and business customers. We respect Council's decision-making processes and corporate priorities at a local level for the greater good of the organisation.
- **Continuously improve** how we deliver services by listening to and understanding the needs of our customers. We operate in a self-service environment and use quality data from agreed 'sources of truth' to inform decisions and achieve best value.
- **Be capable and effective** by being adaptable and cost-effective in delivering our products and services. Our leaders are accountable to communicate business priorities and performance expectations to their teams and offer regular feedback and recognition.

### Public sector ethics and corporate values

The Public Sector Ethics Act 1994 (Qld) identifies four fundamental ethical principles that guide our behaviour as public officials. The four ethical principles are:

- integrity and impartiality
- promoting the public good
- commitment to the system of government
- accountability and transparency.

## Our Values

The values we share as employees of Torres Strait Island Regional Council are:

Value & Value Statement	Desired Behaviours
 <p><b>RESPECT</b> We have <b>respect</b> for each other and the <b>communities</b> we serve</p>	<ul style="list-style-type: none"> <li>• We respect and recognise Allan Kastom.</li> <li>• We are open and collaborative, valuing clear community engagement.</li> <li>• We recognise and respect diversity, individual needs, experience and strengths.</li> </ul>
 <p><b>COURAGE</b> We are <b>courageous</b> leaders, who think <b>innovatively</b></p>	<ul style="list-style-type: none"> <li>• We encourage, value and reward creative thinking.</li> <li>• We respect and explore different ideas and perspectives.</li> <li>• We embrace change and actively promote Council's vision.</li> </ul>
 <p><b>ACCOUNTABILITY</b> We are <b>accountable</b> and responsive to our <b>communities</b></p>	<ul style="list-style-type: none"> <li>• We take pride in our work and pursue a standard of service excellence.</li> <li>• We consistently strive for transparency and good governance to the benefit of public interest.</li> <li>• We are reliable, honest and ethical in all we do.</li> </ul>
 <p><b>RESILIENCE</b> We are builders of a <b>sustainable</b> and <b>resilient</b> region</p>	<ul style="list-style-type: none"> <li>• We actively seek opportunities to continuously improve and bring growth to our region.</li> <li>• We think globally, act regionally.</li> <li>• We empower our people and communities; embracing local opportunity and participation.</li> </ul>
 <p><b>ONE</b> We are <b>one team</b> who achieves who achieves <b>together</b></p>	<ul style="list-style-type: none"> <li>• We show care for people and look out for each other.</li> <li>• We speak up and support others to be safe and healthy.</li> <li>• We respectfully address behaviours that conflict with Council's values.</li> </ul>

The four ethical principles, together with the Torres Strait Island Regional Council's values, form the basis of this Code of Conduct. They apply to all Torres Strait Island Regional Council workers and guide our thinking, actions and decision making.

## 3. SCOPE

All Torres Strait Island Regional Council workers, regardless of their employment status, role or position must be familiar with and follow the spirit and content of the Code of Conduct.

Torres Strait Island Regional Council workers are:

- Employees of Council who are permanent, temporary or casual employees. This includes executives, managers, supervisors, team leaders, apprentices and trainees, team members and individuals, regardless of whether they work full-time or part-time or on a flexible employment arrangement.
- Contractors, consultants, and labour hire workers who perform work for Council under a contract for services (commercial contract), even though they are not employees of Council.
- Employees of other organisations or agencies who are working in Council on a secondment arrangement.
- Students doing unpaid work experience or unpaid placements.
- Volunteers.



## 4. OBLIGATIONS AS AN EMPLOYEE OF COUNCIL

### 4.1. THE FIRST PRINCIPLE - Integrity and Impartiality

#### a) Ethics value

In recognition that public office involves a public trust, public sector entities and public officials seek to promote public confidence in the integrity of the public sector and:

- are committed to the highest ethical standards;
- accept and value their duty to provide advice, which is objective, independent, apolitical and impartial;
- show respect towards all persons, including employees, clients and the general public;
- acknowledge the primacy of the public interest and undertake that any conflict-of-interest issue will be resolved or appropriately managed in favour of the public interest; and
- are committed to honest, fair and respectful engagement with the community.

#### b) Standards of conduct

##### (i) Behaviour towards each other

We must all treat each other with trust, respect, honesty, fairness, sensitivity and dignity. Employees who supervise or manage other employees have a special responsibility to model this kind of behaviour, and to ensure that the people they supervise understand the standard of performance and behaviour that is expected of them.

You are expected to accommodate and respect different opinions and perspectives and manage disagreements by rational debate. You must not behave towards any other person in a way that could be perceived as intimidating, overbearing or as workplace harassment.

Effective teamwork is an essential part of a productive workplace culture. Each team member is expected to work co-operatively with fellow employees and willingly participate and engage in team activities (e.g. meetings).

##### (ii) Non-discriminatory workplace

Council is committed to creating and maintaining a workplace free from unlawful discrimination. By law, all employees must ensure that discrimination is not part of our workplace or our practices.

##### (iii) Workplace and sexual harassment

Council is committed to preventing harassment of employees and the public.

Creating a work environment free of harassment is everyone's responsibility. As an employee you must take steps to prevent workplace harassment and sexual harassment and address improper or inappropriate behaviours before they become severe, persistent or pervasive.

All employees are expected to contribute to building a workplace that tolerates differences and which is free from intimidation, bullying and harassment.

##### (iv) Conflict of interests

When making decisions, you must declare any conflicts of interest. Refer Definitions, Section 4 for more information.

A conflict of interest involves a conflict between your official duties and responsibilities in serving the public interest and your private interests. A conflict of interest can arise from

avoiding personal losses as well as gaining personal advantage – whether financial or otherwise. This includes advantages to relatives and friends.

If you believe you have a conflict of interest, refer to the Conflict of Interest Policy and Procedure.

If you feel you have a conflict of interest between professional and corporate values, discuss it with your team leader/supervisor.

**(v) Influences on decision-making**

You must not influence any person in an improper way to try to obtain any advantages or favours.

You must not deliberately mislead decision-makers by providing them with false, biased, incomplete, or inaccurate information.

All decisions you make must be, and be seen to be, fair and transparent. This can be achieved by:

- following Council's policies, procedures and processes;
- keeping clear, accurate and complete records; and
- recording how and why decisions were made.

The guide to ethical decision-making (see Section 5.7) has more information on this.

**(vi) Accepting gifts and benefits**

You must not ask for a personal payment or other benefit for doing something as a Council employee.

Occasionally you could be offered gifts or benefits from people with whom you do business, in all circumstances, you should follow Council's Gifts and Benefit Procedure.

**(vii) Employment outside Council, includes operating a personal business**

It is not Council's intention to stop you from holding secondary employment or operating a personal business outside your normal working hours, providing your private employment or business:

- does not create a real or perceived conflict of interests;
- has no effect on the performance of your official duties, including effects from a safety/fatigue management perspective and possible exacerbation of an illness or injury;
- is not likely to bring Council's reputation into disrepute; and
- continues to meet these requirements.

Approval is automatically granted for you to undertake private employment or operate a personal business outside of your normal working hours, providing the above requirements are met.

Although you don't need written approval, if you undertake voluntary work or a hobby you must ensure that these activities also meet the above requirements. If you are unsure, you must discuss the matter with your team leader/supervisor.

**(viii) Public comments on Council business**

Under Council's communication guidelines, only the Mayor or their delegate can comment publicly on Council business.

If you are asked to comment on any Council matter, typically by the media or public relations firms, refer the agency to the Corporate Affairs Department.

Sometimes, it might be appropriate to share information based on your personal and professional experience (e.g. in seminars or training programs). Make sure that if you share your experiences, you do not breach the confidentiality of Council information or privacy of other persons (this can potentially include comments made and information shared in your personal life by whatever method of communication you use, including social media).

**(ix) External activities**

You are not to take part in political affairs while on duty. Council's corporate IT & communications networks, including internet access and email, must not be used for political messages or circulating defamatory or disparaging remarks against individuals or groups.

You are free to engage in trade union, party-political, professional, interest group or charity activities. You must make sure that your participation in such activities does not cause a conflict of interest, and that it does not restrict or impact on the performance of your duties with Council.

If you comment publicly in connection with such activities, you must make it clear that the comment is your opinion as a member of those organisations. You must not give your unauthorised opinion as a Council employee.

You must not place negative or disparaging posts or make political comments on Council's official social media channels, e.g. Facebook, Twitter, from your personal accounts.

You must not use your role in Council, Council information or information gained in the course of your duties, to advance your position or standing within an external organisation, nor for the benefit or promotion of an external organisation. You must not provide Council information to members of other groups or related persons, except where this information is publicly available.

As an employee, you are the face of Council in the community. If you identify yourself or can be identified as a Council employee, your out-of-work behaviour and personal opinions are likely to come under public scrutiny. When using social media outside of work hours, assume that material you post online can be made public at any time and may be permanent. Be aware that your posts and photos may be shared by others in ways beyond your control and may reach unintended audiences. Even when you post material anonymously or use private social media channels, you must continue to uphold this Code of Conduct.

Example: If you are identified as a Council employee and you post derogatory or defamatory remarks about your manager or a colleague on the internet (for example Facebook), you may be in breach of this Code of Conduct.

**(x) Fairness to suppliers**

Council has a Procurement & Ethical Sourcing Policy, associated procedures and delegations of authority for various stages of procurement of goods and services. You must comply with these procedures when seeking suppliers for goods or services.

If you, through the course of your employment, are involved in offering contracts or buying goods and services from outside Council, you must be sure you have taken reasonable, fair and consistent steps to allow all potential suppliers to bid for work.

You also need to ensure that you do not incur any liability or enter into any contract on behalf of the Council, or alter the terms or conditions of any approved contract, unless you are authorised to do so.

### c) Working with children and young people

In accordance with the *Commission for Children and Young People and Child Guardian Act 2000*, Torres Strait Island Regional Council is required to have a Code of Conduct for working with children and young people. This Code outlines appropriate standards of behaviour for adults towards children. It serves to protect children and reduce any opportunities for abuse or harm to occur. The Code also assists employees and volunteers by providing guidance on how to best support children and avoid or better manage difficult situations.

#### **Working with Children and Young People Code of Conduct Statement:**

Council aims to be a child-safe organisation and create an environment where everyone feels safe, respected and valued. Council promotes and protects the rights, interests and wellbeing of children and young people within our local government area, particularly those most vulnerable.

Council supports the rights of children and young people and will act without hesitation to ensure a safe and caring environment is maintained at all times. Council also supports the rights and well-being of our workers and encourages active participation in maintaining a secure environment for all participants, including young people who are participants in Council's workforce, such as school-based trainees, apprentices, and students on work experience.

For positions which provide services or activities for children and young people:

- Council will ensure:
  - *Working with Children Blue Card* checks of employees are done as required; and
  - procedures are in place to manage any risks of harm to children and young people by Council employees.
- Workplace supervisors of young employees or students on work experience are not required to have a *Working with Children Blue Card*.
- You are responsible for notifying your manager if your *Working with Children Blue Card* lapses or is cancelled.

#### **Torres Strait Island Regional Council employees will:**

- follow organisational policy and guidelines for the safety of children, as outlined in this Code of Conduct and working with children guidelines, as well as all relevant local, state and national laws pertaining to working with children and young people;
- treat everyone with respect and honesty (this includes employees, volunteers, students, children, young people and parents);
- be respectful of children's rights, background, culture, religion, politics and beliefs;
- set clear boundaries about appropriate behaviour to children in the organisation and community;
- always have another adult present or in sight when working with, or in proximity to, children\*;
- conduct themselves in a manner consistent with their position as a positive role model to children, and as a representative of Torres Strait Island Regional Council;
- report and act on any breaches of these standards of behaviour;
- where a child discloses harm to an employee, or where an employee has a suspicion of harm, the employee must report this to Child Safety Qld.

#### **Torres Strait Island Regional Council employees will not:**

- become involved in inappropriate conversations of a sexual nature, make sexually suggestive comments or expose children and young people to the sexual behaviour of others;
- initiate unnecessary physical conduct with children or do things of a personal nature that children can do for themselves;
- personally correspond (including email and/or mobile phone) with a child or young person in respect of personal feelings for a child or young person;
- spend inappropriate time with a child or young person or show special favours.

Where an incident involves a young person who is a participant in Council's workforce, a senior workplace manager will make immediate contact with the young person's parent or guardian.

Suspected breaches of this Code will be treated individually and all relevant circumstances will be taken into account. Suspected breaches will be treated in line with the Managing Underperformance Procedure. Depending on the severity of the breach, formal disciplinary proceedings might be taken. Matters may be referred to the Crime and Corruption Commission as necessary.

## **4.2. THE SECOND PRINCIPLE - Promoting the public good**

### **a) Ethics value**

In recognition that the public sector is the mechanism through which the elected representatives deliver programs and services for the benefit of the people of Queensland, public sector entities and public officials:

- accept and value their duty to be responsive to both the requirements of government and to the public interest;
- accept and value their duty to engage the community in developing and effecting official public sector priorities, policies and decisions;
- accept and value their duty to manage public resources effectively, efficiently and economically;
- value and seek to achieve excellence in service delivery; and
- value and seek to achieve enhanced integration of services to better service clients.

### **b) Standards of conduct**

#### **(i) Using Council assets**

Council's assets include property (physical and intellectual property), plant, equipment, IT & Communication assets, goods, products and valuables (this includes surplus material, waste material, and off-cuts). All employees share the responsibility for looking after them.

If you are in charge of assets you must take good care of them while they are in your possession or use, and ensure they are used economically and efficiently. It is an offence to unlawfully destroy or damage property of Council or to misuse, or allow anyone else to misuse, Council assets. You must make sure assets are secured against theft and properly stored, maintained and repaired.

You must abide by Council's security procedures and rules for accessing Council's assets.

You must not allow anyone else unauthorised access to Council assets.

You must ensure that you use Council assets only for official Council business unless written approval has been granted by your manager.

You are not to access or disclose any information about customers unless you are carrying out official Council business.

If you use a Council vehicle, you must not use it for private or non-official purposes, unless those circumstances are specifically allowed by Council or you have prior written approval from your manager.

When you leave Council, you must return any Council assets you have on loan and all work-related documents.

## **(ii) Using Council's IT & Communication assets**

Any file stored on, or information accessed using Council's IT & Communication assets, is discoverable by Council. All devices (including personal IT & Communication devices) or systems connected to Council's corporate IT & Communication network may be subject to scrutiny.

- You can use Council's IT & Communication assets for:
  - accessing data, information, websites, etc. for official purposes and as necessary where it supports or informs the work you do;
  - limited personal use, providing you comply with Council's rules and guidelines about acceptable use of ICT and social media. Limited personal use means use that is infrequent and brief, and is performed during your non-paid time, that is, before and after work and during lunch breaks. Refer Definitions, Section 4 for more information.
- You can use Council's telephones for messaging and making local calls that you cannot make conveniently outside working hours on a reasonable basis.
- You must not use Council's IT & Communication assets to:
  - store large quantities of personal data or photos or non-work documents;
  - download, stream or store music, movies, video clips, pictures, or other material not associated with your work;
  - make unauthorised copies of software, music, videos, games, etc;
  - introduce, download or use unauthorised software;
  - connect any personal ICT device to Council's corporate ICT network, e.g. iPods, cameras, USB thumb drives, without prior approval from Information Technology Services (ITS). When plugging in a personal ICT device to charge, employees are responsible for ensuring that Council's ICT assets are in no way placed at risk.
  - access or circulate inappropriate material.
- If you telecommute or work from a remote location, you must use an authorised secure means to access Council's ICT network.
- You must not download or store Council's electronic files in an unauthorised location, e.g. on a home computer, personal USB memory stick, personal ICT device.
- You must adhere to Council's security requirements and not attempt to bypass or modify any restriction or security measure put in place by Council or third parties.

## **(iii) Public money**

You must maintain high standards of accountability if you collect and use public money. You are not to borrow or use Council money for private purposes. This also applies to items such as corporate credit cards and cab-charge cards.

## **(iv) Intellectual property**



You must obtain written approval before arranging to publish or disclose any articles or materials you produced as part of your official duties. Any original work, invention or product you contributed to in association with your work remains Council property.

Similarly, you must not publish or disclose any matters relating to Council's intellectual property without appropriate authority.

This does not stop you from sharing with other organisations information relating to your official duties. However, if you do, you must make sure you do not breach the confidentiality of Council information, its employees or its clients, or compromise Council's intellectual property rights.

You must also respect the intellectual property rights of individuals and organisations outside Council. For example, you must not copy, quote or reproduce their work unless they have given you permission to do so. Where you make reference to the work of others, you must cite or acknowledge the source.

You must not infringe Copyright Law, including the intellectual property, of any individual or organisation. For example, you must not store or copy audio, video or image files, printed media and software without appropriate license or approval on Council assets.

#### **(v) Customer service**

All Council employees are energised and proud to serve our communities. We are a trusted Council and take responsibility to deliver on promises, while treating members of the public with honesty, fairness, sensitivity and dignity.

At Council, we are one team working together to provide seamless service, it is important to know there is support available if you are unsure of how to deal with difficult situations and difficult people.

We value customer feedback. It is important to make all reasonable efforts to help customers lodge complaints. If you think a situation is threatening or intimidating, you are entitled to withdraw. If in doubt, ask for help from a more experienced colleague, or a team leader/supervisor.

Council will support any employee who believes they are under threat from a member of the public.

#### **(vi) Concern for the environment**

We all share the responsibility to protect our natural environment, creating healthy surroundings for our community, and for managing the impacts of air, water, land and noise pollution. This includes individual responsibility for our own actions (e.g. taking care in disposing of waste and using and storing chemicals, reducing energy consumption and waste in our workspaces where we can, and applying high standards for environmental protection across the region).

#### **(vii) Community engagement**

Council's Corporate Plan 2020-2025 strongly articulates Council's intent to engage the community on major issues affecting the future of the region and activities that have significant impacts on the environment.

It is essential that Council has a consistent approach to community engagement and that it uses effective engagement practices. Any engagement undertaken by Council needs to be conducted in a meaningful way so that the community is clear about what it is able to

influence and knows that its interests have been considered in planning processes. Wherever possible, you are expected to provide community members with feedback on how their input has influenced Council's decisions. This will help to increase their trust in Council generally and maintain their involvement in future Council engagement activities.

