

# AGENDA

TORRES STRAIT ISLAND REGIONAL COUNCIL

NOVEMBER 2020

Monday 16<sup>th</sup> November 2020, 10:30am – 5:05pm

Tuesday 17<sup>th</sup> November 2020, 9:00am – 5:00pm

Corporate Conference Room, Barlow Park  
Cnr Scott and Severin Street, Cairns

## **COUNCIL ORDINARY MEETING**

**Monday 16<sup>th</sup> November 2020**

### **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 – 10:50am</u> | <u>Declaration of Conflict of Interest (COI) (Prescribed and Declarable)</u>   |
| 4. | <u>10:50am – 11:00am</u> | <u>Confirmation of Meeting Minutes</u> <ul style="list-style-type: none"><li>• October 2020 Ordinary Meeting</li></ul> |
| 5. | <u>11:00am – 11:15am</u> | <u>Outstanding Ordinary Meeting Action Items</u>   |
| 6. | <u>11:15am – 11:30am</u> | <u>LEGAL – Development Application – Masig Lot 20</u>  |
| 7. | <u>11:30am – 11:45am</u> | <u>LEGAL – Development Application – Masig Lot 26</u>  |
| 8. | <u>11:45am – 12:00pm</u> | <u>LEGAL – Development Application – Poruma Seawall</u>  |

### **12:00pm – 1:00pm – LUNCH**

- |     |                        |   |
|-----|------------------------|---|
| 9.  | <u>1:00pm – 1:15pm</u> | <u>LEGAL – Divestment Policy</u>  |
| 10. | <u>1:15pm – 1:30pm</u> | <u>LEGAL – Delegation Register Update</u>                               |
| 11. | <u>1:30pm - 2:00pm</u> | <u>CORPORATE – Community Grants Program Allocations – November 2020</u> |
| 12. | <u>2:00pm – 2:30pm</u> | <u>CORPORATE – Policy Matter – Policy Review</u>                        |
| 13. | <u>2:30pm – 3:00pm</u> | <u>ENGINEERING – Funding Matter – SCADA Systems Upgrade</u>             |

### **3:00pm – 3:30pm – AFTERNOON TEA**

- |     |                        |   |
|-----|------------------------|---|
| 14. | <u>3:30pm – 4:30pm</u> | <u>OCEO – Contractual Matter – Sea Freight Services &amp; Fuel Supply</u> |
| 15. | <u>4:30pm – 4:45pm</u> | <u>BUILDING – Contractual Matter – 50 Yessie St, Warraber</u>             |
| 16. | <u>4:45pm – 5:00pm</u> | <u>BUILDING – Contractual Matter – 31 Dabus St, Warraber</u>              |
| 17. | <u>5:00pm – 5:05pm</u> | <u>Closing Remarks and Prayer</u>   |

**COUNCIL ORDINARY MEETING**

**Tuesday 17<sup>th</sup> November 2020**

**Agenda Items**

- |     |                          |  |
|-----|--------------------------|--|
| 18. | <u>9:00am – 9:05am</u>   | <u>Welcome and opening prayer</u>  |
| 19. | <u>9:05am - 10:05am</u>  | <b><u>PRESENTATION 1:</u></b> Mr Zacharia Matysek, - Update on Local Housing and Regional Housing Plan               |
|     |                          | <b><u>10:05am – 10:30am - MORNING TEA</u></b>  |
| 20. | <u>10:30am – 11:30pm</u> | <b><u>PRESENTATION 2:</u></b> Mr Anthony Ghee and Mr Marty Morris – Minniecon Holding                                |
| 21. | <u>11:30am – 12:30pm</u> | <b><u>PRESENTATION 3:</u></b> Mr Steve Hampton – Greenway Turf Solution  |
|     |                          | <b><u>12:30pm – 1:30pm – LUNCH</u></b>   |
| 22. | <u>1:30pm – 3:00pm</u>   | <b><u>Members' Address to Council:</u></b> – Ms Cynthia Lui – State Member for Cook                                  |
|     |                          | <b><u>3:00pm – 3:30pm – AFTERNOON TEA</u></b>  |
| 23. | <u>3:30pm – 3:45pm</u>   | <u>CORPORATE – Operational Plan – Q1 Update</u>  |
| 24. | <u>3:45pm – 4:00pm</u>   | <u>OCEO – Policy Matter – Child Youth Risk Management Policy</u>   |
| 25. | <u>4:00pm – 4:05pm</u>   | <u>Business Arising from Information Report</u>  |
| 26. | <u>4:05pm – 4:10pm</u>   | <u>Next Meeting Date Scheduled:</u> <ul style="list-style-type: none"><li>• 9 &amp; 10 December 2020 -Badu</li></ul> |
| 27. | <u>4:10pm – 4:50pm</u>   | <u>Strategic Matter</u>  |
| 28. | <u>4:45pm – 5:00pm</u>   | <u>Closing Remarks and Prayers</u>   |

# TORRES STRAIT ISLAND REGIONAL COUNCIL

## AGENDA REPORT

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### COUNCIL ORDINARY MEETING

DATE:

SUBJECT: Development Application — RILIPO – Reconfiguration of a Lot (1 Lot into 3 Lots) - Proposed Lots 20, 38 and 201 cancelling Lot 20 on SP277431  
20 JDL Road, Masig Island QLD 4875

PRESENTER: Peter Krebs, Senior Legal Counsel

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APPLICANT: The Remote Indigenous Land and Infrastructure Program Office (RILIPO) on behalf of the lessee of the Land Holding Act Lease No 715653361 (Ted (Fraser) Nai and Cynthia Elma Mabo)

LOCATION: 20 JDL Road, Masig Island

PROPOSAL: Reconfiguration of a Lot (1 Lot into 3 Lots)

EXISTING PROPERTY DESCRIPTION: Lot 20 on SP277431  
REFERENCE: DA 08-20-10(1) Masig Lot 20 10358

### LOCALITY PLAN





## **RECOMMENDATION**

***That Council issue a Development Permit for ‘Reconfiguration of a Lot’ (1 Lot into 3 Lots) - Proposed Lots 20, 38 and 201 cancelling Lot 20 on SP277431 with the inclusion of the conditions set out in Part 6 of the Agenda Report for Masig Island, Masig QLD 4875.***

## **EXECUTIVE SUMMARY**

The Remote Indigenous Land and Infrastructure Program Office (RILIPO) seeks development approval for Reconfiguration of Lot which will result in three (3) Lots on Lot 20 on SP277431, 20 JDL Road, Masig Island.

The development proposal aims to subdivide Lot 20 SP277431 to create 3 lots:

- Site A (Proposed Lot 201) proposed new vacant lot;
- Site B (Proposed Lot 20) existing dwelling; and
- Site C (Proposed Lot 38) existing dwelling

The application advises the following:

- The land is subject to a Land Holding Act Lease No. 715653361, which was vested to Ted (Fraser) Nai and Cynthia Elma Mabo on 27 April 2020.
- The proposed new lots will enable the beneficiaries of the estate to seek home ownership over the two existing dwellings on the site and the balance lot 201 (which will remain vacant and available for future development).
- The beneficiaries seek to become the owners of the existing dwellings on the site, and proposed Lot 201 will become a vacant land lot and available for potential future sub lease.

The development will reconfigure Lot 20 to create three (3) lots as shown on

- **Attach 1 - Proposed ROL Plan Lot 20.pdf**
- **Attach 2 - Location Plan 10358-75-Lot20.pdf**

There are no planning issues and the application is recommended for approval.

## **DISCUSSION**

### **1. REFERRAL AGENCY**

The applicant referred the application to the State Assessment and Referral Agency (SARA) pursuant to the *Planning Regulation 2017* for Coastal purposes and was advised by SARA (ref 2010-19139 SRA 15 October 2020) that this was an invalid referral and not required.

### **2. ZENADTH KES TOWN PLANNING SCHEME 2016**

The proposed development is reflected below:

Strategic	Township
Zone	Township
Local Plan	Masig Island
Environmental Values	Low Environmental Value area;
Potential Acid Sulphate Soils	Yes land below 5m AHD
Landslide Risk	No
Bushfire Risk	No
Coastal Management District	Yes
Erosion Prone Area	Yes
Storm Tide Inundation	Yes
Flood Hazard Area	No

Within the TSIRC Zenadth Kes Planning Scheme, the proposed development is located within the Township Zone and is subject to Code Assessment. The proposed development has been assessed against the applicable Codes:

- Township zone code
- Masig Island Local Plan Code
- Reconfiguring a Lot Code
- Infrastructure Works Code
- Water Quality and Acid Sulfate Soils Code

The subject site is zoned for urban purposes and minimises impacts upon areas identified as having Environmental Value.

### **3. ENGINEERING**

Water - services exist in JDL Road. Services exist to both dwellings.

Sewer – Council's sewer mains exist along the eastern boundary and through proposed lot 201 in 2 separate crossings. All future building works are to remain 1.5m clear of the Council sewer infrastructure to allow future access for maintenance if required. All future building works are to remain clear of the sewer house drain that serves the existing houses.

Access – All proposed lots will have frontage to JDL road and no new roadworks are required. A new driveway crossover and access strip will need to be constructed for proposed Lot 201 and it is appropriate that these are constructed in conjunction with any new dwelling on the lot.

Electricity (Overhead) and telecommunications (underground) exist in JDL Road.

### **4. PLANNING ISSUES**

The Reconfiguration of a Lot requires planning approval.

The lots are well above the required minimum road frontage of 10m and the required minimum lot size of 300m<sup>2</sup> (where reticulated sewerage is available).

### **5. RECOMMENDATIONS**

**Based on the above, the recommendation is as follows:**

That Council issue a Development Permit for 'Reconfiguration of a Lot' with the inclusion of the following conditions:

#### **Approved Plans**

1. The proposed development is to be undertaken in accordance with the following approved drawings

<b>Plan/Document Number</b>	<b>Plan/Document Name</b>	<b>Date</b>
Page 15 of application	Proposed Development Plan Figure 8	August 2020
RPS PR10358-75	MASIG DA08-20-10(1) Lot 20 SP277431 ROL 1 into 3 Location Plan	20-08-2020

*subject to any alterations:*

- a) found necessary by Chief Executive Officer at the time of examination of drawings or during construction of the works because of particular financial, engineering or cultural requirements and to ensure the works comply in all respects with the requirements of FNQROC Development Manual and good engineering practice; and

- b) to comply with project specific conditions
- 2. All works must be carried out in accordance with the approved plans, conditions and specifications, to the requirements and satisfaction of the Chief Executive Officer.

### **Potential Damage**

- 3. Any existing Council infrastructure or private property (including but not limited to, services, kerb, concrete structures, pits, channel, pavement, footpath, RCP, RCBC, etc.) damaged due to the proposed works is to be rectified or replaced at the applicant's expense prior to the commencement of use. The applicant must notify Council immediately of the affected infrastructure.

### **Services**

- 4. The applicant is responsible for the cost of any alteration to public utilities as a result of complying with conditions of this Development Permit.
- 5. The applicant is responsible for providing any required services to the lots, including a new House Connection Branch to Council's sewer line.
- 6. The applicant should ensure that the clearance from any structure or building works to any sewer infrastructure is a minimum of 1.5m except as approved by the Chief Engineer. Note that the existing sewer lines cross through proposed lot 201 in 2 separate places.
- 7. All future building works are to remain clear of the sewer house drain that serves the existing houses, or to make alternative plumbing arrangements.
- 8. The applicant shall construct a new sealed access (minimum 3m wide) from JDL Road to the main part of proposed Lot 201, to the satisfaction of the CEO. The construction may occur at the time of building works on the proposed lot 201.

### **Setbacks**

- 9. The battle-axe corridor access to lot 201 shall have a minimum width of 5 metres wide (boundary-to-boundary). A desired setback of 1.5 metres is required to the existing dwelling on proposed Lot 20.

### **Cultural Heritage**

- 10. Torres Strait Islander cultural heritage is protected under the *Torres Strait Islander Cultural Heritage Act 2003*. This Act establishes a cultural heritage duty of care and in section 23(1) mandates that a person who carries out an activity must take all reasonable and practicable measures for ensuring activities are managed to avoid or minimise harm to Torres Strait Islander cultural heritage. The Duty of Care Guidelines gazetted pursuant to the *Aboriginal Cultural Heritage Act 2003* provide guidance on identifying and protecting cultural heritage to fulfil the duty of care.

### **Currency**

- 11. This approval is valid for four (4) years. A plan of survey must be lodged with Council for endorsement within this time, otherwise the approval will lapse.

**Report Prepared By:** RPS (Cairns) – Ian Doust  
**Date Prepared:** 22 October 2020

## **OFFICER COMMENT**

A title search is included as **Attachment 3**.

Planning consultant's advice regarding future building works:

- a. A dwelling house is accepted development in the Township zone, so – under the Planning Scheme – once a lot is created no further approval or consultation is required.
- b. There is no building work regulated by the Planning Scheme
- c. Building works are certified by a private building certifier – who checks that Future building must adhere to the defined Flood Level in the local plan code of the planning scheme.

Applicant's (RILIPO) advice regarding the LHA lease:

1. The land is subject to a Land Holding Act Lease No. 715653361, which was vested to Ted (Fraser) Nai and Cynthia Elma Mabo on 27 April 2020.
2. Ted and Cynthia are the only two beneficiaries for this Katter lease.
3. The Land Holding Act Lease No. 715653361 will remain on all 3 proposed lots once the parent parcel (DOGIT) is subdivided.
4. Vacant Lot A – if the intention is to keep this lot under the ownership of Ted and Cynthia, then the best option would be a sublease arrangement in the future as this would allow the sublease to be granted to a third party. The original LHA lease number will carry over on Lot A, and a separate sublease number will be created once the sublease registers with DNRME on title.
5. If the intention is to surrender the LHA over Lot A, the land reverts to DOGIT and a trustee lease between the trustee and third party will be the option, this then creates a new trustee lease number on title. [Note: A surrender would require a separate trustee resolution.]
6. Lot C has an existing dwelling currently used for social housing (the LHA lease over the land covers the social dwelling – although it has not been purchased as yet by the beneficiaries). The house is to be transferred to the beneficiary which will unite the land and house together.
7. The house on Lot B is privately owned.

## **CONCLUSION**

As presented.

Hollie Faithfull  
**A/CEO**

Julia Maurus  
**Manager, Legal Services**

**Attachments:**

1. Approved Plans: Attach 1 - Proposed ROL Plan Lot 20.pdf
2. Approved Plans: Attach 2 - Location Plan 10358-75-Lot20.pdf
3. Current title search

## 12 Proposed Development Plan

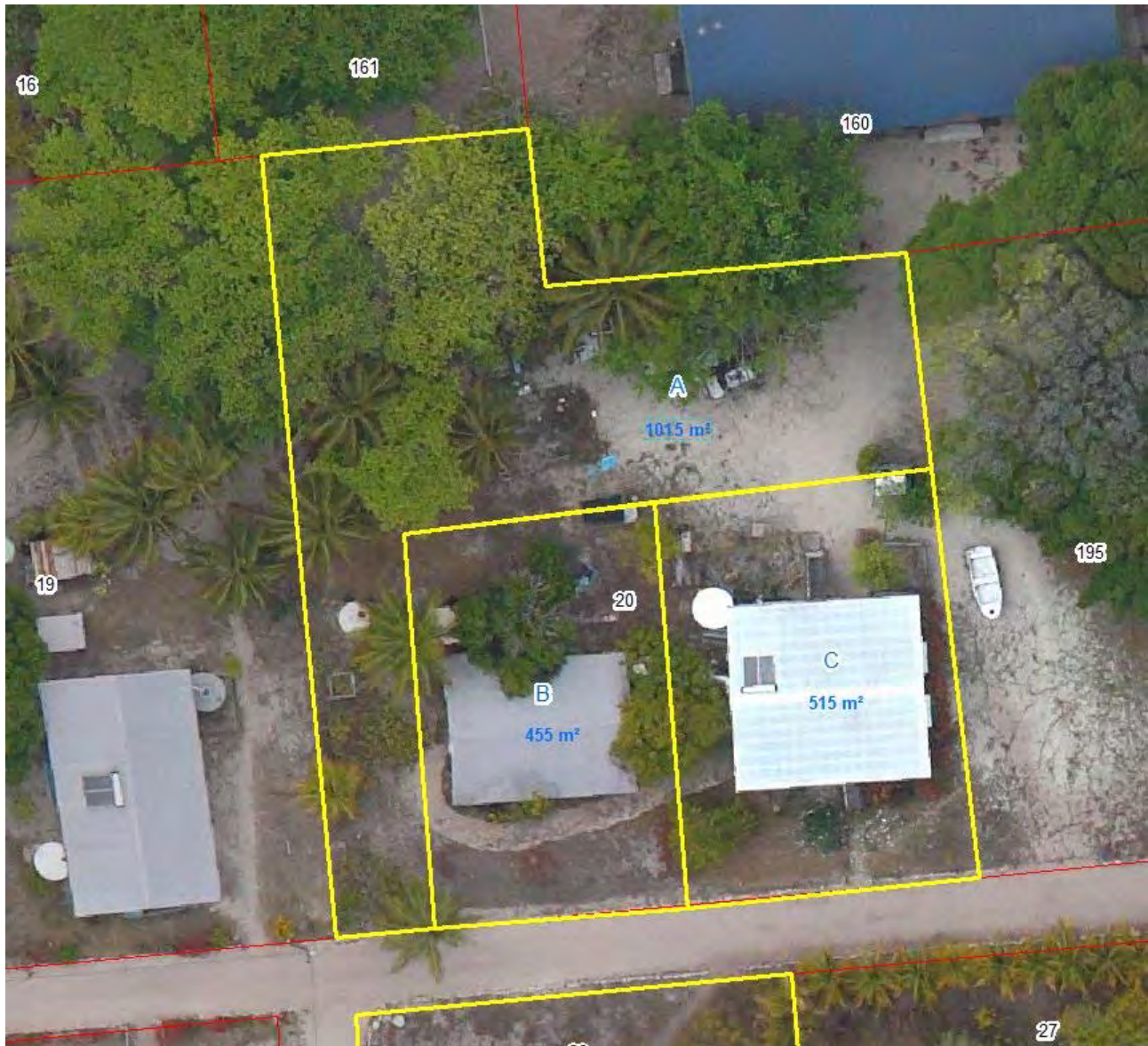


Figure 8 Proposed Reconfiguration of Lot (1 into 3 lots) located at Lot 20 JDL Road Masig (Lot 20 on SP277431).



ALL DIMENSIONS, AREAS & EASEMENT LOCATIONS ARE SUBJECT TO FINAL SURVEY.

**IMPORTANT NOTE**

This plan was prepared as a concept plan only and accuracy of all aspects of the plan have not been verified. No reliance should be placed on the plan and RPS Australia East Pty Ltd accepts no responsibility for any loss or damage suffered howsoever arising to any person who may use or rely on this plan.

**DNRM DCDB.**

**DNRM AERIAL PHOTOGRAPHY.**

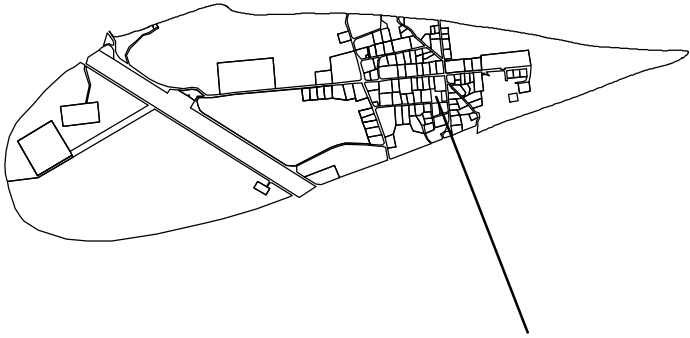
Based on or contains data provided by the State of Queensland (Department of Natural Resource & Mines) [2017]. In consideration of the State permitting use of this data you acknowledge and agree that the State gives no warranty in relation to the data (including accuracy, reliability, completeness, currency or suitability) and accepts no liability (including without limitation, liability in negligence) for any loss, damage or costs (including consequential damage) relating to any use of the data. Data must not be used for direct marketing or be used in breach of the privacy laws.

The aerial photography used in this plan has not been rectified. The image has been overlaid as a best fit on the boundaries shown and position is approximate only.

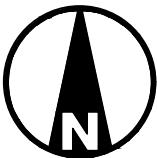
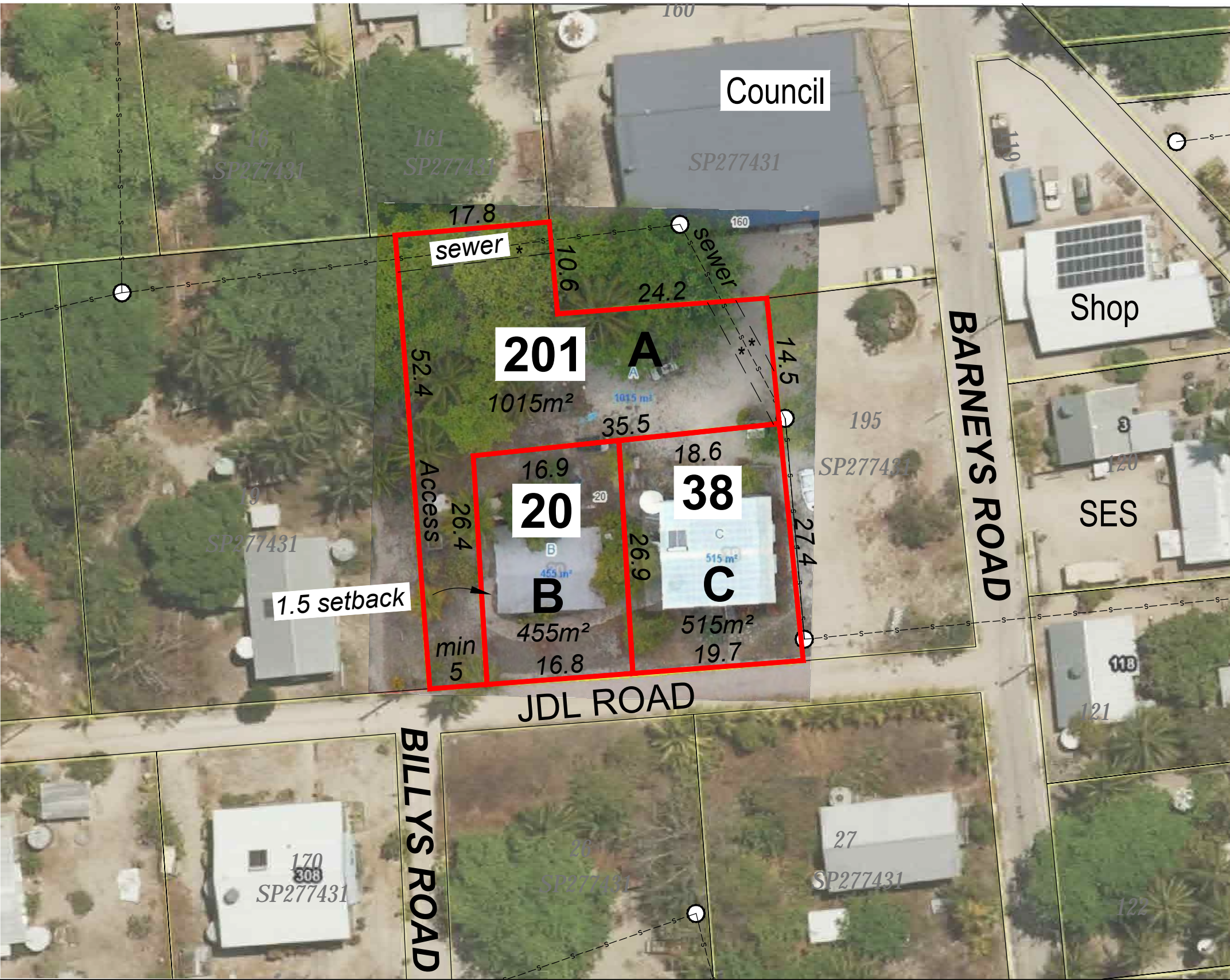
Photography publish date: Qld Globe 2018

© State of Queensland (Department of Natural Resource & Mines)

\* No building or structures are to be built within 1.5m of sewerage infrastructure.



Site



**MASIG DA08-20-10(1) Lot 20 SP277431 ROL 1 into 3**  
**Location Plan**



PRELIMINARY - FOR DISCUSSION PURPOSES ONLY

Datum: MGA94 Z55 | Scale: 1:500 @ A3 | Date: 20-08-2020 | Drawing: 10358-75

RPS Australia East Pty Ltd  
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135 Abbott St  
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W rpsgroup.com



# CURRENT TITLE SEARCH

## NATURAL RESOURCES, MINES AND ENERGY, QUEENSLAND

Request No: 35419314

Search Date: 05/11/2020 11:18

Title Reference: 51071643

Date Created: 08/12/2016

Previous Title: 21296139

### REGISTERED OWNER

Dealing No: 717613441 31/10/2016

TORRES STRAIT ISLAND REGIONAL COUNCIL

DEED OF GRANT IN TRUST

THE GRANTEE TO HOLD THE SAID LAND IN TRUST FOR THE  
BENEFIT OF ISLANDER INHABITANTS AND FOR NO OTHER PURPOSE  
WHATSOEVER

### ESTATE AND LAND

Estate in Fee Simple

LOT 20 SURVEY PLAN 277431  
Local Government: TORRES STRAIT ISLAND

### EASEMENTS, ENCUMBRANCES AND INTERESTS

1. Rights and interests reserved to the Crown by  
Conveyance No. 715652907 (Lot 20 on CP TS253)
2. TRUSTEE LEASE No 715653361 13/03/2014 at 12:50  
PETER NAI  
LENCY NAI JOINT TENANTS  
OF THE WHOLE OF THE LAND  
TERM: 04/06/1987 TO IN PERPETUITY OPTION NIL
3. RECORD OF DEATH No 720026138 27/04/2020 at 10:17  
over  
TRUSTEE LEASE: 715653361  
surviving joint tenant  
PETER NAI
4. VESTING No 720026140 27/04/2020 at 10:19  
TRUSTEE LEASE: 715653361  
CYNTHIA ELMA MABO TENANT IN COMMON 1/2  
TED FRASER NAI TENANT IN COMMON 1/2
5. COVENANT No 719128482 27/11/2018 at 14:37  
restricts dealings over  
THE LAND IDENTIFIED AT ITEM 2 OF THIS DOCUMENT

### ADMINISTRATIVE ADVICES

Dealing	Type	Lodgement Date	Status
712747139	NT DETERM	23/09/2009 10:13	CURRENT
NATIVE TITLE ACT 1993 (CTH)			

UNREGISTERED DEALINGS - NIL



# CURRENT TITLE SEARCH

NATURAL RESOURCES, MINES AND ENERGY, QUEENSLAND

Request No: 35419314

Search Date: 05/11/2020 11:18

**Title Reference: 51071643**

Date Created: 08/12/2016

Corrections have occurred - Refer to Historical Search

Caution - Charges do not necessarily appear in order of priority

**\*\* End of Current Title Search \*\***

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Requested By: SMIS .

# TORRES STRAIT ISLAND REGIONAL COUNCIL

## AGENDA REPORT

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### COUNCIL ORDINARY MEETING

**DATE:**

**SUBJECT:** Development Application — RILIPO – Reconfiguration of a Lot (1 Lot into 2 Lots) - Proposed Lots 26 and 261 cancelling Lot 26 on SP277431

26 JDL Road, Masig Island QLD 4875

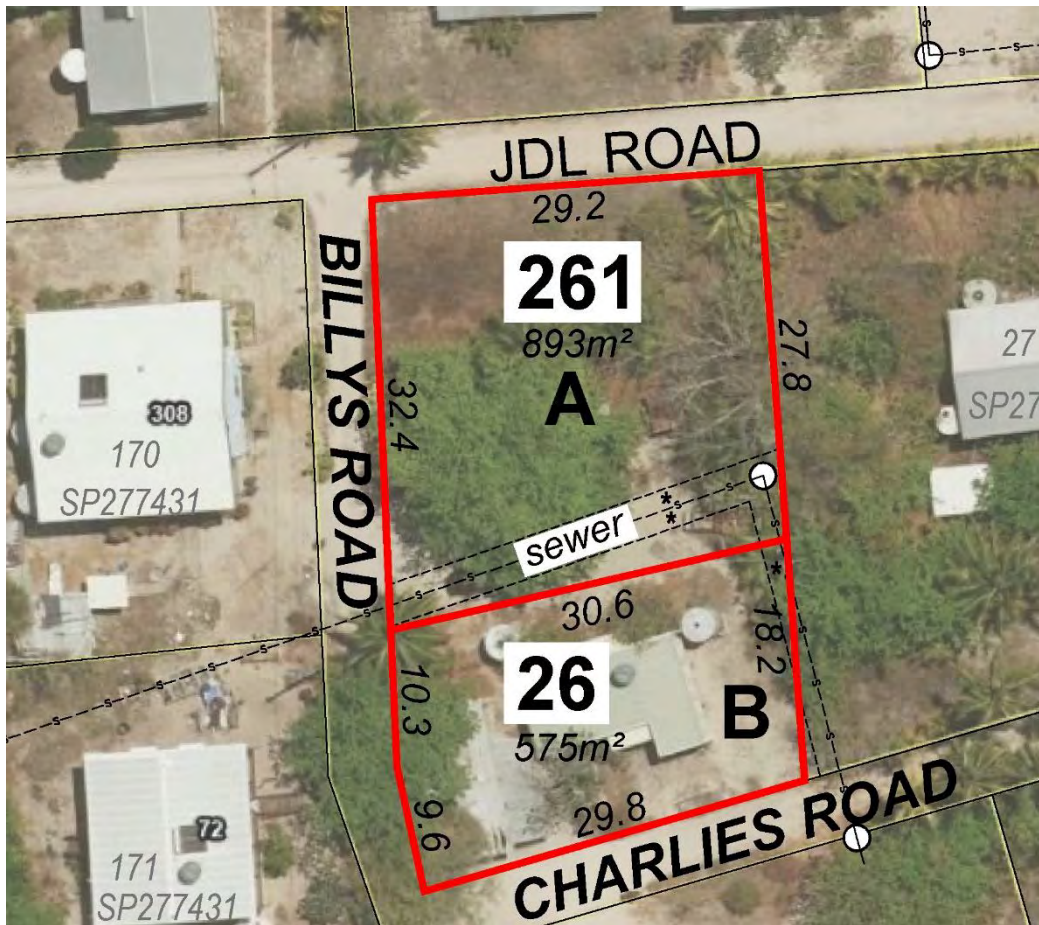
**PRESENTER:** Peter Krebs, Senior Legal Counsel

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**APPLICANT:** The Remote Indigenous Land and Infrastructure Program Office (RILIPO) on behalf of the Lessee of the Land Holding Act Lease No 715653393 (Peter Lowatta)

**LOCATION:** 26 JDL Road, Masig Island  
**PROPOSAL:** Reconfiguration of a Lot (1 Lot into 2 Lots)  
**EXISTING LOT:** Lot 26 on SP277431  
**REFERENCE:** DA 08-20-10(2) Masig Lot 26 10358

### LOCALITY PLAN



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### RECOMMENDATION

***That Council issue a Development Permit for ‘Reconfiguration of a Lot’ (1 Lot into 2 Lots) - Proposed Lots 26 and 261 cancelling Lot 26 on SP277431 with the inclusion of the conditions set out in Part 6 of the Agenda Report for Masig Island, Masig QLD 4875.***

## **EXECUTIVE SUMMARY**

The Remote Indigenous Land and Infrastructure Program Office (RILIPO) seeks development approval for Reconfiguration of Lot which will result in two (2) Lots on Lot 26 on SP277431, 26 JDL Road, Masig Island.

The development proposal aims to subdivide Lot 26 SP277431 to create 2 lots:

- Site A (Proposed Lot 261) proposed new vacant lot;
- Site B (Proposed Lot 26) demolished dwelling Charlies Road

The application advises the following:

- The land is subject to a Lessee of Land Holding Act Lease No. 715653393, Mr Peter Lowatta
- The subject site contains a donga type dwelling. The Department of Housing and Public Works approved the demolition of the donga to which the Lessee agreed in writing on 19 September 2019. While imagery in this application shows a dwelling on the lot, this application is dealt with as vacant land.
- The proposed new lots will enable home ownership

The development will reconfigure Lot 26 to create two (2) lots as shown on

- **Attach 1 - Proposed ROL Plan Lot 26.pdf**
- **Attach 2 - Location Plan 10358-76-Lot26.pdf**

There are no planning issues and the application is recommended for approval.

## **DISCUSSION**

### **1. REFERRAL AGENCY**

The application did not require referral the application to the State Assessment and Referral Agency (SARA) pursuant to the *Planning Regulation 2017*.

### **2. ZENADTH KES TOWN PLANNING SCHEME 2016**

The proposed development is reflected below:

Strategic	Township
Zone	Township
Local Plan	Masig Island
Environmental Values	Low Environmental Value area;
Potential Acid Sulphate Soils	Yes land below 5m AHD
Landslide Risk	No
Bushfire Risk	No
Coastal Management District	Yes
Erosion Prone Area	Yes
Storm Tide Inundation	Yes
Flood Hazard Area	No

Within the TSIRC Zenadth Kes Planning Scheme, the proposed development is located within the Township Zone and is subject to Code Assessment. The proposed development has been assessed against the applicable Codes:

- Township zone code

- Masig Island Local Plan Code
- Reconfiguring a Lot Code
- Infrastructure Works Code
- Water Quality and Acid Sulfate Soils Code

The subject site is zoned for urban purposes and minimises impacts upon areas identified as having Environmental Value.

### 3. ENGINEERING

Water - services exist in JDL Road and Billys Road and can service the proposed lots.

Sewer - Councils sewer mains exist through the subject property. All future building works are to remain 1.5m clear of the Council sewer infrastructure to allow future access for maintenance if required. All future building works are to remain clear of the sewer house drain that serves the existing houses.

Access – All proposed lots will have frontage to JDL road, Billys Road and Charlies Road and no new roadworks are required. A new driveway crossover will need to be constructed for proposed Lot 261 and it is appropriate that this is constructed in conjunction with any new dwelling on the lot.

Electricity (Overhead) and telecommunications (underground) exist in Billys Road.

### 4. PLANNING ISSUES

The Reconfiguration of a Lot requires planning approval.

The lots are well above the required minimum road frontage of 10m and the required minimum lot size of 300m<sup>2</sup> (where reticulated sewerage is available).

### 5. RECOMMENDATIONS

**Based on the above, the recommendation is as follows:**

That Council issue a Development Permit for 'Reconfiguration of a Lot' with the inclusion of the following conditions:

#### Approved Plans

1. The proposed development is to be undertaken in accordance with the following approved drawings

<b>Plan/Document Number</b>	<b>Plan/Document Name</b>	<b>Date</b>
Page 14 of application	Proposed Development Plan	August 2020
RPS PR10358-76	MASIG DA08-20-10(2) Lot 26 SP277431 ROL 1 into 2 Location Plan	20-08-2020

*subject to any alterations:*

- a) found necessary by Chief Executive Officer at the time of examination of drawings or during construction of the works because of particular financial, engineering or cultural requirements and to ensure the works comply in all respects with the requirements of FNQROC Development Manual and good engineering practice; and
  - b) to comply with project specific conditions
2. All works must be carried out in accordance with the approved plans, conditions and specifications, to the requirements and satisfaction of the Chief Executive Officer.

### **Potential Damage**

3. Any existing Council infrastructure or private property (including but not limited to, services, kerb, concrete structures, pits, channel, pavement, footpath, RCP, RCBC, etc.) damaged due to the proposed works is to be rectified or replaced at the applicant's expense prior to the commencement of use. The applicant must notify Council immediately of the affected infrastructure.

### **Services**

4. The applicant is responsible for the cost of any alteration to public utilities as a result of complying with conditions of this Development Permit.
5. The applicant is responsible for providing any required services to the lots, including a new House Connection Branch to Council's sewer line.
6. The applicant should ensure that the clearance from any structure or building works to any sewer infrastructure is a minimum of 1.5m except as approved by the Chief Engineer. Note that the existing sewer lines cross through both proposed Lot 26 and Lot 261.

### **Cultural Heritage**

7. Torres Strait Islander cultural heritage is protected under the *Torres Strait Islander Cultural Heritage Act 2003*. This Act establishes a cultural heritage duty of care and in section 23(1) mandates that a person who carries out an activity must take all reasonable and practicable measures for ensuring activities are managed to avoid or minimise harm to Torres Strait Islander cultural heritage. The Duty of Care Guidelines gazetted pursuant to the *Aboriginal Cultural Heritage Act 2003* provide guidance on identifying and protecting cultural heritage to fulfil the duty of care.

### **Currency**

8. This approval is valid for four (4) years. A plan of survey must be lodged with Council for endorsement within this time, otherwise the approval will lapse.

**Report Prepared By:** RPS (Cairns) – Ian Doust  
**Date Prepared:** 22 October 2020

## **CONCLUSION**

As presented.

Hollie Faithfull  
**A/CEO**

Julia Maurus  
**Manager, Legal Services**

### **Attachments:**

1. Approved Plans
  - o Attach 1 - Proposed ROL Plan Lot 26.pdf
2. Attach 2 - Location Plan 10358-76-Lot26.pdf



## 13 Proposed Development Plan



*Proposed Reconfiguration of Lot (1 into 2 lots) located at Lot 26 JDL Road Masig (Lot 26 on SP277431). Note: the dwelling located on the proposed Lot B has been approved for demolition.*



ALL DIMENSIONS, AREAS & EASEMENT LOCATIONS ARE SUBJECT TO FINAL SURVEY.

**IMPORTANT NOTE**

This plan was prepared as a concept plan only and accuracy of all aspects of the plan have not been verified. No reliance should be placed on the plan and RPS Australia East Pty Ltd accepts no responsibility for any loss or damage suffered howsoever arising to any person who may use or rely on this plan.

**DNRM DCDB.  
DNRM AERIAL PHOTOGRAPHY.**

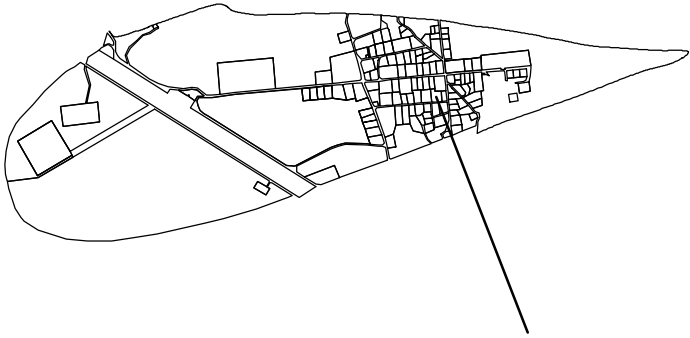
Based on or contains data provided by the State of Queensland (Department of Natural Resource & Mines) [2017]. In consideration of the State permitting use of this data you acknowledge and agree that the State gives no warranty in relation to the data (including accuracy, reliability, completeness, currency or suitability) and accepts no liability (including without limitation, liability in negligence) for any loss, damage or costs (including consequential damage) relating to any use of the data. Data must not be used for direct marketing or be used in breach of the privacy laws.

The aerial photography used in this plan has not been rectified. The image has been overlaid as a best fit on the boundaries shown and position is approximate only.

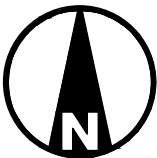
Photography publish date: Qld Globe 2018

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\* No building or structures are to be built within 1.5m of sewerage infrastructure.



Site



**MASIG DA08-20-10(2) Lot 26 SP277431 ROL 1 into 2  
Location Plan**



PRELIMINARY - FOR DISCUSSION PURPOSES ONLY

Datum: MGA94 Z55 | Scale: 1:500 @ A3 | Date: 20-08-2020 | Drawing: 10358-76

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# TORRES STRAIT ISLAND REGIONAL COUNCIL

## LATE AGENDA REPORT

### COUNCIL ORDINARY MEETING

**DATE:** November 2020

**SUBJECT:** Development Application – Proposed Poruma Seawalls  
Lot 6 & 7 SP270862- Poruma – TSIRC – Operational  
Works (Tidal Works) Maka Esplanade  
Poruma QLD 4875

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

**APPLICANT:** Torres Strait Island Regional Council (TSIRC)

**LOCATION:** Maka Esplanade Poruma QLD 4875

**PROPOSAL:** Operational Works (Tidal Works) - Proposed Seawall

**EXISTING PROPERTY DESCRIPTION:** Lot 6 & 7 on SP270862

**REFERENCE** DA15 07-20-11(1) Poruma seawall

### LOCALITY PLAN



**IMPORTANT NOTE**  
This plan was prepared as a concept plan only and accuracy of all aspects of the plan have not been verified.  
All NPS, aerial and other sources are approximate only. Subject to relevant studies, Survey, Engineering and Government approvals.  
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**PORUMA SEAWALL - STAGES 1-5**  
**FOOTPRINT OF WORKS**



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**rps**

Datum: MGA94 Z54 | Scale: 1:5000 @ A3 | Date: 15-9-2020 | Drawing: PR146548-3



## **RECOMMENDATION**

***That Council issue a Development Permit for ‘Operational Works (Prescribed Tidal Works) Stages 4 & 5 and Environmental Authority (Material Change of Use) for Dredging for Stages 1-5’ with the inclusion of the conditions set out in Part 6 of the Agenda Report, for the Seawall on Poruma (Coconut Island).***

## **EXECUTIVE SUMMARY**

TSIRC has prepared a Development Application for Operational Works (Prescribed Tidal Works) Stages 4 & 5 and Environmental Authority (Material Change of Use) for Dredging for Stages 1-5 of the Poruma Seawall on Poruma (Coconut Island), Torres Strait.

The Poruma Coastal Defence project is the construction of sand-filled geotextile sandbags to stabilise the beach foreshore of the island that are eroding and threatening roads, houses and infrastructure.

Stages 1, 2 and 3 of the Poruma Seawall project were approved in 2015 and Stage 1 has been completed.

Development Approval is required for the seawall project and includes:

- Stage 4 – construction of approximately 700 metres of geotextile sandbags and adjustments to the island barge ramp;
- Stage 5 – construction of approximately 120 metres of geotextile sandbags
- An Environmental Authority for dredging to remove built-up sand from within the community barge ramp area, and then from the adjacent beach to fill the geotextile sandbags
- Rock groyne shortening is an opportunity project (not critical to the coastal defences, but still intended to be performed whilst constructing seawalls), that is intended to reduce the amount of sand falling into the boat harbour area. The groyne is to be shortened from the seaward end by approximately 10m to alleviate sand build-up within barge area.
- The groyne should be removed to the base (this will be down to the level of beach rock), not far below the level of the beach.

There are no planning issues and the application is recommended for approval.

## **DISCUSSION**

### **1. ZENADTH KES TOWN PLANNING SCHEME 2016**

The land is subject to a local planning instrument (Zenadth Kes Planning Scheme). However as the works are Operational work by or for public sector entity then Schedule 6 of the Planning Regulation 2017 prohibit the works from being assessable development against the planning scheme.

As the works are Prescribed Tidal Works, TSIRC will act as Assessment Manager with referrals to the State agencies.

### **2. REFERRAL AGENCY CONDITIONS**

The works were referred to the State for

- Schedule 10, Part 5, Division 4, Table 2, Item 1—Environmentally relevant activity
- Schedule 10, Part 17, Division 3, Table 1, Item 1—Tidal works and works in a coastal management district
- Schedule 10, Part 17, Division 3, Table 2, Item 1—Tidal works in tidal waters

The State has issued Concurrence Agency Conditions (**Attach 2**) which must be included in Council's approval of the works.

### 3. ENGINEERING

The works have been designed by consultant engineers AECOM under direction from TSIRC Engineering.

The application included plans of the works and supported by technical advice including:

- Appendix G - Coastal Assessment Report 60594450\_PorumaMasig\_2020
- Appendix H - Poruma Seawall Design Report\_v2 20190704
- Appendix I - Poruma Risk Assessment and Mitigation Report 20191103
- Appendix K - Marine Plant report R79278\_Poruma Seawall\_0\_200312

### 4. PLANNING ISSUES

No issues.

### 5. ENVIRONMENTAL AUTHORITY

This referral included an application for an Environmental Authority to use sand from the adjacent barge ramp area and beach for the filling of the geotextile sandbags. Below are the details of the decision:

- Approved
- Reference: EA0002543 12 October 2020
- Effective date: to be advised
- Prescribed environmentally relevant activity (ERA): ERA 16 - Extraction and Screening 1: Dredging, in a year, the following quantity of material (b) more than 10,000t but not more than 100,000t

### 6. RECOMMENDATIONS

**Based on the above, the recommendation is as follows:**

That Council issue a Development Permit for 'Operational Works (Prescribed Tidal Works) Stages 4 & 5 and Environmental Authority (Material Change of Use) for Dredging for Stages 1-5' with the inclusion of the following conditions:

#### Approved Plans

1. The proposed development is to be undertaken in accordance with the following approved drawings

	Plan/Document Name	Date
RPS PP146548-3	Poruma Seawall – Stage 1-5 Footprint of Works	15-9-2020
Aecom Poruma Island Geo-bag Seawall – Stage 4 DRAWING NUMBER    DRAWING DESCRIPTION 04-60594450-SN-102 STANDARD NOTES 04-60594450-GA-103 LAYOUT PLAN - SHEET 1 04-60594450-GA-104 LAYOUT PLAN - SHEET 2 04-60594450- TS-105 TYPICAL SECTIONS - SHEET 1 04-60594450- TS-106 TYPICAL SECTIONS - SHEET 2 04-60594450-LS-107 LONGITUDINAL SECTIONS MCA02 & MCA04 04-60594450-LS-108 LONGITUDINAL SECTION MCA06 04-60594450-XS-109 MCA02 ANNOTATED CROSS SECTIONS 04-60594450-XS-110 MCA06 ANNOTATED CROSS SECTIONS - SHEET 1 04-60594450-XS-111 MCA06 ANNOTATED CROSS SECTIONS - SHEET 2 04-60594450-XS-112 MCA06 ANNOTATED CROSS SECTIONS - SHEET 3 04-60594450-XS-113 MCA06 ANNOTATED CROSS SECTIONS - SHEET 4		dated 03.06.20

Aecom Poruma Island Geo-bag Seawall – Stage 5 DRAWING NUMBER DRAWING DESCRIPTION 05-60594450-DI-101 DRAWING INDEX AND LOCALITY PLAN 05-60594450-SN-102 STANDARD NOTES 05-60594450-GA-103 LAYOUT PLAN 05-60594450-TS-104 TYPICAL SECTIONS 05-60594450-LS-105 LONGITUDINAL SECTIONS - MCAOS 05-60594450-XS-106 ANNOTATED CROSS SECTIONS		dated 03.06.20
RPS PR146548-2	Poruma Seawall – Stage 4 – Plan of Proposed Groyne Shortening	dated 15-9- 2020

subject to any alterations:

- a) found necessary by Chief Executive Officer at the time of examination of drawings or during construction of the works because of particular financial, engineering or cultural requirements and to ensure the works comply in all respects with the requirements of FNQROC Development Manual and good engineering practice; and
  - b) to comply with project specific conditions
2. All works must be carried out in accordance with the approved plans, conditions and specifications, to the requirements and satisfaction of the Chief Executive Officer.
  3. Council's examination of the documents should not be taken to mean that the documents have been checked in detail and Council takes no responsibility for their accuracy. If during construction, inadequacies of the design are discovered, it is the responsibility of the Consulting Architects and Engineers to resubmit amended plans to Council for Approval and rectify works accordingly.
  4. Notwithstanding any approval given to engineering documents, where a discrepancy occurs between these documents and Council's standards, then Council's standards shall apply. All works must be performed in accordance with Council standards and Local Laws and other statutory requirements, unless specifically listed in the project specific conditions.
  5. If in fact there are errors, omissions of insufficient detail on the plans for the purpose of construction, these deficiencies shall be made good during construction and Council reserves the right to withhold approval of construction until such deficiencies are made good to its satisfaction.

### **Construction and Demolition Waste Materials**

6. No construction or demolition materials are permitted to be disposed of at any TSIRC waste facility, or stockpiled anywhere on any island. Non-toxic, non-regulated materials may be donated or sold to community members should an appropriate intended use be clearly identifiable, at the approval of the Chief Engineer. All other construction and demolition materials are to be disposed of by transportation off-site, in accordance with all biosecurity requirements, to appropriate facilities on the mainland. Recycling and appropriate disposal is encouraged, in accordance with Queensland Government's waste and resource management hierarchy objectives.

### **Existing Services**

7. Any existing Council infrastructure or private property (including but not limited to, services, kerb, concrete structures, pits, channel, pavement, footpath, RCP, RCBC, etc.) damaged due to the proposed works is to be rectified or replaced at the applicant's expense prior to the commencement of use. The applicant must notify Council immediately of the affected infrastructure.

8. The applicant is responsible for the cost of any alteration to public utilities as a result of complying with conditions of this Development Permit.

#### **Stormwater**

9. All stormwater within or entering the site shall be controlled in such a manner so that it does not cause any public health or safety concerns and/or damage or loss to property and building for subject site or downstream of the subject site.

#### **Acid Sulphate Soils**

10. The applicant, or its contractor, are required to ensure that incident of acid sulphate soils are managed on site in accordance with best practice guidelines to mitigate any adverse impacts to surrounding properties.

#### **Biosecurity**

11. Machinery and construction and landscape materials brought from the mainland or from the Torres Strait Protected Zone must comply with the General Biosecurity Obligation (GBO) which requires that all persons who deal with biosecurity matter or a carrier, if they know or ought reasonably to know that it poses a biosecurity risk, to take all reasonable and practical measures to prevent or minimise the risk.

#### **Cultural Heritage**

12. Torres Strait Islander cultural heritage is protected under the *Torres Strait Islander Cultural Heritage Act 2003*. This Act establishes a cultural heritage duty of care and in section 23(1) mandates that a person who carries out an activity must take all reasonable and practicable measures for ensuring activities are managed to avoid or minimise harm to Torres Strait Islander cultural heritage. The Duty of Care Guidelines gazetted pursuant to the Aboriginal Cultural Heritage Act 2003 provide guidance on identifying and protecting cultural heritage to fulfil the duty of care.

#### **Environmental Authority**

13. The conditions of the Environmental Authority EA0002543 (Prescribed environmentally relevant activity (ERA): ERA 16 - Extraction and Screening 1: Dredging, in a year, the following quantity of material (b) more than 10,000t but not more than 100,000t) are to be complied with.

#### **Environmental management**

14. The requirements of the Environmental Management Plan submitted with the application are to be complied with during all construction periods.

#### **State Assessment and Referral Agency Decision**

15. The State Assessment and Referral Agency Decision reference 2007-17848 SRA, its approved plans and conditions are part of this development decision and must be read in conjunction with this approval.

#### **Currency**

16. This approval is valid for four (4) years.

**Report Prepared By:** RPS (Cairns) – Ian Doust  
**Date Prepared:** 21 Oct 2020

#### **OFFICER COMMENT**

Native title future act validation has not yet been completed.

A trustee report is being presented separately to confirm the trustee supports the development application.

## **CONCLUSION**

As presented.

Hollie Faithfull  
**A/CEO**

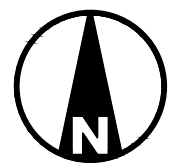
Julia Maurus  
**Manager, Legal Services**

## **Attachments:**

1. Approved Plans
  - Attach 1a - Poruma Seawall Footprint Plan PR146548-3
  - Attach 1b - Stage 4 Poruma Geobag seawall 04-60594450-Compiled
  - Attach 1c - Stage 5 Poruma Geobag seawall 05-60594450-Compiled
  - Attach 1d - Groyne Shortening PR146548-2
2. Concurrence Agency response 2007-17848 SRA



**IMPORTANT NOTE**  
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## PORUMA SEAWALL - STAGES 1-5 FOOTPRINT OF WORKS



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Datum: MGA94 Z54 | Scale: 1:5000 @ A3 | Date: 15-9-2020 | Drawing: PR146548-3

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# PORUMA ISLAND GEO-BAG SEAWALL

## STAGE 4

### DRAWING INDEX

DRAWING NUMBER	DRAWING DESCRIPTION
04-60594450-DI-101	DRAWING INDEX AND LOCALITY PLAN
04-60594450-SN-102	STANDARD NOTES
04-60594450-GA-103	LAYOUT PLAN - SHEET 1
04-60594450-GA-104	LAYOUT PLAN - SHEET 2
04-60594450-TS-105	TYPICAL SECTIONS - SHEET 1
04-60594450-TS-106	TYPICAL SECTIONS - SHEET 2
04-60594450-LS-107	LONGITUDINAL SECTIONS MCA02 & MCA04
04-60594450-LS-108	LONGITUDINAL SECTION MCA06
04-60594450-XS-109	MCA02 ANNOTATED CROSS SECTIONS
04-60594450-XS-110	MCA06 ANNOTATED CROSS SECTIONS - SHEET 1
04-60594450-XS-111	MCA06 ANNOTATED CROSS SECTIONS - SHEET 2
04-60594450-XS-112	MCA06 ANNOTATED CROSS SECTIONS - SHEET 3
04-60594450-XS-113	MCA06 ANNOTATED CROSS SECTIONS - SHEET 4



LOCALITY PLAN  
SCALE A

LAST MODIFIED: 03/06/20 16:03 AM  
REVISIONS  
C:\01-REF-60594450\60594450\900\_CAD\_GS\100\_CAD\01L\_SHEETS\STAGE 3, 4 AND 5\04-60594450-DI-101.DWG

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Scale	
SCALE A	

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DRAWN	G.T.	CHECKED	K.P.
APPROVED	S.B.	DATE	03.06.20

**AECOM**

STUART BETTINGTON  
RPEQ No. 05251  
AECOM Australia Pty Ltd A.B.N. 20 093 846 925



PORUMA ISLAND SEAWALL DESIGN		
GEO-BAG SEAWALL - STAGE 4 DRAWING INDEX AND LOCALITY PLAN		
Status	FOR INFORMATION	Rev. A
Dwg No.	04-60594450-DI-101	

NOTES:

1. THESE DRAWINGS SHALL BE READ IN CONJUNCTION WITH MANUFACTURERS SPECIFICATION AND DESIGN REPORT, AND WITH SUCH WRITTEN INSTRUCTION AS MAY BE ISSUED DURING THE COURSE OF THE CONTRACT BY THE ENGINEER.
2. ALL DISCREPANCIES SHALL BE REFERRED TO THE ENGINEER FOR RESOLUTION BEFORE PROCEEDING.
3. DURING CONSTRUCTION THE CONTRACTOR SHALL BE RESPONSIBLE FOR MAINTAINING THE WORKS INCLUDING ADJACENT STRUCTURES IN A SUITABLE CONDITION ENSURING NO PART IS OVER STRESSED.
4. UNO ALL DIMENSIONS IN METERS.
5. ALL DIMENSIONS RELATING TO EXISTING WORK, GROUND AND SEABED LEVELS OR ITEMS SUPPLIED BY OTHERS, SHALL BE VERIFIED ON SITE BY THE CONTRACTOR PRIOR TO COMMENCEMENT OF ANY FABRICATION OR ERECTION WORKS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THEIR CORRECTNESS.
6. ALL PROPRIETARY ITEMS SHALL BE INSTALLED STRICTLY IN ACCORDANCE WITH MANUFACTURERS/SUPPLIERS INSTRUCTIONS.
7. THE CONTRACTOR SHALL BE RESPONSIBLE FOR TEMPORARY SITE DRAINAGE AND GENERAL MAINTENANCE OF THE AREA DURING CONSTRUCTION.
8. THE CONTRACTOR SHALL RECORD PHOTOGRAPHIC EVIDENCE OF ALL EXCAVATIONS PRIOR TO ANY BACK FILLING.
9. GEO-BAGS TO BE FILLED SNUGLY IN ACCORDANCE WITH MANUFACTURERS SPECIFICATION.
10. STRETCHER BOND PLACEMENT OF BAGS REQUIRED TO ACHIEVE GOOD INTERLOCKING OF FACE ARMOUR.
11. ALL FILL TO BE COMPACTED USING HYDRAULIC (WATER IN) AND/OR MECHANICAL METHODS TO ENSURE SAND CONSOLIDATION TO 70% DENSITY INDEX AND FILLING OF VOIDS.

SELECT FILL

1. SELECT FILL TO BE CLEAN BEACH SAND.

LEGEND TO DATUMS

200 YEAR ARI DESIGN LEVEL (2070)	5.65
200 YEAR ARI DESIGN LEVEL (2020)	5.25
HAT HIGHEST ASTRONOMICAL TIDE	4.55
MHWS MEAN HIGH WATER SPRINGS	3.44
MHWN MEAN HIGH WATER NEAPS	2.55
MSL MEAN SEA LEVEL	2.28
MLWN MEAN LOW WATER NEAPS	2.01
MLWS MEAN LOW WATER SPRINGS	1.12
LAT LOWEST ASTRONOMICAL TIDE	0.00
CD CHART DATUM	0.00

AHD AUSTRALIAN HEIGHT DATUM 1.91

SURVEY DETAILS

SURVEY SUPPLIED BY	RPS
DRAWING NUMBER	PR142018-2
VERTICAL DATUM	LAT/CD
HORIZONTAL DATUM	GDA 94
SURVEY DATE	05/02/2020
ORIGIN	PM14.0484 E=726187.127, N=88884.08.595

GEOBAG MATERIAL SPECIFICATIONS

STANDARD GEO-BAG (POLYESTER) SHALL MEET THE FOLLOWING SPECIFICATIONS.

SL NO	PROPERTY	0.75m3 SPECIFICATION
1	VOLUME FILLED	0.75m3
2	LENGTH FILLED	1600 mm-1800 mm
3	WIDTH FILLED	1200 mm-1500 mm
4	DEPTH FILLED	350 mm-400 mm
5	GEOFABRIC MASS	>750 G/m2
6	TOUGHNESS (CROSS MACHINE DIRECTION)	≥18 KJ/m2
7	WIDE STRIP TENSILE STRENGTH (CROSS MACHINE DIRECTION)	≥40 KN/M
8	SEAM STRENGTH (CROSS MACHINE DIRECTION)	≥35 KN/M
9	UV STABILITY (STRENGTH AFTER 500 HOURS)	≥50% RETAINED STRENGTH
10	PUNCTURE RESISTANCE (CBR)	≥7 KN
11	ABRASION RESISTANCE - BAW ROTATION DRUM	≥50% RETAINED STRENGTH
12	PORE SIZE (095)	<75 M M
13	PERMITTIVITY OR FLOW RATE @ 100mm HEAD	≥0.35/SEC OR ≥35 L/m2/S

NOTE: TESTS UNDERTAKEN BASED ON METHODS STIPULATED IN THE RELEVANT AS3706.

VANDAL RESISTANT GEOTEXTILE SAND CONTAINER (POLYESTER/POLYPROPYLENE)

SL NO	PROPERTY	0.75m3 SPECIFICATION
1	VOLUME FILLED	0.75m3
2	LENGTH FILLED	1600 mm TYPICAL
3	WIDTH FILLED	1200 mm TYPICAL
4	DEPTH FILLED	400 mm TYPICAL
5	GEOFABRIC MASS	>1,200 G/m2
6	TOUGHNESS (CROSS MACHINE DIRECTION)	≥28 KJ/m2
7	WIDE STRIP TENSILE STRENGTH (CROSS MACHINE DIRECTION)	≥50 kN/m
8	SEAM STRENGTH (CROSS MACHINE DIRECTION)	≥40 kN/m
9	UV STABILITY (STRENGTH AFTER 500 HOURS)	≥80% RETAINED STRENGTH
10	PUNCTURE RESISTANCE (CBR)	≥10 KN
11	ABRASION RESISTANCE - BAW ROTATION DRUM	≥70% RETAINED STRENGTH
12	PORE SIZE (095)	<75mm
13	PERMITTIVITY OR FLOW RATE @ 100mm HEAD	≥0.25/SEC OR ≥25 L/m2/S

NOTE: TESTS UNDERTAKEN BASED ON METHODS STIPULATED IN THE RELEVANT AS3706.

UV RESISTANT NON WOVEN GEOTEXTILE (POLYESTER)

SL NO	PROPERTY	SPECIFICATION
1	TOUGHNESS - WIDE STRIP <sup>1</sup>	≥11.0 KJ/m2
2	TENSILE STRENGTH - WIDE STRIP <sup>1</sup>	≥26.0 kN/m
3	ELONGATION - WIDE STRIP <sup>1</sup>	≥70.0%
4	CBR BURST STRENGTH <sup>1</sup>	≥4.6 kN
5	PORE SIZE (095) <sup>1</sup>	<75 mm
6	PERMITTIVITY OR FLOW RATE @ 100mm HEAD <sup>1</sup>	≥0.8/SEC OR 80 L/m2/S
7	UV STABILITY (STRENGTH AFTER 500 HOURS) <sup>1</sup>	≥50%

NOTE: TESTS UNDERTAKEN BASED ON METHODS STIPULATED IN THE RELEVANT AS3706.