Council is committed to developing a Community Engagement framework and guidelines for consistent and effective engagement practices. You are expected to comply with these when engaging with the community to augment Council's decision-making processes and to ensure that decisions are made in the public interest.

**(viii) Working with other government agencies\***

Torres Strait Island Regional Council aims to conduct its business with the best interests of the organisation and the community it serves. Building effective formal partnerships and leveraging informal networks with other government agencies\*, community and industry stakeholders are crucial to achieving our Corporate Plan 2020-2025. Below is a set of guidelines Council officers can refer to when undertaking their duties in dealing with Federal Government, State Government and other government agencies.

- 1) Council officers' work must first and foremost represent the interests and contribute to the achievement of Torres Strait Island Regional Council's strategic goals. As a Council official, you must carry out your duties with the best interests of Torres Strait Island Regional Council in mind.
- 2) You must obtain approval from your manager and/or relevant Executive before dealing with other government agencies\* on significant matters. These matters include:
  - entering into formal agreements;
  - advising on Council's strategic position that has not been formally adopted by full Council;
  - dealing with significant operational matters;\*\* and/or
  - sharing or disclosing Council information that is commercial-in-confidence and/or not publicly available.

These principles do not cover every situation and Council officers are advised to seek guidance from their supervisors when dealing with a particular issue or operational matter of which they may be uncertain.

\*Government agencies include other Local, State, Federal Governments, government-owned corporations, statutory authorities and other public bodies.

\*\*Examples of significant operational matters include (but are not limited to) core services that relate to Council's statutory obligations, capital projects above \$200,000 and services that have high community usage and/or are of significant public interest.



### 4.3. THE THIRD PRINCIPLE - Commitment to the system of government

#### a) Ethics value

In recognition that public sector has a duty to uphold the system of government and the laws of the State, Commonwealth and local government, public sector entities and public officials:

- accept and value their duty to uphold the system of government and the laws of the State, the Commonwealth and local government;
- are committed to effecting official public sector priorities, policies and decisions professionally and impartially; and
- accept and value their duty to operate within the framework of Ministerial responsibility to government, the Parliament and the community.

This does not limit the responsibility of a public sector entity or public official to act independently of government if the independence of the agency, entity or official is required by legislation or government policy or is a customary feature of the work of the entity or official.

#### b) Standards of conduct

##### (i) Acting within the law

As an employee of Council, you are expected to comply with:

- this Code of Conduct;
- Council's corporate rules, which include policies, procedures and guidelines;
- all relevant State and Commonwealth legislation; and
- specific legislation relating to your employment.

All employees of Council have the following responsibilities:

- (a) implementing the policies and priorities of the council in a way that promotes:
  - (i) the effective, efficient and economical management of public resources; and
  - (ii) excellence in service delivery; and
  - (iii) continual improvement;
- (b) carrying out their duties in a way that ensures the council:
  - (i) discharges its responsibilities under this Act; and
  - (ii) complies with all laws that apply to the council; and
  - (iii) achieves its corporate plan;
- (c) providing sound and impartial advice to the council;
- (d) carrying out their duties impartially and with integrity;
- (e) ensuring their personal conduct does not reflect adversely on the reputation of the council;
- (f) improving all aspects of their work performance;
- (g) observing all laws relating to their employment;
- (h) observing the ethics principles under the Public Sector Ethics Act 1994, section 4;
- (i) complying with a code of conduct under the Public Sector Ethics Act 1994.

You have the right and responsibility to respectfully question how you do your work, particularly if you think there is an imminent risk to the safety of yourself or others, or there is a better way of doing something, or if you think that a direction may be in breach of the law. When you have recorded your suggestion or concern you are required to work as directed by your supervisor, except where there is an imminent risk to safety. If the matter cannot be resolved within the workgroup, it should be immediately referred to your manager.

If you are charged, or about to be charged, in respect of:

- a summary offence relating to your employment with Council; or

- an indictable offence, whether or not that offence relates to your employment with Council,  
you must immediately report the circumstances to your divisional or executive manager.

You are responsible for advising your divisional or executive manager of the outcome of any such proceedings.

If you uncover evidence or have reasonable suspicion there is corrupt conduct, you must notify your divisional or Manager Risk and Ethics at the earliest opportunity.

#### **(ii) Raising concerns**

You have the right to comment on or raise concerns about Council policies or practices where they impact on your employment. However, you must do this in a reasonable, constructive way and take responsibility for your comments and views. You are required to comply with any lawful management direction, except where there is an imminent risk to safety.

When raising complaints or grievances, employees are expected to act with honesty and in good faith. Complaints that are considered vexatious or frivolous will not be progressed, and the employee will be managed in accordance with the Managing Underperformance Procedure and procedures dealing with vexatious and frivolous complaints.

#### **(iii) Handling information**

You must respect the copyrights, trademarks and patents of your suppliers. You must not reproduce or quote suppliers' material unless your license specifically allows it. See sections 5.2 (b) (ii) and 5.4 (b) (iii) of this Code.

You must not release information that you know, or should reasonably know, is information that:

- (a) is confidential to Council; and
- (b) Council wishes to keep confidential.

This obligation survives after you leave Council's employment or your contract for services ends.

#### **(iv) Advice given to elected officials**

Council must give Councillors advice that is thorough, responsive and unbiased so that Councillors can make decisions and carry out their community responsibilities. If you are unsure on how to respond to a Councillor, refer to Council's Acceptable Requests & Communication Protocol Policy, or discuss this with your team leader/manager.

If you believe there is conflict between a request from an elected official and Council policies, discuss this with your team leader/supervisor.

### **4.4. THE FOURTH PRINCIPLE - Accountability and transparency**

#### **a) Ethics value**

In recognition that public trust in public office requires high standards of public administration, public sector entities and public officials:

- are committed to exercising proper diligence, care and attention;
- are committed to using public resources in an effective and accountable way;
- are committed to managing information as openly as practicable within the legal framework; and
- value and seek to achieve high standards of public administration;
- value and seek to innovate and continuously improve performance; and

- value and seek to operate within a framework of mutual obligation and shared responsibility between public sector entities and public officials.

## **b) Standards of conduct**

### **(i) Diligence, care and attention**

Council aims to conduct its business with integrity, honesty and fairness, and to achieve the highest standards in service delivery. You contribute to this aim by carrying out your duties honestly, responsibly, in a conscientious manner, and to the best of your ability. This includes:

- giving priority to official duties over personal activities during work time;
- helping Council achieve its mission and goals by acting to improve systems and practices;
- conducting yourself in a way so others gain confidence and trust in the way Council does business;
- not allowing your conduct to distract or prevent others from working;
- not exposing Council to a judgment for damages against it, as a result of your negligence or breach of any law or ordinance;
- ensuring that you carry out your work diligently, accurately, and to the required performance standards and timeframes;
- proactively seeking assistance if you are experiencing difficulties with your work; and
- ensuring your personal conduct does not reflect adversely on Council's reputation.

If you are responsible for managing or supervising others, you must also ensure that:

- you model the values and principles outlined in this Code, and ensure that employees within your area of responsibility understand and comply with the Code;
- you do not come under a financial obligation to any employee you supervise or manage;
- your work and the work of those you supervise contributes to the achievement of Council's goals;
- employee performance is monitored and individuals are given constructive and regular feedback on their performance in line with procedures;
- where practicable, employees are given training opportunities to assist them in developing their careers;
- workloads are fairly distributed;
- resourcing for a work team is neither excessive nor inadequate for the job;
- employees who collect, handle or disburse public money are properly supervised;
- employee work times, overtime, allowances and absences are correctly recorded on timesheets and pay summary reports, and time is accurately costed;
- you do not exercise your delegations until you have considered all the necessary information and you are satisfied that all legislative or procedural requirements are met; and
- appropriate action is taken if breaches of this Code occur.

### **(ii) Attendance at and absence from duty**

You are expected to follow Council employment and working arrangements, agreements and rulings on attendance at work and leave. This includes notifying your team leader/supervisor of any unscheduled absences prior to the beginning of your shift (where practicable), not being absent without approval, and accurately and truthfully recording work and leave periods.

Absence without approval and without reasonable excuse can create concerns for your safety and unproductive time for others, and may result in deductions in salary/pay for the period of absence and/or possible disciplinary action.

**(iii) Privacy and confidentiality**

Council has information about individuals, businesses and commercial issues which is private and sensitive and which could be harmful if released. Employees must only access information and records they require in the course of their Council duties. Employees must keep this information confidential at all times, and comply with Council's Privacy Policy.

You can maintain privacy by:

- taking care about discussing work matters with anyone not entitled to know such information;
- taking responsibility to safeguard confidential files and information;
- not disclosing system passwords to others;
- enforcing rules about storage of information over time; and
- referring all media enquiries to Corporate Affairs.

You must not use information acquired as a Council employee to gain (directly or indirectly) an advantage for yourself or someone else, or cause detriment to Council. This obligation survives after you leave Council's employment or your contract for services ends.

**(iv) Continuing development**

You are expected to maintain and improve your work performance and that of your work unit in the delivery of customer service. You have a continuing responsibility to maintain and enhance your skills and expertise and keep up to date the knowledge associated with your area of work. Council will assist you by providing equitable access to training and development opportunities.

**(v) Workplace health and safety**

You must take reasonable steps to ensure your own safety, health and welfare in the workplace. You also have a duty of care to both fellow employees and members of the public. This duty of care extends to both psychological and physical health and wellbeing.

We must all:

- identify hazards and manage risks to health and safety;
- perform all work safely and follow safe work practices;
- use personal protective equipment if required;
- report any incidents or hazards immediately and support investigations; and
- take corrective action to 'make safe' and implement improvements.

We must keep the workplace drug and alcohol free if we are to maintain the trust and confidence of customers and the health and safety of all employees. The use of drugs or alcohol adversely affects productivity, attendance and on-the-job safety.

You must not:

- use, possess or be impaired by the effects of illegal drugs while on duty;
- consume alcohol while on duty or in the workplace;
- come to work impaired by the effects of alcohol or drugs (refer Definitions, Section 4);
- gamble or bet on Council premises (except for authorised sweeps and tipping competitions);
- smoke in Council buildings, offices or vehicles.

**4.5. Breaches of The Code of Conduct**

A breach of the Code of Conduct damages business, public and work relationships. Any act or lack of action that contravenes the Code may be a breach of Council policies. Suspected breaches will be treated individually, and all relevant circumstances will be taken into account. Suspected breaches will be treated in line with the procedures for managing poor performance and misconduct. Depending on the severity of the breach, formal disciplinary action might be taken in accordance with the Disciplinary Procedure.

Council has identified a number of matters that are reportable matters. The following matters must be reported to the Manager, Risk and Ethics for assessment, and the Crime and Corruption Commission as necessary:

- Corrupt conduct or suspected corrupt conduct (refer Definitions, Section 4).
- Allegations that an employee has carried out official duties in a way that lacks honesty and impartiality; or breaches the community's trust; or involves an improper use of official information.
- Any action that is deemed to be a criminal offence, or an act which, if established, would reasonably warrant dismissal from Council's employment. Examples are stealing Council property or a customer's property; accepting a bribe; fraud; assault of a co-worker or customer; disclosing confidential information.

You may be suspended from duty:

- if there is suspected misconduct, including corrupt conduct;
- while an investigation is progressed;
- while charges are determined by the relevant court.

Suspension from duty will be on full pay.

Any subsequent disciplinary action will be in accordance with the Managing Underperformance Procedure.

#### **4.6. If you have a concern**

The Public Interest Disclosure Act 2010 and the Public Sector Ethics Act 1994 aim to create a work environment where public sector employees understand and maintain appropriate standards of conduct.

If you have a concern, or suspect a breach of the Code involving one or more Torres Strait Island Regional Council employees, the Public Interest Disclosure Act 2010 gives you the right and the protection to report issues using:

- internal channels (e.g. team leader, divisional or executive manager, Chief Executive Officer, Risk and Ethics Unit)
- external channels (e.g. Crime and Corruption Commission, Anti-Discrimination Commission, Queensland Ombudsman).

#### **4.7. A guide to ethical decision-making**

The following guide is designed to help you reach an ethical decision based on the relevant facts and circumstances of a situation.

Step 1: Assess the situation.

- What is your aim?
- What are the facts and circumstances?
- Does it break the law or go against Council policy?
- Is it in line with the Code's principles?
- What principles does it relate to? Why?
- Who is affected? What rights do they have?

- What are your obligations or responsibilities?

Step 2: Look at the situation from Council's viewpoint.

- As a public official, what should you do?
- What are the relevant laws, rules and guidelines?
- Who else should you consult?

Step 3: How would others see your actions?

- Would a reasonable person think you used your powers or position improperly?
- Would the public see your action or decision as honest and impartial?
- Do you face a conflict of interests?

Step 4: Consider the options.

- Ask your supervisor, team leader, manager, or any person who is able to give sound, relevant advice.
- What options and consequences are consistent with Council's values, the four Principles and your obligations?
- What are the costs and long-term consequences?
- How would the public view each option?

Step 5: Choose your course of action.

Make sure your actions are:

- within your power to take, legal and in line with policy and this Code;
- fair and able to be justified to your manager and the public;
- documented so a statement of reasons can be supplied;
- consistent with Council's mission, goals and values;
- backed by advice from Council specialists, if this is appropriate.

## **5. FURTHER ASSISTANCE**

If you read the Code and are still unsure of how it applies to you, it is important that you discuss this with your manager, team leader, divisional or executive manager. In most cases, they will be able to answer your enquiries.

If you have concerns about approaching any of these people, contact the next most senior person in your area. You might wish to contact your union representative or one of the following: [TBC]



## 6. DEFINITIONS

WORD/ABBREVIATION	DEFINITION
<b>Acceptable use</b>	See definition of Limited personal use
<b>Bullying</b>	see definition of Workplace harassment
<b>Conflict of interest</b>	<p>A conflict of interest involves a conflict between a Torres Strait Island Regional Council employee's work responsibilities and their personal or private interests. A conflict of interest can arise from either gaining a personal advantage or avoiding a personal loss. Conflicts of interest can be real (actual) or perceived (apparent). Interests can be financial, non-financial, personal, private, family or business.</p> <ul style="list-style-type: none"> <li>• <b>A real conflict of interest</b> is a conflict between the employee's duties and their private interests. <ul style="list-style-type: none"> <li>○ <i>Example:</i> Ron is on a recruitment and selection panel and his sister is applying for a position to be decided by that panel.</li> </ul> </li> <li>• <b>A perceived conflict of interest</b> is if it seems an employee's private interests could improperly influence them at work, as judged by a reasonable person. <p><i>Examples:</i></p> <ul style="list-style-type: none"> <li>○ Frida works for Council as a community grants funding program manager. On the weekend she plays tennis with the director of a community organisation applying for funding through the program Frida is managing.</li> <li>○ Jerry, who is responsible for assessing building applications, receives an application for major extensions to a house owned by an old school friend.</li> </ul> </li> <li>• <b>A financial interest</b> is when the employee could gain a personal financial benefit including having shares, receiving gifts, benefits or bribes or receiving hospitality or travel. <ul style="list-style-type: none"> <li>○ <i>Example:</i> Kim's partner owns a company which is tendering for work with Council.</li> </ul> </li> </ul> <p>(a) <b>A non-financial interest</b> is when the employee could gain a non-financial benefit such as personal recognition, offer of employment, avoidance of a penalty, or influence a Council outcome for a friend or family member.</p> <p><i>Examples:</i></p> <ul style="list-style-type: none"> <li>○ You work in the strategic procurement area and a friend asks you to keep an eye on his tender application.</li> <li>○ You work in the funding application area and you are also president of a local group applying for funding from Council.</li> <li>○ You work in the development application's area and your children's school will be affected by a new</li> </ul>

WORD/ABBREVIATION	DEFINITION
	development and the development proposal has been submitted to Council for approval.
<b>Discrimination</b>	<p>As defined in various state and federal legislation, discrimination occurs if a person treats, or proposes to treat, someone unfavourably due to a personal characteristic which is protected by law, for example their sex, relationship status, age, race.</p> <p>In some circumstances, discrimination can be considered lawful, such as where the inherent requirements of the position require certain attributes (e.g. required attributes of an arborist position may be climbing trees, carrying tools, and working at heights).</p>
<b>Corrupt conduct</b>	<p>As defined in the <i>Crime and Corruption Act 2001</i>, means the conduct of a person, regardless of whether the person holds or held an appointment, that:</p> <p>(a) adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of:</p> <ul style="list-style-type: none"> <li>(i) a unit of public administration; or</li> <li>(ii) a person holding an appointment; <b>and</b></li> </ul> <p>(b) results, or could result, directly or indirectly, in the performance of functions or the exercise of powers mentioned in paragraph (a) in a way that:</p> <ul style="list-style-type: none"> <li>(i) is not honest or is not impartial; or</li> <li>(ii) involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or</li> <li>(iii) involves a misuse of information or material acquired in or in connection with the performance of functions or the exercise of powers of a person holding an appointment; <b>and</b></li> </ul> <p>(c) is engaged in for the purpose of providing a benefit to the person or another person or causing a detriment to another person; <b>and</b></p> <p>(d) would, if proved, be:</p> <ul style="list-style-type: none"> <li>(i) a criminal offence; or</li> <li>(ii) a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.</li> </ul>
<b>IT asset</b>	May include, but not limited to, networks, computing systems, software, computers, telecommunication devices, mobile computing devices, removable media, digital or analogue recorders including DVD and video, cameras, printers, fax machines, photocopiers, scanners, media players etc. and managed or controlled by Council.
<b>Impaired by the effects of alcohol or drugs</b>	<p>Means:</p> <p>(a) For all employees:</p> <ul style="list-style-type: none"> <li>o a positive drug test result in excess of the cut-off levels specified in Australian Standard AS 4308-2008; or</li> <li>o physical or mental condition and/or behaviour which limits the employee's ability to undertake work in a safe and effective manner.</li> </ul> <p>(b) In addition to (a), for employees operating/driving heavy vehicles and buses:</p> <ul style="list-style-type: none"> <li>o a blood alcohol content greater than 0.00% (consistent</li> </ul>



WORD/ABBREVIATION	DEFINITION
	<p>with Queensland Transport Regulations).</p> <p>(c) In addition to (a), for employees driving light vehicles or operating mechanical tools or equipment:</p> <ul style="list-style-type: none"> <li>o a blood alcohol content greater than 0.05% (consistent with Queensland Transport Regulations).</li> </ul>
<b>Indictable offence</b>	As defined by the <i>Criminal Code</i> and similar legislation. It ordinarily means a criminal offence that is punishable by imprisonment for over one year. An indictable offence may be heard by a court (and jury) or may be dealt with summarily by a judge.
<b>Limited personal use</b>	<p>Means:</p> <ul style="list-style-type: none"> <li>• personal use that is infrequent and brief and is performed during the employee's non-paid time, that is before and after work and during lunch breaks. Examples of permitted personal use include online banking, bill paying, sending or receiving infrequent personal messages by email providing the content of the message does not breach this Code of Conduct.</li> <li>• acceptable personal use does not: <ul style="list-style-type: none"> <li>o interfere with the operations of the Torres Strait Island Regional Council or</li> <li>o present a possible risk to Council's reputation or</li> <li>o compromise Council's legal obligations in any way, e.g. breach of copyright, unauthorised storage of sensitive personal information or</li> <li>o involve downloading, streaming or storing music, movies, video clips, pictures or any other material not associated with your work or</li> <li>o result in a real or perceived conflict of interest between any private employment, or the operation of a personal business, and an employee's official duties or</li> <li>o involve deliberate viewing, downloading, or contributing to inappropriate material, e.g. pornography, extreme violence, racism, terrorism or any illegal activity or</li> <li>o detract from the performance of your work, e.g. online gaming, gambling, or auctions such as eBay.</li> </ul> </li> <li>• acceptable personal use does not breach this Code of Conduct, <i>Public Sector Ethics Act 1994</i> (Qld), <i>Public Service Act 1996</i> (Qld), <i>Crime and Corruption Act 2001</i> (Qld) or related State and Federal legislation and regulations.</li> </ul>
<b>Personal use</b>	Means your personal or life interests, not associated with the performance of your official duties.
<b>Public official</b>	Means an employee of Council.
<b>Public sector entity</b>	Means Council.
<b>Social media</b>	Social media is using ICT technology to share information, communicate and engage with others. Social media sites may include social networking (e.g. Facebook), micro-blogging (e.g.