NOTE:

NO DRAINAGE ASSESSMENT OR FORMAL DRAINAGE DESIGN HAS BEEN UNDERTAKEN AS PART OF THE PROJECT. THE INTENT OF THE DRAINAGE SHOWN ON DRAWING 01-60594450-GA-103 AND 01-60594450-TS-104 IS TO ALLOW PONDING WATER TO ESCAPE VIA THE APPARENT EXISTING DRAINAGE PATH. THE SIZE OF THE DRAIN HAS BEEN BASED ON CONSTRUCTABILITY AND NOT CALCULATED CAPACITY. SHOULD THE CAPACITY OF THE RCBC BE INSUFFICIENT, RESULTING IN ADVERSE PONDING/FLOODING IN THIS AREA ADDITIONAL OUTLETS ARE TO BE ADDED.

CAD REF:\A\BME\PRD\PROJECTS\MSA\4554\54-VIB\_CD\_GIS\_VIB\_CD\20\_SHEET\STAGE 3\_4 AND 5\4-4554\54-SN-102.DWG

LAST MODIFIED: 01/02/2020 5:48 PM

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Scale

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APPROVED	S.B.	DATE	03.06.20

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PORUMA ISLAND SEAWALL DESIGN			
GEO-BAG SEAWALL - STAGE 4 STANDARD NOTES			
Status	FOR INFORMATION	Dwg No	04-60594450-SN-102
Rev.	A		





- NOTES**
- BATTERS INDICATE FINAL SAND PROFILE.
  - FOR CONTROL LINE SETOUT REFERENCE POINT REFER DRAWING 04-60594450-TS-105.
  - SURVEY ORIGIN IS PM 140484. SURVEY BY RPS 5/2/2020 DRAWING PR142018-2 ISSUED 12/2/2020. PM DEFINED AS RL 4.524m LAT. LEVELS LOWERED 0.086m IN ACCORDANCE WITH "TORRES STRAIT TIDAL SURVEY DATUM ANALYSIS" 15/02/2010 AMENDED PM RL 4.438m.
  - ALL RLS ARE LAT CHART DATUM.
  - HORIZONTAL DATUM GDA 94, MGA 94 ZONE 54.
  - FOR CONTROL LINE SETOUT REFER TO LONGITUDINAL SECTIONS ON DRAWINGS 04-60594450-LS-107 and 108.
  - EXACT CULVERT POSITION AND OUTLET ELEVATION TO SUIT GEO-BAG POSITIONING. REFER TO LANDSIDE DRAINAGE DETAILS ON DWG 04-60594450-TS-106.

- LEGEND**
- PROPERTY BOUNDARY
  - SURVEY POINT
  - PROPOSED BATTER
  - PROPOSED FLOWPATH
  - CONTROL LINE
  - MAJOR CONTOUR
  - MINOR CONTOUR
  - AREA TO BE GRADED

This drawing is confidential and shall only be used for the purposes of this project.				
Scale				
Scale B				
0 10 20 25m				
1:1000 (A3) 1:500 (A1)				
REVISIONS				
A G.T. 03.06.20 FOR INFORMATION S.B.				
No. BY DATE DESCRIPTION APPD				

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DRAWN	G.T.	CHECKED	K.P.
APPROVED	S.B.	DATE	03.06.20

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DRAWN	G.T.	CHECKED	K.P.
APPROVED	S.B.	DATE	03.06.20

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RPEQ No.			
AECOM Australia Pty Ltd A.B.N. 20 093 846 925			

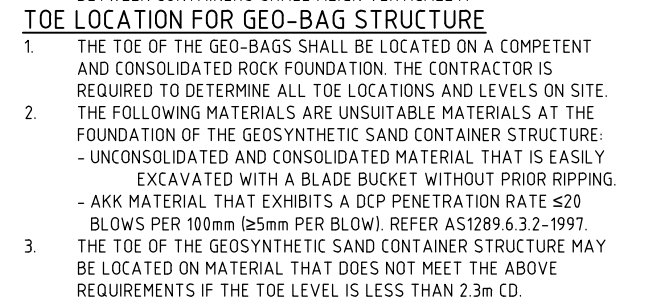
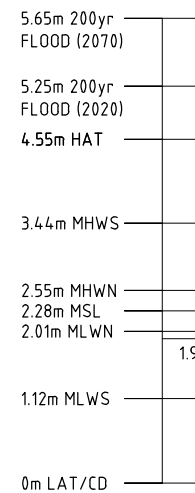
Torres Strait Regional Council			
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PORUMA ISLAND SEAWALL DESIGN			
GEO-BAG SEAWALL - STAGE 4			
LAYOUT PLAN - SHEET 1			
Status	FOR INFORMATION	Dwg No.	04-60594450-GA-103
Rev.	A		

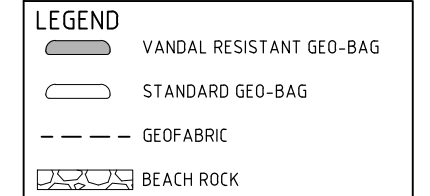








- ## NOTES
1. ADDITIONAL TOE GEO-BAG REQUIRED WHERE NO ROCK IS LOCATED AT RL 2.3m.
  2. VANDAL RESISTANT GEO-BAGS LOCATED ON OUTER FACE OF WALL.
  3. EXISTING SEAWALL TO BE MODIFIED AS SHOWN IN DETAILS PROVIDED. SITE SUPERINTENDENT TO ASSESS CONDITION OF EXISTING GEOBAGS WHEN RELOCATING TO DETERMINE IF THE BAG IS SUITABLE.
  4. PROVIDE A MINIMUM 0.5m OVERLAP BETWEEN SHEETS OF GEOFABRIC.
  5. PROVIDE BACKFLOW PREVENTION WHEN BUNDS ARE CONSTRUCTED.
  6. 300x225 BOX CULVERT TO HAVE CLASS B2 COVER.
  7. BUND WORKS MAY PROCEED SEPARATELY TO THE SEAWALL WORKS.



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A	G.T.	03.06.20	FOR INFORMATION	S.B.
No.	BY	DATE	DESCRIPTION	APPD

Scale

0 1.0 2.0 2.5m

1:100 (A3) 1:50 (A1)

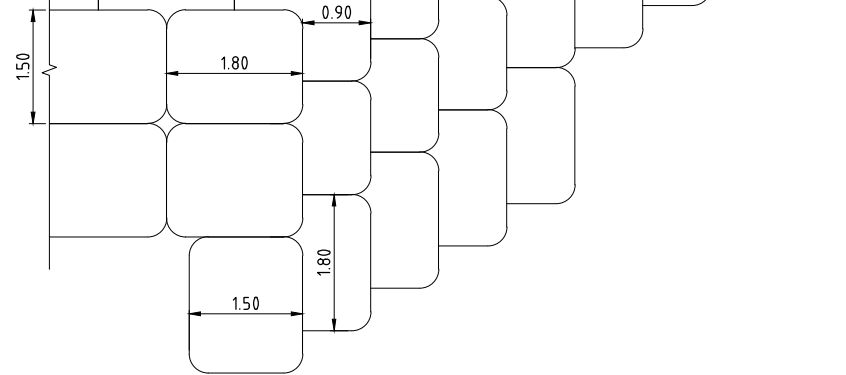
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APPROVED	S.B.	DATE	03.06.20

**AECOM**

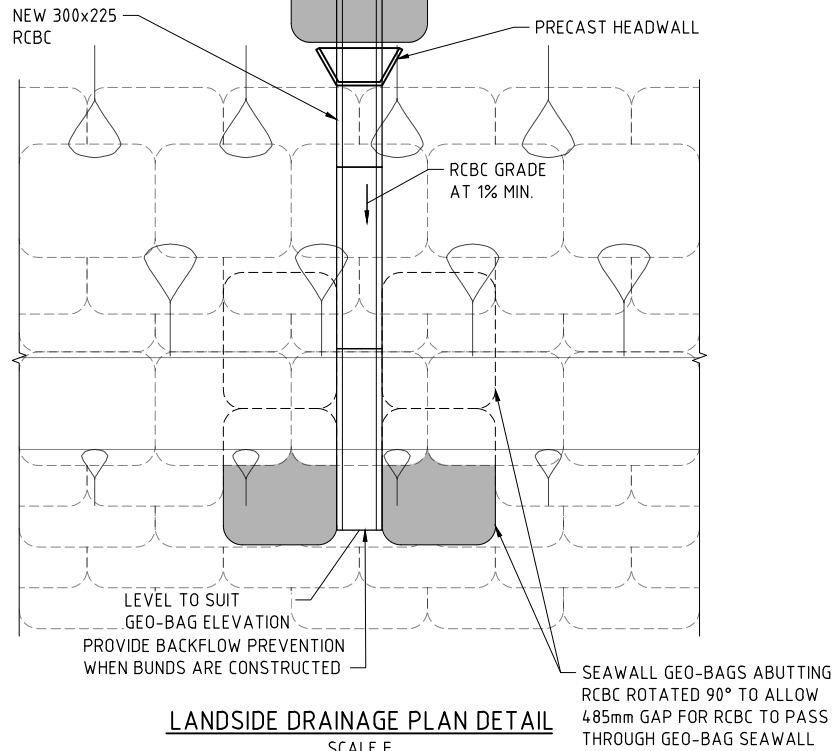
RPEQ No.  
AECOM Australia Pty Ltd A.B.N. 20 093 846 925



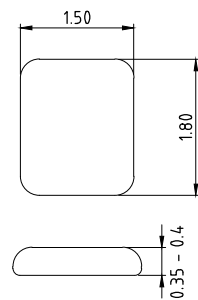
PORUMA ISLAND SEAWALL DESIGN GEO-BAG SEAWALL - STAGE 4 TYPICAL SECTIONS - SHEET1		
Status	FOR INFORMATION	Drg No. 04-60594450-TS-105 Rev. A



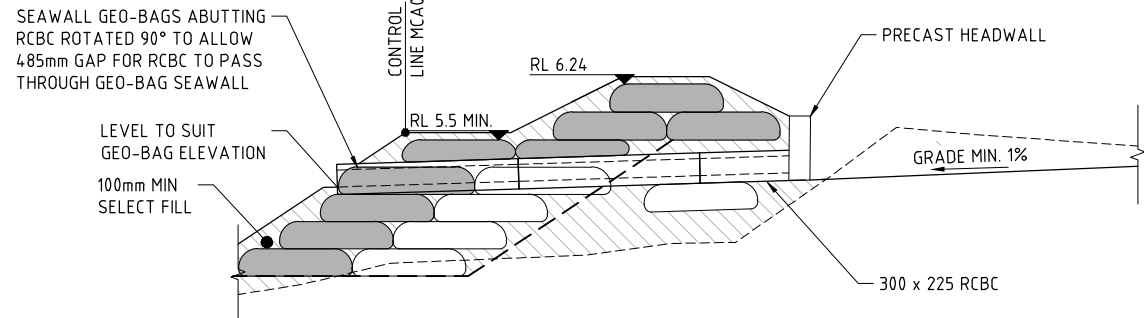
TYPICAL WALL END DETAIL  
SCALE F



LANDSIDE DRAINAGE PLAN DETAIL  
SCALE F



GEO-BAG 0.75m  
SCALE F



LANDSIDE DRAINAGE SECTION DETAIL

SCALE F

### GEO-BAG PLACEMENT

1. GEO-BAGS TO BE PLACED IN A STRETCHER BOND LAYOUT (HALF CONTAINER OVERLAP IN THE LONGITUDINAL DIRECTION).
2. STRETCHER BOND LAYOUT IS NOT EXPECTED TO BE MAINTAINED THROUGH BENDS HOWEVER, IT SHALL BE RE-ESTABLISHED AT CONCLUSION OF BEND WITH BAGS USED ALONG SHORT AXIS TO CORRECT PATTERN. FURTHER, NO MORE THAN TWO ADJACENT JOINS BETWEEN CONTAINERS SHALL ALIGN VERTICALLY.

### TOE LOCATION FOR GEO-BAG STRUCTURE

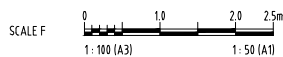
1. THE TOE OF THE GEO-BAGS SHALL BE LOCATED ON A COMPETENT AND CONSOLIDATED ROCK FOUNDATION. THE CONTRACTOR IS REQUIRED TO DETERMINE ALL TOE LOCATIONS AND LEVELS ON SITE.
2. THE FOLLOWING MATERIALS ARE UNSUITABLE MATERIALS AT THE FOUNDATION OF THE GEOSYNTHETIC SAND CONTAINER STRUCTURE:
  - UNCONSOLIDATED AND CONSOLIDATED MATERIAL THAT IS EASILY EXCAVATED WITH A BLADE BUCKET WITHOUT PRIOR RIPPING.
  - AKK MATERIAL THAT EXHIBITS A DCP PENETRATION RATE  $\leq 20$  BLOWS PER 100mm ( $\geq 5$ mm PER BLOW). REFER AS12899.6.3.2-1997.
3. THE TOE OF THE GEOSYNTHETIC SAND CONTAINER STRUCTURE MAY BE LOCATED ON MATERIAL THAT DOES NOT MEET THE ABOVE REQUIREMENTS IF THE TOE LEVEL IS LESS THAN 2.3m CD.

NOTES

1. ADDITIONAL TOE GEO-BAG REQUIRED WHERE NO ROCK IS LOCATED AT RL 2.3m.
2. VANDAL RESISTANT GEO-BAGS LOCATED ON OUTER FACE OF WALL.
3. EXISTING SEAWALL TO BE MODIFIED AS SHOWN IN DETAILS PROVIDED. SITE SUPERINTENDENT TO ASSESS CONDITION OF EXISTING GEOBAGS WHEN RELOCATING TO DETERMINE IF THE BAG IS SUITABLE.
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## PORUMA ISLAND SEAWALL DESIGN

GEO-BAG SEAWALL - STAGE 4  
TYPICAL SECTIONS - SHEET 2

Status	FOR INFORMATION
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Drp No. 04-60594450-TS-106

Rev.  
A



LAST MODIFIED: 07/03/2020 2:40 PM CAD REF: \\AUBNET\FPD\PROJECTS\MSA\450\450-V00\_CAD\_GIS\VD\_CAD\20\_SHEETS\STAGE 3, 4 AND 5\4-409\450-LS-108.DWG

DATUM 0.0

VERTICAL DETAILS

HORIZONTAL DETAILS

NORTHING

EASTING

DESIGN LEVELS

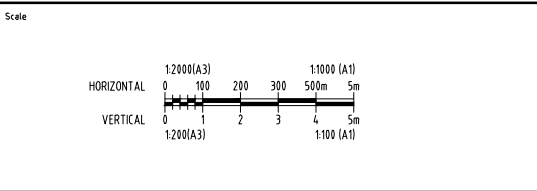
EXISTING LEVELS

LEVEL DIFFERENCE

CHAINAGES

CONTROL LINE MCA06 (STAGE 4 SEAWALL)

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APPROVED	S.B.	DATE	03.06.20

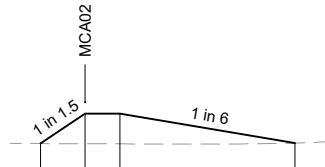
STUART BETTINGTON  
RPEQ No. 05251  
AECOM Australia Pty Ltd A.B.N. 20 093 846 925



PORUMA ISLAND SEAWALL DESIGN		
GEO-BAG SEAWALL - STAGE 4 LONGITUDINAL SECTION - MCA06		
Status	FOR INFORMATION	Rev. A
Dwg No.	04-60594450-LS-108	

LAST MODIFIED: 02/06/2023 3:27 PM CAD: REF:\A\BME\PROJ\PROJECTS\MO5\450\450-VIB\_000\_GIS\_VIB\_CAD\20\_SHEETS\STAGE 3\_4 AND 5\4-489\450-XS-109.DWG

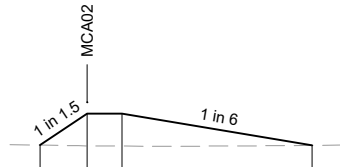
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N = 8888375.419  
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HEIGHT DIFFERENCE	0.000	-0.991	-0.995	0.000
EXISTING SURFACE	5.116	5.109	5.105	5.135
OFFSETS	-1.477	0.000	1.150	6.941

CHAINAGE 40.000

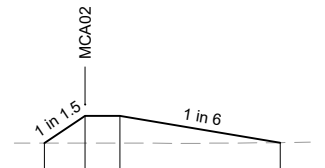
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HEIGHT DIFFERENCE	0.000	-1.060	-1.068	0.000
EXISTING SURFACE	5.063	5.040	5.032	5.052
OFFSETS	-1.556	0.000	1.150	7.438

CHAINAGE 100.000

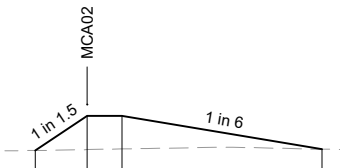
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HEIGHT DIFFERENCE	0.000	-0.900	-0.902	0.000
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OFFSETS	-1.347	0.000	1.150	6.449

CHAINAGE 20.000

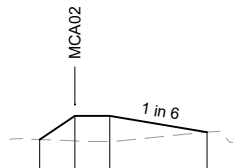
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HEIGHT DIFFERENCE	0.000	-1.114	-1.094	0.000
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OFFSETS	-1.717	0.000	1.150	7.772

CHAINAGE 80.000

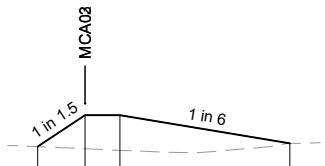
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HEIGHT DIFFERENCE	0.000	-0.829	-0.845	0.000
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OFFSETS	-1.168	0.000	1.150	4.370

CHAINAGE 137.692

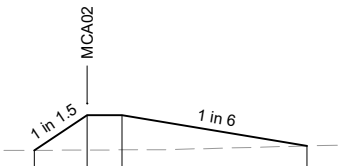
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HEIGHT DIFFERENCE	0.000	-1.113	-1.164	0.000
EXISTING SURFACE	5.055	4.987	4.936	5.163
OFFSETS	-1.567	0.000	1.150	6.772

CHAINAGE 0.000

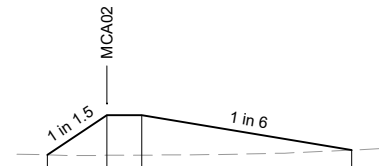
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HEIGHT DIFFERENCE	0.000	-1.156	-1.150	0.000
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CHAINAGE 60.000

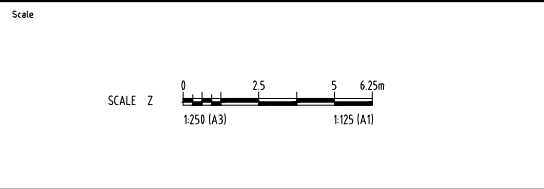
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HEIGHT DIFFERENCE	0.000	-1.330	-1.323	0.000
EXISTING SURFACE	4.784	4.770	4.777	4.943
OFFSETS	-1.974	0.000	1.150	8.092

CHAINAGE 120.000

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RPEQ No. 05251  
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PORUMA ISLAND SEAWALL DESIGN		
GEO-BAG SEAWALL - STAGE 4 MCA02 CROSS SECTIONS		
Status	FOR INFORMATION	Rev.
Org No.	04-60594450-XS-109	A

LAST MODIFIED: 01/07/2016 5:08 PM  
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CENTRELINE DATA  
E = 726268.887  
N = 8888398.178  
Z = 5.600

DATUM 1.00

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HEIGHT DIFFERENCE	0.000	-1.658	-1.498
EXISTING SURFACE	3.646	3.942	4.102
OFFSETS	-3.368	0.000	1.400

CHAINAGE 20.000

CENTRELINE DATA  
E = 726308.490  
N = 8888403.799  
Z = 5.600

DATUM 1.00

DESIGN LEVELS	3.782	5.600	5.600
HEIGHT DIFFERENCE	0.000	-1.472	-1.281
EXISTING SURFACE	3.782	4.128	4.319
OFFSETS	-3.573	0.000	1.400

CHAINAGE 60.000

CENTRELINE DATA  
E = 726347.398  
N = 8888412.616  
Z = 5.600

DATUM 1.00

DESIGN LEVELS	3.801	5.600	5.600
HEIGHT DIFFERENCE	0.000	-1.407	-1.264
EXISTING SURFACE	3.801	4.193	4.336
OFFSETS	-3.601	0.000	1.400

CHAINAGE 100.000

CENTRELINE DATA  
E = 726249.019  
N = 8888399.223  
Z = 5.600

DATUM 2.00

DESIGN LEVELS	3.894	5.600	5.600
HEIGHT DIFFERENCE	0.000	-1.364	-1.188
EXISTING SURFACE	3.894	4.236	4.412
OFFSETS	-3.741	0.000	1.400

CHAINAGE 0.000

CENTRELINE DATA  
E = 726288.688  
N = 8888400.989  
Z = 5.600

DATUM 1.00

DESIGN LEVELS	3.657	5.600	5.600
HEIGHT DIFFERENCE	0.000	-1.583	-1.194
EXISTING SURFACE	3.657	4.017	4.406
OFFSETS	-3.386	0.000	1.400

CHAINAGE 40.000

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DATUM 2.00

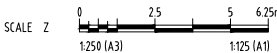
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EXISTING SURFACE	3.928	4.373	4.807
OFFSETS	-3.792	0.000	1.400

CHAINAGE 80.000

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AECOM Australia Pty Ltd A.B.N. 20 093 846 925



PORUMA ISLAND SEAWALL DESIGN

GEO-BAG SEAWALL - STAGE 4  
MCA06 CROSS SECTIONS - SHEET 1

Status FOR INFORMATION

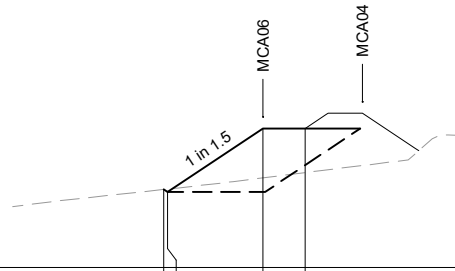
Org No 04-60594450-XS-110

Rev. A



CAD REF: \\AUBNET\PROJ\PROJECTS\055\455\455\VB0\_CAD\_GIS\VB0\_CAD\20\_SHEETS\STAGE 3\_4 AND 5\4-489455-XS-111.DWG  
LAST MODIFIED: 01/03/2016 5:08 PM  
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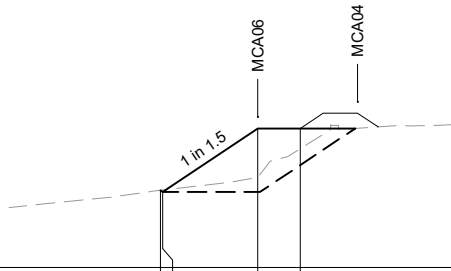
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E = 726386.538  
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Z = 5.600



DATUM 1.00			
DESIGN LEVELS	3.586	5.600	5.600
HEIGHT DIFFERENCE	0.000	-1.638	-1.462
EXISTING SURFACE	3.586	3.962	4.138
OFFSETS	-3.750	0.000	1.400

CHAINAGE 140.000

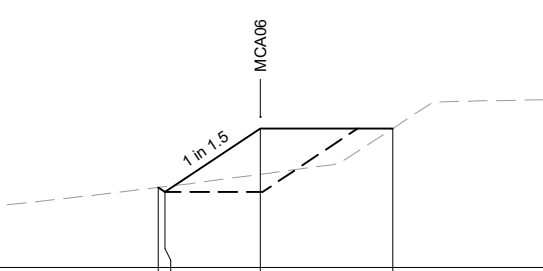
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Z = 5.600



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HEIGHT DIFFERENCE	0.000	-1.621	-0.671
EXISTING SURFACE	3.550	3.979	4.929
OFFSETS	-3.750	0.000	1.400

CHAINAGE 180.000

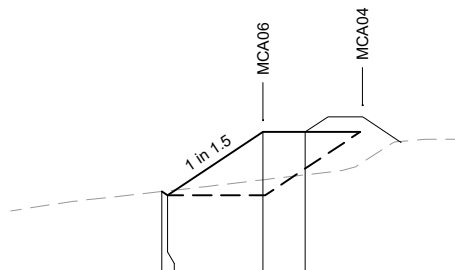
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DATUM 1.00			
DESIGN LEVELS	3.648	5.600	5.600
HEIGHT DIFFERENCE	0.000	-1.516	0.000
EXISTING SURFACE	3.648	4.084	5.600
OFFSETS	-3.750	0.000	4.382

CHAINAGE 220.000

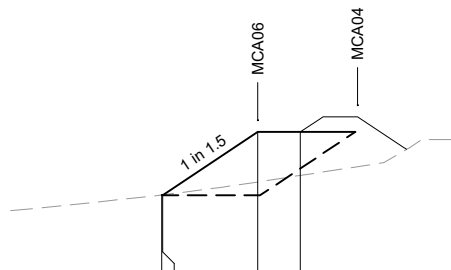
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HEIGHT DIFFERENCE	0.000	-1.585	-1.419
EXISTING SURFACE	3.627	4.015	4.181
OFFSETS	-3.750	0.000	1.400

CHAINAGE 120.000

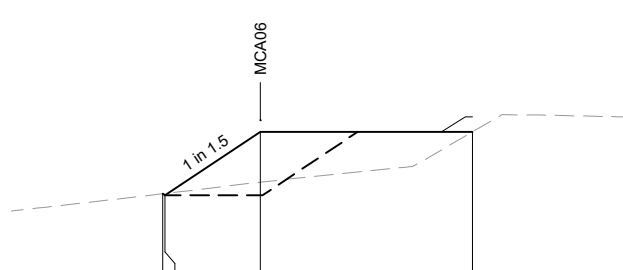
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HEIGHT DIFFERENCE	0.000	-1.655	-1.441
EXISTING SURFACE	3.516	3.945	4.159
OFFSETS	-3.750	0.000	1.400

CHAINAGE 160.000

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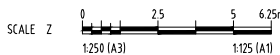
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EXISTING SURFACE	3.552	3.939	5.600
OFFSETS	-3.750	0.000	7.020

CHAINAGE 200.000

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APPROVED	S.B.	DATE	03.06.20

**AECOM**

STUART BETTINGTON  
RPEQ No. 05251  
AECOM Australia Pty Ltd A.B.N. 20 093 846 925



PORUMA ISLAND SEAWALL DESIGN

GEO-BAG SEAWALL - STAGE 4  
MCA06 CROSS SECTIONS - SHEET 2

Status FOR INFORMATION

Drwg No. 04-60594450-XS-111

Rev. A

DESIGN LEVELS	3.747 3.500	5.600	5.600
HEIGHT DIFFERENCE	0.999 0.292	-1.484	0.000
EXISTING SURFACE	3.747 3.792	4.116	5.600
OFFSETS	3.521 3.150	0.000	4.062

DESIGN LEVELS	4.127	3.500	5.600	5.600
HEIGHT DIFFERENCE	0.000	0.718	-0.980	0.000
EXISTING SURFACE	4.127	4.218	4.620	5.600
OFFSETS	-4.090	-3.150	0.000	2.729

DESIGN LEVELS	4.201	3.500	5.600	5.600
HEIGHT DIFFERENCE	0.000	0.826	-0.860	0.000
EXISTING SURFACE	4.201	4.326	4.740	5.600
OFFSETS	-4.202	-3.150	0.000	2.522

DESIGN LEVELS	3.711 3.500	5.600	5.600
HEIGHT DIFFERENCE	0.993 0.253	-1.379	0.000
EXISTING SURFACE	3.711 3.753	4.221	5.600
OFFSETS	-3.467 -3.160	0.000	1.681

The diagram shows a cross-section of a road surface. A dashed line represents the ground level, sloping upwards from left to right. A solid line represents the road surface, which follows the ground level for a short distance, then drops vertically to a horizontal section. This horizontal section is labeled 'MCA06' with a vertical arrow pointing to it. The slope of the ground level is indicated as '1 in 1.5'.

DESIGN LEVELS	3.797 <del>3.580</del>	5.600	5.600
HEIGHT DIFFERENCE	0.000 <del>0.347</del>	-1.405	0.000
EXISTING SURFACE	3.797 <del>3.647</del>	4.195	5.600
OFFSETS	3.595 <del>3.180</del>	0.000	4.018

A diagram of a roof structure. A dashed line indicates the ground level. A solid line shows the roof pitch, labeled "1 in 1.5". A vertical line segment from the ground level to the roof peak is labeled "0.6". A horizontal line segment from the peak to the right edge is labeled "MCA06".

DESIGN LEVELS		4.194	3.500	5.600	5.600
HEIGHT DIFFERENCE		0.000	0.800	-0.950	0.000
EXISTING SURFACE		4.194	4.300	4.650	5.600
OFFSETS		-4.192	-3.150	0.000	3.319

E = 726624.455  
N = 8888448.101  
Z = 5.600

DESIGN LEVELS	4.397	3.500	5.600	5.600
HEIGHT DIFFERENCE	0.000	1.066	-0.821	0.000
EXISTING SURFACE	4.397	4.566	4.779	5.600
OFFSETS	-4.496	-3.150	0.000	3.590

E = 726658.318  
N = 8888451.340  
Z = 5.600




DESIGN LEVELS	4.418	3.500	5.600	5.600
HEIGHT DIFFERENCE	0.000	1.093	-0.783	0.000
EXISTING SURFACE	4.418	4.593	4.817	5.600
OFFSETS	-4.527	-3.150	0.000	2.863

E = 726604.546  
N = 8888446.196  
Z = 5.600

DESIGN LEVELS	4.288	3.500	5.600	5.600
HEIGHT DIFFERENCE	0.000	0.936	-0.843	0.000
EXISTING SURFACE	4.288	4.436	4.757	5.600
OFFSETS	-4.332	-3.150	0.000	2.534

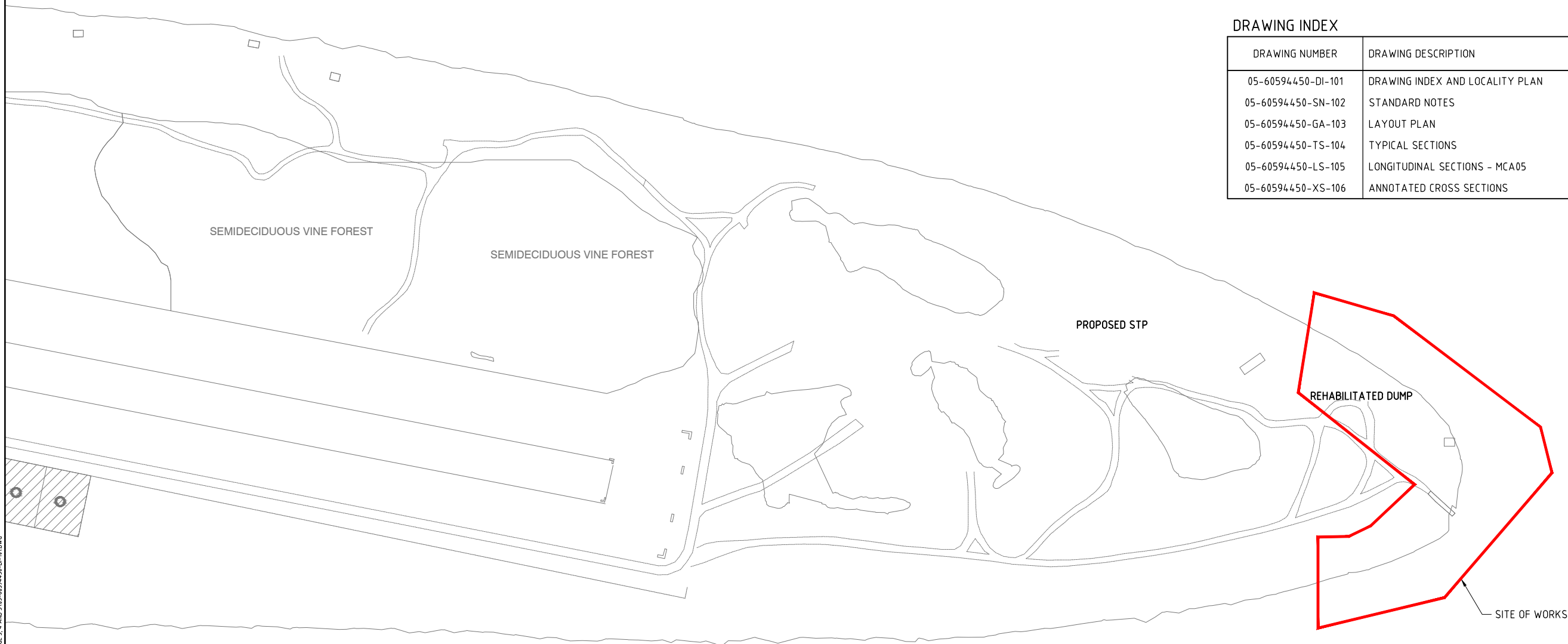
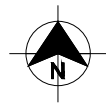
E = 726644.364  
N = 8888450.005  
Z = 5.600

DESIGN LEVELS	4.412	3.500	5.600	5.600
HEIGHT DIFFERENCE	0.000	1.082	-0.801	0.000
EXISTING SURFACE	4.412	4.582	4.799	5.600
OFFSETS	-4.518	-3.150	0.000	3.083

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REVISIONS												GEO-BAG SEAWALL - STAGE 4 MCA06 CROSS SECTIONS - SHEET 4																		
<table><tr><td>A</td><td>G.T.</td><td>03.06.20</td><td>FOR INFORMATION</td><td>S.B.</td></tr><tr><td>No.</td><td>BY</td><td>DATE</td><td>DESCRIPTION</td><td>APPD</td></tr></table>					A	G.T.	03.06.20	FOR INFORMATION	S.B.	No.	BY	DATE	DESCRIPTION	APPD									Status		FOR INFORMATION		Dwg No. 04-60594450-XS-113		Rev. A	
A	G.T.	03.06.20	FOR INFORMATION	S.B.																										
No.	BY	DATE	DESCRIPTION	APPD																										

# PORUMA ISLAND GEO-BAG SEAWALL

## STAGE 5






### DRAWING INDEX

DRAWING NUMBER	DRAWING DESCRIPTION
05-60594450-DI-101	DRAWING INDEX AND LOCALITY PLAN
05-60594450-SN-102	STANDARD NOTES
05-60594450-GA-103	LAYOUT PLAN
05-60594450-TS-104	TYPICAL SECTIONS
05-60594450-LS-105	LONGITUDINAL SECTIONS - MCA05
05-60594450-XS-106	ANNOTATED CROSS SECTIONS

### LOCALITY PLAN

SCALE A

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REVISIONS					SCALE A 		DESIGNED C.M CHECKED S.B		GEO-BAG SEAWALL – STAGE 5 DRAWING INDEX AND LOCALITY PLAN										
No.	BY	DATE	DESCRIPTION		APPD			APPROVED S.B. DATE 03.06.20						Status	FOR INFORMATION	Org No.	05-60594450-DI-101	Rev.	A

NOTES:

1. THESE DRAWINGS SHALL BE READ IN CONJUNCTION WITH MANUFACTURERS SPECIFICATION AND DESIGN REPORT, AND WITH SUCH WRITTEN INSTRUCTION AS MAY BE ISSUED DURING THE COURSE OF THE CONTRACT BY THE ENGINEER.
2. ALL DISCREPANCIES SHALL BE REFERRED TO THE ENGINEER FOR RESOLUTION BEFORE PROCEEDING.
3. DURING CONSTRUCTION THE CONTRACTOR SHALL BE RESPONSIBLE FOR MAINTAINING THE WORKS INCLUDING ADJACENT STRUCTURES IN A SUITABLE CONDITION ENSURING NO PART IS OVER STRESSED.
4. UNO ALL DIMENSIONS IN METERS.
5. ALL DIMENSIONS RELATING TO EXISTING WORK, GROUND AND SEABED LEVELS OR ITEMS SUPPLIED BY OTHERS, SHALL BE VERIFIED ON SITE BY THE CONTRACTOR PRIOR TO COMMENCEMENT OF ANY FABRICATION OR ERECTION WORKS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THEIR CORRECTNESS.
6. ALL PROPRIETARY ITEMS SHALL BE INSTALLED STRICTLY IN ACCORDANCE WITH MANUFACTURERS/SUPPLIERS INSTRUCTIONS.
7. THE CONTRACTOR SHALL BE RESPONSIBLE FOR TEMPORARY SITE DRAINAGE AND GENERAL MAINTENANCE OF THE AREA DURING CONSTRUCTION.
8. THE CONTRACTOR SHALL RECORD PHOTOGRAPHIC EVIDENCE OF ALL EXCAVATIONS PRIOR TO ANY BACK FILLING.
9. GEO-BAGS TO BE FILLED SNUGLY IN ACCORDANCE WITH MANUFACTURERS SPECIFICATION.
10. STRETCHER BOND PLACEMENT OF BAGS REQUIRED TO ACHIEVE GOOD INTERLOCKING OF FACE ARMOUR.
11. ALL FILL TO BE COMPACTED USING HYDRAULIC (WATER IN) AND/OR MECHANICAL METHODS TO ENSURE SAND CONSOLIDATION TO 70% DENSITY INDEX AND FILLING OF VOIDS.

SELECT FILL

1. SELECT FILL TO BE CLEAN BEACH SAND.

LEGEND TO DATUMS

200 YEAR ARI DESIGN LEVEL (2070)	5.65
200 YEAR ARI DESIGN LEVEL (2020)	5.25
HAT HIGHEST ASTRONOMICAL TIDE	4.55
MHWS MEAN HIGH WATER SPRINGS	3.44
MHWN MEAN HIGH WATER NEAPS	2.55
MSL MEAN SEA LEVEL	2.28
MLWN MEAN LOW WATER NEAPS	2.01
MLWS MEAN LOW WATER SPRINGS	1.12
LAT LOWEST ASTRONOMICAL TIDE	0.00
CD CHART DATUM	0.00

AHD AUSTRALIAN HEIGHT DATUM 1.91

SURVEY DETAILS

SURVEY SUPPLIED BY	RPS
DRAWING NUMBER	PR142018-2
VERTICAL DATUM	LAT/CD
HORIZONTAL DATUM	GDA 94
SURVEY DATE	05/02/2020
ORIGIN	PM14.0484 E=726187.127, N=88884.08.595

GEOBAG MATERIAL SPECIFICATIONS

STANDARD GEO-BAG (POLYESTER) SHALL MEET THE FOLLOWING SPECIFICATIONS.

SL NO	PROPERTY	0.75m3 SPECIFICATION
1	VOLUME FILLED	0.75m3
2	LENGTH FILLED	1600 mm-1800 mm
3	WIDTH FILLED	1200 mm-1500 mm
4	DEPTH FILLED	350 mm-400 mm
5	GEOFABRIC MASS	>750 G/m2
6	TOUGHNESS (CROSS MACHINE DIRECTION)	≥18 KJ/m2
7	WIDE STRIP TENSILE STRENGTH (CROSS MACHINE DIRECTION)	≥40 KN/M
8	SEAM STRENGTH (CROSS MACHINE DIRECTION)	≥35 KN/M
9	UV STABILITY (STRENGTH AFTER 500 HOURS)	≥50% RETAINED STRENGTH
10	PUNCTURE RESISTANCE (CBR)	≥7 KN
11	ABRASION RESISTANCE - BAW ROTATION DRUM	≥50% RETAINED STRENGTH
12	PORE SIZE (095)	<75 M M
13	PERMITTIVITY OR FLOW RATE @ 100mm HEAD	≥0.35/SEC OR ≥35 L/m2/S

NOTE: TESTS UNDERTAKEN BASED ON METHODS STIPULATED IN THE RELEVANT AS3706.

VANDAL RESISTANT GEOTEXTILE SAND CONTAINER (POLYESTER/POLYPROPYLENE)

SL NO	PROPERTY	0.75m3 SPECIFICATION
1	VOLUME FILLED	0.75m3
2	LENGTH FILLED	1600 mm TYPICAL
3	WIDTH FILLED	1200 mm TYPICAL
4	DEPTH FILLED	400 mm TYPICAL
5	GEOFABRIC MASS	>1,200 G/m2
6	TOUGHNESS (CROSS MACHINE DIRECTION)	≥28 KJ/m2
7	WIDE STRIP TENSILE STRENGTH (CROSS MACHINE DIRECTION)	≥50 kN/m
8	SEAM STRENGTH (CROSS MACHINE DIRECTION)	≥40 kN/m
9	UV STABILITY (STRENGTH AFTER 500 HOURS)	≥80% RETAINED STRENGTH
10	PUNCTURE RESISTANCE (CBR)	≥10 KN
11	ABRASION RESISTANCE - BAW ROTATION DRUM	≥70% RETAINED STRENGTH
12	PORE SIZE (095)	<75mm
13	PERMITTIVITY OR FLOW RATE @ 100mm HEAD	≥0.25/SEC OR ≥25 L/m2/S

NOTE: TESTS UNDERTAKEN BASED ON METHODS STIPULATED IN THE RELEVANT AS3706.

UV RESISTANT NON WOVEN GEOTEXTILE (POLYESTER)

SL NO	PROPERTY	SPECIFICATION
1	TOUGHNESS - WIDE STRIP <sup>1</sup>	≥11.0 KJ/m2
2	TENSILE STRENGTH - WIDE STRIP <sup>1</sup>	≥26.0 kN/m
3	ELONGATION - WIDE STRIP <sup>1</sup>	≥70.0%
4	CBR BURST STRENGTH <sup>1</sup>	≥4.6 kN
5	PORE SIZE (095) <sup>1</sup>	<75 mm
6	PERMITTIVITY OR FLOW RATE @ 100mm HEAD <sup>1</sup>	≥0.8/SEC OR 80 L/m2/S
7	UV STABILITY (STRENGTH AFTER 500 HOURS) <sup>1</sup>	≥50%

NOTE: TESTS UNDERTAKEN BASED ON METHODS STIPULATED IN THE RELEVANT AS3706.

NOTE:

NO DRAINAGE ASSESSMENT OR FORMAL DRAINAGE DESIGN HAS BEEN UNDERTAKEN AS PART OF THE PROJECT. THE INTENT OF THE DRAINAGE SHOWN ON DRAWING 01-60594450-GA-103 AND 01-60594450-TS-104 IS TO ALLOW PONDING WATER TO ESCAPE VIA THE APPARENT EXISTING DRAINAGE PATH. THE SIZE OF THE DRAIN HAS BEEN BASED ON CONSTRUCTABILITY AND NOT CALCULATED CAPACITY. SHOULD THE CAPACITY OF THE RCBC BE INSUFFICIENT, RESULTING IN ADVERSE PONDING/FLOODING IN THIS AREA ADDITIONAL OUTLETS ARE TO BE ADDED.

LAST MODIFIED: 01/02/20 10:02 AM  
CAD REF: \\AUBNET\FPD\PROJECTS\MSA\4554450\VB0\_CAD\_GIS\VB0\_CAD\20\_SHEET\STAGE 3\_4 AND 5\VB-4554450-SH-102.DWG

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	No.	BY	DATE	DESCRIPTION	APPD

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DESIGNED	C.M	CHECKED	S.B
DRAWN	G.T	CHECKED	K.P
APPROVED	S.B.	DATE	03.06.20

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DRAWN	G.T	CHECKED	K.P
APPROVED	S.B.	DATE	03.06.20



RPEQ No.  
AECOM Australia Pty Ltd A.B.N. 20 093 846 925





PORUMA ISLAND SEAWALL DESIGN			
GEO-BAG SEAWALL - STAGE 5 STANDARD NOTES			
Status	FOR INFORMATION	Org No	05-60594450-SN-102
Rev.	A		





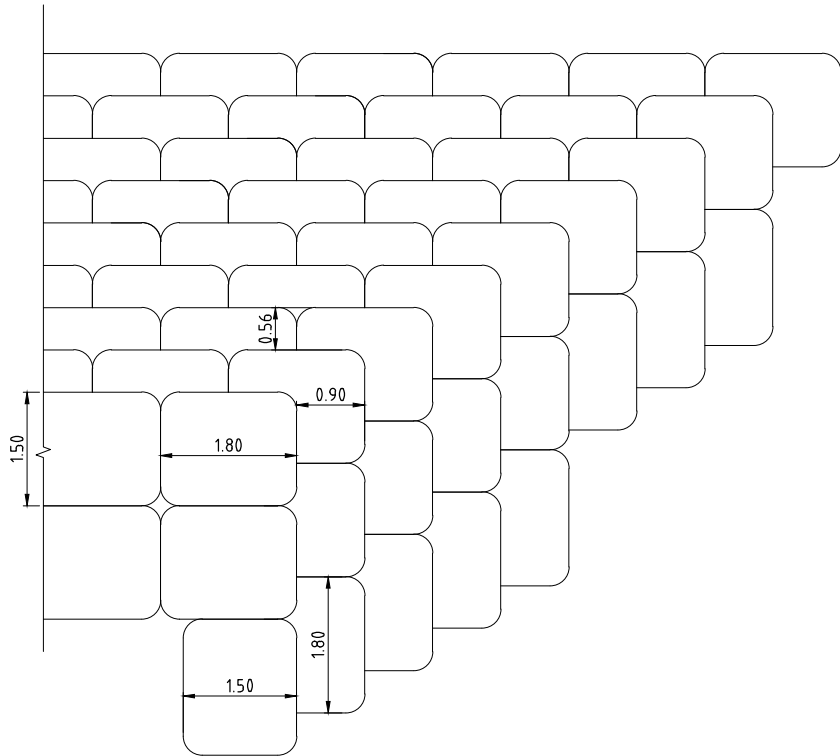
- NOTES**
1. BATTERS INDICATE FINAL SAND PROFILE.
  2. FOR CONTROL LINE SETOUT REFERENCE POINT REFER DRAWING 05-60594450-TS-104.
  3. SURVEY ORIGIN IS PM 140484. SURVEY BY RPS 5/2/2020 DRAWING PR142018-2 ISSUED 12/2/2020. PM DEFINED AS RL 4.524m LAT. LEVELS LOWERED 0.086m IN ACCORDANCE WITH "TORRES STRAIT TIDAL SURVEY DATUM ANALYSIS" 15/02/2010 AMENDED PM RL 4.438m.
  4. ALL RLS ARE LAT CHART DATUM.
  5. HORIZONTAL DATUM GDA 94, MGA 94 ZONE 54.
  6. FOR CONTROL LINE SETOUT REFER TO LONGITUDINAL SECTIONS ON DRAWINGS 05-60594450-LS-105.

- LEGEND**
- PROPERTY BOUNDARY
  - SURVEY POINT
  - Y Y Y PROPOSED BATTER
  - PROPOSED FLOWPATH
  - CONTROL LINE
  - 4.00 MAJOR CONTOUR
  - MINOR CONTOUR

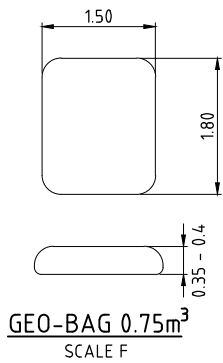
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REVISIONS				SCALE C		DESIGNED C.M. CHECKED S.B.							GEO-BAG SEAWALL - STAGE 5 LAYOUT PLAN		
A C.M. 03.06.20 FOR INFORMATION S.B.				0 5 10 12.5m 1:500 (A3) 1:250 (A1)		DRAWN G.T. CHECKED K.P.				Status FOR INFORMATION			Dwg No 05-60594450-GA-103		Rev. A
No. BY DATE DESCRIPTION APPD						APPROVED S.B. DATE 03.06.20									

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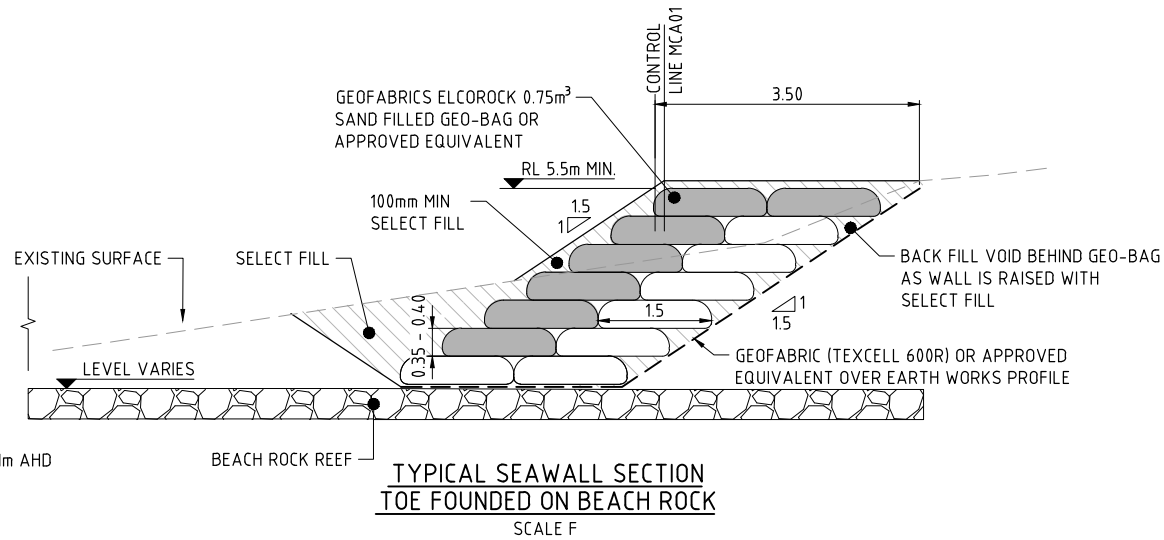
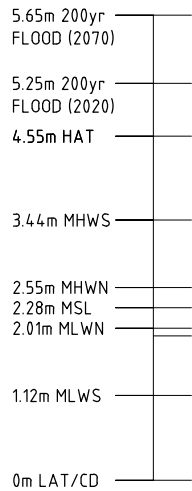
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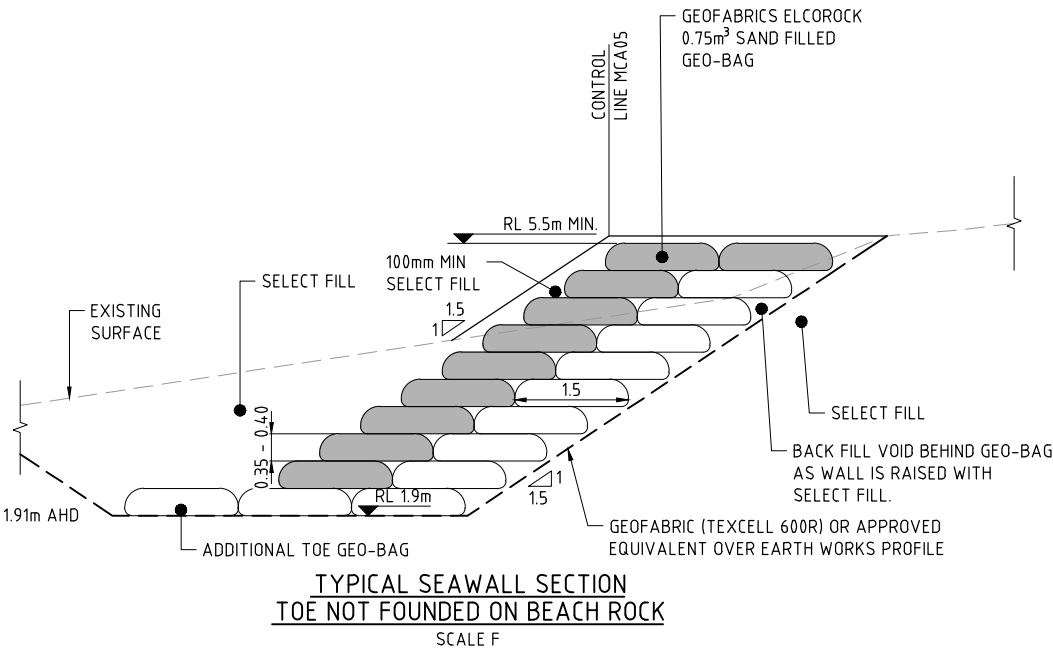
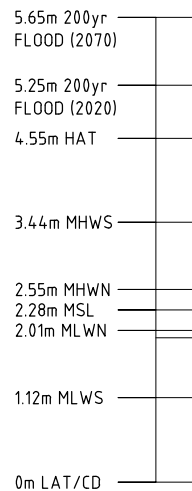
TYPICAL WALL END DETAIL  
SCALE F



GEO-BAG 0.75m³  
SCALE F



TYPICAL SEAWALL SECTION  
TOE FOUNDED ON BEACH ROCK  
SCALE F



TYPICAL SEAWALL SECTION  
TOE NOT FOUNDED ON BEACH ROCK  
SCALE F

#### GEOSYNTHETIC SAND CONTAINER PLACEMENT

1. GEO-BAGS TO BE PLACED IN A STRETCHER BOND LAYOUT (HALF CONTAINER OVERLAP IN THE LONGITUDINAL DIRECTION).
2. STRETCHER BOND LAYOUT IS NOT EXPECTED TO BE MAINTAINED THROUGH BENDS HOWEVER, IT SHALL BE RE-ESTABLISHED AT CONCLUSION OF BEND WITH BAGS USED ALONG SHORT AXIS TO CORRECT PATTERN. FURTHER, NO MORE THAN TWO ADJACENT JOINS BETWEEN CONTAINERS SHALL ALIGN VERTICALLY.

#### TOE LOCATION FOR GEOSYNTHETIC SAND CONTAINER STRUCTURE

1. THE TOE OF THE GEO-BAGS SHALL BE LOCATED ON A COMPETENT AND CONSOLIDATED ROCK FOUNDATION. THE CONTRACTOR IS REQUIRED TO DETERMINE ALL TOE LOCATIONS AND LEVELS ON SITE.
2. THE FOLLOWING MATERIALS ARE UNSUITABLE MATERIALS AT THE FOUNDATION OF THE GEOSYNTHETIC SAND CONTAINER STRUCTURE:
  - UNCONSOLIDATED AND CONSOLIDATED MATERIAL THAT IS EASILY EXCAVATED WITH A BLADE BUCKET WITHOUT PRIOR RIPPING.
  - AKK MATERIAL THAT EXHIBITS A DCP PENETRATION RATE  $\leq 20$  BLOWS PER 100mm ( $\geq 5$ mm PER BLOW). REFER AS1289.6.3.2-1997.
3. THE TOE OF THE GEOSYNTHETIC SAND CONTAINER STRUCTURE MAY BE LOCATED ON MATERIAL THAT DOES NOT MEET THE ABOVE REQUIREMENTS IF THE TOE LEVEL IS LESS THAN 2.3m CD.

#### NOTES

1. ADDITIONAL TOE GEO-BAG REQUIRED WHERE NO ROCK IS LOCATED AT RL 2.3m.
2. VANDAL RESISTANT GEO-BAGS LOCATED ON OUTER FACE OF WALL.
3. EXISTING SEAWALL TO BE MODIFIED AS SHOWN IN DETAILS PROVIDED. SITE SUPERINTENDENT TO ASSESS CONDITION OF EXISTING GEOBAGS WHEN RELOCATING TO DETERMINE IF THE BAG IS SUITABLE.
4. PROVIDE A MINIMUM 0.5m OVERLAP BETWEEN SHEETS OF GEOFABRIC

LEGEND			
	VANDAL RESISTANT GEO-BAG		
	STANDARD GEO-BAG		
	GEOFABRIC		
	BEACH ROCK		

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A	C.M	03.06.20	FOR INFORMATION	S.B
No.	BY	DATE	DESCRIPTION	APPD

Scale	
SCALE F	

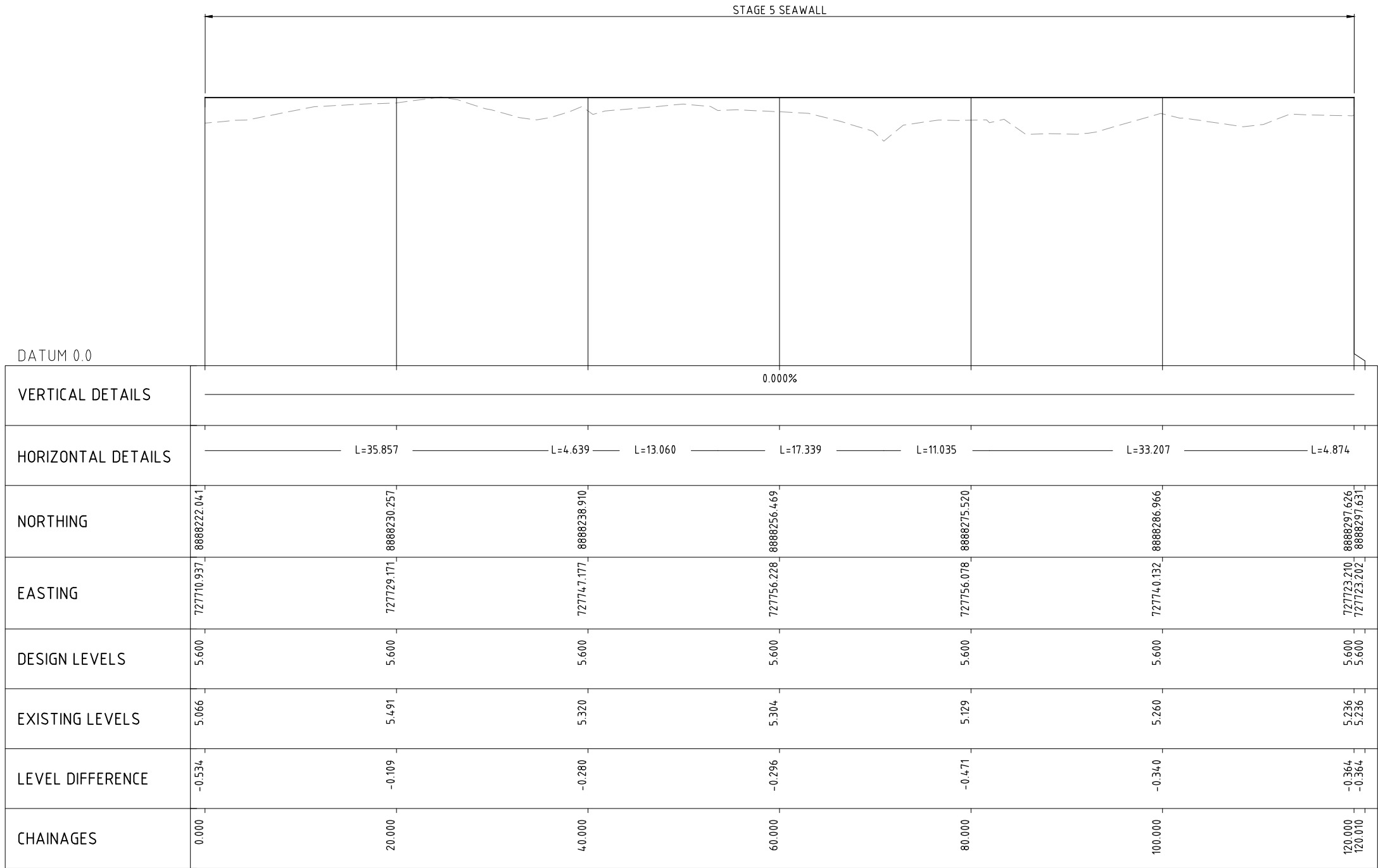
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DRAWN	G.T	CHECKED	K.P
APPROVED	S.B	DATE	03.06.20

RPEQ No. AECOM Australia Pty Ltd A.B.N. 20 093 846 925	

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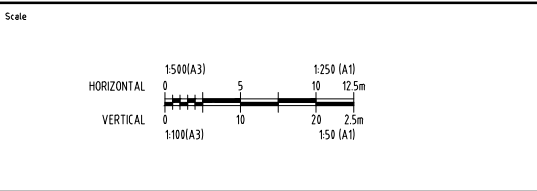
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GEO-BAG SEAWALL - STAGE 5 TYPICAL SECTIONS			
Status	FOR INFORMATION	Dwg No	05-60594450-TS-104
Rev.	A		

LAST MODIFIED: 01/07/2019 09:32 AM  
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CONTROL LINE MCA05 (SEAWALL)

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No.	BY	DATE	DESCRIPTION	APPD



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DESIGNED	C.M	CHECKED	S.B
DRAWN	G.T	CHECKED	K.P
APPROVED	S.B.	DATE	03.06.20



STUART BETTINGTON  
RPEQ No. 05251  
AECOM Australia Pty Ltd A.B.N. 20 093 846 925

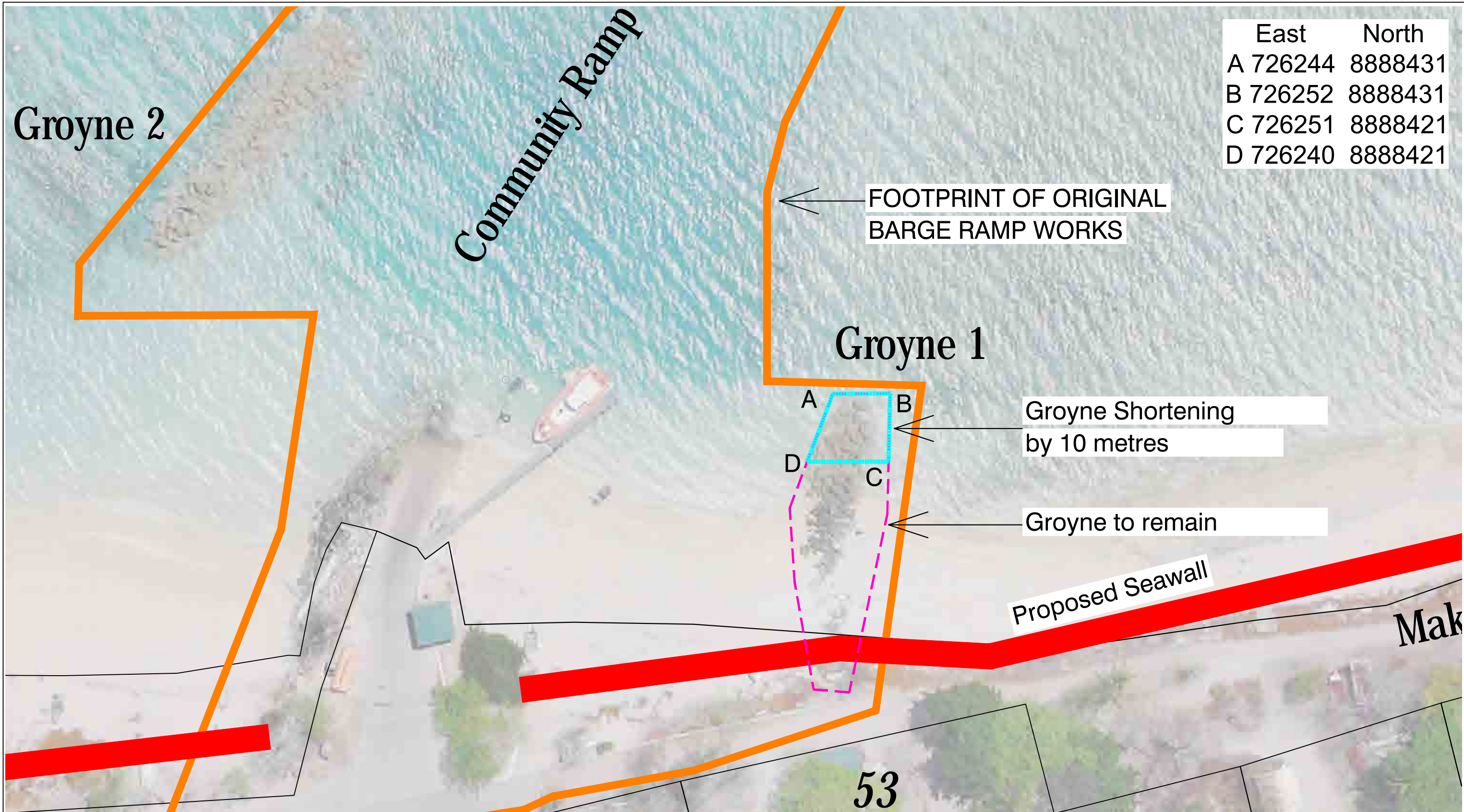


PORUMA ISLAND SEAWALL DESIGN		
GEO-BAG SEAWALL - STAGE 5 LONGITUDINAL SECTION - MCA05		
Status	FOR INFORMATION	Rev. A
Org No	05-60594450-LS-105	



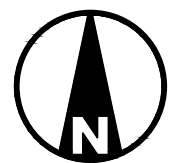






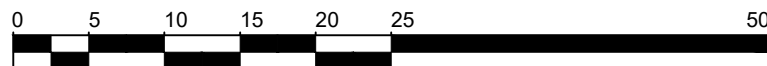
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B 726252	8888431
C 726251	8888421
D 726240	8888421

**IMPORTANT NOTE**  
This plan was prepared as a concept plan only and accuracy of all aspects of the plan have not been verified.  
All lots, areas and dimensions are approximate only. Subject to relevant studies, Survey, Engineering and Government approvals.  
No reliance should be placed on the plan and RPS Australia East Pty Ltd accepts no responsibility for any loss or damage suffered  
howsoever arising to any person who may use or rely on this plan.  
Imagery date of Capture: 2011



## PORUMA SEAWALL - STAGE 4

### Plan of Proposed Groyne Shortening



PRELIMINARY - FOR DISCUSSION PURPOSES ONLY

Datum: MGA94 Z54 | Scale: 1:500 @ A3 | Date: 15-9-2020 | Drawing: PR146548-2

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## Queensland Treasury

SARA reference: 2007-17848 SRA  
 Council reference: DA07-20-11 Poruma seawall  
 Applicant reference: PR146548

14 October 2020

Chief Executive Officer  
 Torres Strait Island Regional Council  
 PO Box 7336  
 Cairns QLD 4870  
 info@tsirc.qld.gov.au

Dear Sir/Madam

## SARA response— Poruma Seawalls

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 14 August 2020.