WORD/ABBREVIATION	DEFINITION
	Twitter), photo and video sharing, blogs, wikis, forums, discussion boards, online social groups.
<b>Sexual harassment</b>	Is any unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature which makes a person feel offended, humiliated or intimidated, and where that reaction is reasonable in the circumstances.
<b>Summary offence</b>	Is a minor criminal offence or misdemeanour, which is dealt with summarily by a magistrate.
<b>Workplace harassment (bullying)</b>	Is repeated behaviour by a person, including the person's employer or co-worker or group of co-workers of the person, that: <ul style="list-style-type: none"> <li>• is unwelcome, unsolicited or uninvited;</li> <li>• offends, intimidates, humiliates or threatens (regardless of intent);</li> <li>• would offend, intimidate, humiliate or threaten a reasonable person if it happened to them.</li> </ul>
<b>Young People</b>	People who are under the age of 18 years.

## POLICY STATEMENT

- (a) ~~Council is committed to being an employer of choice by maintaining industry parity in relation to the development, management and support of human resources.~~
- (b) ~~Council, local government employees, Councillors, contractors and agents of Council shall conduct themselves strictly in accordance with the *Local Government Principles* set out in section 4(2) of the *Local Government Act 2009* (Qld) and the *Ethics Principles* set out in section 4(2) of the *Public Sector Ethics Act 1994* (Qld), namely:~~
  - (i) ~~transparent and effective processes and decision making in the public interest;~~
  - (ii) ~~sustainable development and management of assets and infrastructure and delivery of effective services;~~
  - (iii) ~~democratic representation, social inclusion and meaningful community engagement;~~
  - (iv) ~~good governance of and by, local government;~~
  - (v) ~~ethical and legal behaviour of Councillors and local government employees;~~
  - (vi) ~~integrity and impartiality;~~
  - (vii) ~~promoting the public good;~~
  - (viii) ~~commitment to the system of government; and (ix)~~  
~~— accountability and transparency.~~
- (c) ~~Council shall maintain open and transparent internal and external complaints management processes, enabling continuous review of the conduct of Council, its employees, contractors and agents.~~
- (d) ~~A failure of a local government employee, Councillor, contractor or agent to conduct oneself strictly in accordance with the *Local Government Principles* and *Ethics Principles* shall be thoroughly investigated by Council and if proven, met with appropriate disciplinary action as available under Council Policy, Procedure and/or Regulation, including but not limited to mandatory reporting to regulatory bodies [eg. the Queensland Crime and Corruption Commission or the Chief Executive Officer of the Department of Infrastructure, Local Government and Planning].~~

## 1. SCOPE

~~This Code applies to all employees, Councillors, contractors, consultants, agents and assigns of Torres Strait Island Regional Council.~~

## 2. DEFINITIONS

~~CCC means Crime and Corruption Commission~~

~~CEO means Chief Executive Officer of Torres Strait Island Regional Council~~

~~Code means this Code of Conduct~~

~~Council means Torres Strait Island Regional Council~~

~~Functional Manager means:~~

- ~~a) for all employees, contractors, consultants, agents and assigns — Manager responsible for each functional area as identified in Council's organisational structure~~
- ~~b) for Councillors — Executive Manager Corporate Services or Chief Executive Officer~~

~~Officers mean all employees, Councillors, contractors, consultants, agents and assigns of Council or engaged by Council to perform duties~~

## 3. IMPLEMENTATION

- ~~a) Matters relating to the interpretation of this Procedure should be raised with the Functional Manager in the first instance.~~
- ~~b) The Chief Executive Officer (CEO) may review any interpretation as relevant.~~

## 4. PURPOSE

~~The object of this Code is to assist officers to:~~

- ~~a) Ensure high standards of workplace behaviour that support a safe working environment and positive working relationships with all parties.~~
- ~~b) Meet Council's objectives and legal requirements.~~

- c) ~~Comply with their statutory duty to act honestly and exercise due diligence and a high degree of care.~~
- d) ~~Provide a guide to identifying and resolving situations which could result in:~~
  - ~~(ii) — conflicts of interest — material personal interests~~
  - ~~(iii) — impropriety~~
  - ~~(iv) improper use of their positions~~
  - ~~(v) improper use of resources of Council~~
  - ~~(vi) acting in ways which diminish both public perception and confidence in the administration and system of Local Government~~

## 5. **CONFLICT OF INTEREST**

~~A Conflict of Interest (including Material Personal Interest) occurs when an officer's personal interests are, or are perceived by others reasonably to be, in conflict with the Council's and community's interests. When there is a conflict, it may influence the outcome of the decisions they are required to make.~~

### **A. CONFLICT OF INTEREST PROCEDURE**

- a) ~~Council is required to manage the processes of resolving all conflicts of interest, including those conflicts of interest that should have been, but have not been disclosed.~~
- b) ~~The processes used by Council for managing conflicts of interest must be transparent, open to scrutiny and accountable.~~
- c) ~~Council will ensure that all its officers are made aware of the Conflict of Interest Procedure by requiring them to complete a Take 5 training exercise on the Procedure.~~
- d) ~~If an officer believes they have a potential, perceived, apparent and/or actual conflict of interest they are obliged to declare the conflict of interest. Conflicts of Interest should be declared or recorded in writing to the Functional Manager. The officer may use the Declaration of Interest form in Appendix 1 to declare a Conflict of Interest.~~
- e) ~~When a Councillor or employee declares an actual, potential, perceived and/or apparent Conflict of Interest at a Council Meeting, the disclosure should be recorded in the Meeting Minutes in accordance with Council's Meeting Handbook.~~

- f) ~~If an officer is of the understanding that another officer may have a conflict of interest, they may raise it directly with the officer, with the Executive Manager Corporate Services or with the CEO.~~
- g) ~~Council must maintain records of conflicts of interest that detail:~~
- ~~(ii) all notifications of conflicts of interest;~~
  - ~~(iii) any reported cases of failure to disclose;~~
  - ~~(iv) disclosure by others (e.g. officer or member of the public);~~
  - ~~(v) vexatious or trivial claims;~~
  - ~~(vi) assessment of the matter;~~
  - ~~(vii) any action taken; and~~
  - ~~(viii) any reviews of the assessment process.~~
- h) ~~The notification for conflicts of interest should include:~~
- ~~(ii) the person's name, position, phone number and address;~~
  - ~~(iii) details of the nature of the Conflict of Interest (perceived, apparent, potential or actual);~~
  - ~~(iv) date of notification; and~~
  - ~~(v) suggested course of action to deal with and resolve the conflict of interest.~~
- i) ~~When Council is determining the best option to address the conflict of interest, Council will ensure the process includes impartiality, fairness and protection of Council's interests.~~
- j) ~~Actions taken by Council may include:~~
- ~~(ii) limiting the person's involvement in the matter (e.g. participation in discussion but not decision making);~~
  - ~~(iii) the person having no involvement in the decision making or participation in discussion in the matter (e.g. excluding the person from receiving communications in any form or from taking part in discussions and decisions); and~~
  - ~~(iv) removing the source of conflict.~~
- k) ~~Councillors declaring a Conflict of Interest may refer decisions for recommendation, endorsement or approval to other decision makers:~~

<b>Conflicted Party</b>	<b>Alternative Approver</b>
<b>Mayor</b>	Deputy Mayor/ CEO

Councillor

Mayor

## 6. ETHICS

The following ethics principles must be observed by all officers:

- a) **Respect for the Law and the System of Government** — Officers shall uphold the laws of Queensland and Australia and shall not, without just cause, be a party to their breach, evasion or subversion.

Officers shall act with respect towards the institutions of both Parliament and Local Government. Officers shall ensure that their conduct, whether in a personal or official capacity, does not bring the Parliament or Local Government into disrepute or damage public confidence in the System of Government.

Responsibility	Standards of conduct
<i>Respect for the Law and the System of Government</i>	<ul style="list-style-type: none"> <li>Officers shall always abide by the Law and the System of Government.</li> <li>Officers will not engage in negative comment or behaviour that will bring disrepute or damage to the Law and the System of Government to internal or external parties. Officers shall proactively support and implement any policy or decision</li> </ul>
	<p>adopted by Council.</p> <ul style="list-style-type: none"> <li>Officers shall not engage in negative comment regarding any policy or decisions adopted by Council other than through the internal feedback mechanisms.</li> </ul>

- b) **Respect for persons** — Officers shall treat other officers, Council representatives, other officials and members of the public honestly and fairly and with proper regard for their rights, entitlements, duties and obligations.

Officers shall at all times act responsibly in the performance of their public duties.

Officers shall adopt an exemplary standard of conduct in respect to form and manner of communication with clients of Council irrespective of whether they are representatives of Government, the public or private sector or other Council officers.

Responsibility	Standards of conduct
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<i>Respect for persons</i>	<ul style="list-style-type: none"> <li>• Officers shall always respect other parties engaged internally or externally with Council including members of the public.</li> <li>• Officers shall not engage in negative or defamatory comment about the behaviour, actions or activities of other parties engaged with Council or members of the public.</li> <li>• Officers shall support and be helpful to other parties in their efforts to achieve Council objectives.</li> <li>• Officers will not comment on the decisions or activities of other personnel in other departments to other officers other than their Functional Manager.</li> <li>• Officers are not to interrupt other officers performing their duties through gossiping.</li> </ul>
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- c) **Integrity** – Officers shall at all times seek to advance the common good of the community which they serve, in recognition that public office involves a public trust.

In particular, officers shall ensure that their official powers or position are not used improperly for personal advantage. Officers shall ensure that any conflict between personal interests and public duty which may arise is resolved in favour of the public interest.

Responsibility	Standards of conduct
<i>Integrity</i>	<ul style="list-style-type: none"> <li>• Officers shall declare any conflict of interest that may affect the interactions or the decision making of Council.</li> <li>• Officers shall maintain the highest standard of work performance at all times.</li> <li>• Officers shall not use their power within their role or at Council to disadvantage another party or for their own personal gain.</li> <li>• Officers shall not use their role or political power to incorrectly intimidate, discriminate or harass another person.</li> </ul>
<i>Bribes, gifts and benefits</i>  <i>Refer to TSIRC Gift Procedure</i>	<ul style="list-style-type: none"> <li>• Officers will not seek or accept a bribe or other improper inducement.</li> <li>• Officers will not use their official position to gain advantage or to improperly influence Councillors, other officers or delegates in the performance of either their public or professional duties for the purpose of private gain or personal benefit.</li> <li>• Officers will not accept gifts or services other than minor incidental items in the course of their duties.</li> <li>• Officers will not, by virtue of their official positions, accept or acquire a personal profit or advantage of a personal material value (except of a token nature) other than permitted by this Code or any statute or Council procedure now or in the future.</li> </ul>



<i>Use of Council resources</i>	<ul style="list-style-type: none"> <li>• Officers must not use public resources for private purposes (except when supplied as part of a contract of employment) unless such use is lawfully authorised and/or proper payment is made where appropriate.</li> <li>• Officers must not use or convert to their own use any property of Council.</li> <li>• Officers must be scrupulously honest in the use of Council resources of all kinds, both physical and human and in accordance with any Council policy, award or other recognised work practice.</li> </ul>
<i>Use of information</i>	<ul style="list-style-type: none"> <li>• Officers will not advance a private interest by the use of confidential information gained in the course of public or professional duty.</li> <li>• Officers will only conduct their duties in a manner that allows Council members, other officers, delegates and the public to remain informed about Local Government, activity and practices.</li> <li>• Officers will treat confidential reports and confidential discussions of committees and Council with the strictest confidence.</li> <li>• Officers receiving confidential personnel actions or information shall treat this information with the strictest confidence.</li> </ul>

- d) **Diligence** — Officers shall exercise due diligence, care and attention and shall at all times seek to achieve the highest standards practicable in relation to their duties and responsibilities in their official capacity as officers of Local Government.

RESPONSIBILITY STANDARDS OF CONDUCT	
<i>Diligence</i>	<ul style="list-style-type: none"> <li>• Officers shall maintain the highest standard of work performance at all times.</li> <li>• Officers are to aim for continuous improvement within their own duties and within the organisation.</li> </ul>

- e) **Economy and efficiency** — Officers shall avoid waste, abuse and extravagance in the provision or use of public resources and shall expose fraud and corruption of which the officer is aware.

Responsibility	Standards of conduct
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<p><i>Economy and Efficiency</i></p> <p><i>Refer to TSIRC Fraud and Corruption Control Procedure</i></p>	<ul style="list-style-type: none"> <li>• Officers shall only exercise decision-making, supervision and financial activities as delegated within their position by their department Manager and as outlined in their position descriptions.</li> <li>• Officers shall manage their duties in order to maximise productivity and minimise downtime and reliance on other officers to complete departmental goals (within the responsibilities of their position descriptions).</li> <li>• Officers shall report any wastage and abuse of resources to their Functional Manager.</li> <li>• Officers shall report any fraud or corruption to the Chief Executive Officer in accordance with Council's Fraud and Corruption Control Procedure.</li> </ul>
<p><i>Use of Council resources</i></p>	<ul style="list-style-type: none"> <li>• Officers must avoid waste or extravagance in the use of public resources.</li> </ul>

## 7. BREACHES AND NON-COMPLIANCE

Alleged breaches or failure to comply with the Code of Conduct will be dealt with in accordance with the Human Resource Handbook (or under Regulation for Councillors) and within the following guidelines:

- a) Questions of compliance raised by Council members, other officers or the community regarding the Code will be considered by the CEO or CEO's nominee.
- b) Officers are entitled to representation in the consideration of a question of non-compliance against them. Investigation and management of the matter will have regard to the principles of fairness, equity and natural justice.
- c) Investigations undertaken regarding compliance with the Code will be kept confidential. The CEO has responsibility for ensuring that compliance with the Code occurs.
- d) If a question of compliance with the Code is raised by the CEO, the Mayor will determine with Council the manner in which to address the matter.
- e) Where Council or the Mayor or a committee of Council addresses the matter, principles of fairness, equity and natural justice will apply and the matter will be handled confidentially.
- f) If the CEO reasonably suspects that a matter involves, or may involve, corrupt conduct (as defined in the Complaint Management Procedure), the Chief

~~Executive Officer has an obligation to notify the Crime and Corruption Commission.~~

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# EQUAL EMPLOYMENT OPPORTUNITY POLICY

<b>Responsible Manager</b>	Head of People and Wellbeing
<b>Head of power</b>	<i>Local Government Act 2009 (Qld)</i> <i>Local Government Regulation 2012 (Qld)</i> <i>Public Service Act 2008</i> <i>Industrial Relations Act 1999</i> <i>Anti-Discrimination Act 1991</i> <i>Sex Discrimination Act 1984</i> <i>Racial Discrimination Act 1975 (Cth)</i> <i>Disability Discrimination Act 1992 (Cth)</i> <i>Human Rights and Equal Opportunity Act 1986 (Cth)</i> <i>Public Sector Ethics Act 1994</i>
<b>Authorised by</b>	Council
<b>Authorised on</b>	TBC 2021
<b>Implemented from</b>	TBC 2021
<b>Last reviewed</b>	March 2021
<b>Review history</b>	2013, 2014, 2017, 2018, 2021
<b>To be reviewed on</b>	March 2024

GOVERNANCE TO ADD HEADER

**Corporate Plan**

People, Sustainability and Prosperity

## 1. PURPOSE

The Equal Employment Opportunity Policy (and Procedure) aims to ensure all employees are treated on their merits, without regard to race, age sex, relationship status or any other factor. This Policy is designed to ensure that Torres Strait Island Regional Council complies with all of its obligations under the relevant legislation.

## 2. POLICY STATEMENT

Torres Strait Island Regional Council (TSIRC) is committed to creating a work environment which is free from discrimination and sexual harassment and where all members of staff are treated with dignity, courtesy and respect.

TSIRC is an equal opportunity employer. At all stages of the employment relationship (recruitment and selection, terms and conditions of work, training and professional development opportunities, promotion and transfer, retirement, retrenchment and termination) staff will be treated on their merits and valued according to how well they perform their duties.

Council is committed to the principle of Equal Employment Opportunity (EEO) and will not discriminate in matters of recruitment, selection or career progression on the basis of any distinction, exclusion, or preference having regard to a person's gender, marital status, pregnancy, parental status, sexual orientation, race, impairment, age, religion, trade union activity or political opinion.