## Response

Outcome:	Referral agency response – with conditions
Date of response:	14 October 2020
Conditions:	The conditions in <b>Attachment 1</b> must be attached to any development approval
Advice:	Advice to the applicant is in <b>Attachment 2</b>
Reasons:	The reasons for the referral agency response are in <b>Attachment 3</b>

## Development details

Description:	Development Permit	Operational Work (Prescribed Tidal Works) and Material Change of Use for Dredging (ERA 16(1)(b) Dredging material: >10,000-100,000t/yr)
SARA role:	Referral Agency	
SARA trigger:	Schedule 10, Part 5, Division 4, Table 2, Item 1—Environmentally relevant activity (Planning Regulation 2017)	
	Schedule 10, Part 17, Division 3, Table 1, Item 1—Tidal works and works in a coastal management district (Planning Regulation 2017)	
	Schedule 10, Part 17, Division 3, Table 2, Item 1—Tidal works in tidal	

waters (Planning Regulation 2017)

SARA reference: 2007-17848 SRA

Assessment Manager: Torres Strait Island Regional Council

Street address: William Street and Maka Esplanade, Poruma Island

Real property description: On and adjacent to Lots 6 and 7 on SP270862

Applicant name: Torres Strait Island Regional Council C/- RPS

Applicant contact details: 135 Abbott Street  
CAIRNS QLD 4870  
ian.doust@rpsgroup.com.au

Environmental Authority: This referral included an application for an environmental authority under section 115 of the *Environmental Protection Act 1994*. Below are the details of the decision:

- Approved
- Reference: EA0002543
- Effective date: to be advised
- Prescribed environmentally relevant activity (ERA): ERA 16 - Extraction and Screening 1: Dredging, in a year, the following quantity of material (b) more than 10,000t but not more than 100,000t

If you are seeking further information on the environmental authority, the Department of Environment and Science's website includes a register. This can be found at: [www.des.qld.gov.au](http://www.des.qld.gov.au)

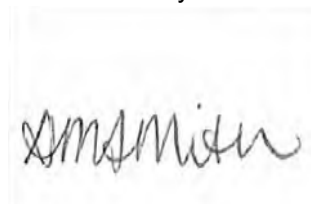
## Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 *Development Assessment Rules*). Copies of the relevant provisions are in **Attachment 4**.

A copy of this response has been sent to the applicant for their information.

For further information please contact Javier Samanes, Senior Planning Officer, on (07) 4037 3237 or via email [CairnsSARA@dsdmip.qld.gov.au](mailto:CairnsSARA@dsdmip.qld.gov.au) who will be pleased to assist.

Yours sincerely



Susan Kidd  
Manager (Program Improvement)

cc Torres Strait Island Regional Council, [ian.doust@rpsgroup.com.au](mailto:ian.doust@rpsgroup.com.au)

enc Attachment 1 - Referral agency conditions  
Attachment 2 - Advice to the applicant  
Attachment 3 - Reasons for referral agency response  
Attachment 4 - Representations about a referral agency response provisions  
Attachment 5 - Approved plans

## Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application) (Copies of the plans referenced below are found at Attachment 5)

No.	Conditions	Condition timing
<b>Operational Work</b>		
10.17.3.1.1—Tidal works and work in a coastal management district—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Environment and Science to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	<p>The construction of the geotextile sandbag walls and shortening of the groyne must be undertaken generally in accordance with the following plans:</p> <ul style="list-style-type: none"> <li>- Geo-bag Seawall – Stage 4 Layout Plan – Sheet 1 prepared by AECOM, dated 03.06.20, drg. no. 04-60594450-GA-103, rev. A</li> <li>- Geo-bag Seawall – Stage 4 Layout Plan – Sheet 2 prepared by AECOM, dated 03.06.20, drg. no. 04-60594450-GA-104, rev. A</li> <li>- Geo-bag Seawall – Stage 4 Typical Sections – Sheet 1 prepared by AECOM, dated 03.06.20, drg. no. 04-60594450- TS-105, rev. A</li> <li>- Geo-bag Seawall – Stage 5 Layout Plan prepared by AECOM, dated 03.06.20, drg. no. 05-60594450-GA-103, rev. A</li> <li>- Geo-bag Seawall – Stage 5 Typical Sections prepared by AECOM, dated 03.06.20, drg. no. 05-60594450-TS-104, rev. A</li> <li>- Poruma Seawall – Stage 4 – Plan of Proposed Groyne Shortening prepared by RPS, dated 15-9-2020, drawing PR146548-2.</li> </ul>	For the duration of works
2.	For the proposed works, only use clean materials and ensure that the works do not cause contamination.	For the duration of the works
3.	Erosion and sediment control measures which are in accordance with <i>Best Practice Erosion and Sediment Control (BPESC) guidelines for Australia (International Erosion Control Association)</i> , are to be installed and maintained to prevent the release of sediment to tidal waters.	For the duration of the works
4.	<p>Should the geotextile sandbag wall collapse, fail or otherwise suffer structural consequences which impact their integrity or ability to function as intended, the works must be:</p> <p>(a) reinstated in accordance with this development approval; or</p> <p>(b) removed and disposed of at an appropriately licensed facility.</p>	As soon as reasonably practicable subsequent to the damage
5.	<p>Submit “As Constructed drawings” to palm@des.qld.gov.au or mail to:</p> <p>Department of Environment and Science Permit and Licence Management Implementation and Support Unit GPO Box 2454 Brisbane QLD 4001</p>	As soon as reasonably practicable subsequent to the damage



6.	<p>(a) In the event that the works cause disturbance or oxidation of acid sulfate soil, the affected soil must be treated and thereafter managed (until the affected soil has been neutralised or contained) in accordance with the current <i>Queensland Acid Sulfate Soil Technical Manual: Soil management guidelines</i>, prepared by the Department of Science, Information Technology, Innovation and the Arts, 2014.</p> <p>(b) Certification by an appropriately qualified person(s)*, confirming that the affected soil has been neutralised or contained, in accordance with (a) above is to be provided to palm@des.qld.gov.au or mailed to:</p> <p style="padding-left: 40px;">Department of Environment and Science Permit and License Management Implementation and Support Unit GPO Box 2454 Brisbane QLD 4001</p> <p><i>*Appropriately qualified person(s) means a person or persons who has professional qualifications, training, skills and experience relevant to soil chemistry or acid sulfate soil management and can give authoritative assessment, advice and analysis in relation to acid sulfate soil management using the relevant protocols, standards, methods or literature.</i></p>	<p>(a) Upon disturbance or oxidation until the affected soil has been neutralised or contained</p> <p>(b) At the time the soils have been neutralised or contained</p>
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## Attachment 2—Advice to the applicant

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General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the <i>State Development Assessment Provisions</i> (SDAP), version 2.6. If a word remains undefined it has its ordinary meaning.

## Attachment 3—Reasons for referral agency response

(Given under section 56(7) of the *Planning Act 2016*)

### The reasons for SARA's decision are:

The development complies with the SDAP, in particular *State code 7: Maritime Safety*, *State code 8: Coastal development and tidal works* and *State code 22: Environmentally relevant activities*. Specifically, the development achieves the purpose of the codes as it:

- supports the viable operation of aids to navigation
- supports the safe operation of vessels in navigable waterways
- is appropriately designed and located to:
  - maintain and conserve coastal processes
  - maintain appropriate public use of, and access to and along, state coastal land
  - account for the projected impacts of climate change
  - avoid impacts on matters of state environmental significance
- is located and designed to avoid or mitigate environmental harm on environmental values of the natural environment, adjacent sensitive land uses and sensitive receptors.

### Material used in the assessment of the application:

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- the SDAP (version 2.6), as published by the SARA
- the *Development Assessment Rules*
- SARA DA Mapping system.

## **Attachment 4—Representations about a referral agency response provisions**

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## **Attachment 5—Approved plans**

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#### NOTES

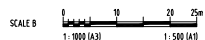
- BATTERS INDICATE FINAL SAND PROFILE.
- FOR CONTROL LINE SETOUT REFERENCE POINT REFER DRAWING 04-60594450-TS-105.
- SURVEY ORIGIN IS PM 14.04.84. SURVEY BY RPS 5/2/2020 DRAWING PR14-2018-2 ISSUED 12/2/2020. PM DEFINED AS RL 4.524m LAT. LEVELS LOWERED 0.086m IN ACCORDANCE WITH "TORRES STRAIT TIDAL SURVEY DATUM ANALYSIS" 15/02/2010 AMENDED PM RL 4.438m.
- ALL RLS ARE LAT CHART DATUM.
- HORIZONTAL DATUM GDA 94, MGA 94 ZONE 54.
- FOR CONTROL LINE SETOUT REFER TO LONGITUDINAL SECTIONS ON DRAWINGS 04-60594450-LS-107 and 108.
- EXACT CULVERT POSITION AND OUTLET ELEVATION TO SUIT GEO-BAG POSITIONING. REFER TO LANDSIDE DRAINAGE DETAILS ON DWG 04-60594450-TS-106.

#### LEGEND

- PROPERTY BOUNDARY
- SURVEY POINT
- PROPOSED BATTER
- PROPOSED FLOWPATH
- CONTROL LINE
- MAJOR CONTOUR
- MINOR CONTOUR
- AREA TO BE GRADED

This drawing is confidential and shall only be used for the purposes of this project.

Scale



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APPROVED	S.B.	DATE	03.06.20

**AECOM**

STUART BETTINGTON  
RPEQ No.  
AECOM Australia Pty Ltd A.B.N. 20 093 846 925



PORUMA ISLAND SEAWALL DESIGN

GEO-BAG SEAWALL - STAGE 4  
LAYOUT PLAN - SHEET 1

Status FOR INFORMATION

Drawn 04-60594450-GA-103

Rev. A

PLANS AND DOCUMENTS  
referred to in the REFERRAL  
AGENCY RESPONSE

SARA ref: 2007-17848 SRA

Date: 14 October 2020





CAD REF\\AUMEPF03\\PROJECTS\\455\\45594450\\GA-05\\DWG\\CONTS\\SHEETS\\STAGE 1 AND STAGE 4\\45594450-GA-104.DWG  
LAST MODIFIED 27/10/2020 3:17 PM



#### NOTES

- BATTERS INDICATE FINAL SAND PROFILE.
- FOR CONTROL LINE SETOUT REFERENCE POINT REFER DRAWING 04-60594450-TS-105.
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#### LEGEND

- PROPERTY BOUNDARY
- SURVEY POINT
- PROPOSED BATTER
- PROPOSED FLOWPATH
- CONTROL LINE
- MAJOR CONTOUR
- MINOR CONTOUR
- AREA TO BE GRADED

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APPROVED	S.B.	DATE	03.06.20

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STUART BETTINGTON  
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AECOM Australia Pty Ltd A.B.N. 20 093 846 925



PORUMA ISLAND SEAWALL DESIGN

GEO-BAG SEAWALL - STAGE 4  
LAYOUT PLAN - SHEET 2

Status FOR INFORMATION

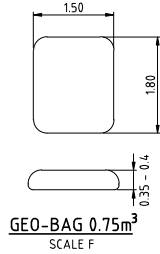
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Rev. A

PLANS AND DOCUMENTS  
referred to in the REFERRAL  
AGENCY RESPONSE

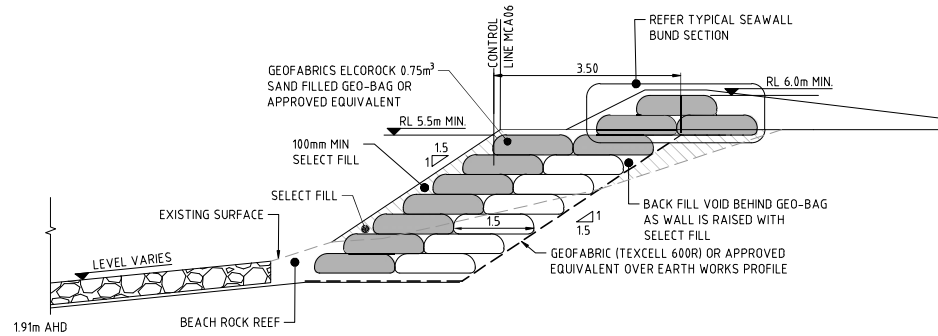
SARA ref: 2007-17848 SRA

Date: 14 October 2020



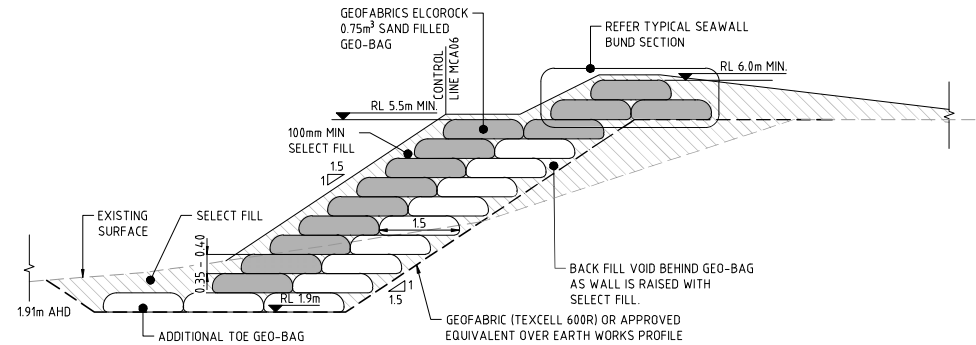


5.65m 200yr FLOOD (2070)  
5.25m 200yr FLOOD (2020)  
4.55m HAT  
3.44m MHWS  
2.55m MHWN  
2.28m MSL  
2.01m MLWN  
1.12m MLWS  
0m LAT/CD



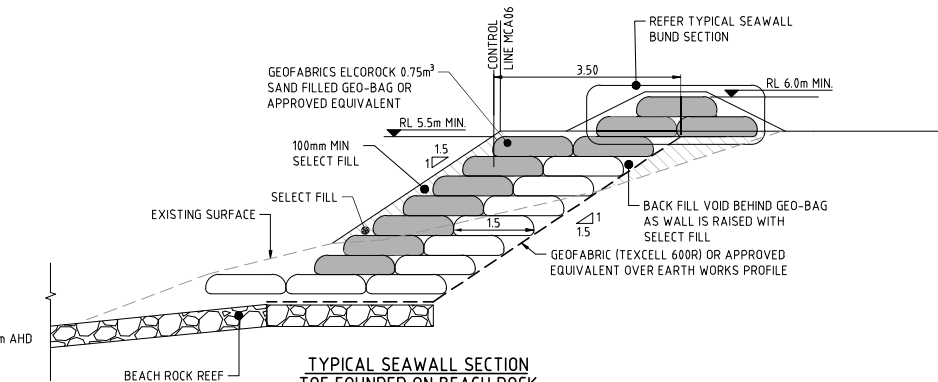
**TYPICAL SEAWALL SECTION  
TOE FUNDED ON BEACH ROCK**  
SCALE F

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5.25m 200yr FLOOD (2020)  
4.55m HAT  
3.44m MHWS  
2.55m MHWN  
2.28m MSL  
2.01m MLWN  
1.12m MLWS  
0m LAT/CD



**TYPICAL SEAWALL SECTION  
TOE NOT FUNDED ON BEACH ROCK**  
SCALE F

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5.25m 200yr FLOOD (2020)  
4.55m HAT  
3.44m MHWS  
2.55m MHWN  
2.28m MSL  
2.01m MLWN  
1.12m MLWS  
0m LAT/CD



**TYPICAL SEAWALL SECTION  
TOE FUNDED ON BEACH ROCK**  
SCALE F

## GEO-BAG PLACEMENT

1. GEO-BAGS TO BE PLACED IN A STRETCHER BOND LAYOUT (HALF CONTAINER OVERLAP IN THE LONGITUDINAL DIRECTION).
2. STRETCHER BOND LAYOUT IS NOT EXPECTED TO BE MAINTAINED THROUGH BENDS HOWEVER, IT SHALL BE RE-ESTABLISHED AT CONCLUSION OF BEND WITH BAGS USED ALONG SHORT AXIS TO CORRECT PATTERN. FURTHER, NO MORE THAN TWO ADJACENT JOINS BETWEEN CONTAINERS SHALL ALIGN VERTICALLY.

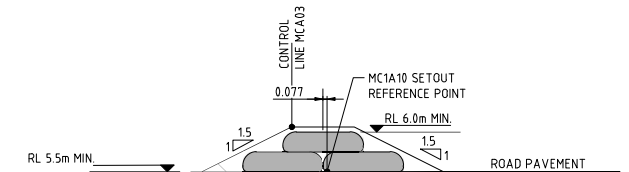
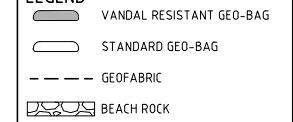
## TOE LOCATION FOR GEO-BAG STRUCTURE

1. THE TOE OF THE GEO-BAGS SHALL BE LOCATED ON A COMPETENT AND CONSOLIDATED ROCK FOUNDATION. THE CONTRACTOR IS REQUIRED TO DETERMINE ALL TOE LOCATIONS AND LEVELS ON SITE.
2. THE FOLLOWING MATERIALS ARE UNSUITABLE MATERIALS AT THE FOUNDATION OF THE GEOSYNTHETIC SAND CONTAINER STRUCTURE:
  - UNCONSOLIDATED AND CONSOLIDATED MATERIAL THAT IS EASILY EXCAVATED WITH A BLADE BUCKET WITHOUT PRIOR RIPPING.
  - AKK MATERIAL THAT EXHIBITS A DCP PENETRATION RATE  $\leq 20$  BLOWS PER 100mm ( $\geq 5$ mm PER BLOW). REFER AS1289.6.3.2-1997.
3. THE TOE OF THE GEOSYNTHETIC SAND CONTAINER STRUCTURE MAY BE LOCATED ON MATERIAL THAT DOES NOT MEET THE ABOVE REQUIREMENTS IF THE TOE LEVEL IS LESS THAN 2.3m CD.

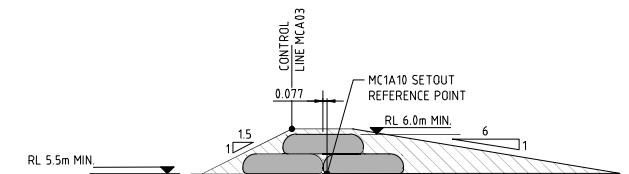
## NOTES

1. ADDITIONAL TOE GEO-BAG REQUIRED WHERE NO ROCK IS LOCATED AT RL 2.3m.
2. VANDAL RESISTANT GEO-BAGS LOCATED ON OUTER FACE OF WALL.
3. EXISTING SEAWALL TO BE MODIFIED AS SHOWN IN DETAILS PROVIDED. SITE SUPERINTENDENT TO ASSESS CONDITION OF EXISTING GEOBAGS WHEN RELOCATING TO DETERMINE IF THE BAG IS SUITABLE.
4. PROVIDE A MINIMUM 0.5m OVERLAP BETWEEN SHEETS OF GEOFABRIC.
5. PROVIDE BACKFLOW PREVENTION WHEN BUNDS ARE CONSTRUCTED.
6. 300x225 BOX CULVERT TO HAVE CLASS B2 COVER.
7. BUND WORKS MAY PROCEED SEPARATELY TO THE SEAWALL WORKS.

## LEGEND



**TYPICAL BUND SECTION**  
SCALE F



**TYPICAL SEAWALL BUND SECTION**  
SCALE F

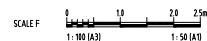
PLANS AND DOCUMENTS  
referred to in the REFERRAL  
AGENCY RESPONSE

SARA ref: 2007-17848 SRA

Date: 14 October 2020

REVISIONS				
No.	BY	DATE	DESCRIPTION	APPD
A	G.T.	03.06.20	FOR INFORMATION	S.B.

Scale



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DRAWN	G.T.	CHECKED	K.P.
APPROVED	S.B.	DATE	03.06.20

**AECOM**

RPEQ No.  
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PORUMA ISLAND SEAWALL DESIGN

GEO-BAG SEAWALL - STAGE 4  
TYPICAL SECTIONS - SHEET 1

Status FOR INFORMATION

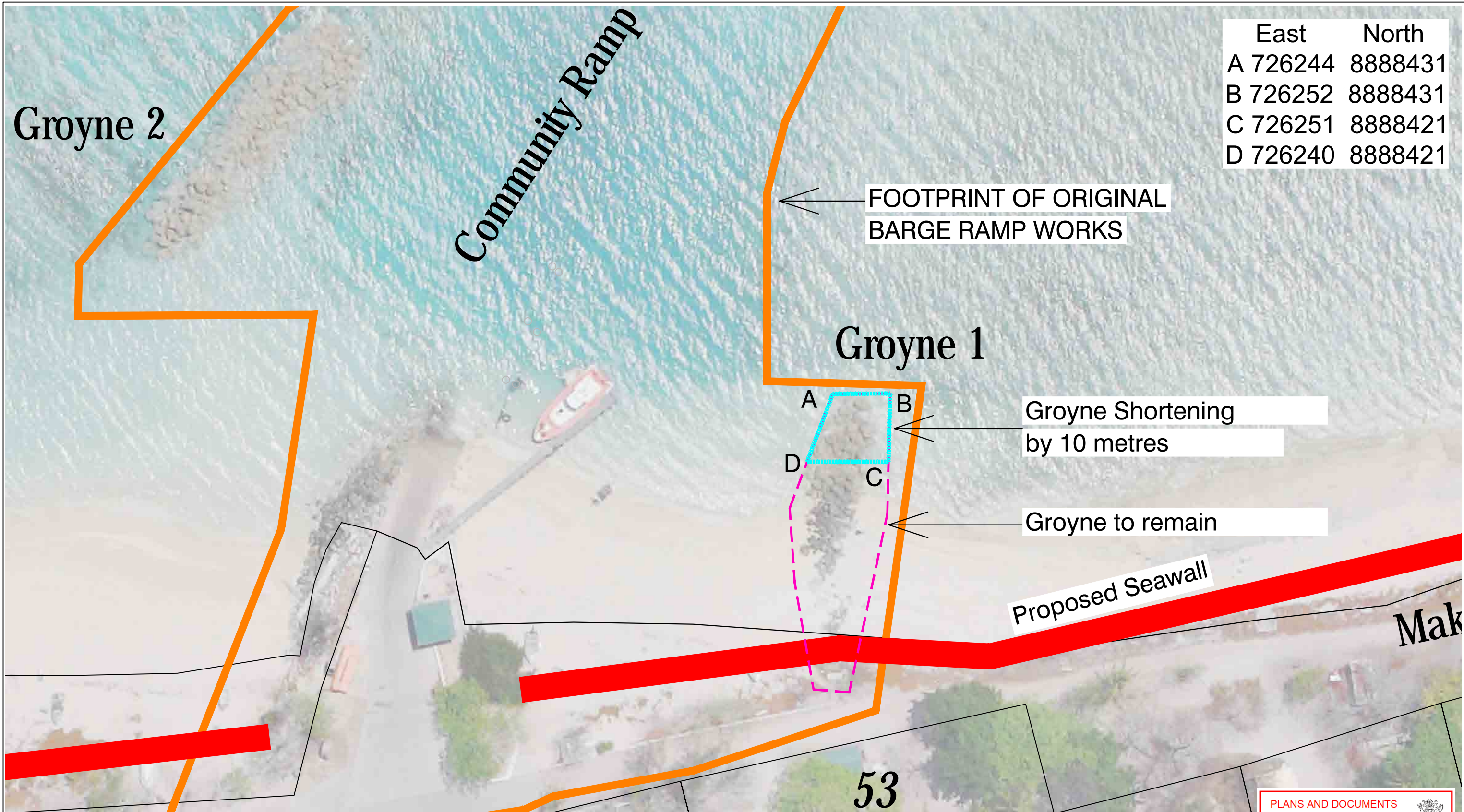
Doc No. 04-60594450-TS-105 Rev. A





PORUMA ISLAND SEAWALL DESIGN			
GEO-BAG SEAWALL - STAGE 5 TYPICAL SECTIONS			
Status	FOR INFORMATION	Proj No.	05-60594450-TS-104
		Rev.	A





**IMPORTANT NOTE**  
This plan was prepared as a concept plan only and accuracy of all aspects of the plan have not been verified.  
All lots, areas and dimensions are approximate only. Subject to relevant studies, Survey, Engineering and Government approvals.  
No reliance should be placed on the plan and RPS Australia East Pty Ltd accepts no responsibility for any loss or damage suffered  
howsoever arising to any person who may use or rely on this plan.  
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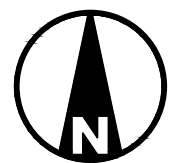
PLANS AND DOCUMENTS  
referred to in the REFERRAL  
AGENCY RESPONSE

SARA ref:

2007-17848 SRA

Date:

14 October 2020



## PORUMA SEAWALL - STAGE 4

### Plan of Proposed Groyne Shortening



PRELIMINARY - FOR DISCUSSION PURPOSES ONLY

Datum: MGA94 Z54 | Scale: 1:500 @ A3 | Date: 15-9-2020 | Drawing: PR146548-2

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# TORRES STRAIT ISLAND REGIONAL COUNCIL

## AGENDA REPORT

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### ORDINARY MEETING

**DATE:** 4 November 2020

**ITEM:**

**SUBJECT:** Divestment Policy

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

---

### **RECOMMENDATION**

*That Council endorse the Divestment Policy, as presented.*

### **PURPOSE**

The purpose of this report is to provide Council with an opportunity to establish a Divestment Policy.

### **BACKGROUND**

Since Local Government amalgamation in March 2008, it has been a desire of Council to divest local government-owned and –operated enterprises to community proprietors to assist in self-determination and economic development in the region, and for Council to concentrate on its core local government functions into the future.

The Enterprise Divestment Program (excluding bus services and fuel bowsers) currently stands as follows:

**DIVESTED** 14 (entity has land tenure OR land tenure not required)

8 (land tenure required/pending)

**APPROVED** 21 enterprises approved for divestment by Council

2 of which are on hold (Saibai Guesthouse, Saibai Variety Store)



ON HOLD	4 enterprises (Iama Kiosk, Iama Kodakal Lodge, Iama Sundowner Guesthouse, Ugar Ferry Service)
PENDING	4 enterprises not yet approved for divestment (St Pauls Nursery, Ugar Community Centre Kitchen, Warraber Guesthouse, Warraber Motel)
<b>TOTAL</b>	<b>51 enterprises in Program</b>

Included as **Attachment 1** is a list of the enterprises and the status of each. The list does not include enterprise divestment that has been cancelled, including seven (7) fuel bowzers.

There is a history of enterprise divestment negotiations not progressing for years following a Council resolution, while the approved applicant awaits capacity (e.g. funding) to take on the enterprise.

### **OFFICER COMMENT**

The proposed Divestment Policy (**Attachment 2**) and covers:

- Types of enterprise divestment
- Key sectors and industry development opportunities
- Working with partners to facilitate development
- Divestment process
- Cost recovery policy

Council's Enterprise Development Officer, who attends TSRA's enterprise development working group, has suggested the following considerations, which may be appropriate to incorporate into the Divestment Policy or into the Enterprise Development Strategy that is being developed through Corporate Affairs:

- A business framework should be in place when infrastructure is divested and Council should include monitoring framework; ie – reporting requirements, asset management plans etc.
- Training and business support should be offered for a period of at least 12-24 months to ensure the success of the divestment.
- Look at lease-back arrangements: If someone would like to manage a TSIRC asset they can on a licence arrangement for the first 12 months to ensure they are successful and sustainable. If the first 12 months they provide monthly reporting, WHS updates etc. then they qualify and we then divest.

In the past, the practice has been to offer a peppercorn lease of stand-alone premises and the choice of two options:

1. The successful applicant purchases the premises from Council at the market price stated in Council's Asset Register; or
2. Council retains asset ownership and only leases the premises, rather than transferring the ownership of the premises.

Asset values tends to run into six or seven figures (\$100,000 to \$1,000,000). If it is in Council's financial interest to reduce its asset base, then Council may wish to consider options for divesting ownership of these enterprise divestment assets at less than market value.

## **CONSULTATION**

Council workshop

## **LINKS WITH STRATEGIC PLANS**

Corporate Plan 2020 to 2025

10.1 Facilitate the establishment of an Enterprise Development Strategy, identifying key sector opportunities.

10.2 Divestment of non-core council owned business.

## **STATUTORY REQUIREMENTS**

*Local Government Act 2009 (Qld)*

*Local Government Regulation 2012 (Qld)*

## **FINANCE AND RISK**

*Capital Cost*

*NIL*

*Operating Cost*

*NIL*

*Risk Assessment*

Failure of business enterprises under new management and closure.  
Risk of negative perception if Council revokes a previous divestment offer.  
Potential cost to Council if Council retains asset ownership.

### **SUSTAINABILITY**

Reduction in non-core local government financial liability.  
Financial sustainability of Council (cost recovery).

### **CONCLUSION**

As workshopped.

Hollie Faithfull

**A/CEO**

Julia Maurus

**Manager Legal Services**

### **ATTACHMENTS:**

1. Enterprise divestment list as at November 2020
2. Proposed Divestment Policy

List of Divestments								
Island	Enterprise	Asset number	Asset description	Divestment Status	Council resolution date	Trustee resolution date	Successful Tenderer	Status / Notes
Badu	Bulk Fuel Depot	1000067	Lot 189 on SP253545 Tamwoy St	COMPLETE	Land transfer 1 Feb 2014		Badu Island Foundation	Buildings no longer belong to Council
Badu	Canteen (Hotel/Tavern)	1000016	Lot 193 on SP253545 Chapman St	COMPLETE	Land transfer 1 Feb 2014		Badu Island Foundation	Buildings no longer belong to Council
Badu	Tama Mudh Motel	1000024	Lot 138 on SP253545 Chapman St	COMPLETE	Land transfer 1 Feb 2014		Badu Island Foundation	Buildings no longer belong to Council
Badu	Nursery (House and Shed) (Shed Hydroponics)	1000063 1000064	Lot 192 on SP253545 Chapman St	COMPLETE	Land transfer 1 Feb 2014		Badu Island Foundation	Buildings no longer belong to Council
Badu	Rural Transaction Centre	1000039	Lot 199 on SP253545 Nona St	COMPLETE	Land transfer 1 Feb 2014		Badu Island Foundation	Buildings no longer belong to Council
Badu	Quarry (Office) (Quarry Toilets)	1000048 1000077	Lot 707 on SP253545 Tamwoy St Lot 706 on SP253545 Tamwoy St	COMPLETE	Land transfer 1 Feb 2014		Badu Island Foundation	Buildings no longer belong to Council
Badu	Contractors' Camp (Contractors Accommodation)	1000601	Lot 905 on SP253545 Tamwoy St	COMPLETE	Land transfer 1 Feb 2014		Badu Island Foundation	Buildings no longer belong to Council
Boigu	Accommodation Motel Guesthouse and ICC Demountables 2 x Guest Demountables	1002104 1000112 1000111 1000109 1000119 1000110	Contractor Accom - Lot 116 aka Lot 95B Airport Rd 2 Bedroom Lowset Donga - Lot 117 Airport Rd Contractors Accom - Lot 113 Airport Rd Guesthouse - Lot 113 Airport Rd Motel - Substructure - Lot 114 Airport Rd House - Contractors - Lot 95 Airport Rd	APPROVED - docs sent	April 2015	Pending	Malu Ki'ai (TSI) Corporation RNTBC or related party. Enterprise corporation: Mura Boegulgaw Aykuyk (Torres Strait Islander) Corporation	Documents sent 12 August 2016. Await response. NTO requested market price on 8 May 2017. JM emailed market price (from Asset Register) on 10 May 2017. <b>TSRA's David Farrell emailed on 20 Oct 2017 requesting various docs for due diligence.</b>
Boigu	Crab Farm *not a going concern*	1000113	Crab Farm (Crab Processing Plant) - Lot 124 (SLUP) Army Street aka Lot 119 (DOH) Army Street	APPROVED - docs sent	April 2015	Pending	Malu Ki'ai (TSI) Corporation RNTBC or related party. Enterprise corporation: Mura Boegulgaw Aykuyk (Torres Strait Islander)	Documents sent 12 August 2016. Await response. NTO requested market price on 8 May 2017. JM emailed market price (from Asset Register) on 10 May 2017. <b>Trustee resolution required for Conditional Agreement to Lease. TSRA's David Farrell emailed on 20 Oct 2017 requesting various docs for due diligence.</b>
Dauan	Guesthouse	1000168	Guesthouse - Lot 30 on SP270872 aka Lot 83 (SLUP) Main Road	APPROVED - docs sent	April 2015	Pending	Dauanalgalw (TSI) Corporation RNTBC or related party	Documents sent 12 August 2016. Await response. NTO requested market price on 8 May 2017. JM emailed market price (from Asset Register) on 10 May 2017. <b>TSRA's David Farrell emailed on 20 Oct 2017 requesting various docs for due diligence.</b>
Dauan	Kiosk *not a going concern*	1000128	Kiosk - Lot 39 on SP270872 aka Lot 64 (SLUP) Main Road	APPROVED - docs sent	April 2015	Pending	Dauanalgalw (TSI) Corporation RNTBC or related party	Documents sent 12 August 2016. Await response. NTO requested market price on 8 May 2017. JM emailed market price (from Asset Register) on 10 May 2017. <b>Trustee resolution required for Conditional Agreement to Lease. TSRA's David Farrell emailed on 20 Oct 2017</b>
Dauan	Ferry Service	Fleet 1003885  Fleet 1003675	FERRY: Stabcraft 609 - MV Dauan Island Ferry - Registration number 28544QC - Certificate of Operation number 900043625 - Hull serial number NZ-STC 05286E707. TRAILER: Registration number: Unregistered? - Dual Axle - Model: Tela66BWT - VIN 6HWWOATRL-9C805700.	COMPLETE	July 2016		Mario and Sharon Sabatino (Hammond Island Ferry Service) or related party	Bill of Sale executed 1 September 2016. Purchase price paid. Change of ownership forms executed 4 October 2017.
Erub	Daido Tavern (Canteen)	1000406	Lot 76 on SP270873 aka Lot 98 (SLUP) aka Lot 89 (DOH) Medige Village.	DIVESTED - ILUA and lease pending	November 2009	November 2009; August 2017 subject to prior community consultation, native title future	Ged Erub Trading Homeland Enterprise (TSI) Corp	DIVESTED - no lease in place. JM emailed Ged Erub's Peter Hansen on 21 Nov 2016 requesting proposed lease term and providing template lease and ILUA. Ged Erub advised 7 Feb 2017 that it is seeking a lease for as long as possible. Ged Erub submitted a lease EOI. JM emailed the EOI to the NTO on 8 May 2017 seeking the PBC's advice on the lease proposal. <b>Community consultation required to progress with CATL.</b>
Erub	(Fish) Freezer	1005469	Lot 74 on SP270873 aka Lot 102 (SLUP) Medige Village	APPROVED - docs sent	August 2016	Pending	Erub Fisheries Management Torres Strait Islander Corporation/EFMA (or related party)	Documents sent 1 February 2017 by email and post. Await response. <b>Trustee resolution required for Conditional Agreement to Lease.</b>
Erub	Ocean View Lodge Accommodation	1000371	Ocean View Lodge Accommodation (Ocean View 5 Star Lodge) - Lot 20 on SP270873 aka Lot 161 (DOH) Greenhill Village	APPROVED - docs sent	April 2015	Pending	Erubam Le Traditional Land and Sea Owners (TSI) Corporation RNTBC or related party	Documents sent 12 August 2016. Await response. NTO requested market price on 8 May 2017. JM emailed market price (from Asset Register) on 10 May 2017. <b>TSRA's David Farrell emailed on 20 Oct 2017 requesting various docs for due diligence.</b>
Hammond	Arts Centre Complex (including Nursery) *not a going concern*	1000164 1000163 1000162	Arts Centre Complex (Arts & Crafts Building) Lot 24 on SP248418 aka Lot 24 (SLUP) Mangoe Sow Cl. Arts and Crafts Shed and Awning Lot 25 on SP248418 aka Unnumbered Lot (SLUP) Mangoe Sow Cl. Nursery Pt Lot 26 on SP248418 aka Lot 26 (SLUP) Mangoe Sow Cl.	APPROVED - docs sent	August 2015	Pending	Kirri Foundation	Documents sent 12 September 2016 by email and post. Await response. <b>Trustee resolution required for Conditional Agreement to Lease.</b>
Hammond	Mini Mart (lease convenience store)	-1000163	Arts and Crafts Shed and Awning	COMPLETE	June 2010		Mario Sabatino	DIVESTED - Extinguishment of NT re public works. Lease registered.
Hammond	St Joseph's Ferry	-1000162	Nursery	COMPLETE	June 2010		Mario Sabatino	DIVESTED



Iama	Iama Kiosk	1000643	Lot 11 on SP270867 Lot 13 (SLUP) Mosby St, abuts the Sundowner Guest House.	ON HOLD UNTIL FURTHER NOTICE			Nil	July OM: Iama Kiosk divestment ON HOLD. Applicant Kerai Kepa advised by letter dated 31 July 2017. Applicant Phyllis Sampson advised by letter dated 2 February 2018. Cr Lui advised on 14 Aug 2018 that the freezer and two bain-maries can be sold, but the divestment remains on hold.
Iama	Coffee Shop at Cultural Centre *not a going concern*	1000515	Site is within the RTC building situated on Part of Lot 50 on SP270867 Church Rd	COMPLETE	October 2016		Kerai Kepa or related party	Documents sent 19 December 2016 by email. Negotiations in progress. <b>Licence Agreement and Bill of Sale executed 3 April 2017. Licence Agreement commenced 10 April 2017 for 12 months.</b>
Iama	Kodakal Lodge	1000514	Lot 80 on SP270867 Kebisu St	ON HOLD UNTIL FURTHER NOTICE			Nil	July OM action item: guesthouse divestment ON HOLD until native title dispute finalised. Applicant Ralph Pearson-Bann and Dianne Lockyer advised by letter dated 31 July 2017.
Iama	Sundowner Guest House	1000643	Lot 11 on SP270867 Lot 13 (SLUP) Mosby St	ON HOLD UNTIL FURTHER NOTICE			Nil	July OM action item: guesthouse divestment ON HOLD until native title dispute finalised. Applicant Ralph Pearson-Bann and Dianne Lockyer advised by letter dated 31 July 2017. Applicant Phyllis Sampson advised by letter dated 2 February 2018.
Kubin	Horticulture *not a going concern*	No Asset #	Part of lot 5 on SP248095 Wagalgau Yabu. Near airstrip lagoon.	APPROVED - docs sent	July 2016	Pending	Mualgal (TSI) Corporation RNTBC or related party	Documents sent 22 August 2016. Await response. NTO requested market price on 8 May 2017. JM advised on 10 May 2017 that there is no price for this asset (no relevant asset). <b>Trustee resolution required for Conditional Agreement to Lease. TSRA's David Farrell emailed on 20 Oct 2017 requesting various docs for due diligence.</b>
Kubin	Arkai Kaziw Childcare Centre *not a going concern*	1000592	Arkai Kaziw Childcare Centre (Arkai Ipkaizil Childrens Centre) - Lot 133 on SP271019 aka Lot 133 (SLUP) Ikilgau Yabu	APPROVED - docs sent	April 2015	Pending	Mualgal (TSI) Corporation RNTBC or related party	Documents sent 22 August 2016. Await response. NTO requested market price on 8 May 2017. JM emailed market price (from Asset Register) on 10 May 2017. <b>Trustee resolution required for Conditional Agreement to Lease. TSRA's David Farrell emailed on 20 Oct 2017 requesting various docs for due diligence.</b>
Kubin	Mrs Lizzie Nawia Motel	1000471	Mrs Lizzie Nawia Motel - Lot 41 on SP271019 aka Lot 41 (SLUP) Wagalgau Yabu	APPROVED - docs sent	April 2015	Pending	J&N Enterprises or related party	Documents posted 16 August 2016. Await response. <b>NB update 28 March 2017: BSU invested funds into bringing the building up to standard, for the purpose of using this accommodation for NPARIH until 30 June 2018.</b>
Kubin	Mualgal Minnaral Artists' Collective *not a going concern*	1000486	Mualgal Minnaral Artists' Collective (Ngalmun Lagau Minnaral Arts Centre) - Lot 73 on SP271019 aka Lot 73 (SLUP) Ikilgau Yabu	APPROVED - docs sent	April 2015	Pending	Mualgal (TSI) Corporation RNTBC or related party	Documents sent 22 August 2016. Await advice from PBC as to who will take on the enterprise (PBC or Moa Arts). NTO requested market price on 8 May 2017. JM emailed market price (from Asset Register) on 10 May 2017. <b>Trustee resolution required for Conditional Agreement to Lease. TSRA's David Farrell emailed on 20 Oct 2017 requesting various docs for due diligence.</b>
Mabuiag	Guesthouse Motel	1000273	Guesthouse/Motel (Maitui Whap Snr. Motel) - Lot 16 (SLUP) Map Street	APPROVED - docs sent	April 2015	Pending	Goemulgaw (TSI) Corporation RNTBC or related party	Documents sent 14 July 2016. Await response. NTO requested market price on 8 May 2017. JM emailed market price (from Asset Register) on 10 May 2017. <b>TSRA's David Farrell emailed on 20 Oct 2017 requesting various docs for due diligence.</b>
Mabuiag	Kiosk *not a going concern, no goods*	1005387	Kiosk is within the Airstrip Terminal building at Lot 56 Warria St	APPROVED - docs sent	Feb-17	Pending	Brett Tyrrell or related party	Documents sent 20 March 2017. Six-month negotiation timeframe applies. <b>Deadline 20 September 2017.</b> Licence only because the kiosk is located within a Council building. Julia to address Brett's queries re the licence agreement terms.
Mabuiag	Donga Accommodation	1000300	Donga Accommodation (Contractors Donga Accommodation x 4) - Lot 117 (SLUP) Warria Street	APPROVED - docs sent	April 2015	Pending	Goemulgaw (TSI) Corporation RNTBC or related party	Documents sent 14 July 2016. Await response. NTO requested market price on 8 May 2017. JM emailed market price (from Asset Register) on 10 May 2017. <b>TSRA's David Farrell emailed on 20 Oct 2017 requesting various docs for due diligence.</b>
Masig	Lowatta Lodge	1000562, 1000564, 1000566, 1000568, 1000570, 1000571, 1000572, 1000573	Lot 186 on SP277431 Dans Rd.	DIVESTED - ILUA and lease pending	June 2010	August 2017 subject to prior community consultation, native title future act validation, development approval and	Kailag Enterprises Ltd	Business Sale Contract was executed October 2012. Under special condition 3.1, a License to operate was granted by Council to Kailag effective 15 October 2012, pending satisfaction of various conditions which would see settlement of the transaction, namely entry into an ILUA and registration of a formal lease. Neither of these conditions has yet been satisfied. Council has not elected to terminate and take back the enterprise and premises and thus the license remains in effect. <b>Awaiting ILUA and Lease.</b> Kailag Enterprises submitted lease EOI form on 19 June 2017. JM forwarded lease EOI form to NTO & PBC on 21 June 2017. Await response from NTO/PBC. <b>Community consultation required to progress with CATL.</b>
Mer	Guesthouse	1000309	Lot 207 on SP249793 Airport Rd.	COMPLETE	Land transfer 14 December 2012		Opnor Bakir Atabur (TSI) Corp	Buildings no longer belong to Council
Mer	Canteen	1000212	Lease "I" on SP231857 and part of Lot 48 on SP249793 Marou Rd.	COMPLETE	Land transfer 14 December 2012		Opnor Bakir Atabur (TSI) Corp	Buildings no longer belong to Council
Mer	Freezer	No Asset #	Lot 10 on SP249793 Marou Rd.	COMPLETE	Land transfer 14 December 2012		Opnor Bakir Atabur (TSI) Corp	Buildings no longer belong to Council
Poruma	Poruma (Sawadgee Donga Accommodation) Lodge	1000308, 1000307, 1000306, 1000305, 1000304, 1000303	Poruma (Sawadgee Donga Accommodation) Lodge (Sawadgee Mudh Guesthouse): Common area; Kitchen area; Amenities; Units 1 to 5; Units 6 to 10; Units 11 to 15. Lot 11 on SP270862 aka Lot 216 (SLUP) Sawadgee Road.	APPROVED - docs sent	April 2015	Pending	Porumalgal (TSI) Corporation RNTBC or related party Enterprise corporation: Poruma Zagethau Lag Torres Strait Islander Corporation	Documents sent 29 March 2016. Await advice from Luke Hockey (TSRA). NTO requested market price on 8 May 2017. JM emailed market price (from Asset Register) on 10 May 2017. <b>Trustee resolution required for Conditional Agreement to Lease. TSRA's David Farrell emailed on 20 Oct 2017 requesting various docs for due diligence. March 2019: Council resolution passed to finalise the divestment of the Sawadgee Donga Accommodation.</b>
Poruma	Kiosk *not a going concern*	1005366	Kiosk (Lamont Kiosk) - Lot 8 (SLUP) Mimia Street	APPROVED - docs sent	April 2015	Pending	Porumalgal (TSI) Corporation RNTBC or related party Enterprise corporation: Poruma Zagethau Lag Torres Strait Islander Corporation	Documents sent 25 July 2016. Await advice from Luke Hockey (TSRA). NTO requested market price on 8 May 2017. JM emailed market price (from Asset Register) on 10 May 2017. <b>Trustee resolution required for Conditional Agreement to Lease. TSRA's David Farrell emailed on 20 Oct 2017 requesting various docs for due diligence. March 2019: Council resolution passed to progress licensine of the Lamont Kiosk.</b>

Saibai	Guesthouse	1000267 1000268 1000269 1000638	2 B/R Transportable Lot 16 on SP248241 Main Rd. Accom Tranportable Lot 16 on SP248241 Main Rd. 5 ensuite Lot 16 on SP248241 Main Rd. 4 x Transportables Lot 16 on SP248241 Main Rd.	ON HOLD UNTIL FURTHER NOTICE	November 2009	Pending	Saibai Development (TSI) Corp	Documents re-sent 5 August 2016. Await advice from Mariana Babia re tenderer capacity and lease/sublease proposal. Ms Babia advised 25 January 2017 that she would arrange a Corporation meeting and advise by next week. A/CEO instructed 28 March 2017 to maintain status quo for this divestment.
Saibai	Variety Store (includes a Gym)	1000265	Lot 34 on SP267944 aka combined Lots 302 & 303 (SLUP) School Rd.	ON HOLD UNTIL FURTHER NOTICE	November 2009	August 2013	Saibai Development (TSI) Corp	Documents re-sent 5 August 2016. Await advice from Mariana Babia re tenderer capacity and lease/sublease proposal. Ms Babia advised 25 January 2017 that she would arrange a Corporation meeting and advise by next week. A/CEO instructed 28 March 2017 to maintain status quo for this divestment.
Saibai	New Canteen	1000244	Pt Lot 44 on SP267944 aka Lot 16 (SLUP) School Rd.	DIVESTED - ILUA and lease pending	November 2009	November 2009	Saibai Development (TSI) Corp	DIVESTED. Bill of Sale dated 25 February 2010. Lease required. Standard Lease template send 5 August 2016. Await advice from Mariana Babia. A/CEO instructed 28 March 2017 to maintain status quo for this divestment.
Saibai	Old Canteen	Disposed asset 1000247	Pt Lot 44 on SP267944 aka Lot 121 (SLUP) School Rd.	DIVESTED - ILUA and lease pending	November 2009	November 2009	Saibai Development (TSI) Corp	DIVESTED. Bill of Sale dated 25 February 2010. Lease required. Standard Lease template send 5 August 2016. Await advice from Mariana Babia. A/CEO instructed 28 March 2017 to maintain status quo for this divestment.
St Pauls	Nursery (known as Builders/plumbers store lot)	1000443	Lot 37 on SP256048 Oza Bosun Rd	PENDING				Apparently MyPathway had a hydroponic set up at this location. There appears to be the remains of the shaded-type structure there. VMR stores its rescue boat on site. Added to divestment list by Council resolution July 2018. Advertised to May 2019 - no EOIs received. Re-advertised - closing 26 July 2019 and EOI was received.
St Pauls	Old Childcare Centre *not a going concern*	1000536	Lot 47 on SP256048 Levi St	APPROVED - docs sent	February 2017	August 2017 subject to prior community consultation.	Isobel Stephen	Documents sent 10 March 2017. Six-month negotiation timeframe applies. <b>Deadline 11 September 2017. Community consultation required to progress with CATL.</b>
St Pauls	St Pauls Lodge	1000444	Lot 176 on SP256048 Oza Bosun Rd	DIVESTED - ILUA and lease pending	September 2016	Pending	Susannah Sailor (or related party)	Business Sale Contract executed. <b>Date of Contract is 14 August 2017.</b> Under special condition 3.1, a License to operate has been granted by Council to Susannah Sailor from 14 August 2017, pending satisfaction of various conditions including ILUA and registration of lease.
St Pauls	St Pauls Block Plant *not a going concern*	No Asset #	Lot 83 on SP256048 Oza Bosun Rd	DIVESTED - ILUA and lease pending	February 2017	August 2017 subject to prior community consultation, native title future act validation, development approval and Ministerial consent (if required).	George Saveka (or related party)	Documents sent 10 March 2017. <b>Licence Agreement in place 3 August 2017 to 30 June 2019. Sublicence permitted (see clause 4.8). Community consultation required to progress with CATL.</b>
St Pauls	Mechanical Workshop *not a going concern*	1000440	Lot 62 on SP256048 Oza Bosun Rd	APPROVED - docs sent	March 2017	August 2017 subject to prior community consultation.	Fred Erra Wapau (or related party)	Documents sent 8 June 2017. <b>Negotiations ongoing as per Council direction in July 2018. Community consultation required to progress with CATL.</b>
St Pauls	Main Road Contractors' Camp *not a going concern* Main Road's Camp Main Road's Camp Storage Shed	1000445 1000446	Lot 77 on SP256048 Oza Bosun Rd	DIVESTED - ILUA and lease pending	February 2017	August 2017 subject to prior community consultation, native title future act validation, development approval and Ministerial consent (if required).	George Saveka (or related party)	Documents sent 5 May 2017. <b>Licence Agreement in place 5 Nov 2017 to 30 June 2019. Community consultation required to progress with CATL.</b>
Ugar	Ugar Community Centre kitchen			PENDING				Advertised to May 2019 - no EOIs received. Re-advertised - closing 26 July 2019 and EOI was received.
Ugar	Freezer	1000354	Lot 28 on SP282706 aka Lot 26 (SLUP) Ned St	DIVESTED - ILUA and lease pending	May 2012	September 2015	Kos and Abob Fisheries (TSI) Corp	DIVESTED. Lease required. NNTT advised the area is outside the native title determination, so a Body Corporate ILUA cannot be registered. Awaiting advice from PBC and TSRA NTO regarding progressing this divestment.

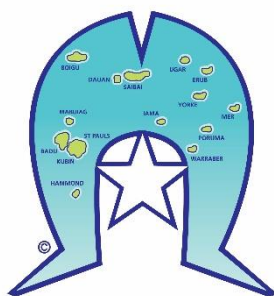
Ugar	Ferry Service including trailer	1003565 1003840		ON HOLD UNTIL FURTHER NOTICE			Nil	On hold as directed by SARG (August 2016). Dania advised from Ordinary Meeting September 2016 that if Ugar Ferry is re-advertised that it must be conditional on maintainin a service for the Ugar community. <b>A/CEO advised 17 May 2017 to put this divestment on hold until further notice, due to Ugar Safe Access funds for Council to re-establish the Ugar Ferry Service.</b>
Warraber	Guest House Shelter at Guest House Store Shed at Guest House	1000492 1000404 1000405	Lot 52 on SP270859 aka Lot 21 (SLUP) Aikuru St	PENDING			Nil	March 2019 OM Council decided not to re-advertise due to condition of building.
Warraber	Motel (Resort reception) Resort 2 B/R Unit Cabin C Resort 1 B/R Cabin A Resort 1 B/R Cabin B Resort 3 x Gazehos	1000394 1000395 1000396 1000397 1000398	Lot 50 on SP270859 aka Lot 201 (SLUP) Dabus St	PENDING			Nil	March 2019 OM Council decided not to re-advertise due to condition of building.
Warraber	Kiosk (Saloma Kaikai House) *not a going concern*	1000428	Lot 95 on SP270859 aka Lot 52 (SLUP) Ganaia St	APPROVED - docs sent	July 2017	Pending	Iris Billy (or related party)	Successful letter sent 31 July 2017. Draft documents to Iris Billy on 13 October 2017. Six-month negotiation timeframe applies. <b>Deadline 13 April 2018.</b>

**KEY**

**TRANCHE 1** (awaiting tenderer capacity): Divestment docs provided to tenderer but not yet executed

**TRANCHE 2** (newest approved divestment): Divestment docs to be compiled

**TRANCHE 3** (divestees on licence to operate): Divestment complete but need to check conditions satisfied - ILUA and lease registration - and extend deadline if required



**Torres Strait Island**  
REGIONAL COUNCIL

## DIVESTMENT POLICY

PO INSERT

<b>Responsible Manager:</b>	Chief Executive Officer
<b>Head of Power:</b>	<i>Local Government Act 2009 (Qld)</i> <i>Local Government Regulation 2012 (Qld)</i>
<b>Authorised by:</b>	Council resolution
<b>Authorised on:</b>	INSERT
<b>Implemented from:</b>	INSERT
<b>Last Reviewed:</b>	N/A
<b>Review History:</b>	N/A
<b>Review Date:</b>	30 June 2022
<b>Corporate Plan:</b>	Corporate Plan 2020 to 2025
	10.1 Facilitate the establishment of an Enterprise Development Strategy, identifying key sector opportunities.
	10.2 Divestment of non-core council owned business.



## 1. POLICY STATEMENT

Council is committed to:

- (a) advocating and fostering regional prosperity through enterprise development;
- (b) advocating for community and individual enterprise models and investment attraction;
- (c) facilitating the establishment of an Enterprise Development Strategy, identifying key sector opportunities;
- (d) advocating and facilitating key industry development;
- (e) working with key partners to facilitate pre-feasibility studies on key sectors and industry development opportunities within the region; and
- (f) divesting non-core council-owned business.

## 2. SCOPE

- (a) This Policy applies to all local government employees, Councillors, contractors and agents of Council.
- (b) This Policy applies to the following types of enterprise divestment:
  - i. A business currently operated by Council (a going concern) that is not part of Council's core business as a local government service provider.
  - ii. A business premises owned by Council that is not currently operational.
  - iii. Vacant premises owned by Council that could potentially be used as a business premises.

## 3. KEY SECTORS AND INDUSTRY DEVELOPMENT OPPORTUNITIES

Council considers the following to be the key sectors for enterprise divestment in the region:

- (a) Accommodation (operational lodges, motels, guesthouses and resorts)
- (b) Shops and hospitality: non-operational taverns, canteens, kiosks and variety stores
- (c) Seafood and garden industries: non-operational fish freezers, crab farms and nurseries
- (d) Construction industry: disused block plant and mechanical workshop
- (e) Community centres: disused childcare centres, gyms, radio stations and arts centres; vacant kitchen and office space in community centres

In December 2017, Council passed a resolution, following review and reconsideration, that Council intends to continue to operate its fuel bowers and depots into the foreseeable future rather than divesting these enterprises.

## 4. WORKING WITH PARTNERS TO FACILITATE DIVESTMENT

- (a) Council will work with regional funding bodies to facilitate enterprise development opportunities and the divestment of non-core council-owned business.

- (b) Organisations and individuals seeking to fund or develop enterprises within the region are encouraged to contact Council's Manager Enterprise Development & Delivery and Manager Legal Services to discuss feasibility, including:
  - i. Ownership of relevant buildings/assets;
  - ii. Operational matters for going concerns;
  - iii. Upfront and ongoing costs of running the enterprise;
  - iv. Approvals required to run the enterprise;
  - v. Approvals required for any proposed refurbishment or replacement of existing improvements on the land.