~~Employees are treated on their merits at every stage of their employment – from the recruitment and interview process through to their daily duties, promotion, training and development opportunities, and their resignation, retrenchment or redundancy.~~

TSIRC believes that all staff should be able to work in an environment free from discrimination, victimisation, sexual harassment, vilification and the seeking of unnecessary information on which discrimination might be based. We consider these behaviours unacceptable and they will not be tolerated.

Staff who make a complaint of discrimination or sexual harassment will not suffer any victimisation by CYP for making the complaint. This also applies to staff who agree to be a witness in a complaint or have a complaint made against them.

TSIRC will provide regular staff training on discrimination and sexual harassment, and have procedures for complaints.

Further, TSIRC is committed to the attraction, recruitment, development and retention of local, First Nations people

**Disciplinary action** will be taken by TSIRC against any staff member found to have breached this policy. Action will be appropriate to the breach and may include: an official warning and note on the person's personnel file; a formal apology; counselling; demotion, transfer, suspension; or dismissal for very serious matters.

## 3. SCOPE

This Policy applies to all local government employees, Councillors and contractors.

## AUTHORISATION

This page and the previous bearing my initials was/were duly authorised by Council as the Torres Strait Island Regional Council ???????? Policy (PO?) on [INSERT DATE] and shall hereby

supersede any previous policies of the same intent.

---

**????????David Baldwin**

**Chief Executive Officer**

**Date:** \_\_\_\_\_

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# RECRUITMENT POLICY

**Responsible Manager** Head of People and Wellbeing

**Head of power** ~~Industrial Relations Bill 2016 (Qld)~~  
~~Local Government Act 2009 (Qld)~~  
~~Local Government Regulation 2012 (Qld)~~  
~~Industrial Relations Act 1999~~  
~~Human Rights and Equal Opportunity Act 1986 (Cth)~~  
~~Public Sector Ethics Act 1994~~

**Authorised by** Council

**Authorised on** TBC 2021

**Implemented from** TBC 2021

**Last reviewed** March 2021

**Review history** 2017, 2018

**To be reviewed on** March 2024

**Corporate Plan** ~~Governance~~  
~~People, Sustainability and Prosperity~~



## 1. PURPOSE

The purpose of the Recruitment Policy aims to ensure Torres Strait Island Regional Council (TSIRC) achieves best practice associated with the recruitment and selection of employees and to comply with procedural fairness and, equal employment opportunity principles and practices.

The associated Recruitment Procedure also provides guidance to ensure that TSIRC attracts and selects employees of the highest calibre in an efficient and effective manner.

In addition, this policy is designed as an effective child focused procedure in order to ascertain a person's suitability to work with children where required.

## 2. POLICY STATEMENT

- ~~a) This Policy is to ensure that Torres Strait Island Regional Council follows a transparent and unbiased recruitment and selection process. All recruitment and selection procedures and decisions will reflect Council's commitment to providing equal employment opportunities by assessing all potential candidates according to their skills, knowledge, qualifications and capabilities.~~
- ~~b) Council will internally advertise all vacant positions to current employees to encourage career advancement and increase participation.~~
- ~~c) Council is committed to providing a work environment that is free from harassment and discrimination.~~
- ~~d)a) Council respects and complies with its obligations under the privacy legislation. As such, any applicant information will be treated in accordance with the requirements of the Information Privacy Act 2009.~~

People are any organisation's single most important asset and their attraction and retention are critical to success. Likewise, enduring leadership and organisational performance is dependent on successful succession planning and implementation. TSIRC is therefore very committed to the pursuit of these objectives.

TSIRC is committed to providing high quality programs and services to our community. To support the achievement of this objective we recognise the importance of employing the most suitable applicant for all vacant positions.

TSIRC will ensure it has the best opportunity to attract the best available staff by broadly advertising (internally and externally as deemed appropriate) all vacant remunerated positions. TSIRC will internally advertise all vacant positions to current staff to encourage career advancement and increase participation.

TSIRC will take all reasonable steps to ensure that applicants may be safely entrusted with the duties of their position.

TSIRC is committed to providing a work environment that is free from harassment and discrimination.

All recruitment and selection procedures and decisions will reflect TSIRC's commitment to providing equal opportunity by assessing all potential candidates according to their skills, knowledge, qualifications and capabilities. No regard will be given to factors such as age, gender, marital status, race, religion, physical impairment or political opinions.

TSIRC is an Indigenous organisation and is committed to maintaining a high percentage of Indigenous employees and in seeking to achieve these objectives, it is our policy to strike a balance between merit-based attraction and retention, and indigeneity. In this regard, our policy is as follows:

- If two candidates are assessed as being of equal quality and one is indigenous and the other non-indigenous, preference will be given to the indigenous candidate.
- If there is an indigenous candidate whose ability to immediately perform meets TSIRC's expectations, that is to say their capacity is acceptable, and they are capable of being a high-performance employee, but there is an objectively stronger non-indigenous candidate, the former shall be offered the position.
- If the only candidate whose ability to immediately perform to TSIRC's expectations, that is to say, their capacity is acceptable, is non-indigenous, they shall be offered the position.

Where possible when TSIRC advertises for any position, it will be recognised as 'identified' i.e. the position is identified for filling by a Torres Strait Islander or Aboriginal person, pursuant to Section 105 of the Anti-discrimination Act 1991 (Qld).

Otherwise, advertisements shall state that Torres Strait Islander applicants are encouraged to apply. With a particular focus on ensuring the progression of strong Torres Strait Island employees, TSIRC shall build a leadership talent pool to ensure leadership continuity.

To attract and retain quality employees, TSIRC will ensure that:

- The health and safety of our employees is paramount.
- A culture of innovation and quality is fostered.
- We hire well – or not at all.
- Our people are managed well to ensure directed and motivated employees.
- We pay our people competitively and reward superior performance.
- Employees are treated with respect.
- We will provide perpetual learning and challenge.
- Support processes are built to ensure the ongoing success of valued employees.
- All appointments, promotions and transfers are based on ability, knowledge, skills and experience.
- We establish a work/life culture and climate that is attractive and supportive.
- We never neglect the health and safety of our employees.
- Succession planning and opportunities for development exist and are actively pursued.

### **3. SCOPE**

This Policy applies to all Torres Strait Island Regional Council employees and Councillors.

### **AUTHORISATION**

This page and the previous bearing my initials was/were duly authorised by Council as the Torres Strait Island Regional Council ???????? Policy (PO?) on [INSERT DATE] and shall hereby supersede any previous policies of the same intent.

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???????

Chief Executive Officer

Date: \_\_\_\_\_

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# TORRES STRAIT ISLAND REGIONAL COUNCIL

## COUNCIL REPORT

<b>ORDINARY MEETING:</b>	June 2021
<b>DATE:</b>	29-30 June 2021
<b>ITEM:</b>	Agenda Item for Resolution
<b>SUBJECT:</b>	Contractual Matter - Sole Suppliers
<b>AUTHOR:</b>	Mette Nordling, Manager Governance and Compliance

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### Recommendation:

That Council resolves:

1. In accordance with section 235(a) of the *Local Government Regulation 2012*, that it is satisfied that the suppliers listed are the only suppliers reasonably able to source and provide the required goods and services and are therefore considered sole suppliers for the 2021/22 financial year.

And

2. To delegate authority to the Chief Executive Officer in accordance with the *Local Government Act 2009* to enter into contract, negotiate, finalise and execute any and all matters associated with these sole suppliers for the 2021-22 financial year.

### Executive Summary:

To meet operational requirements, it has been identified that there are a number of suppliers who are the only reasonable option from which Council can obtain goods and services in accordance with the requirements in section 235(a) of the *Local Government Regulation 2012*.

### Background:

It is a requirement of the *Local Government Regulation 2012* to invite written quotations or tenders where the carrying out of works or the supply of goods or services involves a cost greater than \$15,000 or \$200,000 respectively. Additionally, Council's Procurement Policy contains provisions regarding obtaining quotes for amounts less than \$15,000.

The Regulation acknowledges that there are instances when it will not always be possible to meet this requirement and provides a number of exceptions to manage these instances, including the following:

"The local government resolves it is satisfied that there is only one supplier who is reasonably available."

The legislative requirements for a sole supplier require a Council to prove that the supplier is the only supplier that can reasonably provide that good or service. The emphasis is on the word "reasonably" and advice from the then Department of Local Government, Racing and Multicultural Affairs is that this can be interpreted on a regional and operational basis. This means if there is only one supplier in local government area of Council and they are considered to be providing a competitive service then they can be deemed a sole supplier. The Department also states that the

purchase of goods and services from a sole source to support existing assets in an original equipment manufacturer (OEM) situation can also be deemed a sole supplier.

The commentary to section 235(a) of the *Local Government Regulation 2012* states that this section might be applied where Council wishes to upgrade a proprietary computer software program to add functionality. There is generally only one possible supplier and the calling of tenders or quotes “would be a manifest waste of time and resources”. This interpretation of the legislation has been used to support and validate the inclusion of a number of sole supplier recommendations in regard to software.

#### **Consultation:**

Internal Council Departments

#### **Links to Strategic Plans:**

This project strategically aligns to specific delivery objectives under the Sustainability pillar of Council's Corporate Plan.

#### **Finance & Risk:**

The financial risk to Council is mitigated by Council officers having assessed these products as being suitable products and the suppliers as being the only reasonable option from which Council can obtain the relevant goods and services. Pricing will also be regularly benchmarked against comparable products or suppliers to ensure commercial competitiveness.

#### **Sustainability:**

The ongoing review of who is a sole supplier will ensure that responsible financial and professional practises are utilised to maintain a sustainable framework within procurement across Council. It also ensures that Council provides sound governance and economic management in monitoring these suppliers and the marketplace.

#### **Statutory Requirements:**

*Local Government Act 2009*

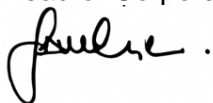
*Local Government Regulation 2012*

#### **Conclusion:**

That Council resolves that it is satisfied that these suppliers are sole suppliers and delegates to the Chief Executive Officer to enter into contract, negotiate, finalise and execute any and all matters associated with these sole suppliers for the 2020-21 financial year.


#### **Endorsed:**

Luke Ranga  
Head of Corporate Affairs



#### **Approved:**

David Baldwin  
A/Chief Executive Officer



#### **Recommended:**

Hollie Faithfull  
Chief Financial Officer



Attachment: Sole Suppliers for the 2021/22 financial year.

## Attachment

**Sole suppliers for the 2021/22 financial year**

<b>Supplier</b>	<b>Product/Service</b>
Adobe	Acrobat Pro DC and Creative Cloud Suite
Avdata	Data reporting and billing services to airports across Australia to enable collection of landing fees.
Avionics Airfield Lighting	Only company in Australia who provides the required goods and services
Badu Island Foundation	Accommodation and supply of gas - Badu
Cairns Security Monitoring	Security services in Grafton St. Supplier nominated by Landlord.
CodeTwo Exchange Rules Pro	Email and email signature management software
Endeavour Foundation	Secure document destruction
Ergon Energy	Electricity, Power Cards, Maintenance to power lines
Independent Aviation Pty Ltd	Supply of Air Transport Services
Island & Cape	Fuel - Badu
Kailag Enterprises (Lowatta Lodge)	Accommodation - Masig
M & M Mini Mart	Groceries - Hammond
Mer Gedkem Le	Accommodation - Mer
Miradore	Mobile Device Management software
Mr Gabriel Bani	Consultation service for name change
Practical Plus	Payroll system maintenance
Procore and ProEst	Construction and project management system
Smartsheet	Collaboration and Work / Project Management application (online forms etc)
St Pauls Lodge	Accommodation - St Pauls
TAFE Queensland North	Training providers
TCMStrata	Body Corporate manager for Grafton St.
TeamViewer	Remote Administration Tool
TechnologyOne	Council's core enterprise suite (document management and financial management)
Telstra	Telecommunications provider
Tom Cowles Locksmith	Only locksmith in the Torres Strait
Torres Strait Funerals	Only funeral director in the Torres Strait
Whispir	Cloud-based communication platform used in emergency situations to broadcast messages via SMS and email.



# TORRES STRAIT ISLAND REGIONAL COUNCIL

## AGENDA REPORT

<b>ORDINARY MEETING:</b>	June 2021
<b>DATE:</b>	29-30 June 2021
<b>ITEM:</b>	Agenda Item for Resolution by Council
<b>SUBJECT:</b>	Qld Local Government Mutual Assets & Liability Membership 2021-2022
<b>AUTHOR:</b>	Nerida Carr, Manager of Risk and Ethics

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### Recommendation:

Council resolves to:

- Enter a mutual arrangement as a member of Queensland Local Government Mutual (LGM Assets), effective from 30 June 2021

And

- Renew membership of Queensland Local Government Mutual (LGM Liability) per correspondence dated 1 June 2021, effective from 30 June 2021

And

- Delegate authority to the Chief Executive Officer in accordance with the *Local Government Act 2009* the power to approve, finalise and execute all matters associated with or in relation to Queensland Local Government Mutual memberships as above, including without limitation any options and/or variations.

### Executive Summary:

The purpose of this report is to present:

1. Local Government Mutual Assets scheme and supporting cover and arrangements.
2. Local Government Mutual Liability Membership Contribution Notice and supporting Liability cover arrangements for the 2021-22 financial year.

Local Government Mutual (LGM) was established by the Local Government Association of Queensland (LGAQ) in 1994. Torres Strait Island Regional Council (Council) joined the Liability Mutual in 2020-21 and has covered its Workers Compensation risks via membership of another section of LGM – Local Government Workcare - for many years.

### Background:

Local Government Mutual (LGM) was established by the Local Government Association of Queensland (LGAQ) in 1994. There are three schemes operating under the LGM banner – LGM Liability, LGM Assets and LGM Workcare – with the LGAQ acting as Trustee and JLT Public Sector

acting as Scheme Manager. Each scheme is owned by the Queensland Local Government members, acting collectively to achieve stability in cost of the various insurances required by Councils.

LGM's sole purpose is providing Queensland Councils with comprehensive cover, not otherwise available in the commercial insurance market, avoiding direct dependence on the traditional market. Members act collectively to arrange covers, manage claims and the underlying risk exposure.

Liability Insurances are required under Chapter 4, Part 3, Section 107 of the *Local Government Act 2009*. Specifics of the LGM Liability Membership arrangements along with the covers, risk management and other services available to Council are detailed in the attached LGM Liability Membership Contribution Notice 2021-22 dated 1 June 2021.

- Council re-joined LGM Liability in 2020.
- Council has been a member of LGM Workcare since at least 2011.
- LGM Assets commenced in 2015 and provides property covers as required by each individual member. In October 2019, the Indigenous Leaders Forum (ILF) passed a motion *"to direct LGM to review current and future asset insurance needs and costs with a view for a collective strategy to minimise the costs of insurance premiums"*.
- In February 2020, discussions commenced with LGM, with the aim of more sustainable options for Council for insurance, as premiums continued to rise irrespective of claims made.
- Council's Chief Executive Officer, Chief Financial Officer and Manager Risk and Assets met with the LGAQ and LGM to determine the next steps. The CEO gave authority for LGM Assets to engage with insurance markets on behalf of Council to seek pricing and terms. We continued to pursue pricing for property insurance via brokers (AON) for the 2020-21 financial year and worked towards joining LGM Assets from the 2021-22 financial year.
- Council engaged with LGM Liabilities to secure membership of that scheme and related insurance cover for the 2020-21 financial year. AON later recommended that we do so, due to difficulties they were having securing cover.

Council's annual contribution to LGM Liability is not a contract of indemnity as is the case with commercial insurance policies. It is a contribution by a member to a discretionary trust held for its benefit, not a contract. While the default contracting provisions (contained in Chapter 6, Part 3 of the *Local Government Regulation 2012*) are quite specific in that they require Councils to tender for certain contracts, Members' contributions do not constitute a contract for the purposes of the legislation.

## **Comment:**

### *LGM Assets Membership:*

Our local government area represents a unique and complex risk from a property insurance perspective. As a result, there has historically been a relatively limited number of insurers that are prepared to write these risks, all of whom are already Council's insurers. These are the same insurers that LGM Assets approached to facilitate Council's participation in the LGM Assets program for the 2021-22 financial year. Those insurers would not quote against themselves (for another program) and it is that context that the CEO signed and return a letter of appointment in favour of JLT Public Sector as the scheme manager of LGM Assets. The purpose of the letter of appointment was to confirm to our insurers that a new intermediary will be looking after the program moving forward.

Advice was that it is not possible for Council to get quotes through a broker, for example AON, as well as obtaining an offer of membership from LGM Assets. This is due to the involvement of the same insurers (in the same way) in both situations. While the same insurance companies would continue to be involved in the coming financial year as a member of LGM Assets, Council will benefit from the collective knowledge (and insights) with respect to local government risk existing within the mutual, as well as the work LGM Assets undertakes with members to better understand and improve the substantive risk exposure.



Workshops and videoconferences explaining the process have been conducted with the Elected Members, Executive, and relevant employees. External presenters included:

- JLT - Regional Risk Coordinator, Ian Barton
- LGM Assets – Divisional Manager Member Services and Assets, Nathan Turner
- LGAQ – Workforce Strategy Executive, Tony Goode and Principal Advisor Insurance Services, Rachel Lindsay.

The aim is to transition Council into an insurance structure and risk pricing mutual arrangement that is more favourable to us in the long term. An ongoing body of work on providing a more accurate profile of risk will be done in conjunction with the LGM Assets team.