## 5. **DIVESTMENT PROCESS**

- (a) The register of enterprises available for divestment by Council is managed by Legal Services ("Enterprise Divestment Database").
- (b) An enterprise can be added to the Enterprise Divestment Database by nomination by the Divisional Councillor and endorsed at a Council Ordinary Meeting.
- (c) Council advertises for expressions of interest from organisations or individuals who are interested in taking up one of Council's enterprise divestment opportunities.
- (d) Expressions of interest are assessed and ranked against the following criteria:
  - i. Is the applicant based in the community? (50%)
  - ii. What is the applicant's capability to run a community-based enterprise? (25%)  
(What skills, interests, experience and training does the applicant have that will help in running a community-based business?)
  - iii. What is the applicant's financial/resource capacity (staff, funding) to start up or take over a business? (25%)
- (e) Expressions of interest are presented to Council for consideration. Council may, by resolution, decide to accept an expression of interest.
- (f) After Council has considered expressions of interest, Council's Legal Services team will contact all applicants to advise of the outcome, and send to any approved applicant draft documentation to progress the divestment.
  - i. For businesses currently operated by Council, Council prepares a Business Sale Contract.

- ii. For enterprises operating inside part of a Council building, Council provides a renewable peppercorn licence.
  - iii. For stand-alone buildings/assets, Council prepares an agreement documenting the requirement for the approved applicant to obtain a lease of the land and buildings.
  - iv. For non-operational businesses, Council prepares a peppercorn Bill of Sale to transfer ownership of any business chattels inside the premises.
- (g) If a significant period of time lapses with no progress towards divestment, Council may decide to cancel the divestment to the approved applicant and re-advertise for expressions of interest.

## **6. COST RECOVERY**

- (a) Council supports enterprise development by waiving commercial rent for new operators under the enterprise divestment program. However, due to its limited financial capacity and large asset base, Council is unable to fund enterprise divestment. Council therefore manages the enterprise divestment program on a cost-recovery basis.
- (b) Divestment on an “as is, where is” basis. This means that Council remains owner of the premises and, where Council is the trustee of the relevant land, offers to grant a lease of the buildings/assets to the business operator. The lease states that all maintenance and upgrades are the sole responsibility of the business operator for the term of the lease.
- (c) Council continues to insure all buildings/assets owned by Council.
- (d) The business operator can ask Council's permission to make improvements to the building/assets. The business operator is then responsible for insuring its improvements.
- (e) Business operators are given the option to purchase the relevant buildings/assets of Council at the value specified in Council's Asset Register. Otherwise, Council provides a Licence to Operate (under a Business Sale Contract) or a Conditional Agreement to Lease at a peppercorn rate (\$1.00 per year), pending native title future act validation and lease registration.
- (f) Under a Conditional Agreement to Lease or a Business Sale Contract (licence to operate), the business operator is required to pay outgoings, rates and charges and is responsible for repairs, maintenance and upgrades. The business owner is required to have public liability insurance for the business' activities, and is responsible for insuring its improvements to the buildings/assets.

- (g) Once a lease is registered with Council as the trustee lessor, the rent is a peppercorn (\$1.00 per year). The business operator continues to be responsible for outgoings, rates and charges, repairs and maintenance, upgrades, public liability insurance, and insurance for improvements.
- (h) For enterprises operating inside part of a Council building, Council provides a renewable peppercorn licence (\$1.00 per year). The business operator is only charged for outgoings if utilities are separately metered. The business operator is not charged rates or charges and is not responsible for capital repairs and maintenance but is required to have public liability insurance for the business' activities.

In summary:

- (i) For stand-alone buildings/assets, Council places the responsibility on business operators to repair and maintain the building, and requires operators to pay outgoings, rates and charges.
- (j) For businesses operating in part of a Council building, the licensee is only charged for outgoings if utilities are separately metered. The business operator is not charged rates or charges and is not responsible for capital repairs and maintenance.

## 7. PROCEDURE

This Policy shall be achieved with reference to the following:

- Queensland Government *Leasing Torres Strait Islander DOGIT Land: Manual for Trustees* and *Leasing Aboriginal DOGIT Land: Manual for Trustees*
- PO19-PR1 Native Title and Cultural Heritage Procedure
- PO19-PR2 Leasing Procedure
- Enterprise Development Strategy

## AUTHORISATION

This document was duly authorised by Council as the Torres Strait Island Regional Council Divestment Policy (PO INSERT) on DATE, and shall hereby supersede any previous policies of the same intent.

\_\_\_\_\_  
Hollie Faithfull

Date:

**Acting Chief Executive Officer**



# TORRES STRAIT ISLAND REGIONAL COUNCIL

## AGENDA REPORT

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### ORDINARY MEETING

DATE: 4 November 2020  
SUBJECT ITEM: Delegations Update  
AUTHOR: 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 the following powers, and these powers must be exercised subject to any limitations contained in Schedule 2 of the corresponding attached Instruments of Delegation:

- ***Biosecurity Regulation 2016***: the powers contained in Schedule 1 of the Instrument of Delegation attached to this resolution as **Attachment 1**.
- ***Disaster Management Act 2003***: the powers contained in Schedule 1 of the Instrument of Delegation attached to this resolution as **Attachment 2**.
- ***Environmental Protection Act 1994***: the powers contained in Schedule 1 of the Instrument of Delegation attached to this resolution as **Attachment 3**.
- ***Environmental Protection Regulation 2019***: the powers contained in Schedule 1 of the Instrument of Delegation attached to this resolution as **Attachment 4**.
- ***Heavy Vehicle National Law (Queensland) Act 2012***: the powers contained in Schedule 1 of the Instrument of Delegation attached to this resolution as **Attachment 5**.
- ***Heavy Vehicle (Mass, Dimension and Loading) National Regulation***: the powers contained in Schedule 1 of the Instrument of Delegation attached to this resolution as **Attachment 6**.
- ***Land Act 1994***: the powers contained in Schedule 1 of the Instrument of Delegation attached to this resolution as **Attachment 7**.
- ***Land Regulation 2020***: the powers contained in Schedule 1 of the Instrument of Delegation attached to this resolution as **Attachment 8**.
- ***Land Title Act 1994***: the powers contained in Schedule 1 of the Instrument of Delegation attached to this resolution as **Attachment 9**.
- ***Liquor Act 1992***: the powers contained in Schedule 1 of the Instrument of Delegation attached to this resolution as **Attachment 10**.

- ***Local Government Act 2009***: the powers contained in Schedule 1 of the Instrument of Delegation attached to this resolution as **Attachment 11**.
- ***Local Government Regulation 2012***: the powers contained in Schedule 1 of the Instrument of Delegation attached to this resolution as **Attachment 12**.
- ***Mineral Resources Act 1989***: the powers contained in Schedule 1 of the Instrument of Delegation attached to this resolution as **Attachment 13**.
- ***Planning Act 2016***: the powers contained in Schedule 1 of the Instrument of Delegation attached to this resolution as **Attachment 14**.
- ***Planning Regulation 2017***: the powers contained in Schedule 1 of the Instrument of Delegation attached to this resolution as **Attachment 15**.
- ***Public Health Regulation 2018***: the powers contained in Schedule 1 of the Instrument of Delegation attached to this resolution as **Attachment 16**.
- ***Right to Information Act 2009***: the powers contained in Schedule 1 of the Instrument of Delegation attached to this resolution as **Attachment 17**.
- ***Tobacco and Other Smoking Products Act 1998***: the powers contained in Schedule 1 of the Instrument of Delegation attached to this resolution as **Attachment 18**.
- ***Transport Infrastructure Act 1994***: the powers contained in Schedule 1 of the Instrument of Delegation attached to this resolution as **Attachment 19**.
- ***Water Regulation 2016***: the powers contained in Schedule 1 of the Instrument of Delegation attached to this resolution as **Attachment 20**.
- ***Work Health and Safety Act 2011***: the powers contained in Schedule 1 of the Instrument of Delegation attached to this resolution as **Attachment 21**.
- ***Waste Reduction & Recycling Regulation 2011***: the powers contained in Schedule 1 of the Instrument of Delegation attached to this resolution as **Attachment 22**.

## **PURPOSE**

This report presents updated statutory powers to Council for endorsement of delegation to the CEO.

## **BACKGROUND**

### **Delegations 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 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. A comprehensive Instrument of Delegations of Local Government 2019 was adopted by Council resolution on 19 March 2019 (685 pages). After Council started subscribing to the MacDonnells Law monthly delegations update service, further Instruments of Delegation were adopted by Council resolution in 2019. The delegations register requires further updating and review.

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

6. 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.
7. 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.
8. 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.

## **OFFICER COMMENT**

As workshopped:

9. MacDonnells Law has advised on various legislative changes requiring a Council resolution to delegate new or amended powers to the CEO. Updated statutory powers are proposed for 22 different statutory instruments.
10. Each new Instrument of Delegation is proposed for each relevant statutory instrument, for Council's consideration.
11. All conditions included in previous delegations have been carried over.
12. Powers that Council previously declined to delegate have not been recommended for delegation.
13. Powers that MacDonnells Law recommends not be delegated have not been recommended for delegation.
14. Powers not recommended for delegation are marked "N/A" in the delegations document.
15. Powers to make decisions about land matters are subject to Council approval (case-by-case basis) or (where time-sensitive) consultation with the Mayor.
16. For continued operational efficiency in all Departments, the amended delegations are submitted to Council for adoption.

## **CONSULTATION**

MacDonnells Law  
Chief Executive Officer  
Manager Legal Services

## **LINKS WITH 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 (Qld)*

*Local Government Regulation 2012 (Qld)*

Local Government Acts

## **FINANCE AND RISK**

*Capital Cost*

*NIL*

*Operating Cost*

*NIL*

*Risk Assessment*

MacDonnells Law has identified a significant risk of non-compliance if Council's delegations are not identified. 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.

## **SUSTAINABILITY**

Operational efficiency.

## **CONCLUSION**

As presented.



Hollie Faithfull  
**A/CEO**

Julia Maurus  
**Manager Legal Services**

## ATTACHMENTS:

1. Proposed Instrument of Delegations: *Biosecurity Regulation 2016* (BIOR)
2. Proposed Instrument of Delegations: *Disaster Management Act 2003* (DIMA)
3. Proposed Instrument of Delegations: *Environmental Protection Act 1994* (ENPA)
4. Proposed Instrument of Delegations: *Environmental Protection Regulation 2019* (ENPR)
5. Proposed Instrument of Delegations: *Heavy Vehicle National Law (Queensland) Act 2012* (HVNL)
6. Proposed Instrument of Delegations: *Heavy Vehicle (Mass, Dimension and Loading) National Regulation* (HVNR)
7. Proposed Instrument of Delegations: *Land Act 1994* (LANA)
8. Proposed Instrument of Delegations: *Land Regulation 2020* (LANR)
9. Proposed Instrument of Delegations: *Land Title Act 1994* (LATA)
10. Proposed Instrument of Delegations: *Liquor Act 1992* (LIQA)
11. Proposed Instrument of Delegations: *Local Government Act 2009* (LOGA)
12. Proposed Instrument of Delegations: *Local Government Regulation 2012* (LOGR)
13. Proposed Instrument of Delegations: *Mineral Resources Act 1989* (MIRA)
14. Proposed Instrument of Delegations: *Planning Act 2016* (PLAA)
15. Proposed Instrument of Delegations: *Planning Regulation 2017* (PLAR)
16. Proposed Instrument of Delegations: *Public Health Regulation 2018* (PUHR)
17. Proposed Instrument of Delegations: *Right to Information Act 2009* (RTIA)
18. Proposed Instrument of Delegations: *Tobacco and Other Smoking Products Act 1998* (TOSP)

19. Proposed Instrument of Delegations: *Transport Infrastructure Act 1994* (TRIA)
20. Proposed Instrument of Delegations: *Water Regulation 2016* (WATR)
21. Proposed Instrument of Delegations: *Work Health and Safety Act 2011* (WHSA)
22. Proposed Instrument of Delegations: *Waste Reduction & Recycling Regulation 2011* (WRRR)

# **INSTRUMENT OF DELEGATION**

## **Torres Strait Island Regional Council** ***Biosecurity Regulation 2016 ("BIOR")***

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.

***Biosecurity Regulation 2016 ("BIOR")*****CHAPTER 2 – BIOSECURITY OBLIGATIONS****Part 6 – Diagnostic testing**

Entity power given to	Section of BIOR	Description
Person	27(1)	Power to apply to the chief executive in the approved form for a test kit or method approval

**CHAPTER 5 – PREVENTION AND CONTROL MEASURES FOR BIOSECURITY MATTER****Part 1 – Preliminary**

Entity power given to	Section of BIOR	Description
Responsible person	46(1)	In the specified circumstances, the power to ensure biosecurity matter or a carrier is dealt with in accordance with a risk minimisation requirement for dealing with the biosecurity risk or carrier.
Person	46A(1)	In the specified circumstances, the power to move a sample of a carrier into the State or into or from a biosecurity zone.
Person	46A(2)	In the specified circumstances, the power to move a sample of a carrier from a biosecurity zone.
Person	57A(2)	In the specified circumstances, the power to move a tomato/potato psyllid carrier.
Person	57B(2)	Power to move a citrus canker carrier into the State under a biosecurity authorisation.
Person	57B(3)	In the specified circumstances, the power to move a citrus canker carrier.

**Part 12 – White spot biosecurity zone regulatory provisions**

Entity power given to	Section of BIOR	Description
Person	94C(2)	In the specified circumstances, power to move a white spot syndrome virus carrier.



## **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.

[2019 03 29 - BIOR - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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 BIOSECURITY REGULATION 2016 ("BIOR")

### CHAPTER 2 – BIOSECURITY OBLIGATIONS

#### Part 6 – Diagnostic testing

Entity power given to	Section of BIOR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Person	27(1)	Power to apply to the chief executive in the approved form for a test kit or method approval				

### CHAPTER 5 – PREVENTION AND CONTROL MEASURES FOR BIOSECURITY MATTER

#### Part 1 – Preliminary

Entity power given to	Section of BIOR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Responsible person	46(1)	In the specified circumstances, the power to ensure biosecurity matter or a carrier is dealt with in accordance with a risk minimisation requirement for dealing with the biosecurity risk or carrier.				
Person	46A(1)	In the specified circumstances, the power to move a sample of a carrier into the State or into or from a biosecurity zone.				

Person	46A(2)	In the specified circumstances, the power to move a sample of a carrier from a biosecurity zone.				
Person	57A(2)	In the specified circumstances, the power to move a tomato/potato psyllid carrier.				
Person	57B(2)	Power to move a citrus canker carrier into the State under a biosecurity authorisation.				
Person	57B(3)	In the specified circumstances, the power to move a citrus canker carrier.				

**Part 12 – White spot biosecurity zone regulatory provisions**

Entity power given to	Section of BIOR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Person	94C(2)	In the specified circumstances, power to move a white spot syndrome virus carrier.				

[2019 03 29 - BIOR - Delegation Table]

## INSTRUMENT OF SUB-DELEGATION

**Torres Strait Island Regional Council**  
*Biosecurity Regulation 2016 ("BIOR")*

Under section 259 of the *Local Government Act 2009*, I, **Bruce Ranga**, Chief Executive Officer of **Torres Strait Island Regional Council**, delegate to those positions which are specified in Schedule 1, the exercise of the powers contained in Schedule 2.

These powers must be exercised subject to the limitations contained in Schedule 3.

This Instrument of Sub-Delegation repeals all prior Instruments sub-delegating to the positions specified in Schedule 1 the exercise of the powers contained in Schedule 2.

My authority to make these sub-delegations is conferred by the *Local Government Act 2009* and the resolution of **Torres Strait Island Regional Council** made on **Insert date** to delegate those powers to the Chief Executive Officer.

**DATED** this                      day of                      2020.

**Bruce Ranga**  
Chief Executive Officer  
**Torres Strait Island Regional Council**



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

## POWERS SUB-DELEGATED

### *Biosecurity Regulation 2016 ("BIOR")*

#### CHAPTER 2 – BIOSECURITY OBLIGATIONS

##### Part 6 – Diagnostic testing

Entity power given to	Section of BIOR	Description
Person	27(1)	Power to apply to the chief executive in the approved form for a test kit or method approval

#### CHAPTER 5 – PREVENTION AND CONTROL MEASURES FOR BIOSECURITY MATTER

##### Part 1 – Preliminary

Entity power given to	Section of BIOR	Description
Responsible person	46(1)	In the specified circumstances, the power to ensure biosecurity matter or a carrier is dealt with in accordance with a risk minimisation requirement for dealing with the biosecurity risk or carrier.
Person	46A(1)	In the specified circumstances, the power to move a sample of a carrier into the State or into or from a biosecurity zone.
Person	46A(2)	In the specified circumstances, the power to move a sample of a carrier from a biosecurity zone.
Person	57A(2)	In the specified circumstances, the power to move a tomato/potato psyllid carrier.
Person	57B(2)	Power to move a citrus canker carrier into the State under a biosecurity authorisation.
Person	57B(3)	In the specified circumstances, the power to move a citrus canker carrier.

##### Part 12 – White spot biosecurity zone regulatory provisions

Entity power given to	Section of BIOR	Description
Person	94C(2)	In the specified circumstances, power to move a white spot syndrome virus carrier.

## **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.

[2019 03 29 - BIOR - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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.

# **INSTRUMENT OF DELEGATION**

## **Torres Strait Island Regional Council** ***Disaster Management Act 2003 ("DIMA")***

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.



***Disaster Management Act 2003 ("DIMA")*****Part 2 – Disaster management groups and committees****Division 3 – Local government disaster management groups*****Subdivision 1 – Establishment and functions***

<b>Entity power given to</b>	<b>Section of DIMA</b>	<b>Description</b>
Local Government	29	Power to establish a Local Disaster Management Group for the local government's area.

***Subdivision 2 – Application of sections 29 and 30 in particular circumstances***

<b>Entity power given to</b>	<b>Section of DIMA</b>	<b>Description</b>
Local Government	31	Power to, with the approval of the Minister and the district disaster coordinator for the disaster district in which the local government is situated, to agree to unite with other local governments, for the purpose of establishing a local group.

***Subdivision 3 – Membership***

<b>Entity power given to</b>	<b>Section of DIMA</b>	<b>Description</b>
Local Government	37	Power to give written notice of the members of a local group to: (a) the chief executive; and (b) the chairperson for the disaster district in which the local group is situated.

**Part 3 – Disaster management plans and guidelines****Division 3 – Disaster management plans for local governments*****Subdivision 1 – Disaster management plans***

<b>Entity power given to</b>	<b>Section of DIMA</b>	<b>Description</b>
Local Government	57(1)	Power to prepare a plan (a local disaster management plan) for disaster management in the local government's area.
Local Government	57(2)(g)	Power to consider other matters that are appropriate for inclusion in the local disaster management plan.
Local Government	59(1)	Power to review or renew a local disaster management plan when considered appropriate, subject to sub-section 2.
Chief Executive Officer	60(1)(c)	Power to consider the places where a copy of the local disaster management plan should be available for inspection, free of charge, by members of the public.
Chief Executive Officer	60(3)	Power to decide the fee for provision of a copy of the local disaster management plan.

***Subdivision 2 – Application of Subdivision 1 in particular circumstances***

Entity power given to	Section of DIMA	Description
Local Government	61	Power to, with the approval of the Minister and the district group for the disaster district in which the local government is situated, to agree to unite with other local governments for the purpose of preparing a local disaster management plan.

## **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.

[2018 12 01 - DIMA - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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 DISASTER MANAGEMENT ACT 2003 ("DIMA")

### Part 2 – Disaster management groups and committees

#### Division 3 – Local government disaster management groups

##### *Subdivision 1 – Establishment and functions*

Entity power given to	Section of DIMA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	29	Power to establish a Local Disaster Management Group for the local government's area.				

##### *Subdivision 2 – Application of sections 29 and 30 in particular circumstances*

Entity power given to	Section of DIMA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	31	Power to, with the approval of the Minister and the district disaster coordinator for the disaster district in which the local government is situated, to agree to unite with other local governments, for the purpose of establishing a local group.				



***Subdivision 3 – Membership***

Entity power given to	Section of DIMA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	37	Power to give written notice of the members of a local group to: (a) the chief executive; and (b) the chairperson for the disaster district in which the local group is situated.				

**Part 3 – Disaster management plans and guidelines**

**Division 3 – Disaster management plans for local governments**

***Subdivision 1 – Disaster management plans***

Entity power given to	Section of DIMA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	57(1)	Power to prepare a plan (a local disaster management plan) for disaster management in the local government's area.				
Local Government	57(2)(g)	Power to consider other matters that are appropriate for inclusion in the local disaster management plan.				
Local Government	59(1)	Power to review or renew a local disaster management plan when considered appropriate, subject to sub-section 2.				

Chief Executive Officer	60(1)(c)	Power to consider the places where a copy of the local disaster management plan should be available for inspection, free of charge, by members of the public.	This power does not need to be delegated as it is given directly to the CEO under the Act.			
Chief Executive Officer	60(3)	Power to decide the fee for provision of a copy of the local disaster management plan.	This power does not need to be delegated as it is given directly to the CEO under the Act.			

***Subdivision 2 – Application of Subdivision 1 in particular circumstances***

Entity power given to	Section of DIMA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	61	Power to, with the approval of the Minister and the district group for the disaster district in which the local government is situated, to agree to unite with other local governments for the purpose of preparing a local disaster management plan.				

[2018 12 01 - DIMA - Delegation Table]

# INSTRUMENT OF SUB-DELEGATION

**Torres Strait Island Regional Council**  
*Disaster Management Act 2003 ("DIMA")*

Under section 259 of the *Local Government Act 2009*, I, **Bruce Ranga**, Chief Executive Officer of **Torres Strait Island Regional Council**, delegate to those positions which are specified in Schedule 1, the exercise of the powers contained in Schedule 2.

These powers must be exercised subject to the limitations contained in Schedule 3.

This Instrument of Sub-Delegation repeals all prior Instruments sub-delegating to the positions specified in Schedule 1 the exercise of the powers contained in Schedule 2.

My authority to make these sub-delegations is conferred by the *Local Government Act 2009* and the resolution of **Torres Strait Island Regional Council** made on **Insert date** to delegate those powers to the Chief Executive Officer.

**DATED** this                      day of                      2018.

**Bruce Ranga**  
Chief Executive Officer  
**Torres Strait Island Regional Council**

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

## POWERS SUB-DELEGATED

### *Disaster Management Act 2003 ("DIMA")*

#### Part 2 – Disaster management groups and committees

##### Division 3 – Local government disaster management groups

##### *Subdivision 1 – Establishment and functions*

Entity power given to	Section of DIMA	Description
Local Government	29	Power to establish a Local Disaster Management Group for the local government's area.

##### *Subdivision 2 – Application of sections 29 and 30 in particular circumstances*

Entity power given to	Section of DIMA	Description
Local Government	31	Power to, with the approval of the Minister and the district disaster coordinator for the disaster district in which the local government is situated, to agree to unite with other local governments, for the purpose of establishing a local group.

##### *Subdivision 3 – Membership*

Entity power given to	Section of DIMA	Description
Local Government	37	Power to give written notice of the members of a local group to: (a) the chief executive; and (b) the chairperson for the disaster district in which the local group is situated.

#### Part 3 – Disaster management plans and guidelines

##### Division 3 – Disaster management plans for local governments

##### *Subdivision 1 – Disaster management plans*

Entity power given to	Section of DIMA	Description
Local Government	57(1)	Power to prepare a plan (a local disaster management plan) for disaster management in the local government's area.
Local Government	57(2)(g)	Power to consider other matters that are appropriate for inclusion in the local disaster management plan.
Local Government	59(1)	Power to review or renew a local disaster management plan when considered appropriate, subject to sub-section 2.
Chief Executive Officer	60(1)(c)	Power to consider the places where a copy of the local disaster management plan should be available for inspection, free of charge, by members of the public.
Chief Executive Officer	60(3)	Power to decide the fee for provision of a copy of the local disaster management plan.

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***Subdivision 2 – Application of Subdivision 1 in particular circumstances***

<b>Entity power given to</b>	<b>Section of DIMA</b>	<b>Description</b>
Local Government	61	Power to, with the approval of the Minister and the district group for the disaster district in which the local government is situated, to agree to unite with other local governments for the purpose of preparing a local disaster management plan.



## **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.

[2018 12 01 - DIMA - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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.

# INSTRUMENT OF SUB-DELEGATION

**Torres Strait Island Regional Council**  
*Disaster Management Act 2003 ("DIMA")*

Under section 259 of the *Local Government Act 2009*, I, **Bruce Ranga**, Chief Executive Officer of **Torres Strait Island Regional Council**, delegate to those positions which are specified in Schedule 1, the exercise of the powers contained in Schedule 2.

These powers must be exercised subject to the limitations contained in Schedule 3.

This Instrument of Sub-Delegation repeals all prior Instruments sub-delegating to the positions specified in Schedule 1 the exercise of the powers contained in Schedule 2.

My authority to make these sub-delegations is conferred by the *Local Government Act 2009* and the resolution of **Torres Strait Island Regional Council** made on **Insert date** to delegate those powers to the Chief Executive Officer.

**DATED** this                      day of                      2020.

**Bruce Ranga**  
Chief Executive Officer  
**Torres Strait Island Regional Council**

## Schedule 1

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

## POWERS SUB-DELEGATED

### *Disaster Management Act 2003 ("DIMA")*

#### Part 2 – Disaster management groups and committees

##### Division 3 – Local government disaster management groups

##### *Subdivision 1 – Establishment and functions*

Entity power given to	Section of DIMA	Description
Local Government	29	Power to establish a Local Disaster Management Group for the local government's area.

##### *Subdivision 2 – Application of sections 29 and 30 in particular circumstances*

Entity power given to	Section of DIMA	Description
Local Government	31	Power to, with the approval of the Minister and the district disaster coordinator for the disaster district in which the local government is situated, to agree to unite with other local governments, for the purpose of establishing a local group.

##### *Subdivision 3 – Membership*

Entity power given to	Section of DIMA	Description
Local Government	37	Power to give written notice of the members of a local group to: (a) the chief executive; and (b) the chairperson for the disaster district in which the local group is situated.

#### Part 3 – Disaster management plans and guidelines

##### Division 3 – Disaster management plans for local governments

##### *Subdivision 1 – Disaster management plans*

Entity power given to	Section of DIMA	Description
Local Government	57(1)	Power to prepare a plan (a local disaster management plan) for disaster management in the local government's area.
Local Government	57(2)(g)	Power to consider other matters that are appropriate for inclusion in the local disaster management plan.
Local Government	59(1)	Power to review or renew a local disaster management plan when considered appropriate, subject to sub-section 2.
Chief Executive Officer	60(1)(c)	Power to consider the places where a copy of the local disaster management plan should be available for inspection, free of charge, by members of the public.
Chief Executive Officer	60(3)	Power to decide the fee for provision of a copy of the local disaster management plan.

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***Subdivision 2 – Application of Subdivision 1 in particular circumstances***

<b>Entity power given to</b>	<b>Section of DIMA</b>	<b>Description</b>
Local Government	61	Power to, with the approval of the Minister and the district group for the disaster district in which the local government is situated, to agree to unite with other local governments for the purpose of preparing a local disaster management plan.



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

13. 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.
14. 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.
15. 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).
16. 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.
17. 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.
18. The delegate will not exercise any delegated power which cannot lawfully be the subject of delegation by Council.

[2018 12 01 - DIMA - Sub-Delegation Instrument]

# **INSTRUMENT OF DELEGATION**

## **Torres Strait Island Regional Council** ***Environmental Protection Act 1994 ("ENPA")***

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 Act 1994 ("ENPA")*****CHAPTER 5 – ENVIRONMENTAL AUTHORITIES FOR ENVIRONMENTALLY RELEVANT ACTIVITIES****Part 2 – Application Stage****Division 4 – Notices about not properly made applications**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	128(2)	In certain circumstances, the power to give the applicant a notice.
Administering Authority	129(2)	In certain circumstances, the power to agree to a further period with the applicant.

**Division 5 – Joint applicants**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	130(3)	In certain circumstances, the power to: <ul style="list-style-type: none"> <li>(a) give a notice or other document relating to the application to all the applicants, by giving it to the principal applicant nominated in the application; or</li> <li>(b) make a requirement under this chapter relating to the application of all the applicants, by making it of the principal applicant nominated in the application.</li> </ul>

**Division 6 – Changing applications*****Subdivision 1 – Preliminary***

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	131(d)	In certain circumstances, power to be satisfied that a change would not adversely affect the ability of the authority to assess the changed application.

***Subdivision 3 – Changed applications – effect on assessment process***

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	133(1)(b)	Power to agree in writing to the change.
Administering Authority	134(4)	In certain circumstances, the power to be satisfied that the change would not be likely to attract a submission objecting to the thing the subject of the change, if the notification stage were to apply to the change.

**Part 3 –****Information stage****Division 2 – Information requests**

Entity power given to	Section of ENPA	Description
Administering Authority	140(1)	Power to ask the applicant, by written request (an <b>information request</b> ), to give further information needed to assess the application.
Administering Authority	143(2)	In certain circumstances, the power to include in an information request a requirement that the applicant provide an EIS for the application.
Administering Authority	145(1)	Power to, by written notice given to the applicant and without the applicant's agreement, extend the information request period by not more than 10 business days.
Administering Authority	145(3)	Power to request a further extension of the information request period.
Administering Authority	147(3)	Power to, within 5 business days after receiving the request: (a) decide whether to agree to the extension; and (b) give an information notice of the decision.

**Part 4 –****Notification stage****Division 1 – Preliminary**

Entity power given to	Section of ENPA	Description
Administering Authority	150(1)(d)	In certain circumstances, the power to be satisfied that the change would not be likely to attract a submission objecting to the thing the subject of the change, if the notification stage were to apply to the change.

**Division 2 – Public notice**

Entity power given to	Section of ENPA	Description
Administering Authority	152(3)	Power to: (a) give the applicant an information notice about the decision before the application notice is given; and (b) decide an additional or substituted way to give or publish the application notice.
Administering Authority	159(2)	In certain circumstances, power to decide whether to allow the application to proceed under this part as if the noncompliance had not happened.
Administering Authority	159(3)	In certain circumstances, power to be satisfied that there has been substantial compliance with the public notice requirements.
Administering Authority	159(4)	In certain circumstances, power to within 10 business days after the decision is made, give the applicant written notice of the decision.
Administering Authority	159(5)(b)(i)	In certain circumstances, power to: (a) fix a substituted way to give or publish the application notice; and (b) give the applicant written notice of the substituted way.

Administering Authority	159(5)(b)(ii)	In certain circumstances, power to: (a) fix a new submission period for the application; and (b) give the applicant written notice of the period.
Administering Authority	159(5)(b)(iii)	In certain circumstances, power to give the applicant an information notice about the decision.

### **Division 3 – Submissions about applications**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
An Entity	160	Power to, within the submission period, make a submission to the administering authority about the application.
Administering Authority	161(3)	Power to accept a written submission even if it is not a properly made submission.
An Entity	162(1)	In certain circumstances, power to, by written notice, amend or replace a submission.

## **Part 5 –**

### **Decision stage**

#### **Division 2 – Deciding an application**

##### ***Subdivision 1 – Decision period***

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	168(2)	In certain circumstances, the power to, by written notice given to the applicant and without the applicant's agreement, extend the period mentioned in subsection 168(1) by not more than 20 business days.
Administering Authority	168(4)	Power to request a further extension of the decision period.

##### ***Subdivision 2 – Decision***

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	170(2)(a)	In certain circumstances, the power to decide that the application be approved subject to the standard conditions for the relevant activity or authority.
Administering Authority	170(2)(b)	In certain circumstances, the power to decide that the applicant be issued an environmental authority on conditions that are different to the standard conditions for the activity or authority.
Administering Authority	171(2)(a)	In certain circumstances, the power to decide that the application be approved subject to conditions that are different to the standard conditions for the activity or authority.
Administering Authority	171(2)(b)	In certain circumstances, the power to decide that the applicant be issued an environmental authority subject to the standard conditions for the activity or authority.
Administering Authority	172(2)	In certain circumstances, the power to decide that the application: (a) be approved subject to conditions; or (b) be refused.
Administering Authority	173(1)	Power to refuse an application if the applicant is not a registered suitable operator.

Administering Authority	173(3)	In certain circumstances, power to refuse an application for an environmental authority.
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#### **Division 4 – Steps after deciding application**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	195	In certain circumstances, power to issue an environmental authority to the applicant.
Administering Authority	198(2)	In certain circumstances, power to give the application an information notice about the decision.
Administering Authority	198(4)	In certain circumstances, power to give any submitter for the application an information notice about the decision.

#### **Division 6 – Conditions**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	203(1)	Power to impose a condition on an environmental authority or draft environmental authority if: (a) it considers the condition is necessary or desirable; and (b) if the authority is for an application to which section 115 applies - the condition relates to the carrying out of the relevant prescribed ERA.
Administering Authority	203(2)	In certain circumstances, power to impose a condition on an environmental authority or draft environmental authority.
Administering Authority	204(2)	In certain circumstances, power to impose on the authority a condition requiring the holder of the authority to take all reasonable steps to ensure the relevant activity complies with the eligibility criteria for the activity.
Administering Authority	209(4)	Power to enter into an agreement to establish obligations, or secure the performance, of a party to the agreement about a condition.

### **Part 6 – Amending environmental authorities by administering authority**

#### **Division 1 – Amendments**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	211	In certain circumstances, power to amend an environmental authority to correct a clerical or formal error.
Administering Authority	212(2)	Power to amend the environmental authority to ensure compliance with conditions included in a determination made by the NNTT under the Commonwealth Native Title Act, section 38(1)(c).
Administering Authority	212(3)	Power to give written notice of the amendment to the environmental authority holder.
Administering authority	212A(2)	Power to amend the environmental authority to ensure it is consistent with the regional interests development approval.
Administering authority	212A(3)	Power to given written notice the amendment to the environmental authority holder.



Administering Authority	213(2)	In certain circumstances, power to amend the existing authority to replace the existing standard conditions with the new standard conditions.
Administering Authority	213(3)	In certain circumstances, power to give written notice of the amendment to the environmental authority holder.
Administering Authority	214(2)	In certain circumstances, power to amend the environmental authority.
Administering Authority	214(3)	In certain circumstances, power to give: (a) an information notice about the amendment to the holder of the environmental authority; and (b) written notice of the amendment to the assessment manager for the development application.
Administering Authority	215(1)	In certain circumstances, power to amend an environmental authority.
Administering Authority	215(1)(a)	Power to consider the amendment is necessary or desirable because of a matter mentioned in subsection (2) and the procedure under division 2 is followed.

### Division 2 – Procedure for particular amendments

Entity power given to	Section of ENPA	Description
Administering Authority	216	Power to propose to amend an environmental authority
Administering Authority	217	Power to give the environmental authority holder a written notice (the <b>proposed amendment notice</b> ).
Administering Authority	218	Power to consider any written representation made within the period stated in the proposed amendment notice by the holder of the environmental authority.
Administering Authority	219(1)	In certain circumstances, power to believe a ground exists to make the proposed amendment, and to make the amendment.
Administering Authority	219(3)	Power to give the holder written notice of the decision.
Administering Authority	220	Power to give the environmental authority holder an information notice about the decision.

### Division 3 – Steps for amendments

Entity power given to	Section of ENPA	Description
Administering Authority	221(2)(b)	In certain circumstances, power to issue the amended environmental authority to the holder.

## Part 7 –

### Amendment of environmental authorities by application

#### Division 2A – Provision for particular amendment applications

Entity power given to	Section of ENPA	Description
Administering Authority	227A(2)	Power to refuse application within 10 business days after receiving the amendment application.

Administering Authority	227A(3)	Power to require the holder of the environmental authority to make a site-specific application for a new environmental authority.
Administering Authority	227A(5)	Power to give written notice of any refusal.

### Division 3 – Assessment level decisions

Entity power given to	Section of ENPA	Description
Administering Authority	228(1)	Power to decide whether the proposed amendment is a major or minor amendment.
Administering Authority	229	Power to give the applicant a written notice.
Administering Authority	230(2)	In certain circumstances, power to be satisfied that: <ul style="list-style-type: none"> <li>(a) there is likely to be a substantial increase in the risk of environmental harm under the amended environmental authority; and</li> <li>(b) the risk is the result of a substantial change in: <ul style="list-style-type: none"> <li>(i) the quantity or quality of contaminant permitted to be released into the environment; or</li> <li>(ii) the results of the release of a quantity or quality of contaminant permitted to be released into the environment.</li> </ul> </li> </ul>

### Division 4 – Process if proposed amendment is a major amendment

Entity power given to	Section of ENPA	Description
Administering Authority	233(3)	In certain circumstances, power to: <ul style="list-style-type: none"> <li>(a) decide another way of publishing the notice for subsection (2)(b)(ii); and</li> <li>(b) give the applicant an information notice about the decision before the notice is published.</li> </ul>
Administering Authority	237(1)(b)	Power to agree in writing to the change.
Administering Authority	238(3)(a)	In certain circumstances, power to within 10 business days after notice of the change is received, ask the applicant to give further information needed to assess the application
Administering Authority	238(7)	In certain circumstances, power to be satisfied the change would not be likely to attract a submission objecting to the thing the subject of the change, if the notification stage were to apply to the change.

### Division 5 – Process if proposed amendment is minor amendment

Entity power given to	Section of ENPA	Description
Administering Authority	240(1)	Power to decide either to approve or refuse the application: <ul style="list-style-type: none"> <li>(a) for a condition conversion – within 10 business days after the application is received (for a condition conversion); or</li> <li>(b) otherwise, within 10 business days after notice of the assessment level decision is given to the applicant.</li> </ul>

Administering Authority	240(2)	Power to be satisfied the proposed amendment is necessary or desirable.
Administering Authority	240(3)	In certain circumstances, power to make any other amendments to the conditions of the environmental authority it considers: (a) relate to the subject matter of the proposed amendment; and (b) are necessary or desirable.

### **Division 6 – Steps after deciding amendment application**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	242(1)(b)	In certain circumstances, power to issue the amended environmental authority to the applicant.
Administering Authority	242(3)	Power to within 5 business days after the decision is made, give the applicant an information notice about the decision.

## **Part 8 – Amalgamating environmental authorities**

### **Division 2 – Deciding amalgamation application**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	247(1)	Power to, within 20 business days after the day the amalgamation application is received, decide to: (a) approve the application; or (b) if the application is for an amalgamated local government authority or amalgamated project authority—refuse the application.
Administering Authority	247(2)(c)	Power to be satisfied there is an appropriate degree of integration between the activities.
Administering Authority	247(3)	Power to be satisfied the relevant activities for the existing environmental authorities are being carried out as a single integrated operation.

### **Division 3 – Miscellaneous provisions**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	248(b)	In certain circumstances, power to issue to the applicant: (a) if the application is for an amalgamated corporate authority – an amalgamated corporate authority; or (b) if the application is for an amalgamated local government authority – an amalgamated local government authority; or (c) if the application is for an amalgamated project authority – an amalgamated project authority.
Administering Authority	249	Power to, within 10 business days after refusing an amalgamation application, give the applicant an information notice about the decision.

#### Division 4 – De-amalgamating environmental authorities

Entity power given to	Section of ENPA	Description
Administering Authority	250C(a)	Power to de-amalgamate the relevant authority within 15 business days after receiving a de-amalgamation application that complies with section 250B.

#### Part 9 – Transferring environmental authorities for prescribed ERAs

Entity power given to	Section of ENPA	Description
Administering Authority	254(1)	Power to consider each transfer application and decide to: (a) approve the transfer; or (b) refuse the transfer.
Administering Authority	255(1)(b)	In certain circumstances, power to issue the amended environmental authority (the <b><i>transferred environmental authority</i></b> ) to each holder.
Administering Authority	255(2)	In certain circumstances, power to, within 10 business days after the decision is made, give the existing holder and the proposed holder written notice of the decision.

#### Part 10 – Surrender of environmental authorities

##### Division 1 – Preliminary

Entity power given to	Section of ENPA	Description
Administering Authority	258(2)	In certain circumstances, power to by written notice (a <b><i>surrender notice</i></b> ), require the holder of the environmental authority to make a surrender application.
Administering Authority	261(2)	In certain circumstances, power to approve a surrender application for part of the environmental authority.

##### Division 3 – Final rehabilitation reports

Entity power given to	Section of ENPA	Description
Administering Authority	264(2)(a)	Power to agree to a methodology.

##### Division 4 – Requests for information

Entity power given to	Section of ENPA	Description
Administering Authority	265	Power to ask the applicant, by written request, to give further information needed to assess the surrender application.

##### Division 5 – Deciding surrender applications

Entity power given to	Section of ENPA	Description
Administering Authority	266(1)	Power to decide to: (a) approve the surrender application; or (b) refuse the surrender application.

Administering Authority	269(a)	Power to be satisfied the conditions of the environmental authority have been complied with.
Administering Authority	269(b)(i)	Power to be satisfied the land on which each relevant activity for the environmental authority has been carried out has been satisfactorily rehabilitated.
Administering Authority	269(b)(ii)	Power to be satisfied the land will be satisfactorily rehabilitated under a transitional environmental program.
Administering Authority	269(c)	Power to be satisfied of another circumstance prescribed by regulation.

### **Division 8 – Miscellaneous provisions**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	275(a)(ii)	In certain circumstances, power to give the applicant written notice of the decision.
Administering Authority	275(b)	In certain circumstances, power to give the applicant an information notice about the decision.

## **Part 11 – Cancellation or suspension of environmental authorities**

### **Division 1 – Preliminary**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	278(1)	In certain circumstances, power to cancel or suspend an environmental authority.

### **Division 2 – Procedure for cancellation or suspension by administering authority**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	280(1)	Power to give the environmental authority holder a written notice.
Administering Authority	281	Power to consider any written representation made within the stated period by the environmental authority holder.
Administering Authority	282(1)	In certain circumstances, power to believe a ground exists to take the proposed action.
Administering Authority	282(1)(a)	In certain circumstances, power to suspend the environmental authority for no longer than the proposed suspension period.
Administering Authority	282(1)(b)	In certain circumstances, power to either cancel the environmental authority or suspend it for a fixed period.
Administering Authority	282(3)	Power to decide not to take the proposed action and, if so, give the environmental authority holder written notice of the decision.
Administering Authority	283(1)	Power to give the environmental authority holder an information notice about the decision.
Administering Authority	283(2)	In certain circumstances, power to give written notice of the decision to the chief executive administering the resource legislation.

**Part 11A - General provisions****Division 3 – Deciding suspension applications**

Entity power given to	Section of ENPA	Description
Administering Authority	284C	Power to decide whether to approve the application or refuse the application.
Administering Authority	284F(1)(a)(ii)	In certain circumstances, power to give the holder of the environmental authority written notice of the decision.
Administering Authority	284F(1)(b)	In certain circumstances, power to give the holder an information notice about the decision.

**Part 12 – General provisions****Division 1 – Plan of operations for environmental authority relating to mining lease or petroleum lease**

Entity power given to	Section of ENPA	Description
Administering Authority	287	Power to agree with the holder in writing to a shorter period.

**Division 2 – Financial assurance*****Subdivision 1 – Requiring financial assurance***

Entity power given to	Section of ENPA	Description
Administering Authority	292(1)	Power to, by condition of an environmental authority, require the holder of the environmental authority to give the administering authority financial assurance.
Administering Authority	292(2)	Power to be satisfied the condition is justified.
Administering Authority	292(3)	Power to require a financial assurance to remain in force until satisfied no claim is likely to be made on the assurance.

***Subdivision 2 – Amount and form of financial assurance***

Entity power given to	Section of ENPA	Description
Administering Authority	295(1)	Power to decide the amount and form of financial assurance required under a condition of an environmental authority.
Administering Authority	295(2)(c)	Power to agree with the holder of the environmental authority to a further period.
Administering Authority	295(4)	Power to form an opinion as to the amount that represents the total of likely costs and expenses that may be incurred taking action to rehabilitate or restore and protect the environment because of environmental harm that may be caused by the activity.
Administering Authority	296	Power to, within 5 business days after making a decision under section 295(1), give an information notice about the decision to the holder of the environmental authority.



### ***Subdivision 3 – Claiming or realising financial assurance***

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	299(2)	Power to must give written notice to the entity who gave the financial assurance.
Administering Authority	300	Power to consider any written representations made within the stated period by the entity who gave the financial assurance.
Administering Authority	301(1)	Power to decide whether to make a claim on or realise the financial assurance.
Administering Authority	301(2)	In certain circumstances, power to give the entity an information notice about the decision.

### ***Subdivision 4 – Amending or discharging financial assurance***

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	304(1)	Power to, by written notice, require the applicant to give it a compliance statement for the financial assurance before deciding the application.
Administering Authority	305(1)(a)	Power to approve or refuse the application.
Administering Authority	305(1)(b)	In certain circumstances, power to give the applicant an information notice about the decision.
Administering Authority	305(3)	Power to be satisfied no claim is likely to be made on the assurance.
Administering Authority	305(5)	Power to withhold making a decision under subsection (1).
Administering Authority	306(1)	In certain circumstances, power to, at any time, require the holder of an environmental authority or small scale mining tenure for which financial assurance has been given to change the amount of the financial assurance.
Administering Authority	306(3)	Power to give written notice to the holder of the environmental authority or small scale mining tenure.
Administering Authority	306(6)	In certain circumstances, power to consider any written submissions made by the holder within the stated period.

## **Division 3 – Annual fees and returns**

### ***Subdivision 1 – Annual notices***

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	308(2)	In certain circumstances, power to give the environmental authority holder a written notice complying with subsection (3) (an <b><i>annual notice</i></b> ).
Administering Authority	310(1)	In certain circumstances, power to change the anniversary day, for an environmental authority for which an annual fee is prescribed under a regulation, to another day (the <b><i>new day</i></b> ).
Administering Authority	311	Power to decide whether or not to change the anniversary day to the new day.
Administering Authority	312	Power to give the holder:

		(a) if the decision is to change the day – written notice of the decision; or (b) if the decision is not to change the day – an information notice about the decision.
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#### **Division 4 – Non-compliance with eligibility criteria**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	314(2)	In certain circumstances, power to require the holder of the environmental authority to: (a) make a site-specific application for a new environmental authority under part 2; or (b) make an amendment application for the authority under part 7.
Administering Authority	314(3)	Power to give written notice of the proposed requirement to the holder of the environmental authority.
Administering Authority	314(5)	Power consider any representations made by the holder within the stated period.

#### **Division 5 – Miscellaneous provisions**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	315(1)	Power to ask any entity for advice, comment or information about an application made under this chapter at any time.

### **CHAPTER 7 – ENVIRONMENTAL MANAGEMENT**

#### **Part 1 – Environmental duties**

##### **Division 2 – Duty to notify of environmental harm**

##### ***Subdivision 3B – Duty of local government***

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Local Government	320DB(1)	Power to give the administering authority written notice of the activity.
Local Government	320DB(2)	Power to give the administering authority written notice of: (a) the nature of the event or change in the condition and the circumstances in which the event or change happened or is happening; or (b) within 24 hours after becoming aware of the event or change in condition of the land.

#### **Part 2 – Environmental evaluations**

##### **Division 2 – Environmental audits**

##### ***Subdivision 1 – Audit requirements***

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	322(1)	In certain circumstances, power to, by written notice, require the holder of an environmental authority to:

		<p>(a) conduct or commission an audit (an <b>environmental audit</b>) about a stated matter concerning a relevant activity; and</p> <p>(b) give the administering authority an environmental report on the audit.</p>
Administering Authority	322(2)	Power to be reasonably satisfied the audit is necessary or desirable.
Administering Authority	323(1)	<p>Power to be satisfied that:</p> <p>(a) a person is, or has been, contravening</p> <ul style="list-style-type: none"> <li>(i) a regulation; or</li> <li>(ii) an environmental protection policy; or</li> <li>(iii) an agricultural ERA standard; or</li> <li>(iv) a transitional environmental program; or</li> <li>(v) an enforceable undertaking; or</li> </ul> <p>(b) a person is, or has been, contravening any of the following provisions:</p> <ul style="list-style-type: none"> <li>(i) section 363E;</li> <li>(ii) section 440Q;</li> <li>(iii) section 440ZG;</li> <li>(iv) a provision of chapter 8, part 3D, 3E or 3F.</li> </ul>
Administering Authority	323(2)	<p>Power to, by written notice (also an <b>audit notice</b>), require the person to:</p> <p>(a) Conduct or commission an audit (also an <b>environmental audit</b>) about the matter; and</p> <p>(b) give the administering authority an environmental report about the audit.</p>

### Division 3 – Environmental investigations

Entity power given to	Section of ENPA	Description
Administering Authority	326B(1)	<p>Power to be satisfied on reasonable grounds that:</p> <p>(a) an event has happened causing environmental harm while an activity was being carried out; or</p> <p>(b) an activity or proposed activity is causing, or is likely to cause environmental harm.</p>
Administering Authority	326B(2)	<p>Power to, by written notice (an <b>investigation notice</b>), require the person who has carried out, is carrying out or is proposing to carry out the activity to:</p> <p>(a) conduct or commission an investigation (an <b>environmental investigation</b>) about the event or activity; and</p> <p>(b) submit an environmental report about the investigation to the authority.</p>
Administering Authority	326BA(1)	Power to be satisfied that circumstances contained in subsection (a) – (c) apply to the land.
Administering Authority	326BA(2)	<p>Power to give written notice (an investigation notice) requiring a prescribed responsible person for the land to:</p> <p>(a) conduct or commission an investigation; and</p> <p>(b) give the administering authority an investigation report.</p>

### Division 5 – Steps after receiving environmental reports

Entity power given to	Section of ENPA	Description
Administering Authority	326F(2)	Power to, by written notice, ask the recipient to give further information needed to decide whether to approve the environmental report.
Administering Authority	326G(4)	Power to decide to accept the report or to refuse to accept the report.
Administering Authority	326G(5)	Power to be satisfied that the report does not adequately address the relevant matters for the environmental investigation to which the report relates.
Administering Authority	326G(7)	In certain circumstances, power to extend the period mentioned in subsection (6) for making the decision.
Administering Authority	326G(7)(a)	Power to be satisfied that there are special circumstances for extending the time.
Administering Authority	326G(8)	Power to give the recipient written notice of the decision within 5 business days after making the decision.
Administering Authority	326H	Power to do one or more of the following: (a) require the recipient to prepare and submit a transitional environmental program to it; (b) if the recipient is the holder of an environmental authority – amend the conditions of the authority; (c) serve an environmental protection order on the recipient; or (d) take any other action it considers appropriate.
Administering Authority	326I(2)	Power to require the recipient to conduct or commission another environmental investigation and submit a report on the investigation to it.
Administering Authority	326I(3)	Power to give written notice to the recipient.

### Part 3 –

### Transitional environmental programs

#### Division 2 – Submission and approval of transitional environmental programs

Entity power given to	Section of ENPA	Description
Administering Authority	332(1)	Power to require a person or public authority to prepare and submit for approval a draft transitional environmental program as a condition of an environmental authority.
Administering Authority	332(2)	In the specified circumstances, the power to require a person or public authority to prepare and submit for approval a draft transitional environmental program.
Administering Authority	334A(1)	Power to, by written notice, ask the person or public authority that submitted the draft transitional environmental program to give further information needed to decide whether to approve the draft program.
Administering Authority	336(1)	Power to invite a person or public authority that has submitted a draft transitional environmental program and another person who has made a submission under section 335 of the Environmental Protection Act 1994 about the transitional

		environmental program, to a conference to help in deciding whether or not to approve the program.
Administering Authority	336(2)	Power to give written notice to all persons invited to attend a conference of when and where the conference is to be held.
Administering Authority	336(3)	If it's considered impracticable to give notice to all persons invited to attend a conference, the power to give notice of the conference by publishing a notice in the newspapers you decide.
Administering Authority	336(4)	In specified circumstances, the power to appoint an independent person to mediate a conference.
Administering Authority	336A(1)	Power to ask any person for advice, comment or information about a submission for approval of a transitional environmental program at any time.
Administering Authority	337(1)	In specified circumstances, the power to decide whether to approve a draft transitional environmental program within the specified time period.
Administering Authority	337(2)	In certain circumstances, power to extend the period mentioned in subsection (1) for making the decision.
Administering Authority	337(2)	Power to give an information notice about the decision to extend to the person or public authority that submitted the program and any submitters.
Administering Authority	338(1)	In deciding whether to approve or refuse to approve a draft program or the conditions (if any) of the approval, the power to: <ul style="list-style-type: none"> <li>(a) comply with any relevant regulatory requirement; and</li> <li>(b) subject to paragraph (a), consider the specified criteria.</li> </ul>
Administering Authority	339(1)	Power to: <ul style="list-style-type: none"> <li>(a) approve a draft transitional environment program: <ul style="list-style-type: none"> <li>(i) as submitted; or</li> <li>(ii) as amended at the request, or with the agreement, of the administering authority; or</li> </ul> </li> <li>(b) refuse to approve a draft transitional environmental program.</li> </ul>
Administering Authority	339(2)	Power to impose on an approval of a draft transitional environmental program: <ul style="list-style-type: none"> <li>(a) any conditions the authority must impose under a regulatory requirement;</li> <li>(b) a condition requiring the holder of the approval to give an amount of financial assurance as security for compliance with the transitional environmental program and any conditions of the program; and</li> <li>(c) any other conditions the administering authority considers appropriate.</li> </ul>
Administering Authority	340(1)	Power to, within 8 business days after making a decision under section 339, give the person or public authority that submitted the program a written notice about the decision.
Administering Authority	340(2)(b)	If the program is approved, power to state any conditions imposed on the approval by the administering authority.
Administering Authority	340(2)(c)	If the program is approved, power to state the day the approval ends.
Administering Authority	340(3)	If the program is refused, or approved with conditions, power to give an information notice.

Administering Authority	342(2)	In specified circumstances, the power to consider and decide whether to approve a draft transitional environmental program if satisfied there has been substantial compliance with the Environmental Protection Act 1994.
Administering Authority	343A(2)(B)	In certain circumstances, power to give the holder of the environmental authority a copy of the environmental authority including the note.

### Division 3A – Financial assurances

Entity power given to	Section of ENPA	Description
Administering Authority	344(3)	In specified circumstances, the power to approve an amendment of an approval for a transitional environmental program for an environmentally relevant activity.
Administering Authority	344(4)	Without limiting the matters to be considered in deciding an application, the power to have regard to the specified criteria.
Administering Authority	344A(2)	Power to may recover the reasonable costs or expenses of taking the action by making a claim on or realising the financial assurance or part of it.
Administering Authority	344A(3)	Power to give written notice to the person who gave the financial assurance.
Administering Authority	344B	Power to consider any written representations made within the stated period by the person who gave the financial assurance.
Administering Authority	344C(1)	Power to, within 10 business days after the end of the stated period, decide whether to make a claim on or realise the financial assurance.
Administering Authority	344C(2)	Power to, within 5 business days after making the decision, give the person an information notice about the decision.

### Division 3B – Cancellation of approval for transitional environmental programs

Entity power given to	Section of ENPA	Description
Administering Authority	344E(1)	Power to cancel the approval for a transitional environmental program for the reasons provided in that subsection.
Administering Authority	344E(1)(b)	Power to be satisfied the approval holder has: (i) disposed of the place or business to which the program relates; or (ii) ceased the activity to which the program relates.
Administering Authority	344E(2)(a)	Power to give a notice stating the details of the cancellation to the approval holder.
Administering Authority	344F(2)(a)	Power to withdraw the notice by another written notice.
Administering Authority	344G(2)	Power to give the holder of the environmental authority a copy of the authority that does not include the note.

**Part 4 – Special provisions about voluntary submission of transitional environmental programs**

Entity power given to	Section of ENPA	Description
Administering Authority	352(1)	In specified circumstances, the power to give written notice to a person of: (a) receiving a program notice; and (b) the day by which a draft transitional environmental program dealing with the activity must be submitted for approval.
Administering Authority	355(1)	In certain circumstances, power to apply to the Court for an order that section 353(1) does not apply to the person for any continuation of the original offence.

**Part 4A – Temporary emissions licences**

Entity power given to	Section of ENPA	Description
Administering Authority	357E(1)	Power to: (a) grant the application for a temporary emissions licence: (i) as submitted; (ii) on different terms than have been requested in the application; or (b) refuse to grant the application for a temporary emissions licence.
Administering Authority	357E(2)	Power to impose conditions on the temporary emissions licence it considers are necessary or desirable.
Administering Authority	357F	Power to give the applicant an information notice about the decision if the decision is to: (a) grant the application on different terms than have been requested in the application: or (b) refuse the application.
Administering Authority	357J	In certain circumstances, power to amend, cancel or suspend a temporary emissions licence.

**Part 5 – Environmental protection orders**

Entity power given to	Section of ENPA	Description
Administering Authority	358	In specified circumstances, the power to issue an order (an <b>environmental protection order</b> ) to a person.
Administering Authority	359	Before deciding to issue an environmental protection order, the power to consider the standard criteria.



## CHAPTER 9 – INVESTIGATION AND ENFORCEMENT

### Part 1 – Administration generally

Entity power given to	Section of ENPA	Description
As delegate of the Chief Executive of the Environmental Protection Agency: 516(1)(b) and 517	445(1)(c) <sup>1</sup>	In the specified circumstances, the power to appoint an authorised person.
Chief Executive Officer	445(2)	Power to appoint an employee of a local government to be an authorised person
As delegate of the Chief Executive of the Environmental Protection Agency: 516(1)(b) & 517.	448 <sup>2</sup>	In the specified circumstances, the power to issue an identity card to each authorised person appointed.
Administering Authority	451(1)	In the specified circumstances, the power to give a notice under section 451 of the Environmental Protection Act 1994 to a person requiring the person to give information relevant to the administration and enforcement of the Environmental Protection Act 1994.

### Part 2 – Powers of authorised persons for places and vehicles

Entity power given to	Section of ENPA	Description
Administering Authority	454(1)	Power to believe on reasonable grounds land is contaminated land
Administering Authority	454(3)(b)	Power to give written notice to the owner and occupier.
Administering Authority	458(2)	In specified circumstances, the power to give written notice of an application made under section 458(1) of the Environmental Protection Act 1994 to: (a) the owner of the land; and

<sup>1</sup> The power is subject to the following limitations as per the instrument of delegation of the Chief Executive of the Environmental Protection Agency dated 7 February 2008 (copy attached).

1. The only powers under the *Environmental Protection Act 1994* the authorised person who is appointed by the Local Govt is to exercise are:
  - (a) Sections 440J, 452, 453, 455, 456, 457, 459, 460, 461, 462, 463A, 463, 464, 465 and 466 of the *Environmental Protection Act 1994*; and
  - (b) Only to be used in relation to those matters referred to in s.440D of the *Environmental Protection Act 1994*; and
2. That the certificates issued pursuant to s.490 of the *Environmental Protection Act 1994* are only used in respect of Court proceedings in relation to those matters referred to in s.440D of the *Environmental Protection Act 1994*.

<sup>2</sup> The power is subject to the following limitations as per the instrument of delegation of the Chief Executive of the Environmental Protection Agency dated 7 February 2008 (copy attached).

1. The only powers under the *Environmental Protection Act 1994* the authorised person who is appointed by the Local Govt is to exercise are:
  - (a) Sections 440J, 452, 453, 455, 456, 457, 459, 460, 461, 462, 463A, 463, 464, 465 and 466 of the *Environmental Protection Act 1994*; and
  - (b) Only to be used in relation to those matters referred to in s.440D of the *Environmental Protection Act 1994*; and
2. That the certificates issued pursuant to s.490 of the *Environmental Protection Act 1994* are only used in respect of Court proceedings in relation to those matters referred to in s.440D of the *Environmental Protection Act 1994*.

		<p>(b) if the owner is not the occupier of the land - the occupier; and</p> <p>(c) if the application is for an order to carry out work mentioned in section 458(1)(a) of the Environmental Protection Act 1994:</p> <p>(i) the environmental authority holder; or</p> <p>(ii) transitional environmental program approval holder; or</p> <p>(iii) the registered operator.</p> <p>(d) if the application is for an order to take actions required under a clean-up notice – the recipient of the notice.</p>
Administering Executive	463(2)	In specified circumstances, the power to direct the destruction or disposal of a forfeited thing.
As delegate of the Chief Executive of the Environmental Protection Agency: 516(1)(b) and 517.	490	In specified circumstances, the power to issue a certificate.

## CHAPTER 10 – LEGAL PROCEEDINGS

### Part 3 – Legal proceedings

Entity power given to	Section of ENPA	Description
Administering Authority	502A(2)	Power to carry out work or take any other action reasonably necessary to fulfil the requirements of an order made against a person under section 502.