Due to the delays caused by recent COVID-19 lockdown events, Council won't receive final costings for the LGM Assets Membership until 4PM AEST 30/06/21, however Council has been provided with a holding cover for the interim period. LGM have also provided an estimated increase of 7.5% for FY22, which based on Council's FY21 property insurance (Industrial Special Risk, known as ISR) being \$3,502,379, there would be a potential increase of \$262,678. It should also be noted that Council will no longer have a brokerage fee (which was \$63,000 in FY21) and is anticipating a cost reduction in the following covers:

- Contract Works (BSU)
- Group Personal Accident (Volunteers)
- MV (Fleet)
- Group Personal Accident
- Business Travel

#### *LGM Liability Membership:*

The LGM Liability suite of covers provided with 2021-22 membership include the following:

- Public Liability (including operation of airports and aerodromes)
- Products Liability
- Professional Indemnity
- Councillors and Officers Liability
- Employment Practices Liability
- Cyber Liability
- Casual Hirers Liability

A range of supplementary covers can also be arranged on behalf of members when required. Council has been able to obtain a rebate 1% on the 2021-22 membership contribution by our voluntary participation in the annual LGM Risk Self-Assessment Survey. As an ongoing member, we also benefited from a share in the \$2.45million surplus distribution declared by the LGAQ as Trustee. This is summarised below:

LGM LIABILITY MEMBERSHIP CONTRIBUTION 2021/22	
Membership Contribution	\$202,720.00
Risk Management Rebate	(\$-2,027.20)
<b>Membership Contribution Invoice (excl GST)</b>	<b>\$200,692.80</b>
GST	\$20,069.28
<b>Membership Contribution Invoice (incl GST)</b>	<b>\$220,762.08</b>
<b>Surplus Distribution</b>	<b>(\$-19,105.46)</b>
<b>FINAL AMOUNT PAYABLE (incl GST)</b>	<b>\$201,656.62</b>
<b>FINAL AMOUNT PAYABLE (excl GST)</b>	<b>\$181,587.34</b>

## **Considerations**

### Risk Management

The LGM schemes provide coverage and risk management solutions for the specific and specialised risks face by Queensland local government. Risk Management Services provided as part of LGM membership include:

- Education, guides and advice – website resources, advice broadcasts, reports and updates, which include Risk Management guides and information sheets
- Data analysis and dashboard reporting as part of claims management, including legal expertise
- Property Risk Engineering – by qualified risk engineers to assist members to improve the resilience of their assets and reduce the frequency and severity of losses

These services support Council in our journey to improve risk profiles and cost outcomes.

### Council Finance

There are future potential savings on stamp duty for assets insurance, as this is not payable on the self-insurance component of membership.

The claims and risk management services, limits of indemnity and the breadth of cover able to be secured under the LGM membership is at a cost not otherwise achievable individually by Council.

### **Consultation:**

- Internal consultation:
  - Council's Executive Leadership Team
  - Assets
  - Building Services
  - Engineering
  - Legal Services
  - Management Accounting
  - People and Wellbeing
  - Community Services
- External consultation occurred with the LGAQ, LGM's Member Services and Regional Risk Coordinator.

### **Links to Strategic Plans:**

- Corporate Plan 2020-2025: We manage Council affairs to the benefit of our communities.
- Operational Plan 2020-2021: Delivery of Insurance evaluation and cost efficiency.

### **Statutory Requirements:**

*Local Government Act 2009*

*Local Government Regulation 2012*

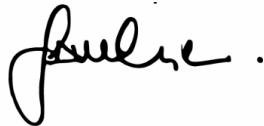
### **Conclusion:**

That Council resolves to enter a mutual arrangement as a member of Queensland Local Government Mutual (LGM Assets) and renew membership of Queensland Local Government Mutual (LGM

Liability), and delegate authority to the Chief Executive Officer in accordance with the *Local Government Act 2009*.

**Attachments:**

- LGMS Code of Practice
- LGM Liabilities Contribution Notice 2021-22



**Endorsed:**  
Luke Ranga  
Head of Corporate Affairs



**Recommended:**  
Hollie Faithfull  
Chief Financial Officer



**Approved:**  
David Baldwin  
Acting Chief Executive Officer



# TORRES STRAIT ISLAND REGIONAL COUNCIL

## AGENDA REPORT

<b>ORDINARY MEETING:</b>	June 2021
<b>DATE:</b>	28 June 2021
<b>ITEM:</b>	Agenda Item for Resolution by Council
<b>SUBJECT:</b>	Department – Housing – Policies
<b>AUTHOR:</b>	Harrison Sabatino, Manager, Housing

---

### Recommendation:

Council resolves to:

- endorse the seventeen policies attached.
- removing the following:
  - o Conflict of Interest Policy – Tenancy Management
  - o Change name of Policy from 'Succession of Tenancy' to 'Change of Tenancy'.

Note: The deleted policies have been incorporated into attached policies.

### Executive Summary:

The policies contained in this report needed review and updating due being outdated, reflecting changes internally through council and/or changes to legislation. To ensure compliance with legislation and already existing policies, all policies have been redrafted and proposed to council for implementation.

The table below shows the policies contained for implementation and removal in this report:

<b>Housing Policies</b>	
Social Housing Policy	Tenancy Breach Policy
Social Housing Application Policy	Appeals Policy
Termination of Tenancy Policy	Housing Complaint Management Policy
Allocation of Housing Policy	Notifications Policy
Rent Policy	Rent Review Policy
Home Visit Policy	Abandoned Properties Policy
Change of Tenancy Policy	Tenant Absence Policy
Tenancy Sign Up Policy	Housing Application Review Policy
Rental Debt Policy	
<b>Delete (Remove)</b>	
Conflict of Interest Policy – Tenancy management	

## **Background:**

Since endorsement of Housing Policies, there has not been any formal review to ensure legal compliance. Last review date for most documents was 2018, with minority agreed for endorsement in 2020. To-date, there has been many changes to the Residential Tenancy Authority and Residential and Rooming Act 2008 which directly impacts tenancy services carried out across the Torres Strait Region. Therefore, to ensure TSIRC provides quality services, all policies have been redrafted and put forth to council for review prior to implementation.

## **Considerations**

### Risk Management

If council fails to endorse redrafted policies, the Housing department will be operating by non-compliant policies therefore placing TSIRC at risk of litigation, in the event a tenant challenges a decision of Housing Staff members.

## **Statutory Requirements:**

*Local Government Act 2009*

*Local Government Regulation 2012*

## **Conclusion:**

That Council endorses the attached policies.



### **Endorsed:**

Dawson Sailor

Acting Head of Community Services



### **Recommended:**

Ilario Sabatino

Chief Operating Officer



David Baldwin

Acting Chief Executive Officer



## ALLOCATION OF HOUSING POLICY

SPO10

# ALLOCATION OF HOUSING POLICY

Responsible Manager

Manager, Housing

Head of power

Local Government Act 2009 (Qld)  
Local Government Regulation 2012 (Qld)  
Housing Act 2003 (Qld)  
Housing Regulation 2003 (Qld)  
Residential Tenancies and Rooming  
Accommodation Act 2008 (Qld)  
Social Housing Policy ~~PQ12~~  
Social Housing Application Policy ~~SPO9~~

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Authorised by

Council

Authorised on

May 20~~17~~<sup>24</sup>

Implemented from

May 20~~2~~<sup>17</sup>

Last reviewed

April 2021

Review history

Nil~~May 2017~~

To be reviewed on

June 2023

Corporate Plan

Community Services~~Environment~~People,  
Sustainability and Prosperity

## 1. Purpose

Council is strongly committed to ensuring that the local government principles are reflected in the Allocation of Housing Policy. All properties will be allocated in accordance with regulatory guidelines ~~as depicted by Queensland Residential Tenancy Authority (RTA) for Queensland.~~

### 1.1. Overview

This policy sets out the principles to be followed ~~when~~ allocating Social Housing properties to eligible applicants. Our aim is to ensure:

- a) Torres Strait Island Regional Council's processes for the allocation of social housing be transparent and decisions be made without favouritism or bias; ~~and~~
- b) ~~Take into~~ The needs of prospective tenants ~~and household is taken into consideration~~.

### 2.1. Provisions

#### a) Councilors and staff shall:

- i. ~~declare any conflict between their personal interests and the interests of Council, pursuant to Council's Code of Conduct;~~
- ii. ~~not disclose any confidential information about an applicant or tenant, their waitlist status or any financial information to any external party.~~

~~3.~~

#### b) ~~Council shall use eligibility criteria for long term social housing when allocating new tenants. To be eligible for long term social housing, applicants must meet all eligibility criteria set out in the Social Housing Application Policy SPO0.~~

#### c) ~~Council shall allocate social housing based on a priority classification [level of need] centred on eligible applicants' needs and Prescribed Body Corporate (PBC) with the traditional and cultural considerations. Eligible applicants assessed with the highest needs shall be offered assistance ahead of applicants with lower housing needs.~~

~~4.~~

#### d) ~~Council shall attempt to match client needs with a house which is appropriate to the client's housing needs. Bedroom entitlements shall be assessed by the household composition in accordance with the Assistance Agreement with the Department of Housing and Public Works.~~

### 5.2. Application

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This policy applies to all tenants, staff and applicants of TSIRC Social Housing Register.  
Application of Housing Allocation applicants applying for Social Housing within the  
communities of the Torres Strait.

6.3. Legislation/Policies Scope

†This policy is established with reference to obligations specified in the *Housing Act 2003 and*  
*Residential Tenancies and Rooming Act 2008.* This Policy is to be applied in conjunction with  
Allocation of Housing Procedure *SPO10-PR1.*

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4. Provisions

4.1. Councillors and staff must:

- a) Declare any conflict between their personal interests and the interests of Council, pursuant to Council's Code of Conduct; and
- b) Not disclose any confidential information about an applicant or tenant, their waitlist status or any financial information to any external party.

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4.2. Council must use eligibility criteria:

- a) For long term social housing when allocating to prospective tenants; and
- b) For all applicants whom are seeking long term social housing through TSIRC as depicted in *Social Housing Application Policy.*

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4.3. Allocation is based on:

- a) Priority classification [level of housing need];
- b) bedroom entitlement;
- c) Social housing design that best meets the need of applicant; and
- d) Consideration of cultural connection to land and traditional ties to family, and where appropriate, can be verified in consultation with respective Prescribed Body Corporate (PBC) group.

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7. Councillors and staff shall:

5. Authorisation of Property Allocation

declare any conflict between their personal interests and the interests of Council pursuant to Council's Code of Conduct;

not disclose any confidential information about an applicant or tenant, their waitlist status or any financial information to any external party.

Council shall use eligibility criteria for long term social housing when allocating new tenants. To be eligible for long term social housing, applicants must meet all eligibility



## Allocation of Housing Policy SPO10

criteria set out in the Social Housing Application Policy SPO9.

Council shall allocate social housing based on a priority classification [level of need] centred on eligible applicants' needs and Prescribed Body Corporate (PBC) with the traditional and cultural considerations. Eligible applicants assessed with the highest needs shall be offered assistance ahead of applicants with lower housing needs.

Council shall attempt to match client needs with a house which is appropriate to the client's housing needs. Bedroom entitlements shall be assessed by the household composition in accordance with the Assistance Agreement with the Department of Housing and Public Works.

### 8. Responsibilities

The responsibility for allocating all social housing is:-

The responsibility for allocating all social housing dwelling to eligible applicants.

#### 5.1. For existing housing

a) Allocation decision shall be made in consultation with the Division Councillor.

a)

b) Councillor may seek advice from the Prescribed Body Corporate [PBC] to confirm an applicant's connection to the land, family ties and suitability to live in the Division.

#### 5.2. For new housing under a funded Federal Government building scheme

a) Applicants shall provide Council with a proof of their cultural or traditional connection to the vacant land upon which housing is to be built, prior to Council commencing the allocation process on a given Division.

a)

b) Council shall use a consultative process with Government representatives, PBC and the Councillor to relevant stakeholders to deliver a joint decision determine the allocation of new housing in each Division, taking into account Council's housing needs and Ailan Kastom.

Should no allocation decision be reached for existing and/or new housing through a consultation process within the allocated timeframe, the Executive Manager Housing Services shall intervene to resolve the issue.

### 4.6. AUTHORISATION

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Allocation of Housing Policy SPO10

This Policy was duly authorised by Council as the Torres Strait Island Regional Council Allocation of Housing Policy on xx June17 May 2021 and shall hereby supersede any previous policies of the same intent.

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CEO NameHario Sabatino

Date:

/ / 21

Acting Chief Executive Officer

## **SuccessionChange of Tenancy Policy**

<b>Responsible Manager</b>	<del>Executive Manager Housing Services</del> <u>Manager, Housing</u>
<b>Head of power</b>	<i>Local Government Act 2009 (Qld)</i> <i>Local Government Regulation 2012 (Qld)</i> <i>Housing Act 2003 (Qld)</i> <i>Housing Regulation 2003 (Qld)</i> <i>Residential Tenancies and Rooming Accommodation Act 2008 (Qld)</i> <u><i>Social Housing Policy</i></u> <del>Housing Policy PO12</del>
<b>Authorised by</b>	Council
<b>Authorised on</b>	July 2017
<b>Implemented from</b>	July 2017
<b>Last reviewed</b>	<u>May 2021</u> <del>N/A</del>
<b>Review history</b>	<u>Nil</u> <del>N/A</del>
<b>To be reviewed on:</b>	June <u>2023</u> <del>e-2019</del>
<b>Corporate Plan</b>	People, Sustainability and Prosperity

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## 1. POLICY STATEMENT Purpose

### 1.

Council is strongly committed to ensuring that the local government principles are reflected in the Change of Tenancy Policy.

#### 1.1. Overview

This policy sets out the principles to be followed when a change of tenancy can occur for eligible applicants. Our aim is to ensure:

- a) Torres Strait Island Regional Council will undertake a “~~changes~~~~succession~~ of tenancy” when there is a change in the household circumstances that require a change to the legal tenant on the original general tenancy agreement.

a)

## 2. Application

This policy applies to all tenants, staff and applicants of TSIRC Social Housing Register.

## 3. Legislation/Policies

This policy is established with reference to obligations specified in the *Housing Act 2003* and *Residential Tenancies and Rooming Act 2008*. This Policy is to be applied in conjunction with *Change of Tenancy Procedures*.

## 4. Under Occupancy

Where properties are under occupied, council must:

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- a) engage with tenants to determine whether transferring the tenant/s to a more appropriate dwelling size is appropriate; and / or
- b) encourage the best use of resources to address under-utilisation of its housing assets.

## 5. Provisions

5.1. A ~~changesuccession~~ of tenancy means terminating the existing tenancy agreement and creating a new agreement for the same property, listing the new legal tenant/s in order to:

- i-a) provide household members with security of tenure;
- ii-b) prevent ineligible applications having a direct interest in the tenancy; and
- a ~~ii-c)~~ assist Council with future debt recovery, as the legal tenant/s responsible for all debts are clearly identified.

### 5.2.

A ~~changesuccession~~ of tenancy must be approved where the applicant meets the eligibility criteria stated in Social Housing Application Policy ~~SPQ10~~, under the following circumstances:

b)

removing of a joint tenant;

a)

a) death of a joint tenant;

b)

b) death of a sole tenant;

c)

e) adding a new tenant; and

d)

e) in any other circumstances at the discretion of Council.

i

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### 5.3.

In addition to meeting social housing eligibility criteria the following circumstances require Councillor endorsement:

a) death of a sole tenant;

a)

b) adding a new tenant; and

b)

i-c) in any other circumstances at the discretion of Council.

### 5.4.

Council may use its discretion to approve applicants who are impacted by domestic violence who may not meet the social housing eligibility criteria.

5.5. A tenancy will only be succeeded in accordance with Ailan Kastom practiced widely in the community concerned.

5.6. Requests for a succession of tenancy where a new tenant is being added will only considered when rental debts on the current tenancy are being repaid through a payment plan agreement with Council.

5.7. A succession of tenancy is not required when a tenant changes name after marriage, by deed poll or reverts to their maiden name.

## 6. Authorisation

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## ~~2. UNDER OCCUPANCY~~

- ~~a) Where cases of under occupancy exist, Council will engage with tenants to determine whether transferring the tenant/s to a more appropriate dwelling size is appropriate.~~
- ~~b) Council will encourage the best use of resources to address under utilisation of its housing assets.~~

## ~~3. SCOPE~~

~~This Policy applies to all Council social housing tenants, including employees, Councillors, contractors, volunteers and agents of Council.~~

~~This Policy is to be used in conjunction with the following procedures:~~

- ~~i. Succession of Tenancy Procedure Removing a Joint Tenant~~
- ~~ii. Succession of Tenancy Procedure Death of a Joint Tenant~~
- ~~iii. Succession of Tenancy Procedure Death of a Sole Tenant~~
- ~~iv. Succession of Tenancy Procedure Adding a New Tenant~~

## ~~4. AUTHORISATION~~

This Policy was duly authorised by Council as Torres Strait Island Regional Council ~~Succession~~Change of Tenancy Policy on ~~xx June 2021~~149 July 2017 and shall hereby supersede any previous policies of the same intent.

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~~CEO Name~~Chris McLaughlin

Date: ~~xx19 / xx07 / 2021~~2017

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Acting Chief Executive Officer

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## Home Visit Policy ~~SPO14~~

Responsible Manager	Manager, Housing
Head of power	<i>Local Government Act 2009</i> <i>Local Government Regulation 2012</i> <i>Housing Policy <del>PO42</del></i> <i><u>Residential Tenancies and Rooming Act 2008</u></i> <i><u>Housing Act 2004</u></i> <i><u>Residential Tenancy Authority Authority</u></i>
Authorised by	<del>Council</del> <u>Chief Executive Officer</u>
Authorised on	July 2017
Implemented from	July 2017
Last reviewed	April 2021
Review history	Nil
To be reviewed on	June 2023
Corporate Plan	People, Sustainability and Prosperity



## 1. Purpose

Council is strongly committed to ensuring that the local government principles are reflected in ~~what this policy refers to~~ the Home Visit Policy.

### 1.1. Overview

This policy sets out the principles to be followed when conducting home visit to properties in communities. Our aim is to ensure:

- a) Council is committed to building sustainable relationships with Council social housing tenants. Council will use home visits to identify and respond in a timely manner to tenants' needs, with the aim of improving the way Council manages social housing tenancies.
- b) Council may visit all its social tenants. Council may not visit tenants whose tenancy is managed by the Department of Housing and Public Works or other agencies in the Torres Strait.
- c) When completing home visits, Council staff will ensure that cultural, professional and legislative protocols are observed.
- d) Council is committed to the health and safety of its staff and will ensure that all home visits are conducted in a manner that does not place staff or tenants at risk of injury.

## 2. Application

This policy applies to all Council employees, Councillors, volunteers, agents and assigns of Council.

## 3. Legislation/Policies

This policy is established with reference to obligations specified in the Housing Act 2003. This policy is to be applied in conjunction with ~~in the relevant legislation~~ Home Visit Procedure ~~SPQ14-PR1~~.

## 4. Authorisation

### 4.

This page and the previous bearing my initials were duly authorised by Council on ~~xx May~~ June 2021 as Torres Strait Island Regional Council Home Visit Policy and shall hereby supersede any previous policies of the same intent.