### Part 5 – Enforceable undertakings

Entity power given to	Section of ENPA	Description
Administering Authority	507(1)	Power to accept an enforceable undertaking.
Administering Authority	507(3)	Power to give written notice of: <p>(a) administering authority's decision to accept or reject the enforceable undertaking; and</p> <p>(b) the reasons for the decision.</p>
Administering Authority	507(4)	Power to form a reasonable belief that the undertaking will: <p>(a) secure compliance with the Act; and</p> <p>(b) enhance the protection of the environment.</p>
Administering Authority	509(1)	Power to give written agreement to: <p>(a) withdraw the undertaking; or</p> <p>(b) vary the undertaking.</p>
Administering Authority	510	Power to amend an enforceable undertaking with the written agreement of the person who made the undertaking.
Administering Authority	511	Power to: <p>(a) amend an enforceable undertaking to correct a clerical or formal error; and</p> <p>(b) give written notice of the amendment to the enforceable undertaking.</p>

Administering Authority	512(1)	Power to amend or suspend an enforceable undertaking if the administering authority is satisfied of the requirements in paragraphs (a) – (d).
Administering Authority	512(2)	Power to give a notice stating proposed action in respect of the enforceable undertaking.
Administering Authority	512(4)	Power to consider written representations.
Administering Authority	512(5)	Power to decide to take action under the section.
Administering Authority	512(6)	Power to give an information notice about the decision within 10 business days after making the decision.
Administering Authority	512(7)	Power to give written notice of a decision not to take action.
Administering Authority	513(2)	Power to apply to the Magistrates Court for an order about contravention of enforceable undertaking.

## CHAPTER 11 – ADMINISTRATION

### Part 2 – Delegations

Entity power given to	Section of ENPA	Description
Chief Executive Officer (both as Chief Executive Officer and as Administering Executive)	517(2)	Power to delegate their powers under this Act to an appropriately qualified employee of the local government.

### Part 3 – Review of decisions and appeals

#### Division 2 – Internal review of decisions

Entity power given to	Section of ENPA	Description
Administering Authority	521(2)(a)(ii)	In specified circumstances, the power to allow a longer period within which an application for a review of an original decision must be made.
Administering Authority	521(5)	In specified circumstances, the power to, within the decision period for a review of an original decision: <ul style="list-style-type: none"> <li>(a) review the original decision; and</li> <li>(b) consider any submissions properly made by a recipient of a review notice; and</li> <li>(c) make a decision (the <b>review decision</b>) to: <ul style="list-style-type: none"> <li>(i) confirm or revoke the original decision; or</li> <li>(ii) vary the original decision in a way considered appropriate.</li> </ul> </li> </ul>
Administering Authority	521(8)	Within 10 business days after making a review decision, the power to give written notice of the review decision to the applicant and persons who were given notice of the original decision.

## **Division 3 – Appeals**

### ***Subdivision 2 – Appeals to court***

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Dissatisfied person	531(1)	In certain circumstances, power to may appeal against the decision to the Court.

## **Part 4 – General**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Executive	544(1)	Power to approve forms.

## **CHAPTER 12 – MISCELLANEOUS**

### **Part 3A – Auditors**

#### **Division 1 – Preliminary**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Auditor	568	Power to, subject to the terms of an approval under division 2: (a) conduct environmental audits and prepare environmental reports about audits under chapter 7, part 2, division 2; and (b) evaluate site investigation reports, validation reports, draft site management plans and draft amendments of site management plans prepared under chapter 7, part 8 against criteria prescribed under a regulation (the prescribed criteria) and: (i) if the report or plan does not comply with the prescribed criteria—prepare a report about the evaluation; or (ii) if the report or plan complies with the prescribed criteria—provide written certification that it complies with the criteria; and (c) audit or evaluate another matter or thing prescribed under a regulation and prepare a report or written certification about the audit or evaluation.

## **CHAPTER 13 – SAVINGS, TRANSITIONAL AND RELATED PROVISIONS**

### **Part 5 – Transitional provisions for Environmental Protection Legislation Amendment Act 2003**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	620(2)	In the specified circumstances, the power to change or cancel a condition of an environmental authority.
Administering Authority	620(5)(b)	In the specified circumstances, if a condition has changed or cancelled, the power to, within the specified time period, give the registered operator:

		<p>(i) a copy of the development conditions as applying after the change or cancellation; and</p> <p>(ii) a registration certificate.</p>
Administering Authority	621(1)	<p>Power to, for an activity being carried out under an environmental authority mentioned in section 619(1) of the Environmental Protection Act 1994, give to the person carrying out the activity:</p> <p>(a) if the activity was carried out at 1 location - a development approval for the location; or</p> <p>(b) if the activity was carried at more than 1 location and is not a mobile and temporary environmentally relevant activity - a development approval for each location; or</p> <p>(c) if the activity is a mobile and temporary environmentally relevant activity - a development approval for a mobile and temporary environmentally relevant activity.</p>
Administering Authority	621(2)	If the person carrying out the activity does not have a registration certificate for the activity, the power to also give the person a registration certificate for the activity.
Administering Authority	621(4)	If you act under section 621(1) or (2) of the Environmental Protection Act 1994, the power to give the person carrying out the activity an information notice about your decision to give the approval or approval and certificate.
Administering Authority	623(2)	In specified circumstances, the power to give a registered operator a notice stating that you are satisfied that the risk of environmental harm from carrying out the activity is no longer insignificant.
Administering Authority	626(3)(a)	In specified circumstances, the power to, by written notice, ask an applicant to give a stated document or information relevant to an application.

**Part 6 – Transitional provisions for Petroleum and Other Legislation Amendment Act 2004**

Entity power given to	Section of ENPA	Description
Administering Authority	634(1)	In specified circumstances, the power to amend a condition about financial assurance imposed under Part 7, Chapter 13 of the Environmental Protection Act 1994 to require the giving of replacement financial assurance, in a form and amount decided by you.

**Part 17 – Transitional provisions for the Environmental Protection and Other Legislation Amendment Act 2011**

Entity power given to	Section of ENPA	Description
Administering Authority	671(2)	Power to consider, or continue to consider, the draft transitional environment program and decide whether to approve an existing draft transitional environment program under the unamended Act.

**Part 18 –**

**Transitional provisions for Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012**

**Division 5 – Transitional authorities for environmentally relevant activities**

Entity power given to	Section of ENPA	Description
Administering Authority	697(1)	Power to decide whether to approve the application or refuse the application.
Administering Authority	698(1)	In certain circumstances, power to: (a) amend the environmental authority to give effect to the conversion; and (b) issue the amended environmental authority to the applicant.
Administering Authority	698(2)	In certain circumstances, power to give the applicant an information notice about the decision.

**Division 5A – Suspended activities**

Entity power given to	Section of ENPA	Description
Administering Authority	698B	Power to approve an application to convert the surrendered registration certificate to an environmental authority that has been suspended under chapter 5, part 11A (a <b>conversion application</b> ).

**Division 6 – Financial assurance**

Entity power given to	Section of ENPA	Description
Administering Authority	699(4)	Power to amend the environmental authority to impose a condition about financial assurance.
Administering Authority	699(5)	Power to give written notice of the amendment.

**Division 8 – Provisions about environmental management plans**

Entity power given to	Section of ENPA	Description
Administering Authority	701(2)	Power to amend the new authority to impose conditions consistent with the environmental management plan.

## **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.

[2019 12 09 - ENPA - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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 ACT 1994 ("ENPA")

## CHAPTER 5 – ENVIRONMENTAL AUTHORITIES FOR ENVIRONMENTALLY RELEVANT ACTIVITIES

### Part 2 – Application Stage

#### Division 4 – Notices about not properly made applications

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administerin g Authority	128(2)	In certain circumstances, the power to give the applicant a notice.				
Administerin g Authority	129(2)	In certain circumstances, the power to agree to a further period with the applicant.				

#### Division 5 – Joint applicants

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administerin g Authority	130(3)	In certain circumstances, the power to: (a) give a notice or other document relating to the application to all the applicants, by giving it to the principal applicant nominated in the application; or (b) make a requirement under this chapter relating to the application				

		of all the applicants, by making it of the principal applicant nominated in the application.				
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## Division 6 – Changing applications

### Subdivision 1 – Preliminary

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administering Authority	131(d)	In certain circumstances, power to be satisfied that a change would not adversely affect the ability of the authority to assess the changed application.				

### Subdivision 3 – Changed applications – effect on assessment process

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administering Authority	133(1)(b)	Power to agree in writing to the change.				
Administering Authority	134(4)	In certain circumstances, the power to be satisfied that the change would not be likely to attract a submission objecting to the thing the subject of the change, if the notification stage were to apply to the change.				

**Part 3 – Information stage**

**Division 2 – Information requests**

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administering Authority	140(1)	Power to ask the applicant, by written request (an <b>information request</b> ), to give further information needed to assess the application.				
Administering Authority	143(2)	In certain circumstances, the power to include in an information request a requirement that the applicant provide an EIS for the application.				
Administering Authority	145(1)	Power to, by written notice given to the applicant and without the applicant's agreement, extend the information request period by not more than 10 business days.				
Administering Authority	145(3)	Power to request a further extension of the information request period.				
Administering Authority	147(3)	Power to, within 5 business days after receiving the request: (a) decide whether to agree to the extension; and (b) give an information notice of the decision.				

**Part 4 – Notification stage**

**Division 1 – Preliminary**

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administering Authority	150(1)(d)	In certain circumstances, the power to be satisfied that the change would not be likely to attract a submission objecting to the thing the subject of the change, if the notification stage were to apply to the change.				

**Division 2 – Public notice**

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administering Authority	152(3)	Power to: (a) give the applicant an information notice about the decision before the application notice is given; and (b) decide an additional or substituted way to give or publish the application notice.				
Administering Authority	159(2)	In certain circumstances, power to decide whether to allow the application to proceed under this part as if the noncompliance had not happened.				
Administering Authority	159(3)	In certain circumstances, power to be satisfied that there has been substantial				

		compliance with the public notice requirements.				
Administering Authority	159(4)	In certain circumstances, power to within 10 business days after the decision is made, give the applicant written notice of the decision.				
Administering Authority	159(5)(b)(i)	In certain circumstances, power to: (a) fix a substituted way to give or publish the application notice; and (b) give the applicant written notice of the substituted way.				
Administering Authority	159(5)(b)(ii)	In certain circumstances, power to: (a) fix a new submission period for the application; and (b) give the applicant written notice of the period.				
Administering Authority	159(5)(b)(iii)	In certain circumstances, power to give the applicant an information notice about the decision.				

### Division 3 – Submissions about applications

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
An Entity	160	Power to, within the submission period, make a submission to the administering authority about the application.				
Administering Authority	161(3)	Power to accept a written submission even if it is not a properly made submission.				

An Entity	162(1)	In certain circumstances, power to, by written notice, amend or replace a submission.				
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**Part 5 – Decision stage**

**Division 2 – Deciding an application**

***Subdivision 1 – Decision period***

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administerin g Authority	168(2)	In certain circumstances, the power to, by written notice given to the applicant and without the applicant's agreement, extend the period mentioned in subsection 168(1) by not more than 20 business days.				
Administerin g Authority	168(4)	Power to request a further extension of the decision period.				

***Subdivision 2 – Decision***

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administerin g Authority	170(2)(a)	In certain circumstances, the power to decide that that the application be approved subject to the standard conditions for the relevant activity or authority.				
Administerin g Authority	170(2)(b)	In certain circumstances, the power to decide that the applicant be issued an environmental authority on conditions				



		that are different to the standard conditions for the activity or authority.				
Administerin g Authority	171(2)(a)	In certain circumstances, the power to decide that the application be approved subject to conditions that are different to the standard conditions for the activity or authority.				
Administerin g Authority	171(2)(b)	In certain circumstances, the power to decide that the applicant be issued an environmental authority subject to the standard conditions for the activity or authority.				
Administerin g Authority	172(2)	In certain circumstances, the power to decide that the application: (a) be approved subject to conditions; or (b) be refused.				
Administerin g Authority	173(1)	Power to refuse an application if the applicant is not a registered suitable operator.				
Administerin g Authority	173(3)	In certain circumstances, power to refuse an application for an environmental authority.				

#### Division 4 – Steps after deciding application

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub- Delegation	Limitations and Conditions
Administerin g Authority	195	In certain circumstances, power to issue an environmental authority to the applicant.				

Administerin g Authority	198(2)	In certain circumstances, power to give the application an information notice about the decision.				
Administerin g Authority	198(4)	In certain circumstances, power to give any submitter for the application an information notice about the decision.				

#### Division 6 – Conditions

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub- Delegation	Limitations and Conditions
Administerin g Authority	203(1)	Power to impose a condition on an environmental authority or draft environmental authority if: (a) it considers the condition is necessary or desirable; and (b) if the authority is for an application to which section 115 applies - the condition relates to the carrying out of the relevant prescribed ERA.				
Administerin g Authority	203(2)	In certain circumstances, power to impose a condition on an environmental authority or draft environmental authority.				
Administerin g Authority	204(2)	In certain circumstances, power to impose on the authority a condition requiring the holder of the authority to take all reasonable steps to ensure the relevant activity complies with the eligibility criteria for the activity.				

Administerin g Authority	209(4)	Power to enter into an agreement to establish obligations, or secure the performance, of a party to the agreement about a condition.				
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**Part 6 – Amending environmental authorities by administering authority**

**Division 1 – Amendments**

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administerin g Authority	211	In certain circumstances, power to amend an environmental authority to correct a clerical or formal error.				
Administerin g Authority	212(2)	Power to amend the environmental authority to ensure compliance with conditions included in a determination made by the NNTT under the Commonwealth Native Title Act, section 38(1)(c).				
Administerin g Authority	212(3)	Power to give written notice of the amendment to the environmental authority holder.				
Administerin g authority	212A(2)	Power to amend the environmental authority to ensure it is consistent with the regional interests development approval.				
Administerin g authority	212A(3)	Power to given written notice the amendment to the environmental authority holder.				

Administerin g Authority	213(2)	In certain circumstances, power to amend the existing authority to replace the existing standard conditions with the new standard conditions.				
Administerin g Authority	213(3)	In certain circumstances, power to give written notice of the amendment to the environmental authority holder.				
Administerin g Authority	214(2)	In certain circumstances, power to amend the environmental authority.				
Administerin g Authority	214(3)	In certain circumstances, power to give: (a) an information notice about the amendment to the holder of the environmental authority; and (b) written notice of the amendment to the assessment manager for the development application.				
Administerin g Authority	215(1)	In certain circumstances, power to amend an environmental authority.				
Administerin g Authority	215(1)(a)	Power to consider the amendment is necessary or desirable because of a matter mentioned in subsection (2) and the procedure under division 2 is followed.				

#### Division 2 – Procedure for particular amendments

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub- Delegation	Limitations and Conditions
Administerin g Authority	216	Power to propose to amend an environmental authority				

Administerin g Authority	217	Power to give the environmental authority holder a written notice (the <b><i>proposed amendment notice</i></b> ).				
Administerin g Authority	218	Power to consider any written representation made within the period stated in the proposed amendment notice by the holder of the environmental authority.				
Administerin g Authority	219(1)	In certain circumstances, power to believe a ground exists to make the proposed amendment, and to make the amendment.				
Administerin g Authority	219(3)	Power to give the holder written notice of the decision.				
Administerin g Authority	220	Power to give the environmental authority holder an information notice about the decision.				

### Division 3 – Steps for amendments

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administerin g Authority	221(2)(b)	In certain circumstances, power to issue the amended environmental authority to the holder.				

**Part 7 – Amendment of environmental authorities by application**

**Division 2A – Provision for particular amendment applications**

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administering Authority	227A(2)	Power to refuse application within 10 business days after receiving the amendment application.				
Administering Authority	227A(3)	Power to require the holder of the environmental authority to make a site-specific application for a new environmental authority.				
Administering Authority	227A(5)	Power to give written notice of any refusal.				

**Division 3 – Assessment level decisions**

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administering Authority	228(1)	Power to decide whether the proposed amendment is a major or minor amendment.				
Administering Authority	229	Power to give the applicant a written notice.				
Administering Authority	230(2)	In certain circumstances, power to be satisfied that: (a) there is likely to be a substantial increase in the risk of				

		<p>environmental harm under the amended environmental authority; and</p> <p>(b) the risk is the result of a substantial change in:</p> <p>(i) the quantity or quality of contaminant permitted to be released into the environment; or</p> <p>(ii) the results of the release of a quantity or quality of contaminant permitted to be released into the environment.</p>				
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**Division 4 – Process if proposed amendment is a major amendment**

<b>Entity power given to</b>	<b>Section of ENPA</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>
Administering Authority	233(3)	<p>In certain circumstances, power to:</p> <p>(a) decide another way of publishing the notice for subsection (2)(b)(ii); and</p> <p>(b) give the applicant an information notice about the decision before the notice is published.</p>				
Administering Authority	237(1)(b)	Power to agree in writing to the change.				
Administering Authority	238(3)(a)	In certain circumstances, power to within 10 business days after notice of the change is received, ask the applicant to				



		give further information needed to assess the application				
Administerin g Authority	238(7)	In certain circumstances, power to be satisfied the change would not be likely to attract a submission objecting to the thing the subject of the change, if the notification stage were to apply to the change.				

**Division 5 – Process if proposed amendment is minor amendment**

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administerin g Authority	240(1)	Power to decide either to approve or refuse the application: (a) for a condition conversion – within 10 business days after the application is received (for a condition conversion); or (b) otherwise, within 10 business days after notice of the assessment level decision is given to the applicant.				
Administerin g Authority	240(2)	Power to be satisfied the proposed amendment is necessary or desirable.				
Administerin g Authority	240(3)	In certain circumstances, power to make any other amendments to the conditions of the environmental authority it considers: (a) relate to the subject matter of the proposed amendment; and				

		(b) are necessary or desirable.				
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**Division 6 – Steps after deciding amendment application**

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administering Authority	242(1)(b)	In certain circumstances, power to issue the amended environmental authority to the applicant.				
Administering Authority	242(3)	Power to within 5 business days after the decision is made, give the applicant an information notice about the decision.				

**Part 8 – Amalgamating environmental authorities**

**Division 2 – Deciding amalgamation application**

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administering Authority	247(1)	Power to, within 20 business days after the day the amalgamation application is received, decide to: (a) approve the application; or (b) if the application is for an amalgamated local government authority or amalgamated project authority—refuse the application.				
Administering Authority	247(2)(c)	Power to be satisfied there is an appropriate degree of integration between the activities.				

Administerin g Authority	247(3)	Power to be satisfied the relevant activities for the existing environmental authorities are being carried out as a single integrated operation.				
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### Division 3 – Miscellaneous provisions

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administerin g Authority	248(b)	In certain circumstances, power to issue to the applicant: (a) if the application is for an amalgamated corporate authority – an amalgamated corporate authority; or (b) if the application is for an amalgamated local government authority – an amalgamated local government authority; or (c) if the application is for an amalgamated project authority – an amalgamated project authority.				
Administerin g Authority	249	Power to, within 10 business days after refusing an amalgamation application, give the applicant an information notice about the decision.				

**Division 4 – De-amalgamating environmental authorities**

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administering Authority	250C(a)	Power to de-amalgamate the relevant authority within 15 business days after receiving a de-amalgamation application that complies with section 250B.				

**Part 9 – Transferring environmental authorities for prescribed ERAs**

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administering Authority	254(1)	Power to consider each transfer application and decide to: (a) approve the transfer; or (b) refuse the transfer.				
Administering Authority	255(1)(b)	In certain circumstances, power to issue the amended environmental authority (the <b><i>transferred environmental authority</i></b> ) to each holder.				
Administering Authority	255(2)	In certain circumstances, power to, within 10 business days after the decision is made, give the existing holder and the proposed holder written notice of the decision.				

**Part 10 – Surrender of environmental authorities**

**Division 1 – Preliminary**

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administering Authority	258(2)	In certain circumstances, power to by written notice (a <b>surrender notice</b> ), require the holder of the environmental authority to make a surrender application.				
Administering Authority	261(2)	In certain circumstances, power to approve a surrender application for part of the environmental authority.				

**Division 3 – Final rehabilitation reports**

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administering Authority	264(2)(a)	Power to agree to a methodology.				

**Division 4 – Requests for information**

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administering Authority	265	Power to ask the applicant, by written request, to give further information needed to assess the surrender application.				

### Division 5 – Deciding surrender applications

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administering Authority	266(1)	Power to decide to: (a) approve the surrender application; or (b) refuse the surrender application.				
Administering Authority	269(a)	Power to be satisfied the conditions of the environmental authority have been complied with.				
Administering Authority	269(b)(i)	Power to be satisfied the land on which each relevant activity for the environmental authority has been carried out has been satisfactorily rehabilitated.				
Administering Authority	269(b)(ii)	Power to be satisfied the land will be satisfactorily rehabilitated under a transitional environmental program.				
Administering Authority	269(c)	Power to be satisfied of another circumstance prescribed by regulation.				

### Division 8 – Miscellaneous provisions

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administering Authority	275(a)(ii)	In certain circumstances, power to give the applicant written notice of the decision.				

Administerin g Authority	275(b)	In certain circumstances, power to give the applicant an information notice about the decision.				
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**Part 11 – Cancellation or suspension of environmental authorities**

**Division 1 – Preliminary**

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administerin g Authority	278(1)	In certain circumstances, power to cancel or suspend an environmental authority.				

**Division 2 – Procedure for cancellation or suspension by administering authority**

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administerin g Authority	280(1)	Power to give the environmental authority holder a written notice.				
Administerin g Authority	281	Power to consider any written representation made within the stated period by the environmental authority holder.				
Administerin g Authority	282(1)	In certain circumstances, power to believe a ground exists to take the proposed action.				
Administerin g Authority	282(1)(a)	In certain circumstances, power to suspend the environmental authority for				

		no longer than the proposed suspension period.				
Administerin g Authority	282(1)(b)	In certain circumstances, power to either cancel the environmental authority or suspend it for a fixed period.				
Administerin g Authority	282(3)	Power to decide not to take the proposed action and, if so, give the environmental authority holder written notice of the decision.				
Administerin g Authority	283(1)	Power to give the environmental authority holder an information notice about the decision.				
Administerin g Authority	283(2)	In certain circumstances, power to give written notice of the decision to the chief executive administering the resource legislation.				

## Part 11A - General provisions

### Division 3 – Deciding suspension applications

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub- Delegation	Limitations and Conditions
Administerin g Authority	284C	Power to decide whether to approve the application or refuse the application.				
Administerin g Authority	284F(1)(a) ) (ii)	In certain circumstances, power to give the holder of the environmental authority written notice of the decision.				
Administerin g Authority	284F(1)(b) )	In certain circumstances, power to give the holder an information notice about the decision.				



**Part 12 – General provisions**

**Division 1 – Plan of operations for environmental authority relating to mining lease or petroleum lease**

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administering Authority	287	Power to agree with the holder in writing to a shorter period.				

**Division 2 – Financial assurance**

***Subdivision 1 – Requiring financial assurance***

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administering Authority	292(1)	Power to, by condition of an environmental authority, require the holder of the environmental authority to give the administering authority financial assurance.				
Administering Authority	292(2)	Power to be satisfied the condition is justified.				
Administering Authority	292(3)	Power to require a financial assurance to remain in force until satisfied no claim is likely to be made on the assurance.				

***Subdivision 2 – Amount and form of financial assurance***

<b>Entity power given to</b>	<b>Section of ENPA</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>
Administering Authority	295(1)	Power to decide the amount and form of financial assurance required under a condition of an environmental authority.				
Administering Authority	295(2)(c)	Power to agree with the holder of the environmental authority to a further period.				
Administering Authority	295(4)	Power to form an opinion as to the amount that represents the total of likely costs and expenses that may be incurred taking action to rehabilitate or restore and protect the environment because of environmental harm that may be caused by the activity.				
Administering Authority	296	Power to, within 5 business days after making a decision under section 295(1), give an information notice about the decision to the holder of the environmental authority.				

***Subdivision 3 – Claiming or realising financial assurance***

<b>Entity power given to</b>	<b>Section of ENPA</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>
Administering Authority	299(2)	Power to must give written notice to the entity who gave the financial assurance.				

Administerin g Authority	300	Power to consider any written representations made within the stated period by the entity who gave the financial assurance.				
Administerin g Authority	301(1)	Power to decide whether to make a claim on or realise the financial assurance.				
Administerin g Authority	301(2)	In certain circumstances, power to give the entity an information notice about the decision.				

***Subdivision 4 – Amending or discharging financial assurance***

<b>Entity power given to</b>	<b>Section of ENPA</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	304(1)	Power to, by written notice, require the applicant to give it a compliance statement for the financial assurance before deciding the application.				
Administerin g Authority	305(1)(a)	Power to approve or refuse the application.				
Administerin g Authority	305(1)(b)	In certain circumstances, power to give the applicant an information notice about the decision.				
Administerin g Authority	305(3)	Power to be satisfied no claim is likely to be made on the assurance.				
Administerin g Authority	305(5)	Power to withhold making a decision under subsection (1).				

Administerin g Authority	306(1)	In certain circumstances, power to, at any time, require the holder of an environmental authority or small scale mining tenure for which financial assurance has been given to change the amount of the financial assurance.				
Administerin g Authority	306(3)	Power to give written notice to the holder of the environmental authority or small scale mining tenure.				
Administerin g Authority	306(6)	In certain circumstances, power to consider any written submissions made by the holder within the stated period.				

### Division 3 – Annual fees and returns

#### Subdivision 1 – Annual notices

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub- Delegation	Limitations and Conditions
Administerin g Authority	308(2)	In certain circumstances, power to give the environmental authority holder a written notice complying with subsection (3) (an <b>annual notice</b> ).				
Administerin g Authority	310(1)	In certain circumstances, power to change the anniversary day, for an environmental authority for which an annual fee is prescribed under a regulation, to another day (the <b>new day</b> ).				
Administerin g Authority	311	Power to decide whether or not to change the anniversary day to the new day.				

Administerin g Authority	312	Power to give the holder: (a) if the decision is to change the day – written notice of the decision; or (b) if the decision is not to change the day – an information notice about the decision.				
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**Division 4 – Non-compliance with eligibility criteria**

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administerin g Authority	314(2)	In certain circumstances, power to require the holder of the environmental authority to: (a) make a site-specific application for a new environmental authority under part 2; or (b) make an amendment application for the authority under part 7.				
Administerin g Authority	314(3)	Power to give written notice of the proposed requirement to the holder of the environmental authority.				
Administerin g Authority	314(5)	Power consider any representations made by the holder within the stated period.				

### Division 5 – Miscellaneous provisions

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administering Authority	315(1)	Power to ask any entity for advice, comment or information about an application made under this chapter at any time.				

## CHAPTER 7 – ENVIRONMENTAL MANAGEMENT

### Part 1 – Environmental duties

#### Division 2 – Duty to notify of environmental harm

##### *Subdivision 3B – Duty of local government*

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	320DB(1)	Power to give the administering authority written notice of the activity.				
Local Government	320DB(2)	Power to give the administering authority written notice of: (a) the nature of the event or change in the condition and the circumstances in which the event or change happened or is happening; or (b) within 24 hours after becoming aware of the event or change in condition of the land.				

**Part 2 – Environmental evaluations**  
**Division 2 – Environmental audits**  
**Subdivision 1 – Audit requirements**

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administerin g Authority	322(1)	In certain circumstances, power to, by written notice, require the holder of an environmental authority to: (a) conduct or commission an audit (an <b>environmental audit</b> ) about a stated matter concerning a relevant activity; and (b) give the administering authority an environmental report on the audit.				
Administerin g Authority	322(2)	Power to be reasonably satisfied the audit is necessary or desirable.				
Administerin g Authority	323(1)	Power to be satisfied that: (a) a person is, or has been, contravening (i) a regulation; or (ii) an environmental protection policy; or (iii) an agricultural ERA standard; or (iv) a transitional environmental program; or (v) an enforceable undertaking; or (b) a person is, or has been, contravening any of the following provisions:				

		<ul style="list-style-type: none"> <li>(i) section 363E;</li> <li>(ii) section 440Q;</li> <li>(iii) section 440ZG;</li> <li>(iv) a provision of chapter 8, part 3D, 3E or 3F.</li> </ul>				
Administerin g Authority	323(2)	<p>Power to, by written notice (also an <b>audit notice</b>), require the person to:</p> <ul style="list-style-type: none"> <li>(a) Conduct or commission an audit (also an <b>environmental audit</b>) about the matter; and</li> <li>(b) give the administering authority an environmental report about the audit.</li> </ul>				

### Division 3 – Environmental investigations

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub- Delegation	Limitations and Conditions
Administerin g Authority	326B(1)	<p>Power to be satisfied on reasonable grounds that:</p> <ul style="list-style-type: none"> <li>(a) an event has happened causing environmental harm while an activity was being carried out; or</li> <li>(b) an activity or proposed activity is causing, or is likely to cause environmental harm.</li> </ul>				
Administerin g Authority	326B(2)	<p>Power to, by written notice (an <b>investigation notice</b>), require the person who has carried out, is carrying out or is proposing to carry out the activity to:</p>				



		(a) conduct or commission an investigation (an <b><i>environmental investigation</i></b> ) about the event or activity; and (b) submit an environmental report about the investigation to the authority.				
Administering Authority	326BA(1)	Power to be satisfied that circumstances contained in subsection (a) – (c) apply to the land.				
Administering Authority	326BA(2)	Power to give written notice (an investigation notice) requiring a prescribed responsible person for the land to: (a) conduct or commission an investigation; and (b) give the administering authority an investigation report.				

**Division 5 – Steps after receiving environmental reports**

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administering Authority	326F(2)	Power to, by written notice, ask the recipient to give further information needed to decide whether to approve the environmental report.				
Administering Authority	326G(4)	Power to decide to accept the report or to refuse to accept the report.				

Administering Authority	326G(5)	Power to be satisfied that the report does not adequately address the relevant matters for the environmental investigation to which the report relates.				
Administering Authority	326G(7)	In certain circumstances, power to extend the period mentioned in subsection (6) for making the decision.				
Administering Authority	326G(7)(a)	Power to be satisfied that there are special circumstances for extending the time.				
Administering Authority	326G(8)	Power to give the recipient written notice of the decision within 5 business days after making the decision.				
Administering Authority	326H	Power to do one or more of the following: (a) require the recipient to prepare and submit a transitional environmental program to it; (b) if the recipient is the holder of an environmental authority – amend the conditions of the authority; (c) serve an environmental protection order on the recipient; or (d) take any other action it considers appropriate.				
Administering Authority	326I(2)	Power to require the recipient to conduct or commission another environmental investigation and submit a report on the investigation to it.				

Administerin g Authority	326l(3)	Power to give written notice to the recipient.				
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**Part 3 – Transitional environmental programs**

**Division 2 – Submission and approval of transitional environmental programs**

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administerin g Authority	332(1)	Power to require a person or public authority to prepare and submit for approval a draft transitional environmental program as a condition of an environmental authority.				
Administerin g Authority	332(2)	In the specified circumstances, the power to require a person or public authority to prepare and submit for approval a draft transitional environmental program.				
Administerin g Authority	334A(1)	Power to, by written notice, ask the person or public authority that submitted the draft transitional environmental program to give further information needed to decide whether to approve the draft program.				
Administerin g Authority	336(1)	Power to invite a person or public authority that has submitted a draft transitional environmental program and another person who has made a submission under section 335 of the Environmental Protection Act 1994 about the transitional environmental				

		program, to a conference to help in deciding whether or not to approve the program.				
Administerin g Authority	336(2)	Power to give written notice to all persons invited to attend a conference of when and where the conference is to be held.				
Administerin g Authority	336(3)	If it's considered impracticable to give notice to all persons invited to attend a conference, the power to give notice of the conference by publishing a notice in the newspapers you decide.				
Administerin g Authority	336(4)	In specified circumstances, the power to appoint an independent person to mediate a conference.				
Administerin g Authority	336A(1)	Power to ask any person for advice, comment or information about a submission for approval of a transitional environmental program at any time.				
Administerin g Authority	337(1)	In specified circumstances, the power to decide whether to approve a draft transitional environmental program within the specified time period.				
Administerin g Authority	337(2)	In certain circumstances, power to extend the period mentioned in subsection (1) for making the decision.				
Administerin g Authority	337(2)	Power to gives an information notice about the decision to extend to the person or public authority that submitted the program and any submitters.				

Administerin g Authority	338(1)	In deciding whether to approve or refuse to approve a draft program or the conditions (if any) of the approval, the power to: (a) comply with any relevant regulatory requirement; and (b) subject to paragraph (a), consider the specified criteria.				
Administerin g Authority	339(1)	Power to: (a) approve a draft transitional environment program: (i) as submitted; or (ii) as amended at the request, or with the agreement, of the administering authority; or (b) refuse to approve a draft transitional environmental program.				
Administerin g Authority	339(2)	Power to impose on an approval of a draft transitional environmental program: (a) any conditions the authority must impose under a regulatory requirement; (b) a condition requiring the holder of the approval to give an amount of financial assurance as security for compliance with the transitional environmental program and any conditions of the program; and				

		(c) any other conditions the administering authority considers appropriate.				
Administerin g Authority	340(1)	Power to, within 8 business days after making a decision under section 339, give the person or public authority that submitted the program a written notice about the decision.				
Administerin g Authority	340(2)(b)	If the program is approved, power to state any conditions imposed on the approval by the administering authority.				
Administerin g Authority	340(2)(c)	If the program is approved, power to state the day the approval ends.				
Administerin g Authority	340(3)	If the program is refused, or approved with conditions, power to give an information notice.				
Administerin g Authority	342(2)	In specified circumstances, the power to consider and decide whether to approve a draft transitional environmental program if satisfied there has been substantial compliance with the Environmental Protection Act 1994.				
Administerin g Authority	343A(2)(B )	In certain circumstances, power to give the holder of the environmental authority a copy of the environmental authority including the note.				

### Division 3A – Financial assurances

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administering Authority	344(3)	In specified circumstances, the power to approve an amendment of an approval for a transitional environmental program for an environmentally relevant activity.				
Administering Authority	344(4)	Without limiting the matters to be considered in deciding an application, the power to have regard to the specified criteria.				
Administering Authority	344A(2)	Power to may recover the reasonable costs or expenses of taking the action by making a claim on or realising the financial assurance or part of it.				
Administering Authority	344A(3)	Power to give written notice to the person who gave the financial assurance.				
Administering Authority	344B	Power to consider any written representations made within the stated period by the person who gave the financial assurance.				
Administering Authority	344C(1)	Power to, within 10 business days after the end of the stated period, decide whether to make a claim on or realise the financial assurance.				
Administering Authority	344C(2)	Power to, within 5 business days after making the decision, give the person an information notice about the decision.				

**Division 3B – Cancellation of approval for transitional environmental programs**

<b>Entity power given to</b>	<b>Section of ENPA</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>
Administering Authority	344E(1)	Power to cancel the approval for a transitional environmental program for the reasons provided in that subsection.				
Administering Authority	344E(1)(b)	Power to be satisfied the approval holder has: (i) disposed of the place or business to which the program relates; or (ii) ceased the activity to which the program relates.				
Administering Authority	344E(2)(a)	Power to give a notice stating the details of the cancellation to the approval holder.				
Administering Authority	344F(2)(a)	Power to withdraw the notice by another written notice.				
Administering Authority	344G(2)	Power to give the holder of the environmental authority a copy of the authority that does not include the note.				

**Part 4 – Special provisions about voluntary submission of transitional environmental programs**

<b>Entity power given to</b>	<b>Section of ENPA</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>
Administering Authority	352(1)	In specified circumstances, the power to give written notice to a person of:				



		(a) receiving a program notice; and (b) the day by which a draft transitional environmental program dealing with the activity must be submitted for approval.				
Administerin g Authority	355(1)	In certain circumstances, power to apply to the Court for an order that section 353(1) does not apply to the person for any continuation of the original offence.				

**Part 4A – Temporary emissions licences**

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administerin g Authority	357E(1)	Power to: (a) grant the application for a temporary emissions licence: (i) as submitted; (ii) on different terms than have been requested in the application; or (b) refuse to grant the application for a temporary emissions licence.				
Administerin g Authority	357E(2)	Power to impose conditions on the temporary emissions licence it considers are necessary or desirable.				
Administerin g Authority	357F	Power to give the applicant an information notice about the decision if the decision is to:				

		(a) grant the application on different terms than have been requested in the application: or (b) refuse the application.				
Administerin g Authority	357J	In certain circumstances, power to amend, cancel or suspend a temporary emissions licence.				

## Part 5 – Environmental protection orders

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administerin g Authority	358	In specified circumstances, the power to issue an order (an <b><i>environmental protection order</i></b> ) to a person.				
Administerin g Authority	359	Before deciding to issue an environmental protection order, the power to consider the standard criteria.				

## CHAPTER 9 – INVESTIGATION AND ENFORCEMENT

### Part 1 – Administration generally

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
As delegate of the Chief	445(1)(c) <sup>3</sup>	In the specified circumstances, the power to appoint an authorised person.				

<sup>3</sup> The power is subject to the following limitations as per the instrument of delegation of the Chief Executive of the Environmental Protection Agency dated 7 February 2008 (copy attached).

1. The only powers under the *Environmental Protection Act 1994* the authorised person who is appointed by the Local Govt is to exercise are:

Executive of the Environmental Protection Agency: 516(1)(b) and 517						
Chief Executive Officer	445(2)	Power to appoint an employee of a local government to be an authorised person	Delegation not required		Sub-delegation is not recommended	
As delegate of the Chief Executive of the Environmental Protection Agency: 516(1)(b) & 517.	448 <sup>4</sup>	In the specified circumstances, the power to issue an identity card to each authorised person appointed.				
Administering Authority	451(1)	In the specified circumstances, the power to give a notice under section 451 of the Environmental Protection Act 1994 to a person requiring the person to give information relevant to the				

(a) Sections 440J, 452, 453, 455, 456, 457, 459, 460, 461, 462, 463A, 463, 464, 465 and 466 of the *Environmental Protection Act 1994*; and

(b) Only to be used in relation to those matters referred to in s.440D of the *Environmental Protection Act 1994*; and

2. That the certificates issued pursuant to s.490 of the *Environmental Protection Act 1994* are only used in respect of Court proceedings in relation to those matters referred to in s.440D of the *Environmental Protection Act 1994*.

<sup>4</sup> The power is subject to the following limitations as per the instrument of delegation of the Chief Executive of the Environmental Protection Agency dated 7 February 2008 (copy attached).

1. The only powers under the *Environmental Protection Act 1994* the authorised person who is appointed by the Local Govt is to exercise are:
  - (a) Sections 440J, 452, 453, 455, 456, 457, 459, 460, 461, 462, 463A, 463, 464, 465 and 466 of the *Environmental Protection Act 1994*; and
  - (b) Only to be used in relation to those matters referred to in s.440D of the *Environmental Protection Act 1994*; and
2. That the certificates issued pursuant to s.490 of the *Environmental Protection Act 1994* are only used in respect of Court proceedings in relation to those matters referred to in s.440D of the *Environmental Protection Act 1994*.

		administration and enforcement of the Environmental Protection Act 1994.				
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**Part 2 – Powers of authorised persons for places and vehicles**

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administering Authority	454(1)	Power to believe on reasonable grounds land is contaminated land				
Administering Authority	454(3)(b)	Power to give written notice to the owner and occupier.				
Administering Authority	458(2)	<p>In specified circumstances, the power to give written notice of an application made under section 458(1) of the Environmental Protection Act 1994 to:</p> <ul style="list-style-type: none"> <li>(a) the owner of the land; and</li> <li>(b) if the owner is not the occupier of the land - the occupier; and</li> <li>(c) if the application is for an order to carry out work mentioned in section 458(1)(a) of the Environmental Protection Act 1994: <ul style="list-style-type: none"> <li>(i) the environmental authority holder; or</li> <li>(ii) transitional environmental program approval holder; or</li> <li>(iii) the registered operator.</li> </ul> </li> <li>(d) if the application is for an order to take actions required under a</li> </ul>				

		clean-up notice – the recipient of the notice.				
Administerin g Executive	463(2)	In specified circumstances, the power to direct the destruction or disposal of a forfeited thing.	Delegation not required			
As delegate of the Chief Executive of the Environmental Protection Agency: 516(1)(b) and 517.	490	In specified circumstances, the power to issue a certificate.				

## CHAPTER 10 – LEGAL PROCEEDINGS

### Part 3 – Legal proceedings

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administerin g Authority	502A(2)	Power to carry out work or take any other action reasonably necessary to fulfil the requirements of an order made against a person under section 502.				

### Part 5 – Enforceable undertakings

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administerin g Authority	507(1)	Power to accept an enforceable undertaking.				

Administerin g Authority	507(3)	Power to give written notice of: (a) administering authority's decision to accept or reject the enforceable undertaking; and (b) the reasons for the decision.				
Administerin g Authority	507(4)	Power to form a reasonable belief that the undertaking will: (a) secure compliance with the Act; and (b) enhance the protection of the environment.				
Administerin g Authority	509(1)	Power to give written agreement to: (a) withdraw the undertaking; or (b) vary the undertaking.				
Administerin g Authority	510	Power to amend an enforceable undertaking with the written agreement of the person who made the undertaking.				
Administerin g Authority	511	Power to: (a) amend an enforceable undertaking to correct a clerical or formal error; and (b) give written notice of the amendment to the enforceable undertaking.				
Administerin g Authority	512(1)	Power to amend or suspend an enforceable undertaking if the administering authority is satisfied of the requirements in paragraphs (a) – (d).				

Administerin g Authority	512(2)	Power to give a notice stating proposed action in respect of the enforceable undertaking.				
Administerin g Authority	512(4)	Power to consider written representations.				
Administerin g Authority	512(5)	Power to decide to take action under the section.				
Administerin g Authority	512(6)	Power to give an information notice about the decision within 10 business days after making the decision.				
Administerin g Authority	512(7)	Power to give written notice of a decision not to take action.				
Administerin g Authority	513(2)	Power to apply to the Magistrates Court for an order about contravention of enforceable undertaking.				

## CHAPTER 11 – ADMINISTRATION

### Part 2 – Delegations

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Chief Executive Officer (both as Chief Executive Officer and as Administerin g Executive)	517(2)	Power to delegate their powers under this Act to an appropriately qualified employee of the local government.	CEO Power – No delegation required	Do not recommend sub-delegation		

**Part 3 – Review of decisions and appeals**

**Division 2 – Internal review of decisions**

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administering Authority	521(2)(a)(ii)	In specified circumstances, the power to allow a longer period within which an application for a review of an original decision must be made.				
Administering Authority	521(5)	In specified circumstances, the power to, within the decision period for a review of an original decision: (a) review the original decision; and (b) consider any submissions properly made by a recipient of a review notice; and (c) make a decision (the <b>review decision</b> ) to: (i) confirm or revoke the original decision; or (ii) vary the original decision in a way considered appropriate.				
Administering Authority	521(8)	Within 10 business days after making a review decision, the power to give written notice of the review decision to the applicant and persons who were given notice of the original decision.				



### Division 3 – Appeals

#### Subdivision 2 – Appeals to court

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Dissatisfied person	531(1)	In certain circumstances, power to may appeal against the decision to the Court.	We recommend that this power be delegated on a case by case basis.		We recommend that this power be sub-delegated on a case by case basis.	

### Part 4 – General

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administering Executive	544(1)	Power to approve forms.	Delegation not required			

## CHAPTER 12 – MISCELLANEOUS

### Part 3A – Auditors

#### Division 1 – Preliminary

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Auditor	568	Power to, subject to the terms of an approval under division 2: (a) conduct environmental audits and prepare environmental				

		<p>reports about audits under chapter 7, part 2, division 2; and</p> <p>(b) evaluate site investigation reports, validation reports, draft site management plans and draft amendments of site management plans prepared under chapter 7, part 8 against criteria prescribed under a regulation (the prescribed criteria) and:</p> <p>(i) if the report or plan does not comply with the prescribed criteria—prepare a report about the evaluation; or</p> <p>(ii) if the report or plan complies with the prescribed criteria—provide written certification that it complies with the criteria; and</p> <p>(c) audit or evaluate another matter or thing prescribed under a regulation and prepare a report or written certification about the audit or evaluation.</p>				
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## CHAPTER 13 – SAVINGS, TRANSITIONAL AND RELATED PROVISIONS

### Part 5 – Transitional provisions for Environmental Protection Legislation Amendment Act 2003

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administering Authority	620(2)	In the specified circumstances, the power to change or cancel a condition of an environmental authority.				
Administering Authority	620(5)(b)	In the specified circumstances, if a condition has changed or cancelled, the power to, within the specified time period, give the registered operator: (i) a copy of the development conditions as applying after the change or cancellation; and (ii) a registration certificate.				
Administering Authority	621(1)	Power to, for an activity being carried out under an environmental authority mentioned in section 619(1) of the Environmental Protection Act 1994, give to the person carrying out the activity: (a) if the activity was carried out at 1 location - a development approval for the location; or (b) if the activity was carried at more than 1 location and is not a mobile and temporary environmentally relevant activity -				

		<p>a development approval for each location; or</p> <p>(c) if the activity is a mobile and temporary environmentally relevant activity - a development approval for a mobile and temporary environmentally relevant activity.</p>				
Administerin g Authority	621(2)	If the person carrying out the activity does not have a registration certificate for the activity, the power to also give the person a registration certificate for the activity.				
Administerin g Authority	621(4)	If you act under section 621(1) or (2) of the Environmental Protection Act 1994, the power to give the person carrying out the activity an information notice about your decision to give the approval or approval and certificate.				
Administerin g Authority	623(2)	In specified circumstances, the power to give a registered operator a notice stating that you are satisfied that the risk of environmental harm from carrying out the activity is no longer insignificant.				
Administerin g Authority	626(3)(a)	In specified circumstances, the power to, by written notice, ask an applicant to give a stated document or information relevant to an application.				

**Part 6 – Transitional provisions for Petroleum and Other Legislation Amendment Act 2004**

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administerin g Authority	634(1)	In specified circumstances, the power to amend a condition about financial assurance imposed under Part 7, Chapter 13 of the Environmental Protection Act 1994 to require the giving of replacement financial assurance, in a form and amount decided by you.				

**Part 17 – Transitional provisions for the Environmental Protection and Other Legislation Amendment Act 2011**

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administerin g Authority	671(2)	Power to consider, or continue to consider, the draft transitional environment program and decide whether to approve an existing draft transitional environment program under the unamended Act.				

**Part 18 – Transitional provisions for Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012**

**Division 5 –Transitional authorities for environmentally relevant activities**

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administering Authority	697(1)	Power to decide whether to approve the application or refuse the application.				
Administering Authority	698(1)	In certain circumstances, power to: (a) amend the environmental authority to give effect to the conversion; and (b) issue the amended environmental authority to the applicant.				
Administering Authority	698(2)	In certain circumstances, power to give the applicant an information notice about the decision.				

**Division 5A – Suspended activities**

Entity power given to	Section of ENPA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Administering Authority	698B	Power to approve an application to convert the surrendered registration certificate to an environmental authority that has been suspended under chapter 5, part 11A (a <b>conversion application</b> ).				

**Division 6 – Financial assurance**

<b>Entity power given to</b>	<b>Section of ENPA</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	699(4)	Power to amend the environmental authority to impose a condition about financial assurance.				
Administerin g Authority	699(5)	Power to give written notice of the amendment.				

**Division 8 – Provisions about environmental management plans**

<b>Entity power given to</b>	<b>Section of ENPA</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	701(2)	Power to amend the new authority to impose conditions consistent with the environmental management plan.				

[2019 12 09 - ENPA - Delegation Table]

# INSTRUMENT OF SUB-DELEGATION

**Torres Strait Island Regional Council**  
***Environmental Protection Act 1994 ("ENPA")***

Under section 259 of the *Local Government Act 2009*, I, **Bruce Ranga**, Chief Executive Officer of **Torres Strait Island Regional Council**, delegate to those positions which are specified in Schedule 1, the exercise of the powers contained in Schedule 2.

These powers must be exercised subject to the limitations contained in Schedule 3.

This Instrument of Sub-Delegation repeals all prior Instruments sub-delegating to the positions specified in Schedule 1 the exercise of the powers contained in Schedule 2.

My authority to make these sub-delegations is conferred by the *Local Government Act 2009* and the resolution of **Torres Strait Island Regional Council** made on **Insert date** to delegate those powers to the Chief Executive Officer.

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

**Bruce Ranga**  
Chief Executive Officer  
**Torres Strait Island Regional Council**



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

## POWERS SUB-DELEGATED

### *Environmental Protection Act 1994 ("ENPA")*

#### CHAPTER 5 – ENVIRONMENTAL AUTHORITIES FOR ENVIRONMENTALLY RELEVANT ACTIVITIES

##### Part 2 – Application Stage

##### Division 4 – Notices about not properly made applications

Entity power given to	Section of ENPA	Description
Administering Authority	128(2)	In certain circumstances, the power to give the applicant a notice.
Administering Authority	129(2)	In certain circumstances, the power to agree to a further period with the applicant.

##### Division 5 – Joint applicants

Entity power given to	Section of ENPA	Description
Administering Authority	130(3)	In certain circumstances, the power to: <ul style="list-style-type: none"> <li>(a) give a notice or other document relating to the application to all the applicants, by giving it to the principal applicant nominated in the application; or</li> <li>(b) make a requirement under this chapter relating to the application of all the applicants, by making it of the principal applicant nominated in the application.</li> </ul>

##### Division 6 – Changing applications

##### *Subdivision 1 – Preliminary*

Entity power given to	Section of ENPA	Description
Administering Authority	131(d)	In certain circumstances, power to be satisfied that a change would not adversely affect the ability of the authority to assess the changed application.

##### *Subdivision 3 – Changed applications – effect on assessment process*

Entity power given to	Section of ENPA	Description
Administering Authority	133(1)(b)	Power to agree in writing to the change.
Administering Authority	134(4)	In certain circumstances, the power to be satisfied that the change would not be likely to attract a submission objecting to the thing the subject of the change, if the notification stage were to apply to the change.

**Part 3 –****Information stage****Division 2 – Information requests**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	140(1)	Power to ask the applicant, by written request (an <b>information request</b> ), to give further information needed to assess the application.
Administering Authority	143(2)	In certain circumstances, the power to include in an information request a requirement that the applicant provide an EIS for the application.
Administering Authority	145(1)	Power to, by written notice given to the applicant and without the applicant's agreement, extend the information request period by not more than 10 business days.
Administering Authority	145(3)	Power to request a further extension of the information request period.
Administering Authority	147(3)	Power to, within 5 business days after receiving the request: (a) decide whether to agree to the extension; and (b) give an information notice of the decision.

**Part 4 –****Notification stage****Division 1 – Preliminary**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	150(1)(d)	In certain circumstances, the power to be satisfied that the change would not be likely to attract a submission objecting to the thing the subject of the change, if the notification stage were to apply to the change.

**Division 2 – Public notice**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	152(3)	Power to: (a) give the applicant an information notice about the decision before the application notice is given; and (b) decide an additional or substituted way to give or publish the application notice.
Administering Authority	159(2)	In certain circumstances, power to decide whether to allow the application to proceed under this part as if the noncompliance had not happened.
Administering Authority	159(3)	In certain circumstances, power to be satisfied that there has been substantial compliance with the public notice requirements.
Administering Authority	159(4)	In certain circumstances, power to within 10 business days after the decision is made, give the applicant written notice of the decision.
Administering Authority	159(5)(b)(i)	In certain circumstances, power to: (a) fix a substituted way to give or publish the application notice; and (b) give the applicant written notice of the substituted way.

Administering Authority	159(5)(b)(ii)	In certain circumstances, power to: (a) fix a new submission period for the application; and (b) give the applicant written notice of the period.
Administering Authority	159(5)(b)(iii)	In certain circumstances, power to give the applicant an information notice about the decision.

### **Division 3 – Submissions about applications**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
An Entity	160	Power to, within the submission period, make a submission to the administering authority about the application.
Administering Authority	161(3)	Power to accept a written submission even if it is not a properly made submission.
An Entity	162(1)	In certain circumstances, power to, by written notice, amend or replace a submission.

## **Part 5 –**

### **Decision stage**

### **Division 2 – Deciding an application**

#### ***Subdivision 1 – Decision period***

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	168(2)	In certain circumstances, the power to, by written notice given to the applicant and without the applicant's agreement, extend the period mentioned in subsection 168(1) by not more than 20 business days.
Administering Authority	168(4)	Power to request a further extension of the decision period.

#### ***Subdivision 2 – Decision***

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	170(2)(a)	In certain circumstances, the power to decide that the application be approved subject to the standard conditions for the relevant activity or authority.
Administering Authority	170(2)(b)	In certain circumstances, the power to decide that the applicant be issued an environmental authority on conditions that are different to the standard conditions for the activity or authority.
Administering Authority	171(2)(a)	In certain circumstances, the power to decide that the application be approved subject to conditions that are different to the standard conditions for the activity or authority.
Administering Authority	171(2)(b)	In certain circumstances, the power to decide that the applicant be issued an environmental authority subject to the standard conditions for the activity or authority.
Administering Authority	172(2)	In certain circumstances, the power to decide that the application: (a) be approved subject to conditions; or (b) be refused.
Administering Authority	173(1)	Power to refuse an application if the applicant is not a registered suitable operator.

Administering Authority	173(3)	In certain circumstances, power to refuse an application for an environmental authority.
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#### **Division 4 – Steps after deciding application**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	195	In certain circumstances, power to issue an environmental authority to the applicant.
Administering Authority	198(2)	In certain circumstances, power to give the application an information notice about the decision.
Administering Authority	198(4)	In certain circumstances, power to give any submitter for the application an information notice about the decision.

#### **Division 6 – Conditions**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	203(1)	Power to impose a condition on an environmental authority or draft environmental authority if: (a) it considers the condition is necessary or desirable; and (b) if the authority is for an application to which section 115 applies - the condition relates to the carrying out of the relevant prescribed ERA.
Administering Authority	203(2)	In certain circumstances, power to impose a condition on an environmental authority or draft environmental authority.
Administering Authority	204(2)	In certain circumstances, power to impose on the authority a condition requiring the holder of the authority to take all reasonable steps to ensure the relevant activity complies with the eligibility criteria for the activity.
Administering Authority	209(4)	Power to enter into an agreement to establish obligations, or secure the performance, of a party to the agreement about a condition.

### **Part 6 – Amending environmental authorities by administering authority**

#### **Division 1 – Amendments**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	211	In certain circumstances, power to amend an environmental authority to correct a clerical or formal error.
Administering Authority	212(2)	Power to amend the environmental authority to ensure compliance with conditions included in a determination made by the NNTT under the Commonwealth Native Title Act, section 38(1)(c).
Administering Authority	212(3)	Power to give written notice of the amendment to the environmental authority holder.
Administering authority	212A(2)	Power to amend the environmental authority to ensure it is consistent with the regional interests development approval.
Administering authority	212A(3)	Power to given written notice the amendment to the environmental authority holder.

Administering Authority	213(2)	In certain circumstances, power to amend the existing authority to replace the existing standard conditions with the new standard conditions.
Administering Authority	213(3)	In certain circumstances, power to give written notice of the amendment to the environmental authority holder.
Administering Authority	214(2)	In certain circumstances, power to amend the environmental authority.
Administering Authority	214(3)	In certain circumstances, power to give: (a) an information notice about the amendment to the holder of the environmental authority; and (b) written notice of the amendment to the assessment manager for the development application.
Administering Authority	215(1)	In certain circumstances, power to amend an environmental authority.
Administering Authority	215(1)(a)	Power to consider the amendment is necessary or desirable because of a matter mentioned in subsection (2) and the procedure under division 2 is followed.

### Division 2 – Procedure for particular amendments

Entity power given to	Section of ENPA	Description
Administering Authority	216	Power to propose to amend an environmental authority
Administering Authority	217	Power to give the environmental authority holder a written notice (the <b>proposed amendment notice</b> ).
Administering Authority	218	Power to consider any written representation made within the period stated in the proposed amendment notice by the holder of the environmental authority.
Administering Authority	219(1)	In certain circumstances, power to believe a ground exists to make the proposed amendment, and to make the amendment.
Administering Authority	219(3)	Power to give the holder written notice of the decision.
Administering Authority	220	Power to give the environmental authority holder an information notice about the decision.

### Division 3 – Steps for amendments

Entity power given to	Section of ENPA	Description
Administering Authority	221(2)(b)	In certain circumstances, power to issue the amended environmental authority to the holder.

## Part 7 –

### Amendment of environmental authorities by application

#### Division 2A – Provision for particular amendment applications

Entity power given to	Section of ENPA	Description
Administering Authority	227A(2)	Power to refuse application within 10 business days after receiving the amendment application.

Administering Authority	227A(3)	Power to require the holder of the environmental authority to make a site-specific application for a new environmental authority.
Administering Authority	227A(5)	Power to give written notice of any refusal.

### Division 3 – Assessment level decisions

Entity power given to	Section of ENPA	Description
Administering Authority	228(1)	Power to decide whether the proposed amendment is a major or minor amendment.
Administering Authority	229	Power to give the applicant a written notice.
Administering Authority	230(2)	In certain circumstances, power to be satisfied that: <ul style="list-style-type: none"> <li>(a) there is likely to be a substantial increase in the risk of environmental harm under the amended environmental authority; and</li> <li>(b) the risk is the result of a substantial change in: <ul style="list-style-type: none"> <li>(i) the quantity or quality of contaminant permitted to be released into the environment; or</li> <li>(ii) the results of the release of a quantity or quality of contaminant permitted to be released into the environment.</li> </ul> </li> </ul>

### Division 4 – Process if proposed amendment is a major amendment

Entity power given to	Section of ENPA	Description
Administering Authority	233(3)	In certain circumstances, power to: <ul style="list-style-type: none"> <li>(a) decide another way of publishing the notice for subsection (2)(b)(ii); and</li> <li>(b) give the applicant an information notice about the decision before the notice is published.</li> </ul>
Administering Authority	237(1)(b)	Power to agree in writing to the change.
Administering Authority	238(3)(a)	In certain circumstances, power to within 10 business days after notice of the change is received, ask the applicant to give further information needed to assess the application
Administering Authority	238(7)	In certain circumstances, power to be satisfied the change would not be likely to attract a submission objecting to the thing the subject of the change, if the notification stage were to apply to the change.

### Division 5 – Process if proposed amendment is minor amendment

Entity power given to	Section of ENPA	Description
Administering Authority	240(1)	Power to decide either to approve or refuse the application: <ul style="list-style-type: none"> <li>(a) for a condition conversion – within 10 business days after the application is received (for a condition conversion); or</li> <li>(b) otherwise, within 10 business days after notice of the assessment level decision is given to the applicant.</li> </ul>

Administering Authority	240(2)	Power to be satisfied the proposed amendment is necessary or desirable.
Administering Authority	240(3)	In certain circumstances, power to make any other amendments to the conditions of the environmental authority it considers: (a) relate to the subject matter of the proposed amendment; and (b) are necessary or desirable.

### **Division 6 – Steps after deciding amendment application**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	242(1)(b)	In certain circumstances, power to issue the amended environmental authority to the applicant.
Administering Authority	242(3)	Power to within 5 business days after the decision is made, give the applicant an information notice about the decision.

## **Part 8 – Amalgamating environmental authorities**

### **Division 2 – Deciding amalgamation application**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	247(1)	Power to, within 20 business days after the day the amalgamation application is received, decide to: (a) approve the application; or (b) if the application is for an amalgamated local government authority or amalgamated project authority—refuse the application.
Administering Authority	247(2)(c)	Power to be satisfied there is an appropriate degree of integration between the activities.
Administering Authority	247(3)	Power to be satisfied the relevant activities for the existing environmental authorities are being carried out as a single integrated operation.

### **Division 3 – Miscellaneous provisions**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	248(b)	In certain circumstances, power to issue to the applicant: (a) if the application is for an amalgamated corporate authority – an amalgamated corporate authority; or (b) if the application is for an amalgamated local government authority – an amalgamated local government authority; or (c) if the application is for an amalgamated project authority – an amalgamated project authority.
Administering Authority	249	Power to, within 10 business days after refusing an amalgamation application, give the applicant an information notice about the decision.



#### Division 4 – De-amalgamating environmental authorities

Entity power given to	Section of ENPA	Description
Administering Authority	250C(a)	Power to de-amalgamate the relevant authority within 15 business days after receiving a de-amalgamation application that complies with section 250B.

#### Part 9 – Transferring environmental authorities for prescribed ERAs

Entity power given to	Section of ENPA	Description
Administering Authority	254(1)	Power to consider each transfer application and decide to: (a) approve the transfer; or (b) refuse the transfer.
Administering Authority	255(1)(b)	In certain circumstances, power to issue the amended environmental authority (the <b><i>transferred environmental authority</i></b> ) to each holder.
Administering Authority	255(2)	In certain circumstances, power to, within 10 business days after the decision is made, give the existing holder and the proposed holder written notice of the decision.

#### Part 10 – Surrender of environmental authorities

##### Division 1 – Preliminary

Entity power given to	Section of ENPA	Description
Administering Authority	258(2)	In certain circumstances, power to by written notice (a <b><i>surrender notice</i></b> ), require the holder of the environmental authority to make a surrender application.
Administering Authority	261(2)	In certain circumstances, power to approve a surrender application for part of the environmental authority.

##### Division 3 – Final rehabilitation reports

Entity power given to	Section of ENPA	Description
Administering Authority	264(2)(a)	Power to agree to a methodology.

##### Division 4 – Requests for information

Entity power given to	Section of ENPA	Description
Administering Authority	265	Power to ask the applicant, by written request, to give further information needed to assess the surrender application.

##### Division 5 – Deciding surrender applications

Entity power given to	Section of ENPA	Description
Administering Authority	266(1)	Power to decide to: (a) approve the surrender application; or (b) refuse the surrender application.

Administering Authority	269(a)	Power to be satisfied the conditions of the environmental authority have been complied with.
Administering Authority	269(b)(i)	Power to be satisfied the land on which each relevant activity for the environmental authority has been carried out has been satisfactorily rehabilitated.
Administering Authority	269(b)(ii)	Power to be satisfied the land will be satisfactorily rehabilitated under a transitional environmental program.
Administering Authority	269(c)	Power to be satisfied of another circumstance prescribed by regulation.

### **Division 8 – Miscellaneous provisions**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	275(a)(ii)	In certain circumstances, power to give the applicant written notice of the decision.
Administering Authority	275(b)	In certain circumstances, power to give the applicant an information notice about the decision.

## **Part 11 – Cancellation or suspension of environmental authorities**

### **Division 1 – Preliminary**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	278(1)	In certain circumstances, power to cancel or suspend an environmental authority.

### **Division 2 – Procedure for cancellation or suspension by administering authority**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	280(1)	Power to give the environmental authority holder a written notice.
Administering Authority	281	Power to consider any written representation made within the stated period by the environmental authority holder.
Administering Authority	282(1)	In certain circumstances, power to believe a ground exists to take the proposed action.
Administering Authority	282(1)(a)	In certain circumstances, power to suspend the environmental authority for no longer than the proposed suspension period.
Administering Authority	282(1)(b)	In certain circumstances, power to either cancel the environmental authority or suspend it for a fixed period.
Administering Authority	282(3)	Power to decide not to take the proposed action and, if so, give the environmental authority holder written notice of the decision.
Administering Authority	283(1)	Power to give the environmental authority holder an information notice about the decision.
Administering Authority	283(2)	In certain circumstances, power to give written notice of the decision to the chief executive administering the resource legislation.

**Part 11A - General provisions****Division 3 – Deciding suspension applications**

Entity power given to	Section of ENPA	Description
Administering Authority	284C	Power to decide whether to approve the application or refuse the application.
Administering Authority	284F(1)(a)(ii)	In certain circumstances, power to give the holder of the environmental authority written notice of the decision.
Administering Authority	284F(1)(b)	In certain circumstances, power to give the holder an information notice about the decision.

**Part 12 – General provisions****Division 1 – Plan of operations for environmental authority relating to mining lease or petroleum lease**

Entity power given to	Section of ENPA	Description
Administering Authority	287	Power to agree with the holder in writing to a shorter period.

**Division 2 – Financial assurance*****Subdivision 1 – Requiring financial assurance***

Entity power given to	Section of ENPA	Description
Administering Authority	292(1)	Power to, by condition of an environmental authority, require the holder of the environmental authority to give the administering authority financial assurance.
Administering Authority	292(2)	Power to be satisfied the condition is justified.
Administering Authority	292(3)	Power to require a financial assurance to remain in force until satisfied no claim is likely to be made on the assurance.

***Subdivision 2 – Amount and form of financial assurance***

Entity power given to	Section of ENPA	Description
Administering Authority	295(1)	Power to decide the amount and form of financial assurance required under a condition of an environmental authority.
Administering Authority	295(2)(c)	Power to agree with the holder of the environmental authority to a further period.
Administering Authority	295(4)	Power to form an opinion as to the amount that represents the total of likely costs and expenses that may be incurred taking action to rehabilitate or restore and protect the environment because of environmental harm that may be caused by the activity.
Administering Authority	296	Power to, within 5 business days after making a decision under section 295(1), give an information notice about the decision to the holder of the environmental authority.

### ***Subdivision 3 – Claiming or realising financial assurance***

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	299(2)	Power to must give written notice to the entity who gave the financial assurance.
Administering Authority	300	Power to consider any written representations made within the stated period by the entity who gave the financial assurance.
Administering Authority	301(1)	Power to decide whether to make a claim on or realise the financial assurance.
Administering Authority	301(2)	In certain circumstances, power to give the entity an information notice about the decision.

### ***Subdivision 4 – Amending or discharging financial assurance***

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	304(1)	Power to, by written notice, require the applicant to give it a compliance statement for the financial assurance before deciding the application.
Administering Authority	305(1)(a)	Power to approve or refuse the application.
Administering Authority	305(1)(b)	In certain circumstances, power to give the applicant an information notice about the decision.
Administering Authority	305(3)	Power to be satisfied no claim is likely to be made on the assurance.
Administering Authority	305(5)	Power to withhold making a decision under subsection (1).
Administering Authority	306(1)	In certain circumstances, power to, at any time, require the holder of an environmental authority or small scale mining tenure for which financial assurance has been given to change the amount of the financial assurance.
Administering Authority	306(3)	Power to give written notice to the holder of the environmental authority or small scale mining tenure.
Administering Authority	306(6)	In certain circumstances, power to consider any written submissions made by the holder within the stated period.

## **Division 3 – Annual fees and returns**

### ***Subdivision 1 – Annual notices***

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	308(2)	In certain circumstances, power to give the environmental authority holder a written notice complying with subsection (3) (an <b><i>annual notice</i></b> ).
Administering Authority	310(1)	In certain circumstances, power to change the anniversary day, for an environmental authority for which an annual fee is prescribed under a regulation, to another day (the <b><i>new day</i></b> ).
Administering Authority	311	Power to decide whether or not to change the anniversary day to the new day.
Administering Authority	312	Power to give the holder:

		(a) if the decision is to change the day – written notice of the decision; or (b) if the decision is not to change the day – an information notice about the decision.
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#### **Division 4 – Non-compliance with eligibility criteria**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	314(2)	In certain circumstances, power to require the holder of the environmental authority to: (a) make a site-specific application for a new environmental authority under part 2; or (b) make an amendment application for the authority under part 7.
Administering Authority	314(3)	Power to give written notice of the proposed requirement to the holder of the environmental authority.
Administering Authority	314(5)	Power consider any representations made by the holder within the stated period.

#### **Division 5 – Miscellaneous provisions**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	315(1)	Power to ask any entity for advice, comment or information about an application made under this chapter at any time.

### **CHAPTER 7 – ENVIRONMENTAL MANAGEMENT**

#### **Part 1 – Environmental duties**

##### **Division 2 – Duty to notify of environmental harm**

##### ***Subdivision 3B – Duty of local government***

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Local Government	320DB(1)	Power to give the administering authority written notice of the activity.
Local Government	320DB(2)	Power to give the administering authority written notice of: (a) the nature of the event or change in the condition and the circumstances in which the event or change happened or is happening; or (b) within 24 hours after becoming aware of the event or change in condition of the land.

#### **Part 2 – Environmental evaluations**

##### **Division 2 – Environmental audits**

##### ***Subdivision 1 – Audit requirements***

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	322(1)	In certain circumstances, power to, by written notice, require the holder of an environmental authority to:

		<p>(a) conduct or commission an audit (an <b>environmental audit</b>) about a stated matter concerning a relevant activity; and</p> <p>(b) give the administering authority an environmental report on the audit.</p>
Administering Authority	322(2)	Power to be reasonably satisfied the audit is necessary or desirable.
Administering Authority	323(1)	<p>Power to be satisfied that:</p> <p>(a) a person is, or has been, contravening</p> <ul style="list-style-type: none"> <li>(i) a regulation; or</li> <li>(ii) an environmental protection policy; or</li> <li>(iii) an agricultural ERA standard; or</li> <li>(iv) a transitional environmental program; or</li> <li>(v) an enforceable undertaking; or</li> </ul> <p>(b) a person is, or has been, contravening any of the following provisions:</p> <ul style="list-style-type: none"> <li>(i) section 363E;</li> <li>(ii) section 440Q;</li> <li>(iii) section 440ZG;</li> <li>(iv) a provision of chapter 8, part 3D, 3E or 3F.</li> </ul>
Administering Authority	323(2)	<p>Power to, by written notice (also an <b>audit notice</b>), require the person to:</p> <p>(a) Conduct or commission an audit (also an <b>environmental audit</b>) about the matter; and</p> <p>(b) give the administering authority an environmental report about the audit.</p>

### Division 3 – Environmental investigations

Entity power given to	Section of ENPA	Description
Administering Authority	326B(1)	<p>Power to be satisfied on reasonable grounds that:</p> <p>(a) an event has happened causing environmental harm while an activity was being carried out; or</p> <p>(b) an activity or proposed activity is causing, or is likely to cause environmental harm.</p>
Administering Authority	326B(2)	<p>Power to, by written notice (an <b>investigation notice</b>), require the person who has carried out, is carrying out or is proposing to carry out the activity to:</p> <p>(a) conduct or commission an investigation (an <b>environmental investigation</b>) about the event or activity; and</p> <p>(b) submit an environmental report about the investigation to the authority.</p>
Administering Authority	326BA(1)	Power to be satisfied that circumstances contained in subsection (a) – (c) apply to the land.
Administering Authority	326BA(2)	<p>Power to give written notice (an investigation notice) requiring a prescribed responsible person for the land to:</p> <p>(a) conduct or commission an investigation; and</p> <p>(b) give the administering authority an investigation report.</p>

### Division 5 – Steps after receiving environmental reports

Entity power given to	Section of ENPA	Description
Administering Authority	326F(2)	Power to, by written notice, ask the recipient to give further information needed to decide whether to approve the environmental report.
Administering Authority	326G(4)	Power to decide to accept the report or to refuse to accept the report.
Administering Authority	326G(5)	Power to be satisfied that the report does not adequately address the relevant matters for the environmental investigation to which the report relates.
Administering Authority	326G(7)	In certain circumstances, power to extend the period mentioned in subsection (6) for making the decision.
Administering Authority	326G(7)(a)	Power to be satisfied that there are special circumstances for extending the time.
Administering Authority	326G(8)	Power to give the recipient written notice of the decision within 5 business days after making the decision.
Administering Authority	326H	Power to do one or more of the following: (a) require the recipient to prepare and submit a transitional environmental program to it; (b) if the recipient is the holder of an environmental authority – amend the conditions of the authority; (c) serve an environmental protection order on the recipient; or (d) take any other action it considers appropriate.
Administering Authority	326I(2)	Power to require the recipient to conduct or commission another environmental investigation and submit a report on the investigation to it.
Administering Authority	326I(3)	Power to give written notice to the recipient.

### Part 3 –

### Transitional environmental programs

#### Division 2 – Submission and approval of transitional environmental programs

Entity power given to	Section of ENPA	Description
Administering Authority	332(1)	Power to require a person or public authority to prepare and submit for approval a draft transitional environmental program as a condition of an environmental authority.
Administering Authority	332(2)	In the specified circumstances, the power to require a person or public authority to prepare and submit for approval a draft transitional environmental program.
Administering Authority	334A(1)	Power to, by written notice, ask the person or public authority that submitted the draft transitional environmental program to give further information needed to decide whether to approve the draft program.
Administering Authority	336(1)	Power to invite a person or public authority that has submitted a draft transitional environmental program and another person who has made a submission under section 335 of the Environmental Protection Act 1994 about the transitional

		environmental program, to a conference to help in deciding whether or not to approve the program.
Administering Authority	336(2)	Power to give written notice to all persons invited to attend a conference of when and where the conference is to be held.
Administering Authority	336(3)	If it's considered impracticable to give notice to all persons invited to attend a conference, the power to give notice of the conference by publishing a notice in the newspapers you decide.
Administering Authority	336(4)	In specified circumstances, the power to appoint an independent person to mediate a conference.
Administering Authority	336A(1)	Power to ask any person for advice, comment or information about a submission for approval of a transitional environmental program at any time.
Administering Authority	337(1)	In specified circumstances, the power to decide whether to approve a draft transitional environmental program within the specified time period.
Administering Authority	337(2)	In certain circumstances, power to extend the period mentioned in subsection (1) for making the decision.
Administering Authority	337(2)	Power to give an information notice about the decision to extend to the person or public authority that submitted the program and any submitters.
Administering Authority	338(1)	In deciding whether to approve or refuse to approve a draft program or the conditions (if any) of the approval, the power to: <ul style="list-style-type: none"> <li>(a) comply with any relevant regulatory requirement; and</li> <li>(b) subject to paragraph (a), consider the specified criteria.</li> </ul>
Administering Authority	339(1)	Power to: <ul style="list-style-type: none"> <li>(a) approve a draft transitional environment program: <ul style="list-style-type: none"> <li>(i) as submitted; or</li> <li>(ii) as amended at the request, or with the agreement, of the administering authority; or</li> </ul> </li> <li>(b) refuse to approve a draft transitional environmental program.</li> </ul>
Administering Authority	339(2)	Power to impose on an approval of a draft transitional environmental program: <ul style="list-style-type: none"> <li>(a) any conditions the authority must impose under a regulatory requirement;</li> <li>(b) a condition requiring the holder of the approval to give an amount of financial assurance as security for compliance with the transitional environmental program and any conditions of the program; and</li> <li>(c) any other conditions the administering authority considers appropriate.</li> </ul>
Administering Authority	340(1)	Power to, within 8 business days after making a decision under section 339, give the person or public authority that submitted the program a written notice about the decision.
Administering Authority	340(2)(b)	If the program is approved, power to state any conditions imposed on the approval by the administering authority.
Administering Authority	340(2)(c)	If the program is approved, power to state the day the approval ends.
Administering Authority	340(3)	If the program is refused, or approved with conditions, power to give an information notice.



Administering Authority	342(2)	In specified circumstances, the power to consider and decide whether to approve a draft transitional environmental program if satisfied there has been substantial compliance with the Environmental Protection Act 1994.
Administering Authority	343A(2)(B)	In certain circumstances, power to give the holder of the environmental authority a copy of the environmental authority including the note.

### Division 3A – Financial assurances

Entity power given to	Section of ENPA	Description
Administering Authority	344(3)	In specified circumstances, the power to approve an amendment of an approval for a transitional environmental program for an environmentally relevant activity.
Administering Authority	344(4)	Without limiting the matters to be considered in deciding an application, the power to have regard to the specified criteria.
Administering Authority	344A(2)	Power to may recover the reasonable costs or expenses of taking the action by making a claim on or realising the financial assurance or part of it.
Administering Authority	344A(3)	Power to give written notice to the person who gave the financial assurance.
Administering Authority	344B	Power to consider any written representations made within the stated period by the person who gave the financial assurance.
Administering Authority	344C(1)	Power to, within 10 business days after the end of the stated period, decide whether to make a claim on or realise the financial assurance.
Administering Authority	344C(2)	Power to, within 5 business days after making the decision, give the person an information notice about the decision.

### Division 3B – Cancellation of approval for transitional environmental programs

Entity power given to	Section of ENPA	Description
Administering Authority	344E(1)	Power to cancel the approval for a transitional environmental program for the reasons provided in that subsection.
Administering Authority	344E(1)(b)	Power to be satisfied the approval holder has: (i) disposed of the place or business to which the program relates; or (ii) ceased the activity to which the program relates.
Administering Authority	344E(2)(a)	Power to give a notice stating the details of the cancellation to the approval holder.
Administering Authority	344F(2)(a)	Power to withdraw the notice by another written notice.
Administering Authority	344G(2)	Power to give the holder of the environmental authority a copy of the authority that does not include the note.

**Part 4 – Special provisions about voluntary submission of transitional environmental programs**

Entity power given to	Section of ENPA	Description
Administering Authority	352(1)	In specified circumstances, the power to give written notice to a person of: (a) receiving a program notice; and (b) the day by which a draft transitional environmental program dealing with the activity must be submitted for approval.
Administering Authority	355(1)	In certain circumstances, power to apply to the Court for an order that section 353(1) does not apply to the person for any continuation of the original offence.

**Part 4A – Temporary emissions licences**

Entity power given to	Section of ENPA	Description
Administering Authority	357E(1)	Power to: (a) grant the application for a temporary emissions licence: (i) as submitted; (ii) on different terms than have been requested in the application; or (b) refuse to grant the application for a temporary emissions licence.
Administering Authority	357E(2)	Power to impose conditions on the temporary emissions licence it considers are necessary or desirable.
Administering Authority	357F	Power to give the applicant an information notice about the decision if the decision is to: (a) grant the application on different terms than have been requested in the application: or (b) refuse the application.
Administering Authority	357J	In certain circumstances, power to amend, cancel or suspend a temporary emissions licence.

**Part 5 – Environmental protection orders**

Entity power given to	Section of ENPA	Description
Administering Authority	358	In specified circumstances, the power to issue an order (an <b>environmental protection order</b> ) to a person.
Administering Authority	359	Before deciding to issue an environmental protection order, the power to consider the standard criteria.

## CHAPTER 9 – INVESTIGATION AND ENFORCEMENT

### Part 1 – Administration generally

Entity power given to	Section of ENPA	Description
As delegate of the Chief Executive of the Environmental Protection Agency: 516(1)(b) and 517	445(1)(c) <sup>5</sup>	In the specified circumstances, the power to appoint an authorised person.
Chief Executive Officer	445(2)	Power to appoint an employee of a local government to be an authorised person
As delegate of the Chief Executive of the Environmental Protection Agency: 516(1)(b) & 517.	448 <sup>6</sup>	In the specified circumstances, the power to issue an identity card to each authorised person appointed.
Administering Authority	451(1)	In the specified circumstances, the power to give a notice under section 451 of the Environmental Protection Act 1994 to a person requiring the person to give information relevant to the administration and enforcement of the Environmental Protection Act 1994.

### Part 2 – Powers of authorised persons for places and vehicles

Entity power given to	Section of ENPA	Description
Administering Authority	454(1)	Power to believe on reasonable grounds land is contaminated land
Administering Authority	454(3)(b)	Power to give written notice to the owner and occupier.
Administering Authority	458(2)	In specified circumstances, the power to give written notice of an application made under section 458(1) of the Environmental Protection Act 1994 to: (a) the owner of the land; and

<sup>5</sup> The power is subject to the following limitations as per the instrument of delegation of the Chief Executive of the Environmental Protection Agency dated 7 February 2008 (copy attached).

1. The only powers under the *Environmental Protection Act 1994* the authorised person who is appointed by the Local Govt is to exercise are:
  - (a) Sections 440J, 452, 453, 455, 456, 457, 459, 460, 461, 462, 463A, 463, 464, 465 and 466 of the *Environmental Protection Act 1994*; and
  - (b) Only to be used in relation to those matters referred to in s.440D of the *Environmental Protection Act 1994*; and
2. That the certificates issued pursuant to s.490 of the *Environmental Protection Act 1994* are only used in respect of Court proceedings in relation to those matters referred to in s.440D of the *Environmental Protection Act 1994*.

<sup>6</sup> The power is subject to the following limitations as per the instrument of delegation of the Chief Executive of the Environmental Protection Agency dated 7 February 2008 (copy attached).

1. The only powers under the *Environmental Protection Act 1994* the authorised person who is appointed by the Local Govt is to exercise are:
  - (a) Sections 440J, 452, 453, 455, 456, 457, 459, 460, 461, 462, 463A, 463, 464, 465 and 466 of the *Environmental Protection Act 1994*; and
  - (b) Only to be used in relation to those matters referred to in s.440D of the *Environmental Protection Act 1994*; and
2. That the certificates issued pursuant to s.490 of the *Environmental Protection Act 1994* are only used in respect of Court proceedings in relation to those matters referred to in s.440D of the *Environmental Protection Act 1994*.

		<p>(b) if the owner is not the occupier of the land - the occupier; and</p> <p>(c) if the application is for an order to carry out work mentioned in section 458(1)(a) of the Environmental Protection Act 1994:</p> <p>(i) the environmental authority holder; or</p> <p>(ii) transitional environmental program approval holder; or</p> <p>(iii) the registered operator.</p> <p>(d) if the application is for an order to take actions required under a clean-up notice – the recipient of the notice.</p>
Administering Executive	463(2)	In specified circumstances, the power to direct the destruction or disposal of a forfeited thing.
As delegate of the Chief Executive of the Environmental Protection Agency: 516(1)(b) and 517.	490	In specified circumstances, the power to issue a certificate.

## CHAPTER 10 – LEGAL PROCEEDINGS

### Part 3 – Legal proceedings

Entity power given to	Section of ENPA	Description
Administering Authority	502A(2)	Power to carry out work or take any other action reasonably necessary to fulfil the requirements of an order made against a person under section 502.

### Part 5 – Enforceable undertakings

Entity power given to	Section of ENPA	Description
Administering Authority	507(1)	Power to accept an enforceable undertaking.
Administering Authority	507(3)	Power to give written notice of: <p>(a) administering authority's decision to accept or reject the enforceable undertaking; and</p> <p>(b) the reasons for the decision.</p>
Administering Authority	507(4)	Power to form a reasonable belief that the undertaking will: <p>(a) secure compliance with the Act; and</p> <p>(b) enhance the protection of the environment.</p>
Administering Authority	509(1)	Power to give written agreement to: <p>(a) withdraw the undertaking; or</p> <p>(b) vary the undertaking.</p>
Administering Authority	510	Power to amend an enforceable undertaking with the written agreement of the person who made the undertaking.
Administering Authority	511	Power to: <p>(a) amend an enforceable undertaking to correct a clerical or formal error; and</p> <p>(b) give written notice of the amendment to the enforceable undertaking.</p>

Administering Authority	512(1)	Power to amend or suspend an enforceable undertaking if the administering authority is satisfied of the requirements in paragraphs (a) – (d).
Administering Authority	512(2)	Power to give a notice stating proposed action in respect of the enforceable undertaking.
Administering Authority	512(4)	Power to consider written representations.
Administering Authority	512(5)	Power to decide to take action under the section.
Administering Authority	512(6)	Power to give an information notice about the decision within 10 business days after making the decision.
Administering Authority	512(7)	Power to give written notice of a decision not to take action.
Administering Authority	513(2)	Power to apply to the Magistrates Court for an order about contravention of enforceable undertaking.

## CHAPTER 11 – ADMINISTRATION

### Part 2 – Delegations

Entity power given to	Section of ENPA	Description
Chief Executive Officer (both as Chief Executive Officer and as Administering Executive)	517(2)	Power to delegate their powers under this Act to an appropriately qualified employee of the local government.

### Part 3 – Review of decisions and appeals

#### Division 2 – Internal review of decisions

Entity power given to	Section of ENPA	Description
Administering Authority	521(2)(a)(ii)	In specified circumstances, the power to allow a longer period within which an application for a review of an original decision must be made.
Administering Authority	521(5)	In specified circumstances, the power to, within the decision period for a review of an original decision: <ul style="list-style-type: none"> <li>(a) review the original decision; and</li> <li>(b) consider any submissions properly made by a recipient of a review notice; and</li> <li>(c) make a decision (the <b>review decision</b>) to: <ul style="list-style-type: none"> <li>(i) confirm or revoke the original decision; or</li> <li>(ii) vary the original decision in a way considered appropriate.</li> </ul> </li> </ul>
Administering Authority	521(8)	Within 10 business days after making a review decision, the power to give written notice of the review decision to the applicant and persons who were given notice of the original decision.

## **Division 3 – Appeals**

### ***Subdivision 2 – Appeals to court***

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Dissatisfied person	531(1)	In certain circumstances, power to may appeal against the decision to the Court.

## **Part 4 – General**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Executive	544(1)	Power to approve forms.

## **CHAPTER 12 – MISCELLANEOUS**

### **Part 3A – Auditors**

#### **Division 1 – Preliminary**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Auditor	568	Power to, subject to the terms of an approval under division 2: (a) conduct environmental audits and prepare environmental reports about audits under chapter 7, part 2, division 2; and (b) evaluate site investigation reports, validation reports, draft site management plans and draft amendments of site management plans prepared under chapter 7, part 8 against criteria prescribed under a regulation (the prescribed criteria) and: (i) if the report or plan does not comply with the prescribed criteria—prepare a report about the evaluation; or (ii) if the report or plan complies with the prescribed criteria—provide written certification that it complies with the criteria; and (c) audit or evaluate another matter or thing prescribed under a regulation and prepare a report or written certification about the audit or evaluation.

## **CHAPTER 13 – SAVINGS, TRANSITIONAL AND RELATED PROVISIONS**

### **Part 5 – Transitional provisions for Environmental Protection Legislation Amendment Act 2003**

<b>Entity power given to</b>	<b>Section of ENPA</b>	<b>Description</b>
Administering Authority	620(2)	In the specified circumstances, the power to change or cancel a condition of an environmental authority.
Administering Authority	620(5)(b)	In the specified circumstances, if a condition has changed or cancelled, the power to, within the specified time period, give the registered operator:

		<p>(i) a copy of the development conditions as applying after the change or cancellation; and</p> <p>(ii) a registration certificate.</p>
Administering Authority	621(1)	<p>Power to, for an activity being carried out under an environmental authority mentioned in section 619(1) of the Environmental Protection Act 1994, give to the person carrying out the activity:</p> <p>(a) if the activity was carried out at 1 location - a development approval for the location; or</p> <p>(b) if the activity was carried at more than 1 location and is not a mobile and temporary environmentally relevant activity - a development approval for each location; or</p> <p>(c) if the activity is a mobile and temporary environmentally relevant activity - a development approval for a mobile and temporary environmentally relevant activity.</p>
Administering Authority	621(2)	If the person carrying out the activity does not have a registration certificate for the activity, the power to also give the person a registration certificate for the activity.
Administering Authority	621(4)	If you act under section 621(1) or (2) of the Environmental Protection Act 1994, the power to give the person carrying out the activity an information notice about your decision to give the approval or approval and certificate.
Administering Authority	623(2)	In specified circumstances, the power to give a registered operator a notice stating that you are satisfied that the risk of environmental harm from carrying out the activity is no longer insignificant.
Administering Authority	626(3)(a)	In specified circumstances, the power to, by written notice, ask an applicant to give a stated document or information relevant to an application.

**Part 6 – Transitional provisions for Petroleum and Other Legislation Amendment Act 2004**

Entity power given to	Section of ENPA	Description
Administering Authority	634(1)	In specified circumstances, the power to amend a condition about financial assurance imposed under Part 7, Chapter 13 of the Environmental Protection Act 1994 to require the giving of replacement financial assurance, in a form and amount decided by you.

**Part 17 – Transitional provisions for the Environmental Protection and Other Legislation Amendment Act 2011**

Entity power given to	Section of ENPA	Description
Administering Authority	671(2)	Power to consider, or continue to consider, the draft transitional environment program and decide whether to approve an existing draft transitional environment program under the unamended Act.

**Part 18 –**

**Transitional provisions for Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012**

**Division 5 – Transitional authorities for environmentally relevant activities**

Entity power given to	Section of ENPA	Description
Administering Authority	697(1)	Power to decide whether to approve the application or refuse the application.
Administering Authority	698(1)	In certain circumstances, power to: (a) amend the environmental authority to give effect to the conversion; and (b) issue the amended environmental authority to the applicant.
Administering Authority	698(2)	In certain circumstances, power to give the applicant an information notice about the decision.

**Division 5A – Suspended activities**

Entity power given to	Section of ENPA	Description
Administering Authority	698B	Power to approve an application to convert the surrendered registration certificate to an environmental authority that has been suspended under chapter 5, part 11A (a <b>conversion application</b> ).

**Division 6 – Financial assurance**

Entity power given to	Section of ENPA	Description
Administering Authority	699(4)	Power to amend the environmental authority to impose a condition about financial assurance.
Administering Authority	699(5)	Power to give written notice of the amendment.

**Division 8 – Provisions about environmental management plans**

Entity power given to	Section of ENPA	Description
Administering Authority	701(2)	Power to amend the new authority to impose conditions consistent with the environmental management plan.



## **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.

[2019 12 09 - ENPA - Sub-Delegation Instrument]

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

11. Delegated powers must be read in the context of other powers and subject to conditions stipulated therein;
12. 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;
13. Any decisions must be made within the financial delegation of the delegate;
14. 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;
15. 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;
16. 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;
17. Any power that is not delegable under a Local Government Act or Regulation, shall not be delegable under this instrument;
18. All delegations are subject to conditions imposed in the original delegation to CEO contained in the Instrument of Delegations of Local Government;

- 19.** Whilst exercising a power, the delegate may take into account Ailan Kastom (section 9(3) LGA 2009); and
- 20.** 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.

# **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)	Power to consider the relevant activity will, or may, have a residual impact.

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.
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## 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.

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<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.

[2020 09 25 - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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

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
Assessment Manager or Referral Agency	21(4)	Power to consider the specified benchmarks under section 22(2).				

## 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
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> <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>				

<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>(iii) quality objectives;</li> <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>				
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</li> </ul>				

		<p>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**

<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>
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 the relevant activity will, or may, have a residual impact.				
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**

<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.				
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	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
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>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.				
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.				

<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.				
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.				

### 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.				
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**

<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.				
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**

<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.				
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

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
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.	N/A			

[2020 09 25 - ENPR - Delegation Table]



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

**Bruce Ranga**  
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 the relevant activity will, or may, have a residual impact.
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**

<b>Entity power given to</b>	<b>Section of ENPR</b>	<b>Description</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.
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**

<b>Entity power given to</b>	<b>Section of ENPR</b>	<b>Description</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.
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.
Local Government	104(2)(a) (ii)	Power to require an imperviously paved area where all waste containers can be placed to be drained.

<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).

### 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.

[2020 09 25 - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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.

# **INSTRUMENT OF DELEGATION**

## **Torres Strait Island Regional Council** ***Heavy Vehicle National Law (Queensland) ("HVNL")***

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.

**Heavy Vehicle National Law (Queensland) ("HVNL")****CHAPTER 4 – VEHICLE OPERATIONS – MASS, DIMENSION AND LOADING****Part 4.5 – Exemptions for particular overmass or oversize vehicles****Division 3 – Exemptions by permit**

Entity power given to	Section of HVNL	Description
Relevant Road Manager	124(1)(b)	Power to consent to the grant of an exemption.

**Part 4.6 – Restricting access to roads by large vehicles that are not overmass or oversize vehicles****Division 3 – Authorisation by Commonwealth Gazette notice**

Entity power given to	Section of HVNL	Description
Relevant Road Manager	139(1)(b)	Power to consent to a grant for an authorisation.

**Division 4 – Authorisation by permit**

Entity power given to	Section of HVNL	Description
Relevant Road Manager	145(1)(b)	Power to consent to a grant under this section.

**Part 4.7 – Particular provision about mass or dimensions authority****Division 2 – Obtaining consent of a relevant road manager**

Entity power given to	Section of HVNL	Description
Road Manager	156(1)	Power to decide to give consent within the time specified and agree to a longer period for providing consent.
Road Manager	156(2)(b)	Power to ask the Regulator for a longer period under subsection 156(1)(b) and power to consider a route assessment is necessary for deciding whether or not to give the consent under section 156(1).
Local Government Authority	156(2)(c)	Power to be consulted about a Road Manager's decision to grant consent to the grant of a mass or dimension authority.
Road Manager	156(3)	Power to decide not to give consent to the grant of a mass or dimension authority and power to be satisfied of the things stated in section 156(3)(a) and (b).
Relevant Road Manager	156(6)	Power to give the Regulator a written statement that explains the Road Manager's decision and complies with section 172.
Road Manager	158(4)(c)	Power to decide not to give the consent on the ground that the consent would be inoperative.
Road Manager	158(4)(d)	Power to decide to give the consent but the consent is inoperative without the other entity's approval.

Road Manager	159(2)	Power to notify the Regulator of the things stated in section 159(2)(a) and (b).
Relevant Road Manager	160(1)	Power to consent to the grant of a mass or dimension authority subject to the specified conditions.
Relevant Road Manager	160(2)(a)	Power to give the regulator a written statement that explains the road manager's decision to give consent to the grant of the authority, subject to the condition and complies with section 172.
Relevant Road Manager	161(1)	Power to consent to the grant of an authority subject to conditions.
Relevant Road Manager	161(2)	Power to give a Regulator a written statement that explains the Road Manager's decision to consent to the grant of an authority subject to conditions which complies with section 172.
Relevant Road Manager	162(1)	Power to ask the Regulator to impose stated vehicle conditions on an authority.
Relevant Road Manager	167(2)(b)	Power to give the Regulator a Notice of Objection to the application under section 167 to a proposed replacement authority within the time specified.
Relevant Road Manager	167(3)	Power to give written notice to the Regulator that the Road Manager gives or refuses consent.
Relevant Road Manager	169(1)	Power to give consent to the grant of a mass or dimension authority for a trial period as set in that section.

### **Division 3 – Amendment, cancellation or suspension of mass or dimension authority granting by Commonwealth Gazette Notice**

<b>Entity power given to</b>	<b>Section of HVNL</b>	<b>Description</b>
Relevant Road Manager	174(1)	Power to be satisfied the use of heavy vehicles on a road under the Authority in the circumstances set out in section 174(1)(a) – (c).
Relevant Road Manager	174(2)	Power to ask the Regulator about the matters stated in section 174(2)(a)(ia) – (iii) and (2)(b).

### **Division 4 – Amendment, cancellation or suspension of mass or dimension authority granted by permit**

<b>Entity power given to</b>	<b>Section of HVNL</b>	<b>Description</b>
Relevant Road Manager	178(1)	Power to be satisfied the use of heavy vehicles on a road under the Authority will do the things stated in section 178(1)(a) – (c).
Relevant Road Manager	178(2)	Power to ask the Regulator about the things stated in section 178(2)(a) and (b).

## **CHAPTER 10 – SANCTIONS AND PROVISIONS ABOUT LIABILITY FOR OFFENCES**

### **Part 10.1 – Formal warnings**

<b>Entity power given to</b>	<b>Section of HVNL</b>	<b>Description</b>
Person	590A(2)	Power to provide undertaking to the Regulator or an authorised officer (the promisee) in relation to a contravention or alleged contravention of the Law.

Person	590C(1)	Power to at any time, with the written agreement of the promisee to withdraw the undertaking or change the undertaking.
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**Part 10.4 – Provisions about liability**

Entity power given to	Section of HVNL	Description
Person	632(A)(4)	Power to introduce evidence of complying with this Law in a way that differs from the code but that provides a standard of safety or protection equivalent to or higher than the standard required in the code.

**CHAPTER 11 – REVIEWS AND APPEALS**

**Part 11.2 – Internal review**

Entity power given to	Section of HVNL	Description
Reviewer	664(2)	Power to conduct the review as set out in section 664(2).
Reviewer	664(3)	Power to give an applicant a reasonable opportunity to make written or oral representations to the Reviewer.
Reviewer	645(1)	Power to make a review decision.
Reviewer	645(5)	Power to give the Regulator notice of a review decision stating the decision and the reasons for the decision.
Road Manager	645(6)(ii)	Power to agree with the Regulator to a longer period for a review of a reviewable decision.

## **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.

[2019 09 12 - HVNL - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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 HEAVY VEHICLE NATIONAL LAW (QUEENSLAND) ("HVNL")

## CHAPTER 4 – VEHICLE OPERATIONS – MASS, DIMENSION AND LOADING

### Part 4.5 – Exemptions for particular overmass or oversize vehicles

#### Division 3 – Exemptions by permit

Entity power given to	Section of HVNL	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Relevant Road Manager	124(1)(b)	Power to consent to the grant of an exemption.				

### Part 4.6 – Restricting access to roads by large vehicles that are not overmass or oversize vehicles

#### Division 3 – Authorisation by Commonwealth Gazette notice

Entity power given to	Section of HVNL	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Relevant Road Manager	139(1)(b)	Power to consent to a grant for an authorisation.				

#### Division 4 – Authorisation by permit

Entity power given to	Section of HVNL	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Relevant Road Manager	145(1)(b)	Power to consent to a grant under this section.				

#### Part 4.7 – Particular provision about mass or dimensions authority

#### Division 2 – Obtaining consent of a relevant road manager

Entity power given to	Section of HVNL	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Road Manager	156(1)	Power to decide to give consent within the time specified and agree to a longer period for providing consent.				
Road Manager	156(2)(b)	Power to ask the Regulator for a longer period under subsection 156(1)(b) and power to consider a route assessment is necessary for deciding whether or not to give the consent under section 156(1).				
Local Government Authority	156(2)(c)	Power to be consulted about a Road Manager's decision to grant consent to the grant of a mass or dimension authority.				
Road Manager	156(3)	Power to decide not to give consent to the grant of a mass or dimension authority and power to be satisfied of the things stated in section 156(3)(a) and (b).				
Relevant Road Manager	156(6)	Power to give the Regulator a written statement that explains the Road Manager's decision and complies with section 172.				

Road Manager	158(4)(c)	Power to decide not to give the consent on the ground that the consent would be inoperative.				
Road Manager	158(4)(d)	Power to decide to give the consent but the consent is inoperative without the other entity's approval.				
Road Manager	159(2)	Power to notify the Regulator of the things stated in section 159(2)(a) and (b).				
Relevant Road Manager	160(1)	Power to consent to the grant of a mass or dimension authority subject to the specified conditions.				
Relevant Road Manager	160(2)(a)	Power to give the regulator a written statement that explains the road manager's decision to give consent to the grant of the authority, subject to the condition and complies with section 172.				
Relevant Road Manager	161(1)	Power to consent to the grant of an authority subject to conditions.				
Relevant Road Manager	161(2)	Power to give a Regulator a written statement that explains the Road Manager's decision to consent to the grant of an authority subject to conditions which complies with section 172.				
Relevant Road Manager	162(1)	Power to ask the Regulator to impose stated vehicle conditions on an authority.				
Relevant Road Manager	167(2)(b)	Power to give the Regulator a Notice of Objection to the application under section 167 to a proposed replacement authority within the time specified.				
Relevant Road Manager	167(3)	Power to give written notice to the Regulator that the Road Manager gives or refuses consent.				

Relevant Road Manager	169(1)	Power to give consent to the grant of a mass or dimension authority for a trial period as set in that section.				
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**Division 3 – Amendment, cancellation or suspension of mass or dimension authority granting by Commonwealth Gazette Notice**

Entity power given to	Section of HVNL	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Relevant Road Manager	174(1)	Power to be satisfied the use of heavy vehicles on a road under the Authority in the circumstances set out in section 174(1)(a) – (c).				
Relevant Road Manager	174(2)	Power to ask the Regulator about the matters stated in section 174(2)(a)(ia) – (iii) and (2)(b).				

**Division 4 – Amendment, cancellation or suspension of mass or dimension authority granted by permit**

Entity power given to	Section of HVNL	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Relevant Road Manager	178(1)	Power to be satisfied the use of heavy vehicles on a road under the Authority will do the things stated in section 178(1)(a) –(c).				
Relevant Road Manager	178(2)	Power to ask the Regulator about the things stated in section 178(2)(a) and (b).				

## CHAPTER 10 – SANCTIONS AND PROVISIONS ABOUT LIABILITY FOR OFFENCES

### Part 10.1 – Formal warnings

Entity power given to	Section of HVNL	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Person	590A(2)	Power to provide undertaking to the Regulator or an authorised officer (the promisee) in relation to a contravention or alleged contravention of the Law.				
Person	590C(1)	Power to at any time, with the written agreement of the promisee to withdraw the undertaking or change the undertaking.				

### Part 10.4 – Provisions about liability

Entity power given to	Section of HVNL	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Person	632(A)(4)	Power to introduce evidence of complying with this Law in a way that differs from the code but that provides a standard of safety or protection equivalent to or higher than the standard required in the code.				

## CHAPTER 11 – REVIEWS AND APPEALS

### Part 11.2 – Internal review

Entity power given to	Section of HVNL	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Reviewer	664(2)	Power to conduct the review as set out in section 664(2).				
Reviewer	664(3)	Power to give an applicant a reasonable opportunity to make written or oral representations to the Reviewer.				
Reviewer	645(1)	Power to make a review decision.				
Reviewer	645(5)	Power to give the Regulator notice of a review decision stating the decision and the reasons for the decision.				
Road Manager	645(6)(ii)	Power to agree with the Regulator to a longer period for a review of a reviewable decision.				

[2019 09 12 - HVNL - Delegation Table]

**Torres Strait Island Regional Council**  
***Heavy Vehicle National Law (Queensland) ("HVNL")***

**Bruce Ranga**  
Chief Executive Officer  
**Torres Strait Island Regional Council**

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



## POWERS SUB-DELEGATED

### *Heavy Vehicle National Law (Queensland) ("HVNL")*

#### CHAPTER 4 – VEHICLE OPERATIONS – MASS, DIMENSION AND LOADING

##### Part 4.5 – Exemptions for particular overmass or oversize vehicles

###### Division 3 – Exemptions by permit

Entity power given to	Section of HVNL	Description
Relevant Road Manager	124(1)(b)	Power to consent to the grant of an exemption.

##### Part 4.6 – Restricting access to roads by large vehicles that are not overmass or oversize vehicles

###### Division 3 – Authorisation by Commonwealth Gazette notice

Entity power given to	Section of HVNL	Description
Relevant Road Manager	139(1)(b)	Power to consent to a grant for an authorisation.

###### Division 4 – Authorisation by permit

Entity power given to	Section of HVNL	Description
Relevant Road Manager	145(1)(b)	Power to consent to a grant under this section.

##### Part 4.7 – Particular provision about mass or dimensions authority

###### Division 2 – Obtaining consent of a relevant road manager

Entity power given to	Section of HVNL	Description
Road Manager	156(1)	Power to decide to give consent within the time specified and agree to a longer period for providing consent.
Road Manager	156(2)(b)	Power to ask the Regulator for a longer period under subsection 156(1)(b) and power to consider a route assessment is necessary for deciding whether or not to give the consent under section 156(1).
Local Government Authority	156(2)(c)	Power to be consulted about a Road Manager's decision to grant consent to the grant of a mass or dimension authority.
Road Manager	156(3)	Power to decide not to give consent to the grant of a mass or dimension authority and power to be satisfied of the things stated in section 156(3)(a) and (b).
Relevant Road Manager	156(6)	Power to give the Regulator a written statement that explains the Road Manager's decision and complies with section 172.
Road Manager	158(4)(c)	Power to decide not to give the consent on the ground that the consent would be inoperative.

Road Manager	158(4)(d)	Power to decide to give the consent but the consent is inoperative without the other entity's approval.
Road Manager	159(2)	Power to notify the Regulator of the things stated in section 159(2)(a) and (b).
Relevant Road Manager	160(1)	Power to consent to the grant of a mass or dimension authority subject to the specified conditions.
Relevant Road Manager	160(2)(a)	Power to give the regulator a written statement that explains the road manager's decision to give consent to the grant of the authority, subject to the condition and complies with section 172.
Relevant Road Manager	161(1)	Power to consent to the grant of an authority subject to conditions.
Relevant Road Manager	161(2)	Power to give a Regulator a written statement that explains the Road Manager's decision to consent to the grant of an authority subject to conditions which complies with section 172.
Relevant Road Manager	162(1)	Power to ask the Regulator to impose stated vehicle conditions on an authority.
Relevant Road Manager	167(2)(b)	Power to give the Regulator a Notice of Objection to the application under section 167 to a proposed replacement authority within the time specified.
Relevant Road Manager	167(3)	Power to give written notice to the Regulator that the Road Manager gives or refuses consent.
Relevant Road Manager	169(1)	Power to give consent to the grant of a mass or dimension authority for a trial period as set in that section.

### **Division 3 – Amendment, cancellation or suspension of mass or dimension authority granting by Commonwealth Gazette Notice**

<b>Entity power given to</b>	<b>Section of HVNL</b>	<b>Description</b>
Relevant Road Manager	174(1)	Power to be satisfied the use of heavy vehicles on a road under the Authority in the circumstances set out in section 174(1)(a) – (c).
Relevant Road Manager	174(2)	Power to ask the Regulator about the matters stated in section 174(2)(a)(ia) – (iii) and (2)(b).

### **Division 4 – Amendment, cancellation or suspension of mass or dimension authority granted by permit**

<b>Entity power given to</b>	<b>Section of HVNL</b>	<b>Description</b>
Relevant Road Manager	178(1)	Power to be satisfied the use of heavy vehicles on a road under the Authority will do the things stated in section 178(1)(a) –(c).
Relevant Road Manager	178(2)	Power to ask the Regulator about the things stated in section 178(2)(a) and (b).

## CHAPTER 10 – SANCTIONS AND PROVISIONS ABOUT LIABILITY FOR OFFENCES

### Part 10.1 – Formal warnings

Entity power given to	Section of HVNL	Description
Person	590A(2)	Power to provide undertaking to the Regulator or an authorised officer (the promisee) in relation to a contravention or alleged contravention of the Law.
Person	590C(1)	Power to at any time, with the written agreement of the promisee to withdraw the undertaking or change the undertaking.

### Part 10.4 – Provisions about liability

Entity power given to	Section of HVNL	Description
Person	632(A)(4)	Power to introduce evidence of complying with this Law in a way that differs from the code but that provides a standard of safety or protection equivalent to or higher than the standard required in the code.

## CHAPTER 11 – REVIEWS AND APPEALS

### Part 11.2 – Internal review

Entity power given to	Section of HVNL	Description
Reviewer	664(2)	Power to conduct the review as set out in section 664(2).
Reviewer	664(3)	Power to give an applicant a reasonable opportunity to make written or oral representations to the Reviewer.
Reviewer	645(1)	Power to make a review decision.
Reviewer	645(5)	Power to give the Regulator notice of a review decision stating the decision and the reasons for the decision.
Road Manager	645(6)(ii)	Power to agree with the Regulator to a longer period for a review of a reviewable decision.

## **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.

[2019 09 12 - HVNL - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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.

# **INSTRUMENT OF DELEGATION**

## **Torres Strait Island Regional Council**

### ***Heavy Vehicle (Mass, Dimension and Loading) National Regulation ("HVNR")***

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.

**Heavy Vehicle (Mass, Dimension and Loading) National Regulation ("HVNR")****Part 2 – Mass requirements****Division 3 – Additional provisions relating to a higher mass limits****Subdivision 1 – HML declarations**

Entity power given to	Section of HVNR	Description
Relevant Road Manager	13(1)(b)	Power to consent to the making of the declaration.
Relevant Road Manager	13(3)	Power to consent to the declarations subject to conditions.
Relevant Road Manager	13(4)	Power to give the Regulator written reasons for the Road Manager's decision to give consent to the making of the declaration subject to the conditions.
Relevant Road Manager	18(1)	Power to be satisfied of the matters stated in section 18(1)(a) to (c).
Road Manager	18(2)(a)	In certain circumstances, power to ask the Regulator to amend the declaration.
Road Manager	18(2)(b)	In certain circumstances, power to ask the Regulator to cancel a declaration.

**Subdivision 2 – HML permits**

Entity power given to	Section of HVNR	Description
Relevant Road Manager	24(1)(a)	Power to require road conditions or travel conditions be imposed for a HML permit.
Relevant Road Manager	29(4)(c)	Power to be consulted by the Regulator about giving consent to an amendment of a HML permit and power to consent to an amendment of the HML permit.
Relevant Road Manager	31(1)	Power to be satisfied of the matters stated in section 31(1)(a) to (c).
Relevant Road Manager	31(2)(a)	Power to ask the Regulator to amend the HML permit in certain circumstances.
Relevant Road Manager	31(2)(b)	In certain circumstances, power to ask the Regulator to cancel a HML permit.

**Part 5 – Exemptions for particular overmass or oversize vehicles****Division 2 – Declaration of areas, roads and routes and major roads**

Entity power given to	Section of HVNR	Description
Relevant Road Manager	41(1)	Power to consent to a declaration made under section 40.

## **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.

[2018 07 01 - HVNR - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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 HEAVY VEHICLE (MASS, DIMENSION AND LOADING) NATIONAL REGULATION ("HVNR")

## Part 2 – Mass requirements

### Division 3 – Additional provisions relating to a higher mass limits

#### *Subdivision 1 – HML declarations*

Entity power given to	Section of HVNR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Relevant Road Manager	13(1)(b)	Power to consent to the making of the declaration.				
Relevant Road Manager	13(3)	Power to consent to the declarations subject to conditions.				
Relevant Road Manager	13(4)	Power to give the Regulator written reasons for the Road Manager's decision to give consent to the making of the declaration subject to the conditions.				
Relevant Road Manager	18(1)	Power to be satisfied of the matters stated in section 18(1)(a) to (c).				
Road Manager	18(2)(a)	In certain circumstances, power to ask the Regulator to amend the declaration.				
Road Manager	18(2)(b)	In certain circumstances, power to ask the Regulator to cancel a declaration.				

***Subdivision 2 – HML permits***

<b>Entity power given to</b>	<b>Section of HVNR</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>
Relevant Road Manager	24(1)(a)	Power to require road conditions or travel conditions be imposed for a HML permit.				
Relevant Road Manager	29(4)(c)	Power to be consulted by the Regulator about giving consent to an amendment of a HML permit and power to consent to an amendment of the HML permit.				
Relevant Road Manager	31(1)	Power to be satisfied of the matters stated in section 31(1)(a) to (c).				
Relevant Road Manager	31(2)(a)	Power to ask the Regulator to amend the HML permit in certain circumstances.				
Relevant Road Manager	31(2)(b)	In certain circumstances, power to ask the Regulator to cancel a HML permit.				

**Part 5 – Exemptions for particular overmass or oversize vehicles**

**Division 2 – Declaration of areas, roads and routes and major roads**

<b>Entity power given to</b>	<b>Section of HVNR</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>
Relevant Road Manager	41(1)	Power to consent to a declaration made under section 40.				

[2018 07 01 - HVNR - Delegation Table]

## INSTRUMENT OF SUB-DELEGATION

# Torres Strait Island Regional Council

## Heavy Vehicle (Mass, Dimension and Loading) National Regulation ("HVNR")

Under section 259 of the *Local Government Act 2009*, I, **Bruce Ranga**, Chief Executive Officer of **Torres Strait Island Regional Council**, delegate to those positions which are specified in Schedule 1, the exercise of the powers contained in Schedule 2.

These powers must be exercised subject to the limitations contained in Schedule 3.

This Instrument of Sub-Delegation repeals all prior Instruments sub-delegating to the positions specified in Schedule 1 the exercise of the powers contained in Schedule 2.

My authority to make these sub-delegations is conferred by the *Local Government Act 2009* and the resolution of **Torres Strait Island Regional Council** made on **Insert date** to delegate those powers to the Chief Executive Officer.

**DATED** this                      day of                      2020.

**Bruce Ranga**  
Chief Executive Officer  
**Torres Strait Island Regional Council**

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

## POWERS SUB-DELEGATED

### *Heavy Vehicle (Mass, Dimension and Loading) National Regulation ("HVNR")*

#### Part 2 – Mass requirements

#### Division 3 – Additional provisions relating to a higher mass limits

##### *Subdivision 1 – HML declarations*

Entity power given to	Section of HVNR	Description
Relevant Road Manager	13(1)(b)	Power to consent to the making of the declaration.
Relevant Road Manager	13(3)	Power to consent to the declarations subject to conditions.
Relevant Road Manager	13(4)	Power to give the Regulator written reasons for the Road Manager's decision to give consent to the making of the declaration subject to the conditions.
Relevant Road Manager	18(1)	Power to be satisfied of the matters stated in section 18(1)(a) to (c).
Road Manager	18(2)(a)	In certain circumstances, power to ask the Regulator to amend the declaration.
Road Manager	18(2)(b)	In certain circumstances, power to ask the Regulator to cancel a declaration.

##### *Subdivision 2 – HML permits*

Entity power given to	Section of HVNR	Description
Relevant Road Manager	24(1)(a)	Power to require road conditions or travel conditions be imposed for a HML permit.
Relevant Road Manager	29(4)(c)	Power to be consulted by the Regulator about giving consent to an amendment of a HML permit and power to consent to an amendment of the HML permit.
Relevant Road Manager	31(1)	Power to be satisfied of the matters stated in section 31(1)(a) to (c).
Relevant Road Manager	31(2)(a)	Power to ask the Regulator to amend the HML permit in certain circumstances.
Relevant Road Manager	31(2)(b)	In certain circumstances, power to ask the Regulator to cancel a HML permit.

#### Part 5 – Exemptions for particular overmass or oversize vehicles

#### Division 2 – Declaration of areas, roads and routes and major roads

Entity power given to	Section of HVNR	Description
Relevant Road Manager	41(1)	Power to consent to a declaration made under section 40.





## **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.

[2018 07 01 - HVNR - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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.

# **INSTRUMENT OF DELEGATION**

## **Torres Strait Island Regional Council** ***Land Act 1994 ("LANA")***

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.

**Land Act 1994 ("LANA")****CHAPTER 1 – PRELIMINARY****Part 4 – Tidal and non-tidal boundaries and associated matters**

Entity power given to	Section of LANA	Description
Registered Owner	12(3)	Power to suitably indicate where the boundaries of land are across a surface of water.
Registered Owner	12(4)	Power to regulate or prohibit the use or movement of ships in or over water above inundated land.
Owner who may take water under the <i>Water Act 2000</i> , section 96	13A(4)	Power to, in certain circumstances: (a) exercise a right of access for the owner, the owner's family, executive officers, employees, agents and stock over the adjacent area of the watercourse or lake that is the property of the State that adjoins the owner's land; and (b) exercise a right of grazing for the person's stock over the adjacent area; and (c) bring an action against a person who trespasses on the adjacent area.
Adjacent Owner	13AC(1)(a)	In certain circumstances, power to consent to the dedication of a reserve.
Applicant	13B(1)	In certain circumstances, power to apply to the Chief Executive to have watercourse land adjoining the relevant land's non-tidal boundary declared to be former watercourse land.
Applicant	13B(2)	Power to give notice of a person's intention to make the application.
Applicant	13B(6)	Power to appeal against the refusal of the application.

**CHAPTER 2 – LAND ALLOCATION****Part 1 – Allocation powers**

Entity power given to	Section of LANA	Description
Registered Owner	18(1)	Power to reach agreement with the Governor in Council to grant unallocated State land in exchange for all or part of freehold land.
Lessee of a freeholding lease	18(2)	Power to reach agreement with the Governor in Council to grant a freeholding lease in exchange for all or part of a freeholding lease.
Lessee of a term lease	18(3)	Power to enter into agreement with the Minister to lease unallocated State land.

## Part 2 – Reservations

Entity power given to	Section of LANA	Description
Person	23A(1)	Power to apply to Chief Executive for the allocation of a floating reservation.
Person	23A(6)	Power to appeal against a Chief Executive's decision.
Registered owner or lessee	24(3)	Power to apply to the Minister to buy the land.
Registered owner or lessee	25(2)	Power to appeal against the unimproved value of land.
Registered owner or Trustee	26(2)	In certain circumstances, power to agree with the Minister in respect to the specified matters when the Minister is deciding the boundaries of land being resumed.
Lessee, registered owner or trustee	26(4)	Power to appeal against the Minister's decision on the boundaries.
Lessee or registered owner	26B(8)	Power to appeal against the value decided by the Minister for the commercial timber.

## CHAPTER 3 – RESERVES, DEEDS OF GRANT IN TRUST AND ROADS

### Part 1 – Reserves and deeds of grant in trust

#### Division 2 – Reserves

Entity power given to	Section of LANA	Description
Any Person	31C(1)	Power to apply to the Minister for the dedication of a reserve.
Any Person	31C(2)	Power to give notice of the person's intention to make the application to: <ul style="list-style-type: none"> <li>(a) if the person is not the proposed trustee of the reserve - the proposed trustee; and</li> <li>(b) each person with a registered interest in the unallocated State land over which a reserve is proposed to be dedicated.</li> </ul>
Any Person	31C(3)	Power to give notice to any other person that the person considers has an interest in the unallocated State land over which the reserve is proposed to be dedicated.
Trustee of a reserve	31D(1)	Power to apply to the Minister: <ul style="list-style-type: none"> <li>(a) to change the boundaries of the reserve; or</li> <li>(b) to change the purpose for which the reserve is dedicated.</li> </ul>
Trustee of a reserve	31D(2)	Power to give notice of the trustee's intention to make the application to each person with a registered interest in the reserve.
Trustee of a reserve	31D(3)	Power to give notice to any other person the trustee considers: <ul style="list-style-type: none"> <li>(a) has an interest in the reserve; or</li> <li>(b) would have an interest in the reserve if the boundaries of the reserve or the purpose for which the reserve is dedicated were changed.</li> </ul>
Any Person	34(1)	Power to apply for the revocation of the dedication of all or part of a reserve.

Any Person	34(2)	Power to give notice of the person's intention to make the application to: (a) if the person is not the trustee of the reserve - the trustee of the reserve; and (b) each person with a registered interest in the reserve.
Any Person	34(3)	Power to give notice to any other person that the person considers has an interest in the reserve.
Local Government	34H(1)	Power to apply, in writing to the Chief Executive, to remove improvements from a revoked reserve.
Trustee of an operational reserve	34I(1)	In certain circumstances, power to apply for the issue of a deed of grant over a reserve.
Trustee of an operational reserve	34I(3)	Power to give notice of the trustee's intention to make the application to each person with a registered interest in the reserve.
Trustee of an operational reserve	34I(4)	Power to give notice to any other person the trustee considers has an interest in the reserve.

### Division 3 – Deeds of grant in trust

Entity power given to	Section of LANA	Description
Trustee of deed of grant in trust	38A(1)	Power to apply: (a) for an additional community purpose to be notified; or (b) to amalgamate land with common purposes.
Any Person	38A(2)	Power to apply for the cancellation of a deed of grant in trust.
Applicant	38A(3)	Power to give notice of the applicant's intention to apply to each of the following: (a) the trustee of the deed of grant in trust, other than the applicant (b) each person with a registered interest in the trust land.
Applicant	38A(4)	Power to give notice to any other person the applicant considers has an interest in the trust land.
Owner of improvements on a deed of grant in trust that has been cancelled	38G(1)	Power to apply, in writing to the Chief Executive, to remove the owner's improvements on a deed of grant in trust.

### Division 5 – Appointments, functions and removal of trustees

Entity power given to	Section of LANA	Description
Proposed trustee	44(4)	Power to provide written acceptance of appointment as trustee.
Trustee	48(1)(a)	Power to apply for the approval of a management plan for the trust land.
Trustee	49	In certain circumstances, power to: (a) allow the auditor general, a person mentioned in section 47(1)(a) to (d), or a person authorised by the Chief Executive of a Department, to audit the trust's financial accounts; and

		(b) help the conduct of the audit, including a disclosure of the financial institution accounts necessary for the audit.
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### Division 6 – Powers of trustee

Entity power given to	Section of LANA	Description
Trustee	52(1)	Power to take all action necessary for the maintenance and management of the trust land.
Trustee of trust land	52(5)	Power to apply for the approval of an action that is inconsistent with the purpose for which the reserve was dedicated or the land was granted in trust ( <i>inconsistent action</i> ).
Trustee	55(1)	Power to surrender all or part of a deed of grant in trust: (a) on terms agreed to between the Minister and the trustee; and (b) with the Minister's written approval.
Trustee of a deed of grant in trust	55A(1)	Power to apply to surrender all or part of a deed of grant in trust.
Trustee of a deed of grant in trust	55A(2)	Power to give notice of the trustee's intention to apply to each person with a registered interest in the deed of grant in trust.
Trustee of a deed of grant in trust	55A(3)	Power to give notice to any other person the trustee considers has an interest in the deed of grant in trust.
Owner of improvements on a deed of grant in trust that has been surrendered	55H(1)	Power to apply, in writing to the Chief Executive, to remove the owner's improvements on a surrendered deed of grant in trust.
Trustee Lessee	58(7)	Power to appeal against a decision by the Minister or Chief Executive under section 58(6)

### Division 7 – Trustee leases and trustee permits

Entity power given to	Section of LANA	Description
Trustee	66(1)	In certain circumstances, power to allow a trustee lessee or trustee permittee to remove the trustee lessee's or trustee permittee's improvements on the land within a reasonable time stated by the trustee.

### Division 10 – Cemeteries

Entity power given to	Section of LANA	Description
Local Government	82	Power to: (a) agree to have the trusteeship of a cemetery transferred; and (b) agree to conditions of the transfer of trusteeship.

### Division 11 – Other grants for public purposes

Entity power given to	Section of LANA	Description
Trustee of land granted for an estate in fee simple for some community, public or similar purpose	84(1)	In certain circumstances, power to apply to the Minister to surrender land to the State and for the issue of a deed in grant in trust under the <i>Land Act 1994</i> for a community or public purpose.