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CEO Name Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_ 21  
Acting Chief Executive Officer

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## Rent Policy ~~SP013~~

Responsible Manager	<del>Manager, Housing</del> <del>Executive Manager</del> <del>Housing Services</del>
Head of power	<i>Local Government Act 2009</i> <i>Local Government Regulation 2012</i> <i>Residential Tenancies and Rooming</i> <i>Accommodation Act 2008 (Qld)</i> <i>Department of Housing and Public Works'</i> <i>Community Housing Rent Policy for</i> <i>Indigenous Councils</i> <i>Social Housing Policy</i> <del>P012</del>
Authorised by	Council
Authorised on	July 2017
Implemented from	July 2017
Last reviewed	<del>month 2020</del> <u>May 2021</u>
Review history	<del>Nil</del> <del>xxxx</del>
To be reviewed on	<del>Month 202x</del> <u>June 2023</u>
Corporate Plan	<del>People, Sustainability and Prosperity</del>

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## 1. Purpose

Council is strongly committed to ensuring that the local government principles are reflected in ~~what this policy refers to the~~ Rent Policy.

### 1.1. Overview

a) —As a registered provider under the *Housing Act 2003*, Council shall implement a rent policy and procedures complying with the *Housing Regulation 2003*, and its Assistance Agreement with the Department of Housing and Public Works that will:

- a) Explain rent calculations to tenants; ~~and~~
- b) Deal with tenant queries or concerns about rent; ~~and~~
- c) Give tenants a choice of rent payment methods; ~~and~~
- d) Prevent serious rent arrears; ~~and~~
- e) Implement the rent policy consistently and fairly; ~~and~~
- f) Keep record of rent calculations for each tenancy agreement.

## 2. Application

This policy applies to all Council social housing tenants, including employees. Councillors, contractors, agents and assigns of Council.

## 3. Legislation/Policies

This policy is established with reference to obligations specified in the relevant legislation of *Residential Tenancies and Rooming Accommodation Act 2008* and *Community Housing Rent Policy for Indigenous Councils*. This policy works in conjunction with Councils *Rent Procedure* and *Rent Arrears Management Procedure*.

## 4. Provisions

f) —

-Council's rent procedures state the criteria and processes relating to rent under tenancy agreements including:

- a) Setting the amount of rent;
- b) Calculating rent payments;
- c) Collecting rent; and
- d) Managing rent arrears.

b) —Council is committed to providing a tenancy management system to ensure tenants can sustain their tenancy obligations. Social housing will not be provided to applicants who cannot demonstrate independent income. This is to ensure that applicants are able to meet rent payments once they become tenants.

e) —Rent for all Council properties will be calculated at 25% of the total assessable household income unless this amount exceeds the maximum rent payable, in which case the maximum rent will be charged.

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~~g)~~ -The maximum rent payable is the market rent for the property. Market rent is based on the rent charged for social housing properties with the same number of bedrooms and similar access to services in other remote communities.

~~g)~~ Market rent is set by the Department of Housing and Public Works in accordance with the terms of the Assistance Agreement.

~~f)~~ -Council will, in approved circumstances only, apply a discount to rent upon tenant's application.

~~-Tenants are expected to be at least two weeks in advance in their rent.-~~

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~~— Tenants may build up an advance of up to four weeks in their account.—~~

~~g)~~ Council will receipt rent payments to the tenant/s only as signatory of the General Tenancy Agreement (GTA).

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~~j)~~ Reimbursement of rent credit above two weeks rent advance will be transferred to tenant's past account if in arrears. Otherwise, to tenant's nominated bank account if no debt exist on Council's record.

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~~k)~~ Council will use rent revenue for housing-related purposes to improve the standard, supply and delivery of community housing in its local Government area.

## **2. Application**

~~This policy applies to all Council social housing tenants, including employees, Councillors, contractors, agents and assigns of Council.~~

~~-~~

## **3. Legislation/Policies**

~~This policy is established with reference to obligations specified in the relevant legislation of Rent Procedure SPO13-PR1 and Rent Arrears Management Procedure SPO13-PR2.~~

## **4.5. Authorisation**

This Policy was duly authorised by Council as Torres Strait Island Regional Council *Rent Policy* on ~~XX June~~ May 2021 and shall hereby supersede any previous policies of the same intent.

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\_\_\_\_\_  
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Acting Chief Executive Officer

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# Rental Debt Policy

Responsible Manager	Manager, Housing
Head of power	<i>Residential Tenancies and Rooming Accommodation Act 2008 (Qld)</i> <i>Department of Housing and Public Works</i> <i>Community Housing Rent Policy for Indigenous Councils</i> <i>Social Housing Policy</i> <i>Housing Act 2003</i>
Authorised by	Council
Authorised on	<del>17 May 2021</del> <u>July 2017</u>
Implemented from	July 2017
Last reviewed	<del>June 2019</del> <u>May 2021</u>
Review history	2017, 2019
To be reviewed on	<del>May 2024</del> <u>June 2023</u>
Corporate Plan	People, Sustainability and Prosperity

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## 1. Purpose

Council is strongly committed to ensuring that the local government principles are reflected in the Rental Debt Policy. ~~what this policy refers to:~~

### 1.1. Overview

This policy sets out the principles to be followed in Rental Debt Recovery. Our aim is to ensure:

- a) Torres Strait Island Regional Council actively pursues outstanding debts from both current and former tenants.

~~a) Torres Strait Island Regional Council shall actively pursue outstanding debts from both current and former tenants.~~

- ~~b) Debts from a former tenancy cannot be transferred to a tenant's current or pending rental agreement as the debt has no bearing on the current tenancy. Council shall deal with the debts separately.~~

- ~~c) Council shall not allocate new housing to a tenant in debt until:~~

- ~~i. tenant repays the whole of the debt; or~~
- ~~ii. tenant has made an agreement with Council and has progressed repaying the debt through an arrears payment plan.~~

- ~~d) If an applicant for new housing is assessed as being of a very high or high level of need, Council shall not delay the allocation because of the debt. The new tenant must sign a rent and arrears payment plan as part of their new general tenancy agreement. If the new tenant declines to sign a rent and arrears payment plan, applications may be approved but the allocation will be deferred until tenant has made payments towards their debt.~~

- ~~e) If the applicant is assessed as being of a moderate to low level of need, Council will not proceed with the new allocation of housing until the new tenant has entered into a rent and arrears payment plan as part of their new general tenancy agreement. If the new tenant declines to sign a rent and arrears payment plan, Council will not proceed with the new allocation of housing for that tenant.~~

- ~~f) Council's Chief Executive Officer has power to waive statute-barred debts relating to housing.~~

- ~~g) Multiple tenants who signed a general tenancy agreement are jointly and severally responsible for debts incurred under that agreement.~~

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h) ~~Tenants who are deemed by the delegated officer to have an implied tenancy will be responsible for any debt accrued while they have resided in a Council housing property.~~

## 2. Application

### 2.

~~This policy applies to all Council tenants, staff including employees, Councillors, contractors, agents and assigns of Council~~

## 3. Legislation/Policies Procedure

### 3.

~~This policy is established with reference to obligations specified in the Housing Act 2003. This Policy is to be applied in conjunction with Debt Recovery Procedure PO5-PR7 and Rental Debt Management Procedure SPO13-PR2.~~

## 4. Provisions

~~4.1. Debts from a former tenancy cannot be transferred to a tenant's current or pending rental agreement as the debt has no bearing on the current tenancy. Council shall deal with the debts separately.~~

~~4.2. Council shall not allocate new housing do a tenant in debt until:~~

~~a) tenant repays the whole of the debt; or~~

~~b) tenant has made an agreement with Council and has progressed repaying the debt through an arrear's payment plan.~~

~~4.3. If an applicant for new housing is assessed as being of a very high or high level of need, Council shall not delay the allocation because of the debt. The new tenant must sign a rent and arrears payment plan as part of their new general tenancy agreement. If the new tenant declines to sign a rent and arrears payment plan, applications may be approved but the allocation will be deferred until tenant has made payments towards their debt.~~

~~4.4. If the applicant is assessed as being of a moderate to low level of need, Council will not proceed with the new allocation of housing until the new tenant has entered into a rent and arrears payment plan as part of their new general tenancy agreement. If the new tenant declines to sign a rent and arrears payment plan, Council will not proceed with the new allocation of housing for that tenant.~~

~~4.5. Council's Chief Executive Officer has power to waive statute-barred debts relating to housing.~~

~~4.6. Multiple tenants who signed a general tenancy agreement are jointly and severally responsible for debts incurred under that agreement.~~

~~4.7. Tenants who are deemed by the delegated officer to have an implied tenancy will be~~

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responsible for any debt accrued while they have resided in a Council housing property.

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#### **4.5. Authorisation**

This Policy was duly authorised by Council as Torres Strait Island Regional Council *Rental Debt Policy* on ~~19 July 2017~~xx June 2021 and shall hereby supersede any previous policies of the same intent.

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CEO Name Date: / / 21  
Acting Chief Executive Officer

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# Social Housing Application Policy

Responsible Manager	Manager, Housing
Head of power	<i>Local Government Act 2009 Local Government Regulation 2012 Residential Tenancies and Rooming Accommodation Act 2008 (Qld) Department of Housing and Public Works' Community Housing Rent Policy for Indigenous Councils Social Housing Policy Housing Act 2003 PQ12</i>
Authorised by	<del>Chief Executive Officer</del> <u>Council</u>
Authorised on	July 2017
Implemented from	July 2017
Last reviewed	<u>May 2021</u> <del>Nil</del>
Review history	Nil
To be reviewed on	June 2023
Corporate Plan	People, Sustainability and Prosperity

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## ~~POLICY STATEMENT~~

~~Torres Strait Island Regional Council provides affordable housing for low to moderate income families and individuals throughout 14 of its 15 Divisions. Social (community) housing is provided to eligible applicants for the duration of their need.~~

~~Council uses eligibility criteria for social housing to ensure the rental subsidy is provided to people in need of rental assistance.~~

~~To be eligible for long term social housing, applicants must meet all eligibility criteria. Applicants must have:~~

~~Australian citizenship or permanent residency;~~

~~Torres Strait Islander or Aboriginal descent — descent is understood as:~~

~~Membership of the Indigenous people depends on biological descent from the Indigenous people and on mutual recognition of a particular person's membership by that person and by the elders or other persons enjoying traditional authority among those people.~~

~~Source: Leading Judgment in *Mabo v Queensland No2*~~

~~Exception: where a Non-Indigenous applicant is the registered primary care giver of Aboriginal or Torres Strait Islander children, that person may be eligible for social housing, to ensure that Aboriginal and/or Torres Strait Islander children are not disadvantaged through homelessness;~~

~~Queensland residency;~~

~~Exception: the Queensland residency requirement may be waived on a case-by-case basis where interstate applicants can provide evidence of a definite need to move to the Torres Strait;~~

~~Independent income. Social housing will not be provided to applicants who cannot demonstrate income. This is to ensure that applicants are able to meet rent payments once they become tenants;~~

~~Current and valid proof of identity;~~

~~Not own or be in the process of purchasing property;~~

~~Exception: the Executive Manager Housing Services has discretion in allocating where there is a home ownership interest, to facilitate home ownership in the Torres Strait.~~

~~Applicants with current or ex-tenancy debts will only be eligible once they have entered into and sustained, an unbroken Arrears Payment Plan for a minimum of three months.~~

~~When staff are applicants, Councillors and staff will follow Council processes for managing conflict of interest situations.~~

~~Eligible applicants shall be prioritised in order of their level of need and placed on Council's Register of Need.~~

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~~All matters related to applications and other tenancy-related decisions can be reviewed and appealed, either through Council appeal processes or through the Residential Tenancies and Rooming Accommodation Act 2008 (Qld).~~

## ~~2. SCOPE~~

~~This Policy applies to all Council social housing applicants, being existing tenants, employees, Councillors, contractors, volunteers and agents of Council.~~

## ~~3. PROCEDURE~~

~~This Policy is to be applied in conjunction with Social Housing Application Procedure SPO10-PR1.~~

## ~~4. AUTHORISATION~~

~~This Policy was duly authorised by Council as Torres Strait Island Regional Council Social Housing Application Policy SPO10 on 21 November 2017 and shall hereby supersede any previous policies of the same intent.~~

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### 3.1. Purpose

Council is strongly committed to ensuring that the local government principles are reflected in the Social Housing Application Policy.

#### 1.1. Overview

Torres Strait Island Regional Council provides affordable housing for low to moderate income families and individuals throughout 14 of its 15 Divisions. Social housing is provided to eligible applicants for the duration of their need. Our aim is to ensure:

- a) Council uses eligibility criteria for social housing to ensure the rental subsidy is provided to people in need of rental assistance.

## 2. Application

This policy applies to all Council social housing tenants, including employees, Councillors, contractors, agents and assigns of Council.

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## 3. Legislation/Policies

This policy is established with reference to obligations specified in the relevant legislation of Social Housing Application Procedure and Social Housing Policy.

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#### 4. Eligibility Criteria

To be eligible for long term social housing, applicants must meet all eligibility criteria.

Applicants must have:

- a) Australian citizenship or permanent residency;
- b) Torres Strait Islander or Aboriginal descent – descent is understood as:

*“Membership of the Indigenous people depends on biological descent from the Indigenous people and on mutual recognition of a particular person’s membership by that person and by the elders or other persons enjoying traditional authority among those people”.*

Source: Leading Judgment in Mabo v Queensland No2

Exception: where a Non-Indigenous applicant is the registered primary care giver of Aboriginal or Torres Strait Islander children, that person may be eligible for social housing, to ensure that Aboriginal and/or Torres Strait Islander children are not disadvantaged through homelessness;

- c) Queensland residency;

Exception: the Queensland residency requirement may be waived on a case-by-case basis where interstate applicants can provide evidence of a definite need to move to the Torres Strait;

- d) Evidence of Independent income.

Social housing will not be provided to applicants who cannot demonstrate income. This is to ensure that applicants are able to meet rent payments once they become tenants;

- e) Current and valid proof of identity; and
- f) Not own or be in the process of purchasing property;

Exception: The Housing Manager and Head of Community Services has discretion in allocating where there is a home ownership interest, to facilitate home ownership in the Torres Strait.

- g) Applicants with current or ex-tenancy debts will only be eligible once they have entered into and sustained, and unbroken Arrears Payment Plan for a minimum of three months.

#### 5. Eligibility Criteria for Papua New Guinea (PNG) Nationals

To be eligible for long term social housing, applicants must meet all eligibility criteria.

- a) Existing tenants of PNG descent;

If the tenant had been provided with a general tenancy agreement, that tenancy is valid and the principles of all tenancy management policies and procedures will apply,

- b) Applicants for housing of PNG descent; and

Applicants of PNG descent and/or nationality are NOT eligible to apply for all social housing within TSIRC Government area.

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c) PNG residents with Torres Strait children.

When it is proven that a non-Torres Strait person applying for housing is the primary carer of Indigenous children, whether by birth or traditional adoption, applicant is eligible to apply for social housing if sufficient evidence is provided.

## 6. Provisions

When staff are applicants, Councillors and staff will follow Council processes for managing conflict of interest situations.

Eligible applicants shall be prioritised in order of their level of need and placed on Council's Register of Need.

All matters related to applications and other tenancy-related decisions can be reviewed and appealed through Council appeal processes.

## 7. Authorisation

This page and the previous bearing my initials were duly authorised by Council on xx June 2021 as Torres Strait Island Regional Council Social Housing Application Policy and shall hereby supersede any previous policies of the same intent.

CEO Name \_\_\_\_\_ Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_ 21  
Acting Chief Executive Officer

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## Social Housing Policy

Responsible Manager	Manager, Housing
Head of power	<u>Local Government Act 2009</u> <u>Local Government Regulation 2012</u> <u>Housing Act 2003 (Qld)</u> <u>Housing Regulation 2003 (Qld)</u> <u>Residential Tenancies and Rooming Accommodation Act 2008 (Qld)</u>
Authorised by	Council
Authorised on	<u>June 2014</u>
Implemented from	<u>June 2014</u> <del>April 2021</del>
Last reviewed	May 2017
Review history	2014, 2017, 2021
To be reviewed on	<u>April 2023</u> <del>2</del>
Corporate Plan	People, Sustainability and Prosperity

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## 1. Purpose

Council is strongly committed to ensuring that the local government principles are reflected in the Social Housing Policy.

### 1.1. Overview

Council is committed to upholding its responsibilities as a Registered Housing Provider under the *Housing Act 2003* [QLD] and aim to ensure we:

- a) Provide appropriate, affordable and value for money housing;
- a) Deliver professional customer service to clients who require or reside in Council social housing;
- b) Manage rent collection and rent arrears repayments; and
- c) Continue in its capacity as Registered Housing Provider.

## 2. Application

This policy applies to all Council social housing tenants, being employees, Councillors, contractors, volunteers and agents of Council.

## 3. Legislation/Policies

This policy is established with reference to obligations specified in:

- a) *Housing Act 2003 (Qld)*
- a) *Housing Regulation 2003 (Qld)*
- b) *Residential Tenancies and Rooming Accommodation Act 2008 (Qld)*

## 4. AUTHORISATION

This Policy was duly authorised by Council as the Torres Strait Island Regional Council Social Housing Policy on xx June 2021 and shall hereby supersede any previous policies of the same intent.

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Acting Chief Executive Officer

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# Tenancy Sign Up Policy

<b>Responsible Manager</b>	Manager, Housing
<b>Head of power</b>	<i>Local Government Act 2009 (Qld)</i> <i>Local Government Regulation 2012 (Qld)</i> <i>Housing Act 2003 (Qld)</i> <i>Housing Regulation 2003 (Qld)</i> <i>Residential Tenancies and Rooming Accommodation Act 2008 (Qld)</i> <i>Housing Policy</i>
<b>Authorised by</b>	Council
<b>Authorised on</b>	July 2017
<b>Implemented from</b>	July 2017
<b>Last reviewed</b>	May 2021
<b>Review history</b>	Nil
<b>To be reviewed on</b>	June 2023
<b>Corporate Plan</b>	People, Sustainability and Prosperity

## 1. Purpose

Council is strongly committed to ensuring that the local government principles are reflected in the Termination of Tenancy Policy.