## Part 2 –

## Roads

### Division 1 – Dedicating and opening roads

Entity power given to	Section of LANA	Description
Person	94(2)	Power to apply for the dedication of a road for public use.

### Division 2 – Closing roads

Entity power given to	Section of LANA	Description
Public Utility Provider or Adjoining Owner for the road	99(1)	Power to apply for the permanent closure of a road.
Adjoining Owner for the road or, in certain circumstances, another person	99(3)	In certain circumstances, power to apply to the Minister for the temporary closure of a road.
Adjoining Owner	99(4)	Power to ask for the road, on its closure, to be amalgamated with the adjoining owner's adjoining land.
Adjoining Owner for the road	99(6)	In certain circumstances, power to ask in the application that, on the closure of the road, the road, the adjoining land and the other land be amalgamated.

### Division 4 – Permanently closed roads

Entity power given to	Section of LANA	Description
Registered Owner	109A(1)	In certain circumstances, power to apply for the simultaneous opening and closure of roads.
Registered Owner	109A(3)	Power to appeal against any conditions the Minister imposes under section 420I.
Trustee or Lessee	109B(1)	In certain circumstances, power to apply for the simultaneous opening and closure of roads.
Trustee	109B(4)	Power to appeal against any conditions the Minister imposes under section 420I.



## CHAPTER 4 – LAND HOLDINGS

### Part 1 – Making land available

Entity power given to	Section of LANA	Description
Any Person	120A(1)	Power to apply for an interest in land without competition.
Proposed Lessee	136(5)	Power to enter into a land management agreement.
Buyer or previous Lessee	140(1)	Power to negotiate the provisional value (negotiated value).
Buyer or previous Lessee	140(2)	Power to give written agreement to the negotiated value becoming the amount to be paid for the improvements.
Buyer or previous Lessee	140(4)	Power to make application to the Court to decide the value.

### Part 3 – Leases

Entity power given to	Section of LANA	Description
Lessee	154(1)	Power to apply to the Minister for a lease to be used for additional or fewer purposes.
Lessee	155A(2)	Power to apply to extend a lease.
Lessee	155B(2)	Power to apply to extend a lease.
Lessee	155BA(2)	Power to apply to extend a lease.
Lessee	155DA(4)	Power to make written submissions to the Minister.
Lessee of term lease	158(1)	Power to apply for an offer of a new lease unless the condition of the lease or the <i>Land Act 1994</i> prohibits a renewal.
Applicant	160(3)	Power to appeal against the Chief Executive's decision to refuse the renewal application if the only reason for the refusal was that the applicant had not fulfilled the conditions of the lease.
Lessee	164C(1)	Power to make an extension application.
Lessee	164C(7)	Power to appeal against the Minister's decision.
Lessee	164H(1)(b)	Power to advise the Chief Executive and agree to the lease becoming a rolling term lease.
Lessee	166(1)	Power to make a conversion application.
Applicant	168(5)	Power to appeal against the Chief Executive's decision to refuse the conversion application if the only reason for the refusal is that the applicant had not fulfilled the conditions of the lease.
Lessee	169(a)	Power to enter into a conservation agreement.
Lessee	169(b)(i)	Power to enter into a forest consent agreement in relation to the land.
Lessee	176(1)	Power to apply for approval to subdivide a lease.
Applicant	176E	In certain circumstances, power to appeal against a decision.
Lessee of two or more leases	176K(1)	In certain circumstances, power to apply for approval to amalgamate existing leases.
Applicant	176Q	In certain circumstances, power to appeal against a decision that is given to an Applicant.
Lessee	176UA(2)	Power to enter into a land management agreement.

Lessee	176XA	Power to agree with the Minister to cancel the land management agreement registered on a lease.
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#### **Part 4 – Permits to occupy particular land**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Any Person	177A(1)	Power to apply for a permit to occupy unallocated State land, a reserve or road.
Any Person	177A(2)	Power to give notice of the person's intention to apply to the following and to any other entity with a registered interest in the proposed permit land: (a) for a permit for a reserve – the trustee of the reserve; or (b) for a permit for a State-controlled road – the Chief Executive of the department in which the <i>Transport Infrastructure Act 1994</i> is administered.
Registered Owner	179(2)	In certain circumstances, power to agree with an applicant for a permit on conditions about the maintenance of a boundary fence.
Permittee	180(2)	Power to surrender a permit: (a) on terms agreed between the Chief Executive Officer and the permittee; and (b) with the Chief Executive's written approval.
Relevant entity for a permit	180A(1)	Power to apply to cancel a permit.
Relevant entity for a permit	180A(2)	Power to give notice of the entity's intention to apply to: (a) the permittee; and (b) any other entity with a registered interest in the permit land.
Relevant entity for a permit	180A(4)	Power to give notice to any other entity the relevant entity considers has an interest in the permit land.
Permittee	180A(5)	Power to apply to surrender a permit.
Permittee	180H(1)	Power to apply to the Chief Executive to remove improvements on permit land.

## **CHAPTER 5 – MATTERS AFFECTING LAND HOLDINGS**

### **Part 2 – Conditions**

#### **Division 3 – Changing and reviewing imposed conditions**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Lessee or Licensee or permittee	210(1)	Power to agree to a change of an imposed condition of the lease, licence or permit.
Lessee or Licensee or permittee	210(2)	Power to apply to change conditions of a lease, licence or permit under section 210(1).
Lessee	212(1)	Power to agree to change an imposed condition about the protection and sustainability of lease land.
Lessee	212(3)	In certain circumstances, power to appeal against a decision.

### **Division 3A – Regulated conditions**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Lessee of a lease	212B(5)	Power to agree with the designated officer for the lease about matters stated in section 212B(5)(a) and (b).

### **Division 5 – Remedial action**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Lessee	214(3)	Power to enter into an amended or a new land management agreement upon receipt of a remedial action notice.
Lessee or Licensee	214A(4)	Power to make written submissions to the Minister in response to a warning notice.
Lessee	214F(3)	Power to appeal against a decision.

## **Part 3 – Resumption and compensation**

### **Division 2 – Resumption of a lease under a condition of the lease**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Lessee	226(5)	Power to appeal against the Minister's decision.

### **Division 3 – Resumption of a reservation for a public purpose**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Owner of the improvement	232(5)	Power to appeal against the Minister's decision.

## **Part 4 – Forfeiture**

### **Division 2A – Forfeiture of leases by referral to court or for fraud**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Relevant local government	239(4)	Power to appeal against a decision under subsection (2)(b)(iv) to allow an entity other than the relevant local government to sell the lease.

### **Division 3A – Sale of lease instead of forfeiture**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Lessee	240E(1)	Power to apply, in writing, to the Chief Executive for permission to sell the lease.
Relevant Local Government	240G(1)	Power to apply to the Chief Executive for approval to sell a lease.
Local Government	240I(3)	Power to start the process of selling a lease under this subdivision within the required period stated in the notice under section 240H(2).
Local Government	240I(4)	Power to set a reserve price for the sale of the lease by auction, or a price for the sale of the lease under an agreement, that is

		at least the total of all charges owing to the State under the Land Act 1994 relating to the lease.
Lessee of a forfeited lease	243(1A)	Power to apply to remove the lessee's improvements on the lease.

## CHAPTER 6 – REGISTRATION AND DEALINGS

### Part 3 – Documents

#### Division 2 – Documents forming part of standard terms documents

Entity power given to	Section of LANA	Description
Person	321(1)	Power to ask the Chief Executive to withdraw a registered standard terms document.

### Part 4 – Dealings affecting land

#### Division 1 – Transfers

Entity power given to	Section of LANA	Description
Lessee or Licensee or the holder of a sublease	322(3)	Power to apply for approval to transfer a lease, licence or sublease.
Transferor	322(8)	Power to appeal against the Chief Executive's decision.

#### Division 2 – Surrender

Entity power given to	Section of LANA	Description
Registered Owner	327	Power to agree to terms of the absolute surrender of freehold land.
Lessee	327A	Power to agree to terms of the absolute or conditional surrender of all or part of a lease.
Registered Owner of freehold land	327B	Power to apply, in writing to the Chief Executive, to surrender freehold land.
Lessee	327C(1)	Power to apply, in writing to the Chief Executive, to surrender all or part of a lease.
Lessee	327C(2)	Power to give notice of the lessee's intention to apply to any other person with a registered interest in the lease.
Lessee	327C(3)	Power to give notice to any other person the lessee considers has an interest in the lease.
Owner of improvements on a lease that has been surrendered	327I(1)	Power to apply, in writing to the Chief Executive, to remove improvements on surrendered lease.
Any grantee of an easement or profit a prendre	330(c)	Power to give written approval to the surrender where the grantee's interests will be adversely affected.

### **Division 3 – Subleases**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Person	332(1)(a)(i)	The power to seek the Minister's written approval to the sublease.
Lessee	332(7)	Power to appeal against a Minister's decision.
Sublessor	339(1)	Power to lodge a request for the Chief Executive to register the re-entry.

### **Division 3A – Process for resolving disputes under particular subleases**

#### ***Subdivision 2 – Notice of dispute***

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Party to a sublease	339F(1)	Power to give another party to the sublease a written notice of dispute.
Responder	339G(1)	Power to give a notifier of a sublease dispute a written response to the dispute notice within the specified time.
Party to a sublease	339H(2)	Power to agree not to attempt to resolve the dispute by mediation and to submit the dispute to arbitration.

#### ***Subdivision 3 – Mediation***

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Party to a sublease	339I(1)	Power to jointly appoint a mediator to mediate the dispute.
Party to a sublease	339I(2)	Power to request a prescribed dispute resolution entity appoint a mediator.
Party to a sublease	339J(1)	Power to agree to a time for mediation
Party to a sublease	339J(2)	Power to request the mediator to set a time for the mediation.
Party to a sublease	339J(4)	Power to appoint an agent to represent the Local Government at a mediation.

#### ***Subdivision 4 – Arbitration***

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Party to a sublease	339O(1)	Power to appoint a single arbitrator to decide the dispute
Party to a sublease	339O(2)	Power to request a prescribed dispute resolution entity to appoint a single arbitrator to decide the dispute
Party to a sublease	339R(2)	Power to request an appointed expert participate in a hearing.
Party to a sublease	339U(3)(a)	Power to agree on how the costs of arbitration will be paid.

### **Division 7 – Correcting and changing deeds of grant and leases**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Registered owner or Trustee	358(1)	In certain circumstances, power to surrender land contained in a deed of grant or trustee's deed of grant in trust.

Registered owner or Trustee	358(2)	In certain circumstances, power to surrender land contained in a deed of grant or trustee's deed of grant in trust with the Minister's written approval.
Lessee or a person acting for the lessee	360C(1)	In certain circumstances, power to apply to amend the description in a freeholding lease if the description of the lease may be amended under section 360(1)(a) or (d).
Lessee or a person acting for the lessee	360C(2)	Power to apply to amend the description in a term lease or perpetual lease, other than a State lease, if the description of the lease may be amended under section 360A(2)(a), (b) or (c).
Lessee or a person acting for the lessee	360C(3)	Power to apply to amend the description in a State lease if the description of the lease may be amended under section 360B(1)(a), (b), (c) or (d).
Applicant	360D(2)	Power to give notice of the applicant's intention to apply to any other person with a registered interest in the lease land.
Applicant	360D(3)	Power to give notice to any other person the applicant considers has an interest in the lease.

### Division 8 – Easements

Entity power given to	Section of LANA	Description
Trustee	368(2)(a)	In certain circumstances, power to ask the Chief Executive to extinguish an easement.
Owner of land or public utility provider	371(2)	In certain circumstances, power to sign a document of surrender
Person who has a registered interest in the land	371(3)	Power to agree to surrender an easement.
Person	372(2)	Power to apply for the Minister's written approval to continue a public utility easement over unallocated state land.
Person	372(3)	Power to apply for the Minister's written approval to continue a public utility easement over a reserve.

### Division 8A – Covenants

Entity power given to	Section of LANA	Description
Local Government as Covenantee	373A(1)	Power to make certain non-freehold land the subject of a covenant.
The trustee of trust land, the lessee of lease land or the sublessee of subleased land.	373A(2)	Power to consent to a document creating a covenant.
Person	373B(1)(a)	Power to sign a document creating a covenant.
Person	373C(2)(a)	Power to sign a document amending the covenant.
Covenantee	373D(2)	Power to sign a document releasing the covenant.

### **Division 8B – Profits a prendre**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Lessee	373L(a)	Power to ask the Chief Executive to extinguish the profit a prendre.

### **Division 11A – Caveats**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Caveatee	389H(1)	Power to apply to the Supreme Court for an order that a caveat lodged under this division be removed.

## **CHAPTER 7 – GENERAL**

### **Part 2 – Unlawful occupation of non-freehold and trust land**

#### **Division 3 – Action by lessee, licensee, permittee or trustee**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Trustee or Lessee or Licensee or Permittee	415(1)	In certain circumstances, power to start a proceeding in the Magistrates Court.

#### **Division 4 – Court matters**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Party	420	Power to appeal to the District Court on a question of law if dissatisfied with a trespass order.

### **Part 2A – General provisions for applications**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Entity	420CB(1)	Power to make a submission against the proposed application to: (a) the person who gave the entity the notice; or (b) the Chief Executive.

### **Part 3 – Review of decisions and appeals**

#### **Division 2 – Internal review of decisions**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Person who has a right of appeal against an original decision	423	Power to apply to the Minister for a review of the decision.
Applicant	425(1)	Power to apply for a stay of the decision to the Court.

### Division 3 – Appeals

Entity power given to	Section of LANA	Description
A person who has applied for the review of a decision under division 2	427	Power to appeal to the Court if dissatisfied with the review decision.

### Part 3B – Making land available for public use as beach

Entity power given to	Section of LANA	Description
Local Government	431V(3)	Power to consult with the owner of the lot.
Manager	431W(6)(a)	Power to authorise an officer or employee of the manager of a declared beach area, to enter the area at any time without notice to any other person.
Manager	431X(1)(b)(ii)	Power to authorise or direct a person acting in the performance of functions or powers.

### Part 4 – Miscellaneous

Entity power given to	Section of LANA	Description
Offeree	442(4)	In certain circumstances, power to apply to the person who made the offer to extend the time stated in the offer or that otherwise applies under subsection (1).
Offeror	442(9)	Power to amend the offer by changing the price or premium to a price or premium decided by the offeror in the way prescribed by regulation.

## CHAPTER 8 – CONTINUED RIGHTS AND TENURES

### Part 5 – Licences and permits

#### Division 1 – Occupation licences

Entity power given to	Section of LANA	Description
Licensee	481A	Power to surrender, absolutely, all or part of an occupation licence: (a) on terms agreed to between the Minister and the licensee; (b) and with the Minister's written approval.
Public Utility Provider (an <b>applicant</b> )	481B(1)	Power to apply to cancel all or part of an occupation licence.
Licensee (an <b>applicant</b> )	481B(3)	Power to apply to surrender, absolutely, all or part of an occupation licence.
Applicant	481B(4)	Power to give notice of the applicant's intention to apply to each of the following: (a) if the applicant is not the licensee of the occupation licence – the licensee;



		<p>(b) any other person with a registered interest in the occupation licence;</p> <p>(c) if the occupation licence is a designated occupation licence – the Chief Executive of the department having responsibility for the administration of the forest reserve, national park, State forest or timber reserve the subject of the designated occupation licence.</p>
Applicant	481B(5)	Power to give notice to any other person the applicant considers has an interest in the occupation licence.
Licensee of occupation licence	481J(1)	Power to apply to remove licensee's improvements on a licence.

## **Part 7 – Tenures under other Acts**

### **Division 1 – Sale to Local Authorities Land Act 1882**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Local Government	492(1)	In certain circumstances, power to apply to exchange a conditional deed for a reserve or deed of grant in trust with Council as trustee or a lease issued under the <i>Land Act 1994</i> .

## **CHAPTER 9 – TRANSITIONAL AND REPEAL PROVISIONS**

### **Part 1K – Transitional provisions for Land, Water and Other Legislation Amendment Act 2013**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Lessee	521ZE(2)	Power to apply in writing to the Minister for the cancellation of the land management agreement for the lease.

### **Part 1M – Transitional provisions for Land and Other Legislation Amendment Act 2014**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Lessee of a lease	521ZL(2)	Power to agree to the renewal application being treated as an extension application and advise the Chief Executive of same.
Lessee of a lease	521ZM(2)	Power to advise the Chief Executive that the lessee wishes the lease to become a rolling term lease.

## **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.

[2020 07 01 - LANA - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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 LAND ACT 1994 ("LANA")

## CHAPTER 1 – PRELIMINARY

### Part 4 – Tidal and non-tidal boundaries and associated matters

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Registered Owner	12(3)	Power to suitably indicate where the boundaries of land are across a surface of water.				
Registered Owner	12(4)	Power to regulate or prohibit the use or movement of ships in or over water above inundated land.				
Owner who may take water under the <i>Water Act 2000</i> , section 96	13A(4)	Power to, in certain circumstances: (a) exercise a right of access for the owner, the owner's family, executive officers, employees, agents and stock over the adjacent area of the watercourse or lake that is the property of the State that adjoins the owner's land; and (b) exercise a right of grazing for the person's stock over the adjacent area; and (c) bring an action against a person who trespasses on the adjacent area.				
Adjacent Owner	13AC(1)(a)	In certain circumstances, power to consent to the dedication of a reserve.				

Applicant	13B(1)	In certain circumstances, power to apply to the Chief Executive to have watercourse land adjoining the relevant land's non-tidal boundary declared to be former watercourse land.				
Applicant	13B(2)	Power to give notice of a person's intention to make the application.				
Applicant	13B(6)	Power to appeal against the refusal of the application.				

## CHAPTER 2 – LAND ALLOCATION

### Part 1 – Allocation powers

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Registered Owner	18(1)	Power to reach agreement with the Governor in Council to grant unallocated State land in exchange for all or part of freehold land.	Delegation of this power to be made on a case-by-case basis only.			
Lessee of a freeholding lease	18(2)	Power to reach agreement with the Governor in Council to grant a freeholding lease in exchange for all or part of a freeholding lease.				
Lessee of a term lease	18(3)	Power to enter into agreement with the Minister to lease unallocated State land.				

## Part 2 – Reservations

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Person	23A(1)	Power to apply to Chief Executive for the allocation of a floating reservation.				
Person	23A(6)	Power to appeal against a Chief Executive's decision.				
Registered owner or lessee	24(3)	Power to apply to the Minister to buy the land.	Delegation of this power to be made on a case-by-case basis only.			
Registered owner or lessee	25(2)	Power to appeal against the unimproved value of land.	Delegation of this power to be made on a case-by-case basis only.			
Registered owner or Trustee	26(2)	In certain circumstances, power to agree with the Minister in respect to the specified matters when the Minister is deciding the boundaries of land being resumed.	Delegation of this power to be made on a case-by-case basis only.			
Lessee, registered owner or trustee	26(4)	Power to appeal against the Minister's decision on the boundaries.				
Lessee or registered owner	26B(8)	Power to appeal against the value decided by the Minister for the commercial timber.				

## CHAPTER 3 – RESERVES, DEEDS OF GRANT IN TRUST AND ROADS

### Part 1 – Reserves and deeds of grant in trust

#### Division 2 – Reserves

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Any Person	31C(1)	Power to apply to the Minister for the dedication of a reserve.	Delegation of this power to be made on a case-by-case basis only.			
Any Person	31C(2)	Power to give notice of the person's intention to make the application to: (a) if the person is not the proposed trustee of the reserve - the proposed trustee; and (b) each person with a registered interest in the unallocated State land over which a reserve is proposed to be dedicated.				
Any Person	31C(3)	Power to give notice to any other person that the person considers has an interest in the unallocated State land over which the reserve is proposed to be dedicated.				
Trustee of a reserve	31D(1)	Power to apply to the Minister: (a) to change the boundaries of the reserve; or (b) to change the purpose for which the reserve is dedicated.	Delegation of this power to be made on a case-by-case basis only.			
Trustee of a reserve	31D(2)	Power to give notice of the trustee's intention to make the application to each person with a registered interest in the reserve.				

Trustee of a reserve	31D(3)	Power to give notice to any other person the trustee considers: (a) has an interest in the reserve; or (b) would have an interest in the reserve if the boundaries of the reserve or the purpose for which the reserve is dedicated were changed.				
Any Person	34(1)	Power to apply for the revocation of the dedication of all or part of a reserve.	Delegation of this power to be made on a case-by-case basis only.			
Any Person	34(2)	Power to give notice of the person's intention to make the application to: (a) if the person is not the trustee of the reserve - the trustee of the reserve; and (b) each person with a registered interest in the reserve.				
Any Person	34(3)	Power to give notice to any other person that the person considers has an interest in the reserve.				
Local Government	34H(1)	Power to apply, in writing to the Chief Executive, to remove improvements from a revoked reserve.				
Trustee of an operational reserve	34I(1)	In certain circumstances, power to apply for the issue of a deed of grant over a reserve.	Delegation of this power to be made on a case-by-case basis only.			
Trustee of an operational reserve	34I(3)	Power to give notice of the trustee's intention to make the application to each person with a registered interest in the reserve.				
Trustee of an operational reserve	34I(4)	Power to give notice to any other person the trustee considers has an interest in the reserve.				



### Division 3 – Deeds of grant in trust

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Trustee of deed of grant in trust	38A(1)	Power to apply: (a) for an additional community purpose to be notified; or (b) to amalgamate land with common purposes.	N/A			
Any Person	38A(2)	Power to apply for the cancellation of a deed of grant in trust.	N/A			
Applicant	38A(3)	Power to give notice of the applicant's intention to apply to each of the following: (a) the trustee of the deed of grant in trust, other than the applicant (b) each person with a registered interest in the trust land.				
Applicant	38A(4)	Power to give notice to any other person the applicant considers has an interest in the trust land.				
Owner of improvements on a deed of grant in trust that has been cancelled	38G(1)	Power to apply, in writing to the Chief Executive, to remove the owner's improvements on a deed of grant in trust.				

**Division 5 – Appointments, functions and removal of trustees**

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Proposed trustee	44(4)	Power to provide written acceptance of appointment as trustee.	N/A			
Trustee	48(1)(a)	Power to apply for the approval of a management plan for the trust land.				
Trustee	49	In certain circumstances, power to: (a) allow the auditor general, a person mentioned in section 47(1)(a) to (d), or a person authorised by the Chief Executive of a Department, to audit the trust's financial accounts; and (b) help the conduct of the audit, including a disclosure of the financial institution accounts necessary for the audit.				

**Division 6 – Powers of trustee**

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Trustee	52(1)	Power to take all action necessary for the maintenance and management of the trust land.				
Trustee of trust land	52(5)	Power to apply for the approval of an action that is inconsistent with the purpose for which the reserve was dedicated or the land was granted in trust ( <b><i>inconsistent action</i></b> ).	N/A			
Trustee	55(1)	Power to surrender all or part of a deed of grant in trust:	N/A			

		(a) on terms agreed to between the Minister and the trustee; and (b) with the Minister's written approval.				
Trustee of a deed of grant in trust	55A(1)	Power to apply to surrender all or part of a deed of grant in trust.	N/A			
Trustee of a deed of grant in trust	55A(2)	Power to give notice of the trustee's intention to apply to each person with a registered interest in the deed of grant in trust.				
Trustee of a deed of grant in trust	55A(3)	Power to give notice to any other person the trustee considers has an interest in the deed of grant in trust.				
Owner of improvements on a deed of grant in trust that has been surrendered	55H(1)	Power to apply, in writing to the Chief Executive, to remove the owner's improvements on a surrendered deed of grant in trust.				
Trustee Lessee	58(7)	Power to appeal against a decision by the Minister or Chief Executive under section 58(6)				

#### Division 7 – Trustee leases and trustee permits

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Trustee	66(1)	In certain circumstances, power to allow a trustee lessee or trustee permittee to remove the trustee lessee's or trustee permittee's improvements on the land within a reasonable time stated by the trustee.				

### Division 10 – Cemeteries

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	82	Power to: (a) agree to have the trusteeship of a cemetery transferred; and (b) agree to conditions of the transfer of trusteeship.				

### Division 11 – Other grants for public purposes

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Trustee of land granted for an estate in fee simple for some community, public or similar purpose	84(1)	In certain circumstances, power to apply to the Minister to surrender land to the State and for the issue of a deed of grant in trust under the <i>Land Act 1994</i> for a community or public purpose.	N/A			

## Part 2 – Roads

### Division 1 – Dedicating and opening roads

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Person	94(2)	Power to apply for the dedication of a road for public use.				

### Division 2 – Closing roads

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Public Utility Provider or Adjoining Owner for the road	99(1)	Power to apply for the permanent closure of a road.				
Adjoining Owner for the road or, in certain circumstances, another person	99(3)	In certain circumstances, power to apply to the Minister for the temporary closure of a road.				
Adjoining Owner	99(4)	Power to ask for the road, on its closure, to be amalgamated with the adjoining owner's adjoining land.				
Adjoining Owner for the road	99(6)	In certain circumstances, power to ask in the application that, on the closure of the road, the road, the adjoining land and the other land be amalgamated.				

### Division 4 – Permanently closed roads

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Registered Owner	109A(1)	In certain circumstances, power to apply for the simultaneous opening and closure of roads.				
Registered Owner	109A(3)	Power to appeal against any conditions the Minister imposes under section 420I.				

Trustee or Lessee	109B(1)	In certain circumstances, power to apply for the simultaneous opening and closure of roads.				
Trustee	109B(4)	Power to appeal against any conditions the Minister imposes under section 420I.				

## CHAPTER 4 – LAND HOLDINGS

### Part 1 – Making land available

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Any Person	120A(1)	Power to apply for an interest in land without competition.	Delegation of this power to be made on a case-by-case basis only.			
Proposed Lessee	136(5)	Power to enter into a land management agreement.	Delegation of this power to be made on a case-by-case basis only.			
Buyer or previous Lessee	140(1)	Power to negotiate the provisional value (negotiated value).	Delegation of this power to be made on a case-by-case basis only.			
Buyer or previous Lessee	140(2)	Power to give written agreement to the negotiated value becoming the amount to be paid for the improvements.	Delegation of this power to be made on a case-by-case basis only.			
Buyer or previous Lessee	140(4)	Power to make application to the Court to decide the value.	Delegation of this power to be made on a case-by-case basis only.			

### Part 3 – Leases

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Lessee	154(1)	Power to apply to the Minister for a lease to be used for additional or fewer purposes.				
Lessee	155A(2)	Power to apply to extend a lease.				
Lessee	155B(2)	Power to apply to extend a lease.				
Lessee	155BA(2)	Power to apply to extend a lease.				
Lessee	155DA(4)	Power to make written submissions to the Minister.				
Lessee of term lease	158(1)	Power to apply for an offer of a new lease unless the condition of the lease or the <i>Land Act 1994</i> prohibits a renewal.				
Applicant	160(3)	Power to appeal against the Chief Executive's decision to refuse the renewal application if the only reason for the refusal was that the applicant had not fulfilled the conditions of the lease.				
Lessee	164C(1)	Power to make an extension application.				
Lessee	164C(7)	Power to appeal against the Minister's decision.				
Lessee	164H(1)(b)	Power to advise the Chief Executive and agree to the lease becoming a rolling term lease.				
Lessee	166(1)	Power to make a conversion application.				
Applicant	168(5)	Power to appeal against the Chief Executive's decision to refuse the conversion application if the only reason for the refusal is that the applicant had not fulfilled the conditions of the lease.				

Lessee	169(a)	Power to enter into a conservation agreement.				
Lessee	169(b)(i)	Power to enter into a forest consent agreement in relation to the land.				
Lessee	176(1)	Power to apply for approval to subdivide a lease.				
Applicant	176E	In certain circumstances, power to appeal against a decision.				
Lessee of two or more leases	176K(1)	In certain circumstances, power to apply for approval to amalgamate existing leases.				
Applicant	176Q	In certain circumstances, power to appeal against a decision that is given to an Applicant.				
Lessee	176UA(2)	Power to enter into a land management agreement.				
Lessee	176XA	Power to agree with the Minister to cancel the land management agreement registered on a lease.				

#### Part 4 – Permits to occupy particular land

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Any Person	177A(1)	Power to apply for a permit to occupy unallocated State land, a reserve or road.				
Any Person	177A(2)	Power to give notice of the person's intention to apply to the following and to any other entity with a registered interest in the proposed permit land: (a) for a permit for a reserve – the trustee of the reserve; or				



		(b) for a permit for a State-controlled road – the Chief Executive of the department in which the <i>Transport Infrastructure Act 1994</i> is administered.				
Registered Owner	179(2)	In certain circumstances, power to agree with an applicant for a permit on conditions about the maintenance of a boundary fence.				
Permittee	180(2)	Power to surrender a permit: (a) on terms agreed between the Chief Executive Officer and the permittee; and (b) with the Chief Executive's written approval.				
Relevant entity for a permit	180A(1)	Power to apply to cancel a permit.				
Relevant entity for a permit	180A(2)	Power to give notice of the entity's intention to apply to: (a) the permittee; and (b) any other entity with a registered interest in the permit land.				
Relevant entity for a permit	180A(4)	Power to give notice to any other entity the relevant entity considers has an interest in the permit land.				
Permittee	180A(5)	Power to apply to surrender a permit.				
Permittee	180H(1)	Power to apply to the Chief Executive to remove improvements on permit land.				

## CHAPTER 5 – MATTERS AFFECTING LAND HOLDINGS

### Part 2 – Conditions

#### Division 3 – Changing and reviewing imposed conditions

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Lessee or Licensee or permittee	210(1)	Power to agree to a change of an imposed condition of the lease, licence or permit.				
Lessee or Licensee or permittee	210(2)	Power to apply to change conditions of a lease, licence or permit under section 210(1).				
Lessee	212(1)	Power to agree to change an imposed condition about the protection and sustainability of lease land.				
Lessee	212(3)	In certain circumstances, power to appeal against a decision.				

#### Division 3A – Regulated conditions

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Lessee of a lease	212B(5)	Power to agree with the designated officer for the lease about matters stated in section 212B(5)(a) and (b).				

### Division 5 – Remedial action

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Lessee	214(3)	Power to enter into an amended or a new land management agreement upon receipt of a remedial action notice.				
Lessee or Licensee	214A(4)	Power to make written submissions to the Minister in response to a warning notice.				
Lessee	214F(3)	Power to appeal against a decision.				

### Part 3 – Resumption and compensation

#### Division 2 – Resumption of a lease under a condition of the lease

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Lessee	226(5)	Power to appeal against the Minister's decision.				

#### Division 3 – Resumption of a reservation for a public purpose

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Owner of the improvement	232(5)	Power to appeal against the Minister's decision.				

**Part 4 – Forfeiture**

**Division 2A – Forfeiture of leases by referral to court or for fraud**

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Relevant local government	239(4)	Power to appeal against a decision under subsection (2)(b)(iv) to allow an entity other than the relevant local government to sell the lease.				

**Division 3A – Sale of lease instead of forfeiture**

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Lessee	240E(1)	Power to apply, in writing, to the Chief Executive for permission to sell the lease.	Delegation of this power to be made on a case-by-case basis only.			
Relevant Local Government	240G(1)	Power to apply to the Chief Executive for approval to sell a lease.	Delegation of this power to be made on a case-by-case basis only.			
Local Government	240I(3)	Power to start the process of selling a lease under this subdivision within the required period stated in the notice under section 240H(2).				
Local Government	240I(4)	Power to set a reserve price for the sale of the lease by auction, or a price for the sale of the lease under an agreement, that is at least the total of all charges owing to the State under the Land Act 1994 relating to the lease.	Delegation of this power to be made on a case-by-case basis only.			

Lessee of a forfeited lease	243(1A)	Power to apply to remove the lessee's improvements on the lease.				
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## CHAPTER 6 – REGISTRATION AND DEALINGS

### Part 3 – Documents

#### Division 2 – Documents forming part of standard terms documents

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Person	321(1)	Power to ask the Chief Executive to withdraw a registered standard terms document.				

### Part 4 – Dealings affecting land

#### Division 1 – Transfers

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Lessee or Licensee or the holder of a sublease	322(3)	Power to apply for approval to transfer a lease, licence or sublease.	Delegation of this power to be made on a case-by-case basis only.			
Transferor	322(8)	Power to appeal against the Chief Executive's decision.				

## Division 2 – Surrender

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Registered Owner	327	Power to agree to terms of the absolute surrender of freehold land.	Delegation of this power to be made on a case-by-case basis only.			
Lessee	327A	Power to agree to terms of the absolute or conditional surrender of all or part of a lease.	Delegation of this power to be made on a case-by-case basis only.			
Registered Owner of freehold land	327B	Power to apply, in writing to the Chief Executive, to surrender freehold land.	N/A			
Lessee	327C(1)	Power to apply, in writing to the Chief Executive, to surrender all or part of a lease.	Delegation of this power to be made on a case-by-case basis only.			
Lessee	327C(2)	Power to give notice of the lessee's intention to apply to any other person with a registered interest in the lease.				
Lessee	327C(3)	Power to give notice to any other person the lessee considers has an interest in the lease.				
Owner of improvements on a lease that has been surrendered	327I(1)	Power to apply, in writing to the Chief Executive, to remove improvements on surrendered lease.				
Any grantee of an easement or profit a prendre	330(c)	Power to give written approval to the surrender where the grantee's interests will be adversely affected.	Delegation of this power to be made on a case-by-case basis only.			

### Division 3 – Subleases

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Person	332(1)(a)(i)	The power to seek the Minister's written approval to the sublease.	Delegation of this power to be made on a case-by-case basis only.			
Lessee	332(7)	Power to appeal against a Minister's decision.				
Sublessor	339(1)	Power to lodge a request for the Chief Executive to register the re-entry.				

### Division 3A – Process for resolving disputes under particular subleases

#### *Subdivision 2 – Notice of dispute*

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Party to a sublease	339F(1)	Power to give another party to the sublease a written notice of dispute.				
Responder	339G(1)	Power to give a notifier of a sublease dispute a written response to the dispute notice within the specified time.				
Party to a sublease	339H(2)	Power to agree not to attempt to resolve the dispute by mediation and to submit the dispute to arbitration.				

### ***Subdivision 3 – Mediation***

<b>Entity power given to</b>	<b>Section of LANA</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>
Party to a sublease	339I(1)	Power to jointly appoint a mediator to mediate the dispute.				
Party to a sublease	339I(2)	Power to request a prescribed dispute resolution entity appoint a mediator.				
Party to a sublease	339J(1)	Power to agree to a time for mediation				
Party to a sublease	339J(2)	Power to request the mediator to set a time for the mediation.				
Party to a sublease	339J(4)	Power to appoint an agent to represent the Local Government at a mediation.				

### ***Subdivision 4 – Arbitration***

<b>Entity power given to</b>	<b>Section of LANA</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>
Party to a sublease	339O(1)	Power to appoint a single arbitrator to decide the dispute				
Party to a sublease	339O(2)	Power to request a prescribed dispute resolution entity to appoint a single arbitrator to decide the dispute				
Party to a sublease	339R(2)	Power to request an appointed expert participate in a hearing.				
Party to a sublease	339U(3)(a)	Power to agree on how the costs of arbitration will be paid.				



**Division 7 – Correcting and changing deeds of grant and leases**

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Registered owner or Trustee	358(1)	In certain circumstances, power to surrender land contained in a deed of grant or trustee's deed of grant in trust.	N/A			
Registered owner or Trustee	358(2)	In certain circumstances, power to surrender land contained in a deed of grant or trustee's deed of grant in trust with the Minister's written approval.	N/A			
Lessee or a person acting for the lessee	360C(1)	In certain circumstances, power to apply to amend the description in a freeholding lease if the description of the lease may be amended under section 360(1)(a) or (d).	Delegation of this power to be made on a case-by-case basis only.			
Lessee or a person acting for the lessee	360C(2)	Power to apply to amend the description in a term lease or perpetual lease, other than a State lease, if the description of the lease may be amended under section 360A(2)(a), (b) or (c).	Delegation of this power to be made on a case-by-case basis only.			
Lessee or a person acting for the lessee	360C(3)	Power to apply to amend the description in a State lease if the description of the lease may be amended under section 360B(1)(a), (b), (c) or (d).	Delegation of this power to be made on a case-by-case basis only.			
Applicant	360D(2)	Power to give notice of the applicant's intention to apply to any other person with a registered interest in the lease land.				
Applicant	360D(3)	Power to give notice to any other person the applicant considers has an interest in the lease.				

### Division 8 – Easements

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Trustee	368(2)(a)	In certain circumstances, power to ask the Chief Executive to extinguish an easement.	Delegation of this power to be made on a case-by-case basis only.			
Owner of land or public utility provider	371(2)	In certain circumstances, power to sign a document of surrender	Delegation of this power to be made on a case-by-case basis only.			
Person who has a registered interest in the land	371(3)	Power to agree to surrender an easement.	N/A			
Person	372(2)	Power to apply for the Minister's written approval to continue a public utility easement over unallocated state land.				
Person	372(3)	Power to apply for the Minister's written approval to continue a public utility easement over a reserve.				

### Division 8A – Covenants

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government as Covenantee	373A(1)	Power to make certain non-freehold land the subject of a covenant.	Delegation of this power to be made on a case-by-case basis only.			
The trustee of trust land, the lessee of lease land or the sublessee of subleased land.	373A(2)	Power to consent to a document creating a covenant.	N/A			
Person	373B(1)(a)	Power to sign a document creating a covenant.	Delegation of this power to be made on a case-by-case basis only.			
Person	373C(2)(a)	Power to sign a document amending the covenant.	Delegation of this power to be made on a case-by-case basis only.			
Covenantee	373D(2)	Power to sign a document releasing the covenant.	Delegation of this power to be made on a case-by-case basis only.			

### Division 8B – Profits a prendre

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Lessee	373L(a)	Power to ask the Chief Executive to extinguish the profit a prendre.	N/A			

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**Division 11A – Caveats**

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Caveatee	389H(1)	Power to apply to the Supreme Court for an order that a caveat lodged under this division be removed.	Delegation of this power to be made on a case-by-case basis only.			

**CHAPTER 7 – GENERAL****Part 2 – Unlawful occupation of non-freehold and trust land****Division 3 – Action by lessee, licensee, permittee or trustee**

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Trustee or Lessee or Licensee or Permittee	415(1)	In certain circumstances, power to start a proceeding in the Magistrates Court.				

**Division 4 – Court matters**

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Party	420	Power to appeal to the District Court on a question of law if dissatisfied with a trespass order.				

**Part 2A – General provisions for applications**

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Entity	420CB(1)	Power to make a submission against the proposed application to: (a) the person who gave the entity the notice; or (b) the Chief Executive.				

**Part 3 – Review of decisions and appeals**

**Division 2 – Internal review of decisions**

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Person who has a right of appeal against an original decision	423	Power to apply to the Minister for a review of the decision.				
Applicant	425(1)	Power to apply for a stay of the decision to the Court.				

**Division 3 – Appeals**

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
A person who has applied for the review of a decision	427	Power to appeal to the Court if dissatisfied with the review decision.				

under division 2						
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**Part 3B – Making land available for public use as beach**

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	431V(3)	Power to consult with the owner of the lot.				
Manager	431W(6)(a)	Power to authorise an officer or employee of the manager of a declared beach area, to enter the area at any time without notice to any other person.				
Manager	431X(1)(b) (ii)	Power to authorise or direct a person acting in the performance of functions or powers.				

**Part 4 – Miscellaneous**

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Offeree	442(4)	In certain circumstances, power to apply to the person who made the offer to extend the time stated in the offer or that otherwise applies under subsection (1).				
Offeror	442(9)	Power to amend the offer by changing the price or premium to a price or premium decided by the offeror in the way prescribed by regulation.				

## CHAPTER 8 – CONTINUED RIGHTS AND TENURES

### Part 5 – Licences and permits

#### Division 1 – Occupation licences

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Licensee	481A	Power to surrender, absolutely, all or part of an occupation licence: (a) on terms agreed to between the Minister and the licensee; (b) and with the Minister's written approval.	Delegation of this power to be made on a case-by-case basis only.			
Public Utility Provider (an <b>applicant</b> )	481B(1)	Power to apply to cancel all or part of an occupation licence.	Delegation of this power to be made on a case-by-case basis only.			
Licensee (an <b>applicant</b> )	481B(3)	Power to apply to surrender, absolutely, all or part of an occupation licence.	Delegation of this power to be made on a case-by-case basis only.			
Applicant	481B(4)	Power to give notice of the applicant's intention to apply to each of the following: (a) if the applicant is not the licensee of the occupation licence – the licensee; (b) any other person with a registered interest in the occupation licence; (c) if the occupation licence is a designated occupation licence – the Chief Executive of the department having responsibility for the administration of the forest reserve,				

		national park, State forest or timber reserve the subject of the designated occupation licence.				
Applicant	481B(5)	Power to give notice to any other person the applicant considers has an interest in the occupation licence.				
Licensee of occupation licence	481J(1)	Power to apply to remove licensee's improvements on a licence.				

## Part 7 – Tenures under other Acts

### Division 1 – Sale to Local Authorities Land Act 1882

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	492(1)	In certain circumstances, power to apply to exchange a conditional deed for a reserve or deed of grant in trust with Council as trustee or a lease issued under the <i>Land Act 1994</i> .				

## CHAPTER 9 – TRANSITIONAL AND REPEAL PROVISIONS

### Part 1K – Transitional provisions for Land, Water and Other Legislation Amendment Act 2013

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Lessee	521ZE(2)	Power to apply in writing to the Minister for the cancellation of the land management agreement for the lease.				



**Part 1M – Transitional provisions for Land and Other  
Legislation Amendment Act 2014**

Entity power given to	Section of LANA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Lessee of a lease	521ZL(2)	Power to agree to the renewal application being treated as an extension application and advise the Chief Executive of same.				
Lessee of a lease	521ZM(2)	Power to advise the Chief Executive that the lessee wishes the lease to become a rolling term lease.				

[2020 07 01 - LANA - Delegation Table]

## INSTRUMENT OF SUB-DELEGATION

**Torres Strait Island Regional Council**  
*Land Act 1994 ("LANA")*

Under section 259 of the *Local Government Act 2009*, I, **Bruce Ranga**, Chief Executive Officer of **Torres Strait Island Regional Council**, delegate to those positions which are specified in Schedule 1, the exercise of the powers contained in Schedule 2.

These powers must be exercised subject to the limitations contained in Schedule 3.

This Instrument of Sub-Delegation repeals all prior Instruments sub-delegating to the positions specified in Schedule 1 the exercise of the powers contained in Schedule 2.

My authority to make these sub-delegations is conferred by the *Local Government Act 2009* and the resolution of **Torres Strait Island Regional Council** made on **Insert date** to delegate those powers to the Chief Executive Officer.

**DATED** this                      day of                      2020.

**Bruce Ranga**  
Chief Executive Officer  
**Torres Strait Island Regional Council**

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

## POWERS SUB-DELEGATED

### *Land Act 1994 ("LANA")*

#### CHAPTER 1 – PRELIMINARY

##### Part 4 – Tidal and non-tidal boundaries and associated matters

Entity power given to	Section of LANA	Description
Registered Owner	12(3)	Power to suitably indicate where the boundaries of land are across a surface of water.
Registered Owner	12(4)	Power to regulate or prohibit the use or movement of ships in or over water above inundated land.
Owner who may take water under the <i>Water Act 2000</i> , section 96	13A(4)	Power to, in certain circumstances: (a) exercise a right of access for the owner, the owner's family, executive officers, employees, agents and stock over the adjacent area of the watercourse or lake that is the property of the State that adjoins the owner's land; and (b) exercise a right of grazing for the person's stock over the adjacent area; and (c) bring an action against a person who trespasses on the adjacent area.
Adjacent Owner	13AC(1)(a)	In certain circumstances, power to consent to the dedication of a reserve.
Applicant	13B(1)	In certain circumstances, power to apply to the Chief Executive to have watercourse land adjoining the relevant land's non-tidal boundary declared to be former watercourse land.
Applicant	13B(2)	Power to give notice of a person's intention to make the application.
Applicant	13B(6)	Power to appeal against the refusal of the application.

#### CHAPTER 2 – LAND ALLOCATION

##### Part 1 – Allocation powers

Entity power given to	Section of LANA	Description
Registered Owner	18(1)	Power to reach agreement with the Governor in Council to grant unallocated State land in exchange for all or part of freehold land.
Lessee of a freeholding lease	18(2)	Power to reach agreement with the Governor in Council to grant a freeholding lease in exchange for all or part of a freeholding lease.
Lessee of a term lease	18(3)	Power to enter into agreement with the Minister to lease unallocated State land.

## Part 2 – Reservations

Entity power given to	Section of LANA	Description
Person	23A(1)	Power to apply to Chief Executive for the allocation of a floating reservation.
Person	23A(6)	Power to appeal against a Chief Executive's decision.
Registered owner or lessee	24(3)	Power to apply to the Minister to buy the land.
Registered owner or lessee	25(2)	Power to appeal against the unimproved value of land.
Registered owner or Trustee	26(2)	In certain circumstances, power to agree with the Minister in respect to the specified matters when the Minister is deciding the boundaries of land being resumed.
Lessee, registered owner or trustee	26(4)	Power to appeal against the Minister's decision on the boundaries.
Lessee or registered owner	26B(8)	Power to appeal against the value decided by the Minister for the commercial timber.

## CHAPTER 3 – RESERVES, DEEDS OF GRANT IN TRUST AND ROADS

### Part 1 – Reserves and deeds of grant in trust

#### Division 2 – Reserves

Entity power given to	Section of LANA	Description
Any Person	31C(1)	Power to apply to the Minister for the dedication of a reserve.
Any Person	31C(2)	Power to give notice of the person's intention to make the application to: <ul style="list-style-type: none"> <li>(a) if the person is not the proposed trustee of the reserve - the proposed trustee; and</li> <li>(b) each person with a registered interest in the unallocated State land over which a reserve is proposed to be dedicated.</li> </ul>
Any Person	31C(3)	Power to give notice to any other person that the person considers has an interest in the unallocated State land over which the reserve is proposed to be dedicated.
Trustee of a reserve	31D(1)	Power to apply to the Minister: <ul style="list-style-type: none"> <li>(a) to change the boundaries of the reserve; or</li> <li>(b) to change the purpose for which the reserve is dedicated.</li> </ul>
Trustee of a reserve	31D(2)	Power to give notice of the trustee's intention to make the application to each person with a registered interest in the reserve.
Trustee of a reserve	31D(3)	Power to give notice to any other person the trustee considers: <ul style="list-style-type: none"> <li>(a) has an interest in the reserve; or</li> <li>(b) would have an interest in the reserve if the boundaries of the reserve or the purpose for which the reserve is dedicated were changed.</li> </ul>
Any Person	34(1)	Power to apply for the revocation of the dedication of all or part of a reserve.

Any Person	34(2)	Power to give notice of the person's intention to make the application to: (a) if the person is not the trustee of the reserve - the trustee of the reserve; and (b) each person with a registered interest in the reserve.
Any Person	34(3)	Power to give notice to any other person that the person considers has an interest in the reserve.
Local Government	34H(1)	Power to apply, in writing to the Chief Executive, to remove improvements from a revoked reserve.
Trustee of an operational reserve	34I(1)	In certain circumstances, power to apply for the issue of a deed of grant over a reserve.
Trustee of an operational reserve	34I(3)	Power to give notice of the trustee's intention to make the application to each person with a registered interest in the reserve.
Trustee of an operational reserve	34I(4)	Power to give notice to any other person the trustee considers has an interest in the reserve.

### Division 3 – Deeds of grant in trust

Entity power given to	Section of LANA	Description
Trustee of deed of grant in trust	38A(1)	Power to apply: (a) for an additional community purpose to be notified; or (b) to amalgamate land with common purposes.
Any Person	38A(2)	Power to apply for the cancellation of a deed of grant in trust.
Applicant	38A(3)	Power to give notice of the applicant's intention to apply to each of the following: (a) the trustee of the deed of grant in trust, other than the applicant (b) each person with a registered interest in the trust land.
Applicant	38A(4)	Power to give notice to any other person the applicant considers has an interest in the trust land.
Owner of improvements on a deed of grant in trust that has been cancelled	38G(1)	Power to apply, in writing to the Chief Executive, to remove the owner's improvements on a deed of grant in trust.

### Division 5 – Appointments, functions and removal of trustees

Entity power given to	Section of LANA	Description
Proposed trustee	44(4)	Power to provide written acceptance of appointment as trustee.
Trustee	48(1)(a)	Power to apply for the approval of a management plan for the trust land.
Trustee	49	In certain circumstances, power to: (a) allow the auditor general, a person mentioned in section 47(1)(a) to (d), or a person authorised by the Chief Executive of a Department, to audit the trust's financial accounts; and

		(b) help the conduct of the audit, including a disclosure of the financial institution accounts necessary for the audit.
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### Division 6 – Powers of trustee

Entity power given to	Section of LANA	Description
Trustee	52(1)	Power to take all action necessary for the maintenance and management of the trust land.
Trustee of trust land	52(5)	Power to apply for the approval of an action that is inconsistent with the purpose for which the reserve was dedicated or the land was granted in trust ( <i>inconsistent action</i> ).
Trustee	55(1)	Power to surrender all or part of a deed of grant in trust: (a) on terms agreed to between the Minister and the trustee; and (b) with the Minister's written approval.
Trustee of a deed of grant in trust	55A(1)	Power to apply to surrender all or part of a deed of grant in trust.
Trustee of a deed of grant in trust	55A(2)	Power to give notice of the trustee's intention to apply to each person with a registered interest in the deed of grant in trust.
Trustee of a deed of grant in trust	55A(3)	Power to give notice to any other person the trustee considers has an interest in the deed of grant in trust.
Owner of improvements on a deed of grant in trust that has been surrendered	55H(1)	Power to apply, in writing to the Chief Executive, to remove the owner's improvements on a surrendered deed of grant in trust.
Trustee Lessee	58(7)	Power to appeal against a decision by the Minister or Chief Executive under section 58(6)

### Division 7 – Trustee leases and trustee permits

Entity power given to	Section of LANA	Description
Trustee	66(1)	In certain circumstances, power to allow a trustee lessee or trustee permittee to remove the trustee lessee's or trustee permittee's improvements on the land within a reasonable time stated by the trustee.

### Division 10 – Cemeteries

Entity power given to	Section of LANA	Description
Local Government	82	Power to: (a) agree to have the trusteeship of a cemetery transferred; and (b) agree to conditions of the transfer of trusteeship.

### Division 11 – Other grants for public purposes

Entity power given to	Section of LANA	Description
Trustee of land granted for an estate in fee simple for some community, public or similar purpose	84(1)	In certain circumstances, power to apply to the Minister to surrender land to the State and for the issue of a deed in grant in trust under the <i>Land Act 1994</i> for a community or public purpose.

## Part 2 –

## Roads

### Division 1 – Dedication and opening roads

Entity power given to	Section of LANA	Description
Person	94(2)	Power to apply for the dedication of a road for public use.

### Division 2 – Closing roads

Entity power given to	Section of LANA	Description
Public Utility Provider or Adjoining Owner for the road	99(1)	Power to apply for the permanent closure of a road.
Adjoining Owner for the road or, in certain circumstances, another person	99(3)	In certain circumstances, power to apply to the Minister for the temporary closure of a road.
Adjoining Owner	99(4)	Power to ask for the road, on its closure, to be amalgamated with the adjoining owner's adjoining land.
Adjoining Owner for the road	99(6)	In certain circumstances, power to ask in the application that, on the closure of the road, the road, the adjoining land and the other land be amalgamated.

### Division 4 – Permanently closed roads

Entity power given to	Section of LANA	Description
Registered Owner	109A(1)	In certain circumstances, power to apply for the simultaneous opening and closure of roads.
Registered Owner	109A(3)	Power to appeal against any conditions the Minister imposes under section 420I.
Trustee or Lessee	109B(1)	In certain circumstances, power to apply for the simultaneous opening and closure of roads.
Trustee	109B(4)	Power to appeal against any conditions the Minister imposes under section 420I.



## CHAPTER 4 – LAND HOLDINGS

### Part 1 – Making land available

Entity power given to	Section of LANA	Description
Any Person	120A(1)	Power to apply for an interest in land without competition.
Proposed Lessee	136(5)	Power to enter into a land management agreement.
Buyer or previous Lessee	140(1)	Power to negotiate the provisional value (negotiated value).
Buyer or previous Lessee	140(2)	Power to give written agreement to the negotiated value becoming the amount to be paid for the improvements.
Buyer or previous Lessee	140(4)	Power to make application to the Court to decide the value.

### Part 3 – Leases

Entity power given to	Section of LANA	Description
Lessee	154(1)	Power to apply to the Minister for a lease to be used for additional or fewer purposes.
Lessee	155A(2)	Power to apply to extend a lease.
Lessee	155B(2)	Power to apply to extend a lease.
Lessee	155BA(2)	Power to apply to extend a lease.
Lessee	155DA(4)	Power to make written submissions to the Minister.
Lessee of term lease	158(1)	Power to apply for an offer of a new lease unless the condition of the lease or the <i>Land Act 1994</i> prohibits a renewal.
Applicant	160(3)	Power to appeal against the Chief Executive's decision to refuse the renewal application if the only reason for the refusal was that the applicant had not fulfilled the conditions of the lease.
Lessee	164C(1)	Power to make an extension application.
Lessee	164C(7)	Power to appeal against the Minister's decision.
Lessee	164H(1)(b)	Power to advise the Chief Executive and agree to the lease becoming a rolling term lease.
Lessee	166(1)	Power to make a conversion application.
Applicant	168(5)	Power to appeal against the Chief Executive's decision to refuse the conversion application if the only reason for the refusal is that the applicant had not fulfilled the conditions of the lease.
Lessee	169(a)	Power to enter into a conservation agreement.
Lessee	169(b)(i)	Power to enter into a forest consent agreement in relation to the land.
Lessee	176(1)	Power to apply for approval to subdivide a lease.
Applicant	176E	In certain circumstances, power to appeal against a decision.
Lessee of two or more leases	176K(1)	In certain circumstances, power to apply for approval to amalgamate existing leases.
Applicant	176Q	In certain circumstances, power to appeal against a decision that is given to an Applicant.
Lessee	176UA(2)	Power to enter into a land management agreement.

Lessee	176XA	Power to agree with the Minister to cancel the land management agreement registered on a lease.
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#### **Part 4 – Permits to occupy particular land**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Any Person	177A(1)	Power to apply for a permit to occupy unallocated State land, a reserve or road.
Any Person	177A(2)	Power to give notice of the person's intention to apply to the following and to any other entity with a registered interest in the proposed permit land: (a) for a permit for a reserve – the trustee of the reserve; or (b) for a permit for a State-controlled road – the Chief Executive of the department in which the <i>Transport Infrastructure Act 1994</i> is administered.
Registered Owner	179(2)	In certain circumstances, power to agree with an applicant for a permit on conditions about the maintenance of a boundary fence.
Permittee	180(2)	Power to surrender a permit: (a) on terms agreed between the Chief Executive Officer and the permittee; and (b) with the Chief Executive's written approval.
Relevant entity for a permit	180A(1)	Power to apply to cancel a permit.
Relevant entity for a permit	180A(2)	Power to give notice of the entity's intention to apply to: (a) the permittee; and (b) any other entity with a registered interest in the permit land.
Relevant entity for a permit	180A(4)	Power to give notice to any other entity the relevant entity considers has an interest in the permit land.
Permittee	180A(5)	Power to apply to surrender a permit.
Permittee	180H(1)	Power to apply to the Chief Executive to remove improvements on permit land.

### **CHAPTER 5 – MATTERS AFFECTING LAND HOLDINGS**

#### **Part 2 – Conditions**

##### **Division 3 – Changing and reviewing imposed conditions**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Lessee or Licensee or permittee	210(1)	Power to agree to a change of an imposed condition of the lease, licence or permit.
Lessee or Licensee or permittee	210(2)	Power to apply to change conditions of a lease, licence or permit under section 210(1).
Lessee	212(1)	Power to agree to change an imposed condition about the protection and sustainability of lease land.
Lessee	212(3)	In certain circumstances, power to appeal against a decision.

### **Division 3A – Regulated conditions**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Lessee of a lease	212B(5)	Power to agree with the designated officer for the lease about matters stated in section 212B(5)(a) and (b).

### **Division 5 – Remedial action**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Lessee	214(3)	Power to enter into an amended or a new land management agreement upon receipt of a remedial action notice.
Lessee or Licensee	214A(4)	Power to make written submissions to the Minister in response to a warning notice.
Lessee	214F(3)	Power to appeal against a decision.

## **Part 3 – Resumption and compensation**

### **Division 2 – Resumption of a lease under a condition of the lease**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Lessee	226(5)	Power to appeal against the Minister's decision.

### **Division 3 – Resumption of a reservation for a public purpose**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Owner of the improvement	232(5)	Power to appeal against the Minister's decision.

## **Part 4 – Forfeiture**

### **Division 2A – Forfeiture of leases by referral to court or for fraud**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Relevant local government	239(4)	Power to appeal against a decision under subsection (2)(b)(iv) to allow an entity other than the relevant local government to sell the lease.

### **Division 3A – Sale of lease instead of forfeiture**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Lessee	240E(1)	Power to apply, in writing, to the Chief Executive for permission to sell the lease.
Relevant Local Government	240G(1)	Power to apply to the Chief Executive for approval to sell a lease.
Local Government	240I(3)	Power to start the process of selling a lease under this subdivision within the required period stated in the notice under section 240H(2).
Local Government	240I(4)	Power to set a reserve price for the sale of the lease by auction, or a price for the sale of the lease under an agreement, that is

		at least the total of all charges owing to the State under the Land Act 1994 relating to the lease.
Lessee of a forfeited lease	243(1A)	Power to apply to remove the lessee's improvements on the lease.

## CHAPTER 6 – REGISTRATION AND DEALINGS

### Part 3 – Documents

#### Division 2 – Documents forming part of standard terms documents

Entity power given to	Section of LANA	Description
Person	321(1)	Power to ask the Chief Executive to withdraw a registered standard terms document.

### Part 4 – Dealings affecting land

#### Division 1 – Transfers

Entity power given to	Section of LANA	Description
Lessee or Licensee or the holder of a sublease	322(3)	Power to apply for approval to transfer a lease, licence or sublease.
Transferor	322(8)	Power to appeal against the Chief Executive's decision.

#### Division 2 – Surrender

Entity power given to	Section of LANA	Description
Registered Owner	327	Power to agree to terms of the absolute surrender of freehold land.
Lessee	327A	Power to agree to terms of the absolute or conditional surrender of all or part of a lease.
Registered Owner of freehold land	327B	Power to apply, in writing to the Chief Executive, to surrender freehold land.
Lessee	327C(1)	Power to apply, in writing to the Chief Executive, to surrender all or part of a lease.
Lessee	327C(2)	Power to give notice of the lessee's intention to apply to any other person with a registered interest in the lease.
Lessee	327C(3)	Power to give notice to any other person the lessee considers has an interest in the lease.
Owner of improvements on a lease that has been surrendered	327I(1)	Power to apply, in writing to the Chief Executive, to remove improvements on surrendered lease.
Any grantee of an easement or profit a prendre	330(c)	Power to give written approval to the surrender where the grantee's interests will be adversely affected.

### **Division 3 – Subleases**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Person	332(1)(a)(i)	The power to seek the Minister's written approval to the sublease.
Lessee	332(7)	Power to appeal against a Minister's decision.
Sublessor	339(1)	Power to lodge a request for the Chief Executive to register the re-entry.

### **Division 3A – Process for resolving disputes under particular subleases**

#### ***Subdivision 2 – Notice of dispute***

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Party to a sublease	339F(1)	Power to give another party to the sublease a written notice of dispute.
Responder	339G(1)	Power to give a notifier of a sublease dispute a written response to the dispute notice within the specified time.
Party to a sublease	339H(2)	Power to agree not to attempt to resolve the dispute by mediation and to submit the dispute to arbitration.

#### ***Subdivision 3 – Mediation***

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Party to a sublease	339I(1)	Power to jointly appoint a mediator to mediate the dispute.
Party to a sublease	339I(2)	Power to request a prescribed dispute resolution entity appoint a mediator.
Party to a sublease	339J(1)	Power to agree to a time for mediation
Party to a sublease	339J(2)	Power to request the mediator to set a time for the mediation.
Party to a sublease	339J(4)	Power to appoint an agent to represent the Local Government at a mediation.

#### ***Subdivision 4 – Arbitration***

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Party to a sublease	339O(1)	Power to appoint a single arbitrator to decide the dispute
Party to a sublease	339O(2)	Power to request a prescribed dispute resolution entity to appoint a single arbitrator to decide the dispute
Party to a sublease	339R(2)	Power to request an appointed expert participate in a hearing.
Party to a sublease	339U(3)(a)	Power to agree on how the costs of arbitration will be paid.

### **Division 7 – Correcting and changing deeds of grant and leases**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Registered owner or Trustee	358(1)	In certain circumstances, power to surrender land contained in a deed of grant or trustee's deed of grant in trust.