### 1.1. Overview

This policy sets out the principles to be followed when a Tenancy Sign up is conducted for Social Housing Properties. Our aim is to ensure:

- a) tenants have an opportunity to read the agreement and are provided with information about their rights and responsibilities and Council's rights and responsibilities before entering a legally binding agreement.

## 2. Application

This policy applies to all Council social housing tenants, including employees. Councillors, contractors, agents and assigns of Council.

## 3. Legislation/Policies

This policy is established with reference to obligations specified in the relevant legislations and works in conjunction with TSIRC's *Tenancy Sign up Procedure*.

## 4. Provisions

Torres Strait Island Regional Council's tenancy sign up process establishes the formal tenancy arrangements between the tenant/s and Council and marks the beginning of the tenant/lessor relationship.

Once an applicant has accepted an offer of housing from Council, applicant must sign a general tenancy agreement to become a tenant and take legal responsibility for the tenancy.

All tenants are required to pay a minimum of two weeks' rent at the time of sign up.

## 5. Authorisation

This Policy was duly authorised by Council as Torres Strait Island Regional Council *Tenancy Sign up Policy* on XX June 2021 and shall hereby supersede any previous policies of the same intent.

---

**CEO Name**  
**Acting Chief Executive Officer**

**Date:** \_\_\_\_/\_\_\_\_/\_\_\_\_21

# Termination of Tenancy

<b>Responsible Manager</b>	Manager, Housing
<b>Head of power</b>	<i>Local Government Act 2009 (Qld)</i> <i>Local Government Regulation 2012 (Qld)</i> <i>Housing Act 2003 (Qld)</i> <i>Housing Regulation 2003 (Qld)</i> <i>Residential Tenancies and Rooming Accommodation Act 2008 (Qld)</i> <i>Residential Tenancy Authority</i> <i>Social Housing Policy</i>
<b>Authorised by</b>	Council
<b>Authorised on</b>	May 2017
<b>Implemented from</b>	May 2017
<b>Last reviewed</b>	May 2021
<b>Review history</b>	Nil
<b>To be reviewed on</b>	June 2023
<b>Corporate Plan</b>	People, Sustainability and Prosperity

## 1. Purpose

Council is strongly committed to ensuring that the local government principles are reflected in the Termination of Tenancy Policy.

### 1.1. Overview

This policy sets out the principles to be followed when Termination of Social Housing Tenancy is deemed appropriate. Our aim is to ensure:

- a) legally terminated in accordance with the Residential Tenancies and Rooming Accommodation Act 2008 (Qld);
- b) terminated in a timely manner so that tenants are not disadvantaged financially;
- c) terminated with Council's debtor system to ensure efficient financial practice of all rental accounts; and
- d) records kept to satisfy the Indigenous Housing Programs Assistance Agreement.

## 2. Application

This policy applies to all Council social housing tenants, including employees. Councillors, contractors, agents and assigns of Council.

## 3. Legislation/Policies

This policy is established with reference to obligations specified in the *Housing Act 2003 and Residential Tenancies and Rooming Act 2008*. This policy works in conjunction with TSIRC's *Termination of Tenancy Procedure*.

## 4. Authorisation

This Policy was duly authorised by Council as Torres Strait Island Regional Council *Termination of Tenancy Policy* on XX June 2021 and shall hereby supersede any previous policies of the same intent.

---

CEO Name  
Acting Chief Executive Officer

Date: \_\_/\_\_/\_\_21

# Abandoned Properties Policy

<b>Responsible Manager</b>	Manager, Housing
<b>Head of power</b>	<i>Local Government Act 2009 (Qld)</i> <i>Local Government Regulation 2012 (Qld)</i> <i>Housing Act 2003 (Qld)</i> <i>Housing Regulation 2003 (Qld)</i> <i>Residential Tenancies and Rooming Accommodation Act 2008 (Qld)</i> <i>Social Housing Policy</i>
<b>Authorised by</b>	Council
<b>Authorised on</b>	November 2017
<b>Implemented from</b>	November 2017
<b>Last reviewed</b>	May 2021
<b>Review history</b>	Nil
<b>To be reviewed on</b>	June 2023
<b>Corporate Plan</b>	People, Sustainability and Prosperity

## **1. Purpose**

Council is strongly committed to ensuring that the local government principles are reflected in the Abandoned Properties Policy.

### **1.1 Overview**

This policy sets out the principles to be followed when a property is deemed abandoned. As a social housing provider under the *Residential Tenancies and Rooming Accommodation Act 2008*, Torres Strait Island Regional Council is committed to providing a supportive tenancy management service to assist tenants to successfully sustain their tenancies. Our aim is to ensure:

- a) Council is pro-active in its responses to tenancy management to support tenants but also to ensure compliance with the RTA regulations.

## **2. Application**

This policy applies to all tenants, staff, Councillors, contractors, agents and assigns of Council.

## **3. Legislation/Policies**

This policy is established with reference to obligations specified in the *Housing Act 2003*. This policy is to be applied in conjunction with Appeals Policy.

## **4. Provisions**

- a) When a property is suspected of being abandoned, Council will attempt to contact the tenant to determine if the tenant:
  - i) is absent; or
  - ii) requests a temporary absence; or
  - iii) requests the tenancy to be terminated.
- b) If the tenant does not provide Council with any information as to their future plan for the tenancy or is unable to be contacted, Council will follow the abandonment process as prescribed by the Residential Tenancies Authority (RTA):
  - i) issue an Entry notice (Form 9) and affix the notice to the house; and
  - ii) if the tenant has a forwarding address, send the document to tenant; and
  - iii) 24 hours after entry notice is served, Council assesses whether abandonment has occurred; and
  - iv) If abandonment has occurred, issue an Abandonment termination notice (Form 15) and affix the notice to the house; and
  - v) If the tenant has a forwarding address, send the document to tenant.
- c) If the tenant does not contact Council within seven days of the notice, the tenant is assumed to have abandoned the property and the tenancy agreement automatically terminates. Once the tenancy is terminated Council will cease rent charges.
- d) If the tenant disputes the abandonment notice, the tenant can lodge an application to the Queensland Civil and Administrative Tribunal.

- e) In circumstances where there is good left behind in the property, Council will manage the disposal of goods as prescribed by the RTA.
- f) Following termination of the tenancy, Council will allocate a new tenant in accordance to Allocation of Housing Policy.

## **5. Authorisation**

This Policy was duly authorised by Council as the Torres Strait Island Regional Council *Abandoned Properties Policy* on xx June 2021 and shall hereby supersede any previous policies of the same intent.

---

**CEO Name**  
**Acting Chief Executive Officer**

**Date:** \_\_\_\_/\_\_\_\_/\_\_\_\_21



# Appeals Policy

**Responsible Manager**

Manager, Housing

**Head of power**

*Local Government Act 2009 (Qld)*  
*Local Government Regulation 2012 (Qld)*  
*Housing Act 2003 (Qld)*  
*Housing Regulation 2003 (Qld)*  
*Residential Tenancies and Rooming  
Accommodation Act 2008 (Qld)*  
*Housing Policy*

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**Authorised by**

Council

**Authorised on**

11 December 2018

**Implemented from**

September 2017

**Last reviewed**

~~December 2018~~May 2021

**Review history**

2018

**To be reviewed on**

June 2023

**Corporate Plan**

People, Sustainability and Prosperity

## 1. Purpose

Council is strongly committed to ensuring that the local government principles are reflected in the Appeals Policy.

### 1.1 Overview

This policy sets out the principles to be followed when an appeal is received. The Residential Tenancies and Rooming Accommodation Act 2008 (Qld) sets out the rights for tenants to appeal reviewable decisions by TSIRC Housing Unit regarding:

- a) a person's eligibility to be offered social housing assistance;
- b) the type of social housing to be offered to an applicant;
- c) the area where social housing is to be offered to an applicant.

## 2. Application

This policy applies to all tenants, staff, Councillors, contractors, agents and assigns of Council.

## 3. Legislation/Policies

This policy is established with reference to obligations specified in the *Housing Act 2003*. This policy is to be applied in conjunction with Housing Complaint Management Policy.

## 4. Provisions

- a) Council will in the first instance encourage negotiation with the tenant with the aim to resolve the issue, before tenants consider the appeals process.
- b) Council supports the right to appeal, based on Council's commitment to:
  - i) **Accessibility:** all social housing tenants have the right to challenge decisions relating to the provision of housing services they believe are incorrect;
  - ii) addressing and responding to matters quickly and fairly;
  - iii) **Redressing:** reassessing decisions if policy is not applied correctly;
  - iv) **Accountability:** all decisions must be documented clearly and openly to ensure integrity in the process.
- c) The appeals process provides Council with the opportunity to review policy and procedure effectiveness.
- d) Council is committed to delivering quality client service, mutual respect and support to staff and tenants.

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## Authorisation

### 5.

This Policy was duly authorised by Council as the Torres Strait Island Regional Council Appeals Policy on xx June 2021 and shall hereby supersede any previous policies of the same intent.

CEO Name \_\_\_\_\_ Date: \_\_\_\_ / \_\_\_\_ / 21

Acting Chief Executive Officer

## 2. POLICY STATEMENT

- a) The Residential Tenancies and Rooming Accommodation Act 2008 (Qld) sets out the rights for tenants to appeal reviewable decisions by the Manager Housing about:
- i. a person's eligibility to be provided social housing;
  - ii. the type of social housing to be provided to a person;
  - iii. the place where social housing is to be provided to a person.
- b) Council will in the first instance encourage negotiation with the tenant with the aim to resolve the issue, before tenants consider the appeals process.
- c) Council supports the right to appeal, based on Council's commitment to:
- i) accessibility — all Council's tenants have the right to challenge decisions relating to the provision of housing services they believe are incorrect;
  - ii) addressing and responding to matters quickly and fairly;
  - iii) redressing: reassessing decisions if policy is not applied correctly;
  - iv) accountability — all decisions must be documented clearly and openly to ensure integrity in the process.
- d) The appeals process provides Council with the opportunity to review policy and procedure effectiveness.
- e) Council is committed to delivering quality client service, mutual respect and support to staff and tenants.

## 3. SCOPE

This Policy applies to all Council tenants including employees, Councillors, contractors, volunteers and agents of Council.

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#### **4. PROCEDURE**

~~This Policy is to be applied in conjunction with Appeals Procedure SPO19-PR1.~~

#### **5. AUTHORISATION**

~~This Policy was duly authorised by Council as Torres Strait Island Regional Council Appeals Policy on 11 December 2018 and shall hereby supersede any previous policies of the same intent.~~

\_\_\_\_\_  
**Bruce Ranga**  
**Chief Executive**

**Date: 11 / 12 / 2018**

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# Housing Application Review Policy

Responsible Manager

Manager, Housing

Head of power

*Local Government Act 2009 (Qld)*  
*Local Government Regulation 2012 (Qld)*  
*Housing Act 2003 (Qld)*  
*Housing Regulation 2003 (Qld)*  
*Residential Tenancies and Rooming*  
*Accommodation Act 2008 (Qld)*  
*Social Housing Policy*

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Authorised by

Council

Authorised on

21 February 2018

Implemented from

February 2018

Last reviewed

May 2021Nil

Review history

Nil

To be reviewed on

June 2023

Corporate Plan

People, Sustainability and Prosperity

## 1. Purpose

Council is strongly committed to ensuring that the local government principles are reflected in the *Housing Application Review Policy*.

### 1.1. Overview

This policy sets out the principles to be followed when reviewing application for social housing. Council is to ensure the Register of Need is kept up-to-date and all applicants have a review of their approved application for housing completed every 12 months. Council aims to ensure:

- A) All information is up-to-date and accurate.
- B) Needs register is reviewed regularly to capture those in need of social housing assistance.

## 2. Application

This policy applies to all tenants, staff, Councillors, contractors, agents and assigns of Council.

## 3. Legislation/Policies

This policy is established with reference to obligations specified in the *Housing Act 2003*. This policy is to be applied in conjunction with *Social Housing Application Procedure and Housing Application Review Procedure*.

## 4. Provisions

- a) As a social housing provider under the *Residential Tenancies and Rooming Accommodation Act 2008*, Torres Strait Island Regional Council (Council) is committed to making decisions on social housing allocation based on current and correct information.
- b) keeping applicants' information up to date Council will ensure that allocations accurately reflect the current housing need of each Council division and that allocations are made to those applicants in the highest need.
- c) Each applicant for social housing will be required to update their household details and circumstances within 30 days of the Council review being implemented.
- d) An applicant may only be removed from the Register of Need:
  - i. if the applicant no longer requires housing; or
  - ii. after being advised in writing and given 14 days' notice.

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## 5. Authorisation

This Policy was duly authorised by Council as the Torres Strait Island Regional Council *Housing Application Review Policy* on xx June 2021 and shall hereby supersede any previous policies of the same intent.

CEO Name \_\_\_\_\_ Date: / / 21  
Acting Chief Executive Officer

## 1. POLICY STATEMENT

~~a) As a social housing provider under the Residential Tenancies and Rooming Accommodation Act 2008, Torres Strait Island Regional Council (Council) is committed to making decisions on social housing allocation based on current and correct information.~~

~~b) Council will ensure that the Register of Need (social housing waitlist) is kept up to date and all applicants have a review of their approved application for housing completed every 12 months.~~

~~c) By keeping applicants' information up to date Council will ensure that allocations accurately reflect the current housing need of each Council division and that allocations are made to those applicants in the highest need.~~

~~d) Each applicant for social housing will be required to update their household details and circumstances within 30 days of the Council review being implemented.~~

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- e) ~~An applicant may only be removed from the Register of Need:~~
- ~~i. if the applicant no longer requires housing; or~~
- ~~ii. after being advised in writing and given 14 days' notice.~~

## 2. ~~SCOPE~~

~~This policy applies to all Council social housing tenants, including employees, Councillors, contractors, agents and assigns of Council.~~

## 3. ~~PROCEDURE~~

~~This policy is to be applied in conjunction with Social Housing Application Procedure SPO10-PR1 and Housing Application Review Procedure SPO25-PR1.~~

## 4. ~~AUTHORISATION~~

~~This policy was duly authorised by Council as Torres Strait Island Regional Council Housing Application Review Policy on 21 February 2018 and shall hereby supersede any previous policies of the same intent.~~

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**Bruce Ranga**

**Date: 21 / 02 / 2018**

**Chief Executive Officer**

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# Housing Complaint Management Policy

<b>Responsible Manager</b>	Manager, Housing
<b>Head of power</b>	<i>Local Government Act 2009 (Qld)</i> <i>Local Government Regulation 2012 (Qld)</i> <i>Housing Act 2003 (Qld)</i> <i>Housing Regulation 2003 (Qld)</i> <i>Residential Tenancies and Rooming Accommodation Act 2008 (Qld)</i> <i>Social Housing Policy</i> <i>Social Housing Application Policy</i>
<b>Authorised by</b>	Council
<b>Authorised on</b>	November 2017
<b>Implemented from</b>	November 2017
<b>Last reviewed</b>	May 2021
<b>Review history</b>	Nil
<b>To be reviewed on</b>	June 2023
<b>Corporate Plan</b>	People, Sustainability and Prosperity

## 1. Purpose

Council is strongly committed to ensuring that the local government principles are reflected in the Housing Complaint Management Policy.

### 1.1. Overview

This policy sets out the principles of how to manage a complaint when received. Our aim is to ensure:

- a) Clients who are not satisfied with tenancy management services are able to access Council's housing complaint process.
- b) Effective handling of client complaints through a promptly, professional, and transparent process.
- c) Clients trust the complaints management process will improve the quality of tenancy services provided as well as resolving disputes with respect and cultural sensitivity as appropriate.

This policy covers complaints lodged regarding the following Tenancy Management actions:

- a) Application for Social Housing process;
- b) Allocation of Housing process;
- c) Change of Tenancy process; and
- d) Rent Assessment process.

All other complaints shall be dealt with under Council's Complaint Management.

## 2. Application

This policy applies to all tenants, staff and applicants of TSIRC Social Housing Register.

## 3. Legislation/Policies

This policy is established with reference to obligations specified in the *Housing Act 2003*.

## 4. Provisions

### 4.1. Tenant Complaint Levels

- a) **Level one:** Complaints are straightforward and have minimal impact on Council tenancy management; they require minimum investigation and shall be dealt with at the point of service.
- b) **Level two:** Complaints are of a more serious nature and have potential to impact negatively on Council's tenancy management standards. This level of complaint requiring substantial investigation shall be dealt with by the Manager Housing.
- c) **Level three:** Complaints are generally complex and significant and have potential to cause lasting detriment; they usually require comprehensive assessment and shall be dealt with by the Executive Manager Housing Services.

#### 4.2. Failure to abide by Council Principles

If a Council employee, Councillor, contractor or agent does not conduct themselves strictly in accordance with the Local Government and Ethics Principles, they shall be thoroughly investigated by appropriate personnel. If proven guilty, appropriate disciplinary actions in accordance with Council policies apply.

### 5. Authorisation

This Policy was duly authorised by Council as the Torres Strait Island Regional Council *Housing Complaint Management Policy* on xx June 2021 and shall hereby supersede any previous policies of the same intent.

---

**CEO Name**  
**Acting Chief Executive Officer**

**Date:** \_\_\_\_/\_\_\_\_/\_\_\_\_21



## Notification Policy

Manager, Housing

### Head of power

*Local Government Act 2009 (Qld)*  
*Local Government Regulation 2012 (Qld)*  
*Housing Act 2003 (Qld)*  
*Housing Regulation 2003 (Qld)*  
*Residential Tenancies and Rooming*  
*Accommodation Act 2008 (Qld)*  
*Social Housing Policy*

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### Authorised by

Council

### Authorised on

17 April 2018

### Implemented from

April 2018

### Last reviewed

May 2021Nil

### Review history

Nil

### To be reviewed on

June 2023

### Corporate Plan

People, Sustainability and Prosperity

**NOTIFICATIONS POLICY**

**SPO27****1. Purpose**

Council is strongly committed to ensuring that the local government principles are reflected in the Notification Policy. Council is also committed to maintaining its status as a social housing provider under the Queensland State Regulatory System for Community Housing [QSRSCH].

**1.1. Overview**

This policy sets out the principles to be followed when notifying the Registrar of an event, decision or change as soon as practicable in accordance with the Queensland Registrar's guidelines.

**2. Application**

This policy applies to all tenants, staff, Councillors, contractors, agents and assigns of Council.