Registered owner or Trustee	358(2)	In certain circumstances, power to surrender land contained in a deed of grant or trustee's deed of grant in trust with the Minister's written approval.
Lessee or a person acting for the lessee	360C(1)	In certain circumstances, power to apply to amend the description in a freeholding lease if the description of the lease may be amended under section 360(1)(a) or (d).
Lessee or a person acting for the lessee	360C(2)	Power to apply to amend the description in a term lease or perpetual lease, other than a State lease, if the description of the lease may be amended under section 360A(2)(a), (b) or (c).
Lessee or a person acting for the lessee	360C(3)	Power to apply to amend the description in a State lease if the description of the lease may be amended under section 360B(1)(a), (b), (c) or (d).
Applicant	360D(2)	Power to give notice of the applicant's intention to apply to any other person with a registered interest in the lease land.
Applicant	360D(3)	Power to give notice to any other person the applicant considers has an interest in the lease.

### Division 8 – Easements

Entity power given to	Section of LANA	Description
Trustee	368(2)(a)	In certain circumstances, power to ask the Chief Executive to extinguish an easement.
Owner of land or public utility provider	371(2)	In certain circumstances, power to sign a document of surrender
Person who has a registered interest in the land	371(3)	Power to agree to surrender an easement.
Person	372(2)	Power to apply for the Minister's written approval to continue a public utility easement over unallocated state land.
Person	372(3)	Power to apply for the Minister's written approval to continue a public utility easement over a reserve.

### Division 8A – Covenants

Entity power given to	Section of LANA	Description
Local Government as Covenantee	373A(1)	Power to make certain non-freehold land the subject of a covenant.
The trustee of trust land, the lessee of lease land or the sublessee of subleased land.	373A(2)	Power to consent to a document creating a covenant.
Person	373B(1)(a)	Power to sign a document creating a covenant.
Person	373C(2)(a)	Power to sign a document amending the covenant.
Covenantee	373D(2)	Power to sign a document releasing the covenant.

### **Division 8B – Profits a prendre**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Lessee	373L(a)	Power to ask the Chief Executive to extinguish the profit a prendre.

### **Division 11A – Caveats**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Caveatee	389H(1)	Power to apply to the Supreme Court for an order that a caveat lodged under this division be removed.

## **CHAPTER 7 – GENERAL**

### **Part 2 – Unlawful occupation of non-freehold and trust land**

#### **Division 3 – Action by lessee, licensee, permittee or trustee**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Trustee or Lessee or Licensee or Permittee	415(1)	In certain circumstances, power to start a proceeding in the Magistrates Court.

#### **Division 4 – Court matters**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Party	420	Power to appeal to the District Court on a question of law if dissatisfied with a trespass order.

### **Part 2A – General provisions for applications**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Entity	420CB(1)	Power to make a submission against the proposed application to: (a) the person who gave the entity the notice; or (b) the Chief Executive.

### **Part 3 – Review of decisions and appeals**

#### **Division 2 – Internal review of decisions**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Person who has a right of appeal against an original decision	423	Power to apply to the Minister for a review of the decision.
Applicant	425(1)	Power to apply for a stay of the decision to the Court.

### Division 3 – Appeals

Entity power given to	Section of LANA	Description
A person who has applied for the review of a decision under division 2	427	Power to appeal to the Court if dissatisfied with the review decision.

### Part 3B – Making land available for public use as beach

Entity power given to	Section of LANA	Description
Local Government	431V(3)	Power to consult with the owner of the lot.
Manager	431W(6)(a)	Power to authorise an officer or employee of the manager of a declared beach area, to enter the area at any time without notice to any other person.
Manager	431X(1)(b)(ii)	Power to authorise or direct a person acting in the performance of functions or powers.

### Part 4 – Miscellaneous

Entity power given to	Section of LANA	Description
Offeree	442(4)	In certain circumstances, power to apply to the person who made the offer to extend the time stated in the offer or that otherwise applies under subsection (1).
Offeror	442(9)	Power to amend the offer by changing the price or premium to a price or premium decided by the offeror in the way prescribed by regulation.

## CHAPTER 8 – CONTINUED RIGHTS AND TENURES

### Part 5 – Licences and permits

#### Division 1 – Occupation licences

Entity power given to	Section of LANA	Description
Licensee	481A	Power to surrender, absolutely, all or part of an occupation licence: (a) on terms agreed to between the Minister and the licensee; (b) and with the Minister's written approval.
Public Utility Provider (an <b>applicant</b> )	481B(1)	Power to apply to cancel all or part of an occupation licence.
Licensee (an <b>applicant</b> )	481B(3)	Power to apply to surrender, absolutely, all or part of an occupation licence.
Applicant	481B(4)	Power to give notice of the applicant's intention to apply to each of the following: (a) if the applicant is not the licensee of the occupation licence – the licensee;



		<p>(b) any other person with a registered interest in the occupation licence;</p> <p>(c) if the occupation licence is a designated occupation licence – the Chief Executive of the department having responsibility for the administration of the forest reserve, national park, State forest or timber reserve the subject of the designated occupation licence.</p>
Applicant	481B(5)	Power to give notice to any other person the applicant considers has an interest in the occupation licence.
Licensee of occupation licence	481J(1)	Power to apply to remove licensee's improvements on a licence.

## **Part 7 – Tenures under other Acts**

### **Division 1 – Sale to Local Authorities Land Act 1882**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Local Government	492(1)	In certain circumstances, power to apply to exchange a conditional deed for a reserve or deed of grant in trust with Council as trustee or a lease issued under the <i>Land Act 1994</i> .

## **CHAPTER 9 – TRANSITIONAL AND REPEAL PROVISIONS**

### **Part 1K – Transitional provisions for Land, Water and Other Legislation Amendment Act 2013**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Lessee	521ZE(2)	Power to apply in writing to the Minister for the cancellation of the land management agreement for the lease.

### **Part 1M – Transitional provisions for Land and Other Legislation Amendment Act 2014**

<b>Entity power given to</b>	<b>Section of LANA</b>	<b>Description</b>
Lessee of a lease	521ZL(2)	Power to agree to the renewal application being treated as an extension application and advise the Chief Executive of same.
Lessee of a lease	521ZM(2)	Power to advise the Chief Executive that the lessee wishes the lease to become a rolling term lease.

## **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.

[2020 07 01 - LANA - 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 may take into account Ailan Kastom (section 9(3) LGA 2009).

# **INSTRUMENT OF DELEGATION**

## **Torres Strait Island Regional Council** ***Land Regulation 2020 ("LANR")***

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.

***Land Regulation 2020 ("LANR")*****Part 3 – Matters affecting land holdings****Division 1 – Purchase price and valuations for particular purposes**

<b>Entity power given to</b>	<b>Section of LANR</b>	<b>Description</b>
Lessee	19	Power to appeal against the purchase price decision.

**Part 4 – Rents and instalments****Division 2 – Categorisation of tenures for rental purposes*****Subdivision 3 – Allocating particular tenures to rental categories***

<b>Entity power given to</b>	<b>Section of LANR</b>	<b>Description</b>
Prospective lessee or licensee	31(3)	Power to appeal against the rental category decision.
Lessee	31(4)	In the circumstances stated in section 31(4), power to appeal against a decision of the Minister to change the rental category of the lease.
Prospective permittee	32(3)	Power to appeal against a decision of the chief executive to allocate the permit to a rental category for calculating the rent payable for the permit.

**Part 8 – General****Division 2 – Declared beach areas*****Subdivision 2 – Use conditions***

<b>Entity power given to</b>	<b>Section of LANR</b>	<b>Description</b>
Manager of a declared beach area	85(1)	Power to form a reasonable belief that the closure of the declared beach area is necessary, and power to temporarily close the declared beach area.
Manager of a declared beach area	85(2)	Power to authorise a person to access a closed beach area.

## **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.

[2020 07 01 - LANR - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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 LAND REGULATION 2020 ("LANR")

### Part 3 – Matters affecting land holdings

#### Division 1 – Purchase price and valuations for particular purposes

Entity power given to	Section of LANR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Lessee	19	Power to appeal against the purchase price decision.				

### Part 4 – Rents and instalments

#### Division 2 – Categorisation of tenures for rental purposes

#### *Subdivision 3 – Allocating particular tenures to rental categories*

Entity power given to	Section of LANR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Prospective lessee or licensee	31(3)	Power to appeal against the rental category decision.				
Lessee	31(4)	In the circumstances stated in section 31(4), power to appeal against a decision of the Minister to change the rental category of the lease.				



Prospective permittee	32(3)	Power to appeal against a decision of the chief executive to allocate the permit to a rental category for calculating the rent payable for the permit.				
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**Part 8 – General**

**Division 2 – Declared beach areas**

***Subdivision 2 – Use conditions***

Entity power given to	Section of LANR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Manager of a declared beach area	85(1)	Power to form a reasonable belief that the closure of the declared beach area is necessary, and power to temporarily close the declared beach area.				
Manager of a declared beach area	85(2)	Power to authorise a person to access a closed beach area.				

[2020 07 01 - LANR - Delegation Table]

## INSTRUMENT OF SUB-DELEGATION

**Torres Strait Island Regional Council**  
*Land Regulation 2020 ("LANR")*

Under section 259 of the *Local Government Act 2009*, I, **Bruce Ranga**, Chief Executive Officer of **Torres Strait Island Regional Council**, delegate to those positions which are specified in Schedule 1, the exercise of the powers contained in Schedule 2.

These powers must be exercised subject to the limitations contained in Schedule 3.

This Instrument of Sub-Delegation repeals all prior Instruments sub-delegating to the positions specified in Schedule 1 the exercise of the powers contained in Schedule 2.

My authority to make these sub-delegations is conferred by the *Local Government Act 2009* and the resolution of **Torres Strait Island Regional Council** made on **Insert date** to delegate those powers to the Chief Executive Officer.

**DATED** this                      day of                      2020.

**Bruce Ranga**  
Chief Executive Officer  
**Torres Strait Island Regional Council**

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

## POWERS SUB-DELEGATED

### *Land Regulation 2020 ("LANR")*

#### Part 3 – Matters affecting land holdings

##### Division 1 – Purchase price and valuations for particular purposes

Entity power given to	Section of LANR	Description
Lessee	19	Power to appeal against the purchase price decision.

#### Part 4 – Rents and instalments

##### Division 2 – Categorisation of tenures for rental purposes

##### *Subdivision 3 – Allocating particular tenures to rental categories*

Entity power given to	Section of LANR	Description
Prospective lessee or licensee	31(3)	Power to appeal against the rental category decision.
Lessee	31(4)	In the circumstances stated in section 31(4), power to appeal against a decision of the Minister to change the rental category of the lease.
Prospective permittee	32(3)	Power to appeal against a decision of the chief executive to allocate the permit to a rental category for calculating the rent payable for the permit.

#### Part 8 – General

##### Division 2 – Declared beach areas

##### *Subdivision 2 – Use conditions*

Entity power given to	Section of LANR	Description
Manager of a declared beach area	85(1)	Power to form a reasonable belief that the closure of the declared beach area is necessary, and power to temporarily close the declared beach area.
Manager of a declared beach area	85(2)	Power to authorise a person to access a closed beach area.

## **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.

[2020 07 01 - LANR - 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 may take into account Ailan Kastom (section 9(3) LGA 2009).

# **INSTRUMENT OF DELEGATION**

## **Torres Strait Island Regional Council** ***Land Title Act 1994 ("LATA")***

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.

**Land Title Act 1994 ("LATA")****Part 4 – Registration of land****Division 3 – Plans of subdivision**

Entity power given to	Section of LATA	Description
Registered Owner	50(1)(b)(i)	Power to include a statement agreeing to the plan and dedicating the public use land.

**Division 3A – Dedication of road by notice**

Entity power given to	Section of LATA	Description
Registered Owner	54(1)	Power to sign and lodge for registration a dedication notice.

**Part 6 – Dealings directly affecting lots****Division 1 – Transfers**

Entity power given to	Section of LATA	Description
Local Government	60(1)	Power to sign and lodge for registration an instrument of transfer for a lot or interest.

**Division 2 – Leases**

Entity power given to	Section of LATA	Description
Local Government	64	Power to sign and lodge for registration an instrument of lease for a lot or part of a lot.
Local Government	67(1)	Power to sign and lodge an instrument of amendment of the lease.
Lessor	68(1)	Power to sign and lodge a request for the registrar to register the re-entry.
Lessor or Lessee	69(1)	Power to execute and lodge for registration an instrument of surrender.

**Division 4 – Easements**

Entity power given to	Section of LATA	Description
Local Government	82(1)	Power to sign and lodge for registration an instrument of easement.
Registered Owner / Lessee / Person entitled to land / Public Utility Provider	83(1)(b)	Power to sign an instrument of easement.
Local Government	83(2)(b)	In certain circumstances, power to approve a plan of survey.
Registered Owner	87(a)	Power to ask the registrar to extinguish the easement.



Local government	90(1)	Power to sign and lodge for registration an instrument of surrender of an easement.
Local Government	91(1)	Power to sign and lodge for registration an instrument of amendment of the easement.

#### **Division 4AA – High-density development easements**

<b>Entity power given to</b>	<b>Section of LATA</b>	<b>Description</b>
Owner of the benefitted lot	95(7)(c)	Power to give written consent to an owner of a burdened lot to remove, change or otherwise interfere with any support.
Owner of the benefitted lot	96A(5)	Power to provide written consent to an owner of a burdened lot to remove, change or otherwise interfere with any projection.
Owner of the benefitted lot	96C(6)	Power to provide written consent to an owner of a burdened lot to: (a) remove, change or otherwise interfere with the roof water drainage structure; or (b) obstruct or otherwise interfere with the flow of water through the structure.

#### **Division 4A – Covenants**

<b>Entity power given to</b>	<b>Section of LATA</b>	<b>Description</b>
Local Government	97A(1)	Power to sign and lodge for registration an instrument of covenant.
Local Government	97C(1)	Power to sign and lodge for registration an instrument of amendment of the covenant.
Local Government	97D(1)	Power to sign and lodge for registration an instrument releasing a covenant.

#### **Division 4B – Profits a prendre**

<b>Entity power given to</b>	<b>Section of LATA</b>	<b>Description</b>
Local Government	97E	Power to sign and lodge for registration an instrument of profit a prendre.
Local Government	97K(1)	Power to sign and lodge for registration an instrument of amendment of the profit a prendre.

#### **Division 4C – Carbon abatement interests**

##### ***Subdivision 2 – Creation and registration***

<b>Entity power given to</b>	<b>Section of LATA</b>	<b>Description</b>
Local Government	97O(1)(a)	Power to sign and lodge for registration an instrument of carbon abatement interest.
Holders of the registered interests in the land	97P(c)	Power to consent to the proposed grant of a carbon abatement interest.

### ***Subdivision 3 – Amendments and dealings***

<b>Entity power given to</b>	<b>Section of LATA</b>	<b>Description</b>
Local Government	97S(1)	Power to sign and lodge for registration an instrument of amendment of a carbon abatement interest.

### **Division 5 – Application by adverse possessor**

<b>Entity power given to</b>	<b>Section of LATA</b>	<b>Description</b>
Person who claims an interest in the lot	104	Power to sign and lodge a caveat.
Caveator	105(2)	Power to: (a) start a proceeding in the Supreme Court to recover the lot; and (b) give written notice to the registrar, in the way the registrar requires, that the proceeding has started.
Caveator	106	Power to seek leave of the Supreme Court to lodge a further caveat.
Caveator	107(2)	Power to start a proceeding in the Supreme Court to recover a lot.
Applicant	108A(2)	Power to sign a plan of subdivision.

## **Part 7 – Other dealings**

### **Division 1 – Writs of execution**

<b>Entity power given to</b>	<b>Section of LATA</b>	<b>Description</b>
Local Government	116	Power to sign and lodge a request to register a writ of execution.

### **Division 2 – Caveats**

<b>Entity power given to</b>	<b>Section of LATA</b>	<b>Description</b>
Caveator	121(1)	Power to sign a caveat.
A person mentioned in s. 122(1)	122(1)	Power to lodge for registration a caveat.
Caveator	124(2)(b)	Power to consent to the registration of an instrument.
Caveator	125	Power to sign and lodge for registration a request to withdraw a caveat.
Caveatee	126(2)	Power to serve a notice requiring the caveator to start a proceeding in a Court of competent jurisdiction to establish the interest claimed under the caveat.
Caveator	126(4)	Power to start a proceeding and notify the registrar in the way described in section 126(4).
Caveatee	127(1)	Power to apply to the Supreme Court for an order that a caveat be removed.
Caveator or Caveatee	128(1)	Power to sign and lodge for registration a request to cancel a caveat.

**Part 7A – Priority notices**

Entity power given to	Section of LATA	Description
Person	139(1)	Power to deposit a priority notice.
Person	139(2)	Power to sign a priority notice.
Person	141(1)	Power to deposit an extension request
Person	141(2)	Power to sign and extension request
Person	143(1)	Power to deposit a request to withdraw a priority notice.
Person	143(2)	Power to sign a request to withdraw a priority notice.
An affected person	144(1)	Power to apply to the Supreme Court for an order that a priority notice be removed.
Person	145(1)(a)	Power to deposit a request to cancel a priority notice.
Person	149(1)	Power to deposit a request to correct a priority notice.

**Part 8 – Instruments****Division 2 – Standard terms documents forming part of instruments**

Entity power given to	Section of LATA	Description
Local Government	169(1)	Power to lodge a standard terms document and lodge a further standard terms document amending the standard terms document.
Local Government	172(1)	Power to ask the registrar to withdraw a registered standard terms document.

## **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.

[2019 03 29 - LATA - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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 LAND TITLE ACT 1994 ("LATA")

### Part 4 – Registration of land

#### Division 3 – Plans of subdivision

Entity power given to	Section of LATA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Registered Owner	50(1)(b)(i)	Power to include a statement agreeing to the plan and dedicating the public use land.	Delegation of this power to be made on a case-by-case basis only.			

#### Division 3A – Dedication of road by notice

Entity power given to	Section of LATA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Registered Owner	54(1)	Power to sign and lodge for registration a dedication notice.	Delegation of this power to be made on a case-by-case basis only.			

### Part 6 – Dealings directly affecting lots

#### Division 1 – Transfers

Entity power given to	Section of LATA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	60(1)	Power to sign and lodge for registration an instrument of transfer for a lot or interest.	Delegation of this power to be made			For Torres Strait Islander Freehold and Deed of Grant

			on a case-by-case basis only.			in Trust land, a Trustee resolution is required. Where a development permit is required, a local government resolution is also required.
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## Division 2 – Leases

Entity power given to	Section of LATA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	64	Power to sign and lodge for registration an instrument of lease for a lot or part of a lot.	Delegation of this power to be made on a case-by-case basis only.			For Torres Strait Islander Freehold and Deed of Grant in Trust land, a Trustee resolution is required. Where a development permit is required, a local government resolution is also required.
Local Government	67(1)	Power to sign and lodge an instrument of amendment of the lease.	Delegation of this power to be made on a case-by-case basis only.			For Torres Strait Islander Freehold and Deed of Grant in Trust land, a Trustee resolution is required. Where a development permit is required, a local government resolution is also required.

Lessor	68(1)	Power to sign and lodge a request for the registrar to register the re-entry.	Delegation of this power to be made on a case-by-case basis only.			
Lessor or Lessee	69(1)	Power to execute and lodge for registration an instrument of surrender.	Delegation of this power to be made on a case-by-case basis only.			

#### Division 4 – Easements

Entity power given to	Section of LATA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	82(1)	Power to sign and lodge for registration an instrument of easement.	Delegation of this power to be made on a case-by-case basis only.			
Registered Owner / Lessee / Person entitled to land / Public Utility Provider	83(1)(b)	Power to sign an instrument of easement.	Delegation of this power to be made on a case-by-case basis only.			
Local Government	83(2)(b)	In certain circumstances, power to approve a plan of survey.	Delegation of this power to be made on a case-by-case basis only.			
Registered Owner	87(a)	Power to ask the registrar to extinguish the easement.	Delegation of this power to be made on a case-by-case basis only.			



Local government	90(1)	Power to sign and lodge for registration an instrument of surrender of an easement.	Delegation of this power to be made on a case-by-case basis only.			
Local Government	91(1)	Power to sign and lodge for registration an instrument of amendment of the easement.	Delegation of this power to be made on a case-by-case basis only.			

**Division 4AA – High-density development easements**

Entity power given to	Section of LATA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Owner of the benefitted lot	95(7)(c)	Power to give written consent to an owner of a burdened lot to remove, change or otherwise interfere with any support.	N/A			
Owner of the benefitted lot	96A(5)	Power to provide written consent to an owner of a burdened lot to remove, change or otherwise interfere with any projection.	N/A			
Owner of the benefitted lot	96C(6)	Power to provide written consent to an owner of a burdened lot to: (a) remove, change or otherwise interfere with the roof water drainage structure; or (b) obstruct or otherwise interfere with the flow of water through the structure.	N/A			

#### Division 4A – Covenants

Entity power given to	Section of LATA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	97A(1)	Power to sign and lodge for registration an instrument of covenant.	Delegation of this power to be made on a case-by-case basis only.			
Local Government	97C(1)	Power to sign and lodge for registration an instrument of amendment of the covenant.	Delegation of this power to be made on a case-by-case basis only.			
Local Government	97D(1)	Power to sign and lodge for registration an instrument releasing a covenant.	Delegation of this power to be made on a case-by-case basis only.			

#### Division 4B – Profits a prendre

Entity power given to	Section of LATA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	97E	Power to sign and lodge for registration an instrument of profit a prendre.	Delegation of this power to be made on a case-by-case basis only.			
Local Government	97K(1)	Power to sign and lodge for registration an instrument of amendment of the profit a prendre.	Delegation of this power to be made on a case-by-case basis only.			

## Division 4C – Carbon abatement interests

### Subdivision 2 – Creation and registration

Entity power given to	Section of LATA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	97O(1)(a)	Power to sign and lodge for registration an instrument of carbon abatement interest.	Delegation of this power to be made on a case-by-case basis only.			
Holders of the registered interests in the land	97P(c)	Power to consent to the proposed grant of a carbon abatement interest.	Delegation of this power to be made on a case-by-case basis only.			

### Subdivision 3 – Amendments and dealings

Entity power given to	Section of LATA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	97S(1)	Power to sign and lodge for registration an instrument of amendment of a carbon abatement interest.	Delegation of this power to be made on a case-by-case basis only.			

## Division 5 – Application by adverse possessor

Entity power given to	Section of LATA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Person who claims an interest in the lot	104	Power to sign and lodge a caveat.	Delegation of this power to be made on a case-by-case basis only.			
Caveator	105(2)	Power to:				

		(a) start a proceeding in the Supreme Court to recover the lot; and (b) give written notice to the registrar, in the way the registrar requires, that the proceeding has started.				
Caveator	106	Power to seek leave of the Supreme Court to lodge a further caveat.	Delegation of this power to be made on a case-by-case basis only.			
Caveator	107(2)	Power to start a proceeding in the Supreme Court to recover a lot.	Delegation of this power to be made on a case-by-case basis only.			
Applicant	108A(2)	Power to sign a plan of subdivision.	Delegation of this power to be made on a case-by-case basis only.			

## Part 7 – Other dealings

### Division 1 – Writs of execution

Entity power given to	Section of LATA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	116	Power to sign and lodge a request to register a writ of execution.	Delegation of this power to be made on a case-by-case basis only.			

## Division 2 – Caveats

Entity power given to	Section of LATA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Caveator	121(1)	Power to sign a caveat.	Subject to consultation with Mayor			
A person mentioned in s. 122(1)	122(1)	Power to lodge for registration a caveat.	Subject to consultation with Mayor			
Caveator	124(2)(b)	Power to consent to the registration of an instrument.	Subject to consultation with Mayor			
Caveator	125	Power to sign and lodge for registration a request to withdraw a caveat.	Subject to consultation with Mayor			
Caveatee	126(2)	Power to serve a notice requiring the caveator to start a proceeding in a Court of competent jurisdiction to establish the interest claimed under the caveat.	Subject to consultation with Mayor			
Caveator	126(4)	Power to start a proceeding and notify the registrar in the way described in section 126(4).	Subject to consultation with Mayor			
Caveatee	127(1)	Power to apply to the Supreme Court for an order that a caveat be removed.	Subject to consultation with Mayor			
Caveator or Caveatee	128(1)	Power to sign and lodge for registration a request to cancel a caveat.	Subject to consultation with Mayor			

**Part 7A – Priority notices**

Entity power given to	Section of LATA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Person	139(1)	Power to deposit a priority notice.	Subject to consultation with Mayor			
Person	139(2)	Power to sign a priority notice.	Subject to consultation with Mayor			
Person	141(1)	Power to deposit an extension request	Subject to consultation with Mayor			
Person	141(2)	Power to sign and extension request	Subject to consultation with Mayor			
Person	143(1)	Power to deposit a request to withdraw a priority notice.	Subject to consultation with Mayor			
Person	143(2)	Power to sign a request to withdraw a priority notice.	Subject to consultation with Mayor			
An affected person	144(1)	Power to apply to the Supreme Court for an order that a priority notice be removed.	Subject to consultation with Mayor			
Person	145(1)(a)	Power to deposit a request to cancel a priority notice.	Subject to consultation with Mayor			
Person	149(1)	Power to deposit a request to correct a priority notice.	Subject to consultation with Mayor			

**Part 8 – Instruments**

**Division 2 – Standard terms documents forming part of instruments**

Entity power given to	Section of LATA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	169(1)	Power to lodge a standard terms document and lodge a further standard terms document amending the standard terms document.				
Local Government	172(1)	Power to ask the registrar to withdraw a registered standard terms document.				

[2019 03 29 - LATA - Delegation Table]

# INSTRUMENT OF SUB-DELEGATION

**Torres Strait Island Regional Council**  
***Land Title Act 1994 ("LATA")***

Under section 259 of the *Local Government Act 2009*, I, **Bruce Ranga**, Chief Executive Officer of **Torres Strait Island Regional Council**, delegate to those positions which are specified in Schedule 1, the exercise of the powers contained in Schedule 2.

These powers must be exercised subject to the limitations contained in Schedule 3.

This Instrument of Sub-Delegation repeals all prior Instruments sub-delegating to the positions specified in Schedule 1 the exercise of the powers contained in Schedule 2.

My authority to make these sub-delegations is conferred by the *Local Government Act 2009* and the resolution of **Torres Strait Island Regional Council** made on **Insert date** to delegate those powers to the Chief Executive Officer.

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

**Bruce Ranga**  
Chief Executive Officer  
**Torres Strait Island Regional Council**



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

## POWERS SUB-DELEGATED

### *Land Title Act 1994 ("LATA")*

#### Part 4 – Registration of land

##### Division 3 – Plans of subdivision

Entity power given to	Section of LATA	Description
Registered Owner	50(1)(b)(i)	Power to include a statement agreeing to the plan and dedicating the public use land.

##### Division 3A – Dedication of road by notice

Entity power given to	Section of LATA	Description
Registered Owner	54(1)	Power to sign and lodge for registration a dedication notice.

#### Part 6 – Dealings directly affecting lots

##### Division 1 – Transfers

Entity power given to	Section of LATA	Description
Local Government	60(1)	Power to sign and lodge for registration an instrument of transfer for a lot or interest.

##### Division 2 – Leases

Entity power given to	Section of LATA	Description
Local Government	64	Power to sign and lodge for registration an instrument of lease for a lot or part of a lot.
Local Government	67(1)	Power to sign and lodge an instrument of amendment of the lease.
Lessor	68(1)	Power to sign and lodge a request for the registrar to register the re-entry.
Lessor or Lessee	69(1)	Power to execute and lodge for registration an instrument of surrender.

##### Division 4 – Easements

Entity power given to	Section of LATA	Description
Local Government	82(1)	Power to sign and lodge for registration an instrument of easement.
Registered Owner / Lessee / Person entitled to land / Public Utility Provider	83(1)(b)	Power to sign an instrument of easement.

Local Government	83(2)(b)	In certain circumstances, power to approve a plan of survey.
Registered Owner	87(a)	Power to ask the registrar to extinguish the easement.
Local government	90(1)	Power to sign and lodge for registration an instrument of surrender of an easement.
Local Government	91(1)	Power to sign and lodge for registration an instrument of amendment of the easement.

#### **Division 4AA – High-density development easements**

<b>Entity power given to</b>	<b>Section of LATA</b>	<b>Description</b>
Owner of the benefitted lot	95(7)(c)	Power to give written consent to an owner of a burdened lot to remove, change or otherwise interfere with any support.
Owner of the benefitted lot	96A(5)	Power to provide written consent to an owner of a burdened lot to remove, change or otherwise interfere with any projection.
Owner of the benefitted lot	96C(6)	Power to provide written consent to an owner of a burdened lot to: (a) remove, change or otherwise interfere with the roof water drainage structure; or (b) obstruct or otherwise interfere with the flow of water through the structure.

#### **Division 4A – Covenants**

<b>Entity power given to</b>	<b>Section of LATA</b>	<b>Description</b>
Local Government	97A(1)	Power to sign and lodge for registration an instrument of covenant.
Local Government	97C(1)	Power to sign and lodge for registration an instrument of amendment of the covenant.
Local Government	97D(1)	Power to sign and lodge for registration an instrument releasing a covenant.

#### **Division 4B – Profits a prendre**

<b>Entity power given to</b>	<b>Section of LATA</b>	<b>Description</b>
Local Government	97E	Power to sign and lodge for registration an instrument of profit a prendre.
Local Government	97K(1)	Power to sign and lodge for registration an instrument of amendment of the profit a prendre.

#### **Division 4C – Carbon abatement interests**

##### ***Subdivision 2 – Creation and registration***

<b>Entity power given to</b>	<b>Section of LATA</b>	<b>Description</b>
Local Government	97O(1)(a)	Power to sign and lodge for registration an instrument of carbon abatement interest.
Holders of the registered interests in the land	97P(c)	Power to consent to the proposed grant of a carbon abatement interest.

### ***Subdivision 3 – Amendments and dealings***

<b>Entity power given to</b>	<b>Section of LATA</b>	<b>Description</b>
Local Government	97S(1)	Power to sign and lodge for registration an instrument of amendment of a carbon abatement interest.

### **Division 5 – Application by adverse possessor**

<b>Entity power given to</b>	<b>Section of LATA</b>	<b>Description</b>
Person who claims an interest in the lot	104	Power to sign and lodge a caveat.
Caveator	105(2)	Power to: (a) start a proceeding in the Supreme Court to recover the lot; and (b) give written notice to the registrar, in the way the registrar requires, that the proceeding has started.
Caveator	106	Power to seek leave of the Supreme Court to lodge a further caveat.
Caveator	107(2)	Power to start a proceeding in the Supreme Court to recover a lot.
Applicant	108A(2)	Power to sign a plan of subdivision.

## **Part 7 – Other dealings**

### **Division 1 – Writs of execution**

<b>Entity power given to</b>	<b>Section of LATA</b>	<b>Description</b>
Local Government	116	Power to sign and lodge a request to register a writ of execution.

### **Division 2 – Caveats**

<b>Entity power given to</b>	<b>Section of LATA</b>	<b>Description</b>
Caveator	121(1)	Power to sign a caveat.
A person mentioned in s. 122(1)	122(1)	Power to lodge for registration a caveat.
Caveator	124(2)(b)	Power to consent to the registration of an instrument.
Caveator	125	Power to sign and lodge for registration a request to withdraw a caveat.
Caveatee	126(2)	Power to serve a notice requiring the caveator to start a proceeding in a Court of competent jurisdiction to establish the interest claimed under the caveat.
Caveator	126(4)	Power to start a proceeding and notify the registrar in the way described in section 126(4).
Caveatee	127(1)	Power to apply to the Supreme Court for an order that a caveat be removed.
Caveator or Caveatee	128(1)	Power to sign and lodge for registration a request to cancel a caveat.

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**Part 7A – Priority notices**

Entity power given to	Section of LATA	Description
Person	139(1)	Power to deposit a priority notice.
Person	139(2)	Power to sign a priority notice.
Person	141(1)	Power to deposit an extension request
Person	141(2)	Power to sign and extension request
Person	143(1)	Power to deposit a request to withdraw a priority notice.
Person	143(2)	Power to sign a request to withdraw a priority notice.
An affected person	144(1)	Power to apply to the Supreme Court for an order that a priority notice be removed.
Person	145(1)(a)	Power to deposit a request to cancel a priority notice.
Person	149(1)	Power to deposit a request to correct a priority notice.

**Part 8 – Instruments****Division 2 – Standard terms documents forming part of instruments**

Entity power given to	Section of LATA	Description
Local Government	169(1)	Power to lodge a standard terms document and lodge a further standard terms document amending the standard terms document.
Local Government	172(1)	Power to ask the registrar to withdraw a registered standard terms document.

## **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.

[2019 03 29 - LATA - Sub-Delegation Instrument]

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

11. Delegated powers must be read in the context of other powers and subject to conditions stipulated therein;
12. 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;
13. Any decisions must be made within the financial delegation of the delegate;
14. 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;
15. 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;
16. 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;
17. Any power that is not delegable under a Local Government Act or Regulation, shall not be delegable under this instrument;
18. All delegations are subject to conditions imposed in the original delegation to CEO contained in the Instrument of Delegations of Local Government;

- 19.** Whilst exercising a power, the delegate may take into account Ailan Kastom (section 9(3) LGA 2009); and
- 20.** 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.

# **INSTRUMENT OF DELEGATION**

## **Torres Strait Island Regional Council** ***Liquor Act 1992 ("LIQA")***

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.



***Liquor Act 1992 ("LIQA")*****Part 5 – Grant, variation and transfer of licences and permits and related matters****Division 1 – Applications**

<b>Entity power given to</b>	<b>Section of LIQA</b>	<b>Description</b>
Local Government	105B(1)	Power to consent to an application for an adult entertainment permit.
Local Government	105B(4)	Power to abstain from consenting to the application for an adult entertainment permit.
Local Government	117(2)	In the specified circumstances, the power to: <ul style="list-style-type: none"> <li>(a) comment on the reasonable requirements of the public in the locality; or</li> <li>(b) object to the grant of an application on the grounds that the amenity, quiet or good order of the locality would be lessened.</li> </ul>
Local Government	117A(2)	In the specified circumstances, the power to comment on, or object to, an application by given written comments or objections to the Chief Executive within 28 days after receiving the chief executive's advice about the application.

**Part 6 – Obligatory provisions and offences****Division 4 – Provisions concerning consumption of liquor in certain public places**

<b>Entity power given to</b>	<b>Section of LIQA</b>	<b>Description</b>
Local Government	173C(1)	Power to designate a public place mentioned in section 173B(1)(a) of the <i>Liquor Act 1992</i> that is in Council's area as a public place where liquor may be consumed.
Local Government	173C(2)	Power to specify the period or times during which the designation is to have effect.
Local Government	173D(6)	In the specified circumstances, the power to provide written approval for the use of a public place mentioned in section 173D(5) of the <i>Liquor Act 1992</i> .
Local Government	173E(1)	Power to repeal or amend a designation under section 173C of the <i>Liquor Act 1992</i> .
Local Government	173N(4)	Power to give the Queensland Police a written notice of suspension of designation of a public place in a restricted area.

**Part 6AB –****Safe night precincts****Division 3 – Provisions that apply when a safe  
night precinct has a local board**

Entity power given to	Section of LIQA	Description
Chief Executive Officer	173NH(2) (d)	Power to nominate an employee of the local government for the local government area as a member of a consultative committee for a safe night precinct.

## **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.

[2019 04 01 - LIQA - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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 LIQUOR ACT 1992 ("LIQA")

### Part 5 – Grant, variation and transfer of licences and permits and related matters

#### Division 1 – Applications

Entity power given to	Section of LIQA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	105B(1)	Power to consent to an application for an adult entertainment permit.				Subject to consultation with Divisional Councillor.
Local Government	105B(4)	Power to abstain from consenting to the application for an adult entertainment permit.				Subject to consultation with Divisional Councillor.
Local Government	117(2)	In the specified circumstances, the power to: (a) comment on the reasonable requirements of the public in the locality; or (b) object to the grant of an application on the grounds that the amenity, quiet or good order of the locality would be lessened.				Subject to consultation with Divisional Councillor.
Local Government	117A(2)	In the specified circumstances, the power to comment on, or object to, an application by given written comments or objections to the Chief Executive within 28 days after receiving the chief executive's advice about the application.				Subject to consultation with Divisional Councillor.

**Part 6 – Obligatory provisions and offences**

**Division 4 – Provisions concerning consumption of liquor in certain public places**

Entity power given to	Section of LIQA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	173C(1)	Power to designate a public place mentioned in section 173B(1)(a) of the <i>Liquor Act 1992</i> that is in Council's area as a public place where liquor may be consumed.				Subject to consultation with Divisional Councillor.
Local Government	173C(2)	Power to specify the period or times during which the designation is to have effect.				Subject to consultation with Divisional Councillor.
Local Government	173D(6)	In the specified circumstances, the power to provide written approval for the use of a public place mentioned in section 173D(5) of the <i>Liquor Act 1992</i> .				Subject to consultation with Divisional Councillor.
Local Government	173E(1)	Power to repeal or amend a designation under section 173C of the <i>Liquor Act 1992</i> .				Subject to consultation with Divisional Councillor.
Local Government	173N(4)	Power to give the Queensland Police a written notice of suspension of designation of a public place in a restricted area.				

**Part 6AB – Safe night precincts**

**Division 3 – Provisions that apply when a safe  
night precinct has a local board**

Entity power given to	Section of LIQA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Chief Executive Officer	173NH(2) (d)	Power to nominate an employee of the local government for the local government area as a member of a consultative committee for a safe night precinct.	Not required/CEO power			

[2019 04 01 - LIQA - Delegation Table]

## INSTRUMENT OF SUB-DELEGATION

**Torres Strait Island Regional Council**  
*Liquor Act 1992 ("LIQA")*

Under section 259 of the *Local Government Act 2009*, I, **Bruce Ranga**, Chief Executive Officer of **Torres Strait Island Regional Council**, delegate to those positions which are specified in Schedule 1, the exercise of the powers contained in Schedule 2.

These powers must be exercised subject to the limitations contained in Schedule 3.

This Instrument of Sub-Delegation repeals all prior Instruments sub-delegating to the positions specified in Schedule 1 the exercise of the powers contained in Schedule 2.

My authority to make these sub-delegations is conferred by the *Local Government Act 2009* and the resolution of **Torres Strait Island Regional Council** made on **Insert date** to delegate those powers to the Chief Executive Officer.

**DATED** this                      day of                      2020.

**Bruce Ranga**  
Chief Executive Officer  
**Torres Strait Island Regional Council**



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

## POWERS SUB-DELEGATED

### *Liquor Act 1992 ("LIQA")*

#### Part 5 – Grant, variation and transfer of licences and permits and related matters

##### Division 1 – Applications

Entity power given to	Section of LIQA	Description
Local Government	105B(1)	Power to consent to an application for an adult entertainment permit.
Local Government	105B(4)	Power to abstain from consenting to the application for an adult entertainment permit.
Local Government	117(2)	In the specified circumstances, the power to: <ul style="list-style-type: none"> <li>(a) comment on the reasonable requirements of the public in the locality; or</li> <li>(b) object to the grant of an application on the grounds that the amenity, quiet or good order of the locality would be lessened.</li> </ul>
Local Government	117A(2)	In the specified circumstances, the power to comment on, or object to, an application by given written comments or objections to the Chief Executive within 28 days after receiving the chief executive's advice about the application.

#### Part 6 – Obligatory provisions and offences

##### Division 4 – Provisions concerning consumption of liquor in certain public places

Entity power given to	Section of LIQA	Description
Local Government	173C(1)	Power to designate a public place mentioned in section 173B(1)(a) of the <i>Liquor Act 1992</i> that is in Council's area as a public place where liquor may be consumed.
Local Government	173C(2)	Power to specify the period or times during which the designation is to have effect.
Local Government	173D(6)	In the specified circumstances, the power to provide written approval for the use of a public place mentioned in section 173D(5) of the <i>Liquor Act 1992</i> .
Local Government	173E(1)	Power to repeal or amend a designation under section 173C of the <i>Liquor Act 1992</i> .
Local Government	173N(4)	Power to give the Queensland Police a written notice of suspension of designation of a public place in a restricted area.

**Part 6AB –****Safe night precincts****Division 3 – Provisions that apply when a safe  
night precinct has a local board**

Entity power given to	Section of LIQA	Description
Chief Executive Officer	173NH(2) (d)	Power to nominate an employee of the local government for the local government area as a member of a consultative committee for a safe night precinct.

## **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.

[2019 04 01 - LIQA - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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.

# **INSTRUMENT OF DELEGATION**

## **Torres Strait Island Regional Council** ***Local Government Act 2009 ("LOGA")***

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.

**Local Government Act 2009 ("LOGA")****CHAPTER 3 – THE BUSINESS OF LOCAL GOVERNMENT****Part 1 – Local laws****Division 2 – Making, recording and reviewing local laws**

Entity power given to	Section of LOGA	Description
Local Government	29(1)	Power to decide local government process for making a local law to the extent that the process is not inconsistent with this part.

**Division 5 – Miscellaneous**

Entity power given to	Section of LOGA	Description
Chief Executive Officer	38B(9)	Power to ask the police commissioner to give the chief executive officer information about noise abatement directions given to persons in the local government area.

**Part 3 – Roads and other infrastructure****Division 1 – Roads**

Entity power given to	Section of LOGA	Description
Local Government	61(1)	Power to give the owner of land the local government wants to acquire, a notice of intention to acquire land.
Local Government	61(5)	Power to give permission to an owner to erect, place, re-erect, replace or repair any structure or part of a structure on the land.
Local Government	62(6)	Power to reasonably require information to decide the claim.
Local Government	62(7)	In specified circumstances, power to give the claimant written notice of Council's decision on the claim.
Local Government	64(4)	Power to agree on compensation for the acquisition of the land.
Local Government	65(1)	Power to decide not to proceed with the realignment of a road or part of a road after giving a notice of intention to acquire land.
Local Government	65(3)	Power to serve notice of Council's decision on all owners of land who were served with the notice of intention to acquire land.
Local Government	65(4)(a)	Power to withdraw the notice of intention to acquire land.
Local Government	65(4)(b)	Power to lodge with the registrar of titles for registration a notice of Council's decision not to proceed with the realignment of the road, or part of the road.
Local Government	66(4)	Power to agree on an amount of compensation.
Local Government	67(1)	Power to acquire land that adjoins a road for use as a footpath.

Local Government	67(2)	In the specified circumstances, power to decide whether any of the rights specified in this subsection are appropriate.
Local Government	67(3)	Power to consider necessary structural alterations to the structure, room or cellar.
Local Government	68(4)	Power to object to the opening or closing of the road.
Local Government	69(1)	In certain circumstances, power to close a road.
Local Government	69(2)(a)	Power to close a road during a temporary obstruction to traffic.
Local Government	69(2)(b)	Power to close a road if it is in the interests of public safety.
Local Government	69(2)(c)	Power to decide that it is necessary or desirable to close a road for a temporary purpose in the circumstances specified.
Local Government	69(4)	Power to do everything necessary to stop traffic using the road after it is closed.
Local Government	69(5)	If a road is closed to traffic for a temporary purpose, power to permit the use of any part of the road on the conditions considered appropriate.
Local Government Employee or Contractor	70(3)	In the specified circumstances, power to: (a) make an agreement with the owner or occupier of the land; or (b) give the owner or occupier of the land at least 3 days written notice.
Local Government	70(4)	In the specified circumstances, power to give the owner or occupier of the land oral notice of the matters mentioned in subsection (3)(b).
Chief Executive Officer	70(6)(b)	Power to allow a later time for receipt of a claim for compensation.
Local Government	70(7)(a)	Power to make an agreement with a person for the amount of compensation.
Local Government	71(2)	Power to give the owner or occupier advice about the permanent level of the road.
Local Government	71(4)(a)	Power to make an agreement with the owner or occupier, or their successor in title, for the amount of compensation.
Local Government	72(1)(b)	Power to consider that the conduct of the activity is having, or will have, a significant adverse impact on a road in the local government area.
Local Government	72(2)	Power to require the entity which is conducting an activity to provide information, within a reasonable time, that will enable the local government to assess the impact of the activity on the road.
Local Government	72(3)	After assessing the impact of the activity on the road, power to do one or more of the following: (a) give the entity a direction about the use of the road to lessen the impact; (b) require the entity: (i) to carry out works to lessen the impact; or (ii) to pay an amount as compensation for the impact.
Local Government	74(2)	Power to consider appropriate particulars to be shown on the register of roads.
Local Government	75(2)	For the specified reasons, power to give written approval.



Local Government	75(4)	Power to decide the conditions of an approval under subsection (2).
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## **Division 2 – Stormwater drains**

<b>Entity power given to</b>	<b>Section of LOGA</b>	<b>Description</b>
Local Government	77(1)	Power to, by written notice, require the owner of a property to connect a stormwater installation for the property to the local government's stormwater drain in the way, under the conditions and within the time stated in the notice.
Local Government	77(3)(b)	Power to give approval for the connection to a local government stormwater drain.
Local Government	77(4)	Power to impose conditions on approval for the connection, including about the way the connection must be made.
Local Government	78(4)	Under the specified circumstances, power to, by written notice, require the owner of the property to perform the work stated in the notice, within the time stated in the notice.
Local Government	78(5)	For a notice provided in subsection (4), power to decide a time that is reasonable.
Local Government	79(4)(e)(i)	Power to approve the maximum temperature for a substance.

## **Part 4 – The business of indigenous local governments**

### **Division 2 – Managing trust land**

<b>Entity power given to</b>	<b>Section of LOGA</b>	<b>Description</b>
Trustee Council	85(6)	Power to give written notice of the reasons for the proposed decision to the community forum.

## **Part 5 – Caretaker period arrangements**

<b>Entity power given to</b>	<b>Section of LOGA</b>	<b>Description</b>
Local Government	90B(2)	Power to consider it is necessary to make a major policy decision in the public interest, and power to apply to the Minister for approval to make the decision.

## **CHAPTER 4 – FINANCES AND ACCOUNTABILITY**

### **Part 1 – Rates and charges**

<b>Entity power given to</b>	<b>Section of LOGA</b>	<b>Description</b>
Local Government	95(3)(a)	Power to sign and lodge for registration a request to register a charge over the land on behalf of the local government.
Chief Executive Officer	95(3)(b)	Power to sign a certificate that states there is a charge of the land for overdue rates and charges.
Chief Executive Officer	95(5)(b)	Power to sign a certificate that states the overdue rates and charges have been paid.

## CHAPTER 5 – MONITORING AND ENFORCING THE LOCAL GOVERNMENT ACTS

### Part 1 – Local governments

#### Division 3 – Remedial action by minister

Entity power given to	Section of LOGA	Description
Local Government	120(5)	Power to make submissions within the time specified in the notice.

### Part 2 – The public

#### Division 1 – Powers of authorised persons

##### *Subdivision 3 – Powers to enter property etc.*

Entity power given to	Section of LOGA	Description
Local Government	133(3)	Power to give, or make a reasonable attempt to give, the occupier of the property a written notice that informs the occupier of the following: (a) the intention to enter the property; (b) the reason for entering the property; (c) an estimation of when the property will be entered.
Local Government	133(4)	Power to give, or make a reasonable attempt to give, written notice to the occupier within a reasonable time before the property is to be entered.
Local Government	137(2)(a)	Power to agree on an amount of compensation for a person who has incurred damage or loss because of the exercise or purported exercise of a power under this division.

#### Division 2 – Powers of other persons

Entity power given to	Section of LOGA	Description
Local Government	138(4)	Power to authorise a local government worker.
Local Government	138AA(3)(b)	Power to give reasonable entry notice.
Local Government	140(1)(a)	Power to give a remedial notice to the owner of a property.
Owner / Owner's agent	140(2)	Power to enter property at the times stated in the reasonable entry notice and take the action that is required under the remedial notice.
Local Government	142(6)	In the specified circumstances, power to give the person who failed to take the action, written notice of the amount of the debt.
Local Government	143(1)	Power to form a belief that there is no reasonably practicable way of obtaining materials other than by removing the materials from the relevant land.
Person	146(1)	Power to enter the property in accordance with a Court order made under this section.
Person	146(2)	Power to apply to a Magistrate for a Court order.
Local Government	147(3)(a)	Power to agree on an amount of compensation for a person who has incurred damage or loss because of the exercise or purported exercise of a power under this division.

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**Part 3 – Investigation of local government records****Division 3 – Investigations by local government**

Entity power given to	Section of LOGA	Description
Chief Executive Officer	148F(2)	Power to make all inquiries the Chief Executive Officer considers to be reasonable to find out whether and to what extent the register or record is incorrect/power to direct an authorised person to make such enquiries.
Chief Executive Officer	148G(2)	Power to, in the circumstances in subsection (1) require a person to give information or produce a document, or direct an authorised person to require a person to give information or produce a document.

**CHAPTER 5A – COUNCILLOR CONDUCT****Part 3 – Dealing with inappropriate conduct, misconduct and corrupt conduct****Division 2 – Complaints about councillor conduct**

Entity power given to	Section of LOGA	Description
Local Government	150P	In the specified circumstances, the power to refer a complaint to the assessor and to give the assessor all information held by the entity that relates to the complaint.

**Division 3 – Local government duties to notify assessor about particular councillor conduct**

Entity power given to	Section of LOGA	Description
Local Government	150S(2)	In the specified circumstances, the power to give the assessor a notice about the councillor's conduct and all information held by the local government that relates to the conduct.

**Division 5 – Referral of conduct to local government**

Entity power given to	Section of LOGA	Description
Local Government	150AF(1)	In the specified circumstances, the power to investigate the conduct of the councillor.
Local Government	150AF(4)	In the specified circumstances, the power to give information to the assessor for further investigation and take no further action in relation to the conduct.

**Division 6 – Application to conduct tribunal about misconduct and connected inappropriate conduct**

Entity power given to	Section of LOGA	Description
Local Government	150AK(3)	In the specified circumstances, the power to give to the councillor a copy of the application.

**Part 4 – Investigation and enforcement powers**  
**Division 2 – Entry of place by investigators**  
***Subdivision 1 – Power to enter***

Entity power given to	Section of LOGA	Description
Occupier at a place	150BI(1)(a)	In the specified circumstances, the power to consent to the entry of an investigator to a place.

***Subdivision 2 – Entry by consent***

Entity power given to	Section of LOGA	Description
Occupier at a place	150BM(1)	In the specified circumstances, the power to sign an acknowledge of the consent to allow an investigator entry to a place.

**Division 3 – General powers of investigators after entering places**

Entity power given to	Section of LOGA	Description
Occupier at a place	150BV(1)	In the specified circumstances, the power to provide reasonable help to an investigator to exercise a general power.

**Division 4 – Seizure by investigators**

***Subdivision 3 – Safeguards for seized things***

Entity power given to	Section of LOGA	Description
Owner of seized thing	150CD(1)	In the specified circumstances, the power to inspect the seized thing, and if it is a document, copy the document.
Owner of seized thing	150CE(3)	In the specified circumstances, the power to apply to the assessor for return of the seized thing.

**Division 7 – Review**

***Subdivision 1 – Internal review***

Entity power given to	Section of LOGA	Description
Owner of seized thing	150CO(2)	In the specified circumstances, the power to apply to the assessor for a review of the decision.

***Subdivision 2 – External review***

Entity power given to	Section of LOGA	Description
Applicant of a Review Decision	150CR	In the specified circumstances, the power to apply to QCAT for a review of the review decision.

**Part 5 – Administration****Division 2 – Councillor conduct tribunal**

Entity power given to	Section of LOGA	Description
Local Government	150DL(1)(a)	In the specified circumstances, the power to request the conduct tribunal to: (a) Investigate the suspected inappropriate conduct of a councillor; (b) to make recommendations to the local government about dealing with the conduct.

**Part 6 – Miscellaneous****Division 1 – Councillor conduct register**

Entity power given to	Section of LOGA	Description
Local Government	150DX(1)	The power to keep an up-to-date register about the specified matters.
Local Government	150DX(2)(a)	The power to publish the register on the local governments website.
Local Government	150DX(2)(b)	The power to make the register publicly available for inspection and to sell copies of an entry in the register, at the local government's public office.

**CHAPTER 6 – ADMINISTRATION****Part 2 – Councillors****Division 3 – Vacancies in councillor's office**

Entity power given to	Section of LOGA	Description
Local Government	162(1)(d)(ii)	In the specified circumstances, power to give leave to a councillor.
Chief Executive Officer	166(6)	In the specified circumstances, power to request the political party to advise the full name and address of its nominee.
Chief Executive Officer	166(8)	Power to, within 14 days after the office become vacant, invite nominations.

**Division 5 – Obligations of councillors**

Entity power given to	Section of LOGA	Description
Chief Executive Officer	170(4)(b)	Power to make available to the local government each direction mentioned under section 170(a).

**Division 5A – Dealing with councillors' personal interests in local government matters**

Entity power given to	Section of LOGA	Description
Local Government	175C(3)	In the specified circumstances, power to delegate deciding a matter, unless deciding the matter cannot be delegated under section 257 of the LGA.
Local Government	175E(6)	In the specified circumstances, power to delegate deciding a matter, unless deciding the matter cannot be delegated under section 257 of the LGA.

**Division 6 – Conduct and performance of councillors**

Entity power given to	Section of LOGA	Description
Entity dealing with the complaint under this division	176A(2)	In the specified circumstances, the power to decided not to take any further action in relation to a complaint about the conduct of a person who is no longer a councillor in the prescribed circumstances.
Entity dealing with the complaint under this division	176A(3)	In the specified circumstances, the power to give to an entity that made the complaint, and the accused person, a written notice that states: (a) no further action will be taken in relation to the complaint; and (b) the reasons for the decision.

**Part 5 – Local government employees**

**Division 3 – Common provisions**

Entity power given to	Section of LOGA	Description
Local Government	198(2)	Power to make an agreement with other local governments that an employee may be employed by more than one local government.

**CHAPTER 7 – OTHER PROVISIONS**

**Part 2 – Superannuation**

**Division 3 – Superannuation contributions for particular employees**

Entity power given to	Section of LOGA	Description
Local Government	221(2)(a)	Power to make an agreement with an employee that it is exempt, on the grounds of the employee's financial hardship, from paying all or a stated part of the contributions payable under section 220A(2) by the employee.

**Part 4 – Legal provisions**

Entity power given to	Section of LOGA	Description
Local Government	236(1)	The power to sign a document on behalf of a local government.

Local Government	240(1)	Power to authorise in writing another employee, other than the chief executive officer, to: (a) give instructions and act as the authorised agent for the local government; and (b) sign all documents for the local government.
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**Part 6 – Other provisions**

Entity power given to	Section of LOGA	Description
Local Government	262(2)	In the specified circumstances, power to do anything that is necessary or convenient for performing the responsibilities.
Chief Executive Officer	265A(1)(b)	Power to authorise an employee of a local government to conduct searches of registers or documents about the land in the land registry.
Local Government	268A	The power to decide the way in which a local government will conduct a voluntary poll of electors in its area.

**Part 12 – Traditional provisions for the Local Government (Councillor Complaints) and Other Legislation Amendment Act 2018**

Entity power given to	Section of LOGA	Description
Entity Holding Information	317(3)	In the specified circumstances, power to give information to the assessor.
Entity Holding Information	319(3)	In the specified circumstances, power to give information to the assessor.

## **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.

[2019 11 18 - LOGA - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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 LOCAL GOVERNMENT ACT 2009 ("LOGA")

## CHAPTER 3 – THE BUSINESS OF LOCAL GOVERNMENT

### Part 1 – Local laws

#### Division 2 – Making, recording and reviewing local laws

Entity power given to	Section of LOGA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	29(1)	Power to decide local government process for making a local law to the extent that the process is not inconsistent with this part.	N/A			

#### Division 5 – Miscellaneous

Entity power given to	Section of LOGA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Chief Executive Officer	38B(9)	Power to ask the police commissioner to give the chief executive officer information about noise abatement directions given to persons in the local government area.	This power does not need to be delegated as it is given directly to the CEO under the Act.			

**Part 3 – Roads and other infrastructure**

**Division 1 – Roads**

Entity power given to	Section of LOGA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	61(1)	Power to give the owner of land the local government wants to acquire, a notice of intention to acquire land.				Subject to consultation with the Divisional Councillor.
Local Government	61(5)	Power to give permission to an owner to erect, place, re-erect, replace or repair any structure or part of a structure on the land.				Subject to consultation with the Divisional Councillor.
Local Government	62(6)	Power to reasonably require information to decide the claim.				
Local Government	62(7)	In specified circumstances, power to give the claimant written notice of Council's decision on the claim.				
Local Government	64(4)	Power to agree on compensation for the acquisition of the land.	N/A			
Local Government	65(1)	Power to decide not to proceed with the realignment of a road or part of a road after giving a notice of intention to acquire land.	N/A			
Local Government	65(3)	Power to serve notice of Council's decision on all owners of land who were served with the notice of intention to acquire land.				
Local Government	65(4)(a)	Power to withdraw the notice of intention to acquire land.				
Local Government	65(4)(b)	Power to lodge with the registrar of titles for registration a notice of Council's decision not to proceed with the realignment of the road, or part of the road.				

Local Government	66(4)	Power to agree on an amount of compensation.	N/A			
Local Government	67(1)	Power to acquire land that adjoins a road for use as a footpath.	N/A			
Local Government	67(2)	In the specified circumstances, power to decide whether any of the rights specified in this subsection are appropriate.				
Local Government	67(3)	Power to consider necessary structural alterations to the structure, room or cellar.				
Local Government	68(4)	Power to object to the opening or closing of the road.				Subject to consultation with the Divisional Councillor.
Local Government	69(1)	In certain circumstances, power to close a road.				Subject to consultation with the Divisional Councillor.
Local Government	69(2)(a)	Power to close a road during a temporary obstruction to traffic.				Subject to consultation with the Divisional Councillor.
Local Government	69(2)(b)	Power to close a road if it is in the interests of public safety.				Subject to consultation with the Divisional Councillor.
Local Government	69(2)(c)	Power to decide that it is necessary or desirable to close a road for a temporary purpose in the circumstances specified.				Subject to consultation with the Divisional Councillor.
Local Government	69(4)	Power to do everything necessary to stop traffic using the road after it is closed.				
Local Government	69(5)	If a road is closed to traffic for a temporary purpose, power to permit the use of any part				

		of the road on the conditions considered appropriate.				
Local Government Employee or Contractor	70(3)	In the specified circumstances, power to: (a) make an agreement with the owner or occupier of the land; or (b) give the owner or occupier of the land at least 3 days written notice.				
Local Government	70(4)	In the specified circumstances, power to give the owner or occupier of the land oral notice of the matters mentioned in subsection (3)(b).				
Chief Executive Officer	70(6)(b)	Power to allow a later time for receipt of a claim for compensation.	This power does not need to be delegated as it is given directly to the CEO under the Act.			
Local Government	70(7)(a)	Power to make an agreement with a person for the amount of compensation.	N/A			
Local Government	71(2)	Power to give the owner or occupier advice about the permanent level of the road.				
Local Government	71(4)(a)	Power to make an agreement with the owner of occupier, or their successor in title, for the amount of compensation.	N/A			
Local Government	72(1)(b)	Power to consider that the conduct of the activity is having, or will have, a significant adverse impact on a road in the local government area.				
Local Government	72(2)	Power to require the entity which is conducting an activity to provide information, within a reasonable time, that will enable the local government to assess the impact of the activity on the road.				

Local Government	72(3)	After assessing the impact of the activity on the road, power to do one or more of the following: (a) give the entity a direction about the use of the road to lessen the impact; (b) require the entity: (i) to carry out works to lessen the impact; or (ii) to pay an amount as compensation for the impact.				
Local Government	74(2)	Power to consider appropriate particulars to be shown on the register of roads.				
Local Government	75(2)	For the specified reasons, power to give written approval to carry out works on a road or interference with a road or its operation subject to conditions.				Subject to consultation with the Divisional Councillor.
Local Government	75(4)	Power to decide the conditions of an approval under subsection (2).				

### Division 2 – Stormwater drains

Entity power given to	Section of LOGA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	77(1)	Power to, by written notice, require the owner of a property to connect a stormwater installation for the property to the local government's stormwater drain in the way, under the conditions and within the time stated in the notice.				
Local Government	77(3)(b)	Power to give approval for the connection to a local government stormwater drain.				

Local Government	77(4)	Power to impose conditions on approval for the connection, including about the way the connection must be made.				
Local Government	78(4)	Under the specified circumstances, power to, by written notice, require the owner of the property to perform the work stated in the notice, within the time stated in the notice.				
Local Government	78(5)	For a notice provided in subsection (4), power to decide a time that is reasonable.				
Local Government	79(4)(e)(i)	Power to approve the maximum temperature for a substance.				

#### **