**3. Legislation/Policies**

This policy is established with reference to obligations specified in the *Housing Act 2003*.

**4. Provisions**

a) Council will notify the Queensland Registrar of any notifiable event, decision or change in its business operations that may:

- i. impact on Council's compliance under QSRSCH; or
- ii. damage the reputation of the community housing sector.

**5. Authorisation**

This Policy was duly authorised by Council as the Torres Strait Island Regional Council Notification Policy on xx June 2021 and shall hereby supersede any previous policies of the same intent.

CEO Name \_\_\_\_\_ Date: / / 21  
Acting Chief Executive Officer

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## 2. ~~POLICY STATEMENT~~

- a) ~~Torres Strait Island Regional Council (Council) is committed to maintaining its status as a social housing provider under the Queensland State Regulatory System for Community Housing [QSRSCH].~~
- b) ~~Council will notify the Queensland Registrar of any notifiable event, decision or change in its business operations that may:~~
  - i. ~~impact on Council's compliance under QSRSCH; or~~
  - ii. ~~damage the reputation of the community housing sector.~~
- e) ~~Council will notify the Registrar of the event, decision or change as soon as practicable in accordance with the Queensland Registrar's guidelines.~~

## 3. ~~SCOPE~~

~~This policy applies to all Council employees, Councillors, agents and assigns of Council.~~

## 4. ~~AUTHORISATION~~

~~This policy was duly authorised by Council as Torres Strait Island Regional Council Notifications Policy on 17 April 2018 and shall hereby supersede any previous policies of the same intent.~~

\_\_\_\_\_  
**Bruce Ranga**  
**Chief Executive Officer**

**Date: 17 / 4 / 2018**

# Rent Review Policy

Responsible Manager	Manager, Housing	
Head of power	<div>Local Government Act 2009 (Qld)</div> <div>Local Government Regulation 2012 (Qld)</div> <div>Housing Act 2003 (Qld)</div> <div>Housing Regulation 2003 (Qld)</div> <div>Residential Tenancies and Rooming Accommodation Act 2008 (Qld)</div> <div>Community Housing Rent Policy for Indigenous Councils</div> <div>Rent Policy</div> <div>Social Housing Policy</div>	<div>Formatted: Font: 11 pt</div> <div>Formatted: Font: 11 pt, Italic</div> <div>Formatted: Font: 11 pt</div> <div>Formatted: Font: 11 pt, Italic</div> <div>Formatted: Font: 11 pt</div> <div>Formatted: Font: 11 pt, Italic</div> <div>Formatted: Font: 11 pt</div> <div>Formatted: Font: 11 pt, Italic</div> <div>Formatted: Font: 11 pt</div> <div>Formatted: Font: 11 pt, Italic</div> <div>Formatted: Font: 11 pt</div> <div>Formatted: Font: 11 pt, Italic</div> <div>Formatted: Font: 11 pt</div> <div>Formatted: Font: 11 pt, Italic</div> <div>Formatted: Font: 11 pt, Italic</div> <div>Formatted: Font: 11 pt, Italic</div>
Authorised by	Council	
Authorised on	11 December 2018	
Implemented from	November 2017	
Last reviewed	December 2018	
Review history	May 20212018	
To be reviewed on	June 2023	
Corporate Plan	People, Sustainability and Prosperity	



## 1. Purpose

Council is strongly committed to ensuring that the local government principles are reflected in the *Rent Review policy*.

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### 1.1. Overview

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This policy sets out the principles to be followed when a rent review is to be conducted. Council will conduct rent reviews on an annual basis, in compliance with the *Housing Regulation 2015* and the Assistance Agreement with the Department of Housing and Public Works.

## 2. Application

This policy applies to all tenants, staff, Councillors, contractors, agents and assigns of Council.

## 3. Legislation/Policies

This policy is established with reference to obligations specified in the *Housing Act 2003* and *Housing and Rooming Accommodation Act 2008*. This policy is to be applied in conjunction with *Rent Review Procedure*.

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## 4. Provision

- a) Council will generally set the date of review on the anniversary of the start date of a tenancy.
- b) Tenants may request a re-assessment of their rent at any time because of a decrease of income or a change in household circumstances. Tenants must advise Council of the changes within 28 days of the changes occurring.
- c) Tenants must provide written evidence of any change in household circumstances, using Council forms.
- d) If the tenant provides the necessary evidence within 28 days of the document request, the rent is backdated to the date the change occurred.
- e) If the tenant provides the necessary evidence after the expiry of the 28 days period, the effective date of the reviewed rent (if deemed reviewable) shall be from the date the evidence is provided.
- f) Each rent assessment shall be electronically recorded, as an audit requirement.
- g) If the rent payable increases as the result of a rent review, 4 weeks written notice to tenants will be provided. Rent shall not be increased between rent reviews.
- h) Rent cannot be increased during a fixed term agreement unless it is stated in the tenancy agreement along with the amount.

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### Minimum rent

- a) Tenants are required to pay the full amount of rent assessed. The exception being when Council charges the tenant minimum rent or a reduced rent during the review when:
  - i. tenant is in severe economic difficulty;
  - ii. tenant is in a temporary absence due to incarceration, domestic violence, hospitalisation or rehabilitation. Evidence is required.
- b) The minimum rent is based on 10% of the dependant rate of Youth Allowance and is payable for sole tenants only with no other household members.
- c) Minimum rent can only be used for existing tenants and should not be used to allocate public housing to applicants with no income.

### Guaranteed rent period

- a) To encourage household members in receipt of a Centrelink income to enter the workforce and minimise associated costs, household members can apply for a *guaranteed rent period*.
- b) A guaranteed rent period is a guaranteed period of six months where rent will not increase due to a household member having an increase in their income due to commencing work.
- c) A guaranteed rent period is not an entitlement but a benefit; therefore household members should apply within 28 days of the household member commencing work.

### 5. Authorisation

This Policy was duly authorised by Council as the Torres Strait Island Regional *Council Rent Review Policy* on **xx June 2021** and shall hereby supersede any previous policies of the same intent.

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\_\_\_\_\_  
CEO Name Date: / / 21

\_\_\_\_\_  
Acting Chief Executive Officer,

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### 1. POLICY STATEMENT

- a) As a housing provider under the *Housing and Rooming Accommodation Act* 2008, Torres Strait Island Regional Council (Council) will conduct rent reviews

on an annual basis, in compliance with the *Housing Regulation 2015* and the Assistance Agreement with the Department of Housing and Public Works.

- b) ~~Council will generally set the date of review on the anniversary of the start date of a tenancy.~~
- c) ~~Tenants may request a re-assessment of their rent at any time because of a decrease of income or a change in household circumstances. Tenants must advise Council of the changes within 28 days of the changes occurring.~~
- d) ~~Tenants must provide written evidence of any change in household circumstances, using Council forms – refer Rent Review Procedure SPO22-PR1.~~
- e) ~~If the tenant provides the necessary evidence within 28 days of the document request, the rent is backdated to the date the change occurred.~~
- f) ~~If the tenant provides the necessary evidence after the expiry of the 28 days period, the effective date of the reviewed rent (if deemed reviewable) shall be from the date the evidence is provided.~~
- g) ~~Each rent assessment shall be electronically recorded, as an audit requirement.~~
- h) ~~If the rent payable increases as the result of a rent review, two month's written notice to tenants will be provided. Rent shall not be increased between rent reviews.~~
- i) ~~Rent cannot be increased during a fixed term agreement unless it is stated in the tenancy agreement along with the amount.~~

#### **~~Minimum rent~~**

- a) ~~Tenants are required to pay the full amount of rent assessed. The exception being when Council charges the tenant minimum rent or a reduced rent during the review when:~~
  - i. ~~tenant is in severe economic difficulty;~~
  - ii. ~~tenant is in a temporary absence due to incarceration, domestic violence, hospitalisation or rehabilitation.~~
- b) ~~The minimum rent is based on 10% of the dependant rate of Youth Allowance and is payable for sole tenants only with no other household members.~~
- c) ~~Minimum rent can only be used for existing tenants and should not be used to allocate public housing to applicants with no income.~~

#### **~~Guaranteed rent period~~**

- a) ~~To encourage household members in receipt of a Centrelink income to enter the workforce and minimise associated costs, household members can apply~~

~~for a guaranteed rent period.~~

- ~~b) A guaranteed rent period is a guaranteed period of six months where rent will not increase due to a household member having an increase in their income due to commencing work.~~
- ~~c) A guaranteed rent period is not an entitlement but a benefit; therefore household members should apply within 28 days of the household member commencing work.~~

## **~~2. SCOPE~~**

~~This policy applies to all Council housing tenants, including employees, Councillors, contractors, agents and assigns of Council.~~

## **~~3. PROCEDURE~~**

~~This policy is to be applied in conjunction with Rent Review Procedure SPO22-PR1.~~

## **~~4. AUTHORISATION~~**

~~This policy was duly authorised by Council as Torres Strait Island Regional Council Rent Review Policy on 11 December 2018 and shall hereby supersede any previous policies of the same intent.~~

\_\_\_\_\_  
**Bruce Ranga**  
**Chief Executive Officer**

**Date: 11 / 12 / 2017**

# Tenancy Breach Policy

Responsible Manager

Manager, Housing

Head of power

*Local Government Act 2009 (Qld)*  
*Local Government Regulation 2012 (Qld)*  
*Housing Act 2003 (Qld)*  
*Housing Regulation 2003 (Qld)*  
*Residential Tenancies and Rooming  
Accommodation Act 2008 (Qld)*  
*Social Housing Policy*

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Authorised by

Council

Authorised on

11 December 2018

Implemented from

September 2017

Last reviewed

~~December 2018~~May 2021

Review history

2018

To be reviewed on

June 2023

Corporate Plan

People, Sustainability and Prosperity

## 1. Purpose

Council is strongly committed to ensuring that the local government principles are reflected in the Tenancy Breach Policy. Council has an obligation to ensure tenants respect the properties and communities they live in by fulfilling obligations under their tenancy agreement.

### 1.1. Overview

This policy sets out the principles to be followed when a breach is to be issued to a tenant, household member or a housing client within reason. Our aim is to ensure:

- a) Council's policies and procedures provide the means for tenancies to be managed in a pro-active manner, which aims to work with and educate tenants on how to ensure compliance with the Acts and sustain their tenancy.
- b) If a tenant is in breach, tenant is in breach of their responsibilities, Council will take reasonable steps to assist tenants remedy the breach.

## 2. Application

This policy applies to all tenants, staff and applicants of TSIRC Social Housing Register.

## 3. Legislation/Policies

This policy is established with reference to obligations specified in the *Housing Act 2003*. This Policy is to be applied in conjunction with *Tenancy Breach Procedure*.

## 4. Provisions

The General Tenancy Agreement (GTA), Residential Tenancies and Rooming Accommodation Act (Qld) 2008 and the Housing Act (Qld) 2003 set out the rights and responsibilities of both tenants and Council.

Council's policies and procedures provide the means for tenancies to be managed in a pro-active manner, which aims to work with and educate tenants on how to ensure compliance with the Acts and sustain their tenancy.

When either party breaches the terms of these Acts either party has the right to seek remedy of the breach.

Notices to remedy a breach may be issued when:

- a) the rent payable under a tenancy agreement has remained unpaid for at least seven days after Council's last attempt to contact tenant; or
- b) the tenant has breached another term of the agreement, such as:
  - i. used the premises or any property adjoining the premises for an illegal activity; or

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ii. intentionally or recklessly destroyed or seriously damaged a part of the premises; or

iii. interfered significantly with the reasonable peace, comfort or privacy of other tenants or other tenants' use of their premises.

Council must give the tenant a Notice to remedy breach within the allowed remedy period in accordance with the Acts.

In seeking remedy for a breach by a tenant, Council staff must ensure that they fulfil the requirements of the Acts and the GTA.

If the tenant fails to remedy the breach within the allowed remedy period, Council may make an application for Dispute Resolution with the Residential Tenancies Authority.

If a breach is not resolved, Council may issue a Notice to Leave, requesting that the tenant vacates the premises.

If a tenant fails to vacate a property after the prescribed handover date on the Notice to Leave, Council may apply to the Queensland Civil Administrative Tribunal for a Termination Order to effectively end the tenancy.

Tenants can access Council's complaint process if they are dissatisfied with a decision made by Council.

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## **5. ~~Authorisation of Property Allocation~~**

### **6.5. AUTHORISATION**

This Policy was duly authorised by Council as the Torres Strait Island Regional Council ~~Allocation of Housing Tenancy Breach~~ Policy on **xx June 2021** and shall hereby supersede any previous policies of the same intent.

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\_\_\_\_\_  
CEO Name  
Acting Chief Executive Officer

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ 21

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# Tenant Absence Policy

Responsible Manager	Manager, Housing
Head of power	<i>Local Government Act 2009 (Qld)</i> <i>Local Government Regulation 2012 (Qld)</i> <i>Housing Act 2003 (Qld)</i> <i>Housing Regulation 2003 (Qld)</i> <i>Residential Tenancies and Rooming Accommodation Act 2008 (Qld)</i> <i>Social Housing Policy</i>
Authorised by	Council
Authorised on	21 February 2018
Implemented from	February 2018
Last reviewed	<i>May 2021</i> <del>Nil</del>
Review history	Nil
To be reviewed on	June 2023
Corporate Plan	People, Sustainability and Prosperity

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## 1. Purpose

Council is strongly committed to ensuring that the local government principles are reflected in the Tenant Absence Policy.

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### 1.1 Overview

This policy sets out the principles to be followed when a tenant is absent from property for extended periods of time. As a social housing provider under the Residential Tenancies and Rooming Accommodation Act 2008, Torres Strait Island Regional Council aims to ensure:

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- a) Supportive tenancy management services to successfully sustain long-term tenancies;
- b) Compliance with relevant RTA regulations; and
- c) Tenant situations are considered and not disadvantaged through council's decision making.

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## 2. Application

This policy applies to all tenants, staff, Councillors, contractors, agents and assigns of Council.

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## 3. Legislation/Policies

This policy is established with reference to obligations specified in the *Housing Act 2003*. This policy is to be applied in conjunction with Abandoned Properties Policy.

## 4. Incarceration

Where a tenant is incarcerated, tenant must:

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- a) Continue to comply by GTA responsibilities;
- b) Ensure there are arrangements for yard maintenance; and
- c) Ensure TSIRC is aware of period of absence to avoid any suspect of abandonment.

If the tenant is incarcerated for six months and over, the tenancy will be terminated immediately. Consultation will be had with appropriate Councillor and PBC if needed, to identify appropriate household member to succeed the tenancy or appropriate applicant from TSIRC needs register to become tenant.

If the tenant is incarcerated for less than six months, a tenant absence application will be required for completion with incarceration advice attached. Councillors of appropriate division is to be notified.

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## 5. Provisions

- a) Tenant are allowed to be away from their property for up to eight weeks without obtaining approval.

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- b) During any period of absence, tenants are required to keep paying their rent.

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- c) Absences eight weeks or more (maximum of five months), tenants must seek prior approval from the TSIRC Housing Unit and provide evidence to support their requests, regardless of the reason of absence.
- d) Each request will be assessed on a case-by-case basis and tenants will be required to provide evidence to substantiate the need for absence.
- e) Tenant Absence requests are based on individual circumstances and may be declined provided the decision is justified and documented.
- f) TSIRC will reassess the tenants need for ongoing housing assistance where the tenant is absent from property for unreasonable periods (beyond approved absent period / more than three months or in total a six-month period).
- g) The tenant can appoint a caretaker in tenant's absence. A caretaker is not automatically entitled to live in the house. Tenants must receive written approval from Council for a caretaker to live in the house.
- h) Tenants are encouraged to provide interim contact details or caretaker details to ensure TSIRC is aware of tenant whereabouts should any damage to property is reported, or abandonment is suspected.
- i) A temporary absence of longer than 12 months will not be approved unless for exceptional circumstances.
- j) If Council has still not heard from tenant, the house will be deemed abandoned and Council will commence the abandonment process – refer Abandoned Properties Policy.
- k) In some cases, TSIRC will consider applying reduced rent or minimum rent.

## 6. Authorisation

This Policy was duly authorised by Council as the Torres Strait Island Regional Council *Tenant Absence Policy* on xx June 2021 and shall hereby supersede any previous policies of the same intent.

CEO Name \_\_\_\_\_ Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_ 21  
 Acting Chief Executive Officer

## 1. POLICY STATEMENT

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- a) ~~As a social housing provider under the *Residential Tenancies and Rooming Accommodation Act 2008* (the Act), Torres Strait Island Regional Council (Council) is committed to:~~
- ~~i. providing a supportive tenancy management service to assist tenants to successfully sustain their tenancies; and~~
  - ~~ii. ensuring compliance with the Act.~~
- b) ~~As part of their agreement with Council and pursuant to the Act (ss10 and 184) the tenant may use the premises only as a place of residence or mainly as a place of residence. A tenant's absence for eight weeks at a time or for a total of eight weeks in a 12-month period does not need to be approved. Tenants are required to keep paying their rent during their absence.~~
- c) ~~Council requires the tenant to advise in writing when they are going to be absent from their home for more than eight weeks and up to 12 months.~~
- d) ~~The tenant must provide fair reasons for their extended absence, such as medical treatment, education, employment, cultural or family reasons. The tenant is responsible for payment of rent during the extended absence.~~
- e) ~~The tenant can appoint a caretaker in tenant's absence. A caretaker is not automatically entitled to live in the house. Tenants must receive written approval from Council for a caretaker to live in the house.~~
- f) ~~A "temporary" absence of longer than 12 months will not be approved unless for exceptional circumstances.~~
- g) ~~If a tenant does not return at the end of an approved period of absence, Council will attempt to contact the tenant to discuss their intentions.~~
- h) ~~If Council has still not heard from tenant, the house will be deemed abandoned and Council will commence the abandonment process — refer Abandoned Properties Policy SPO23.~~

## **2. ~~SCOPE~~**

~~This policy applies to all Council housing tenants, including employees, Councillors, contractors, agents and assigns of Council.~~

## **3. ~~PROCEDURE~~**

~~This policy is to be applied in conjunction with Tenant Absence Procedure SPO24-PR1.~~

## **4. ~~AUTHORISATION~~**

~~This policy was duly authorised by Council as Torres Strait Island Regional Council Tenant Absence Policy on 21 February 2018 and shall hereby supersede any previous policies of the same intent.~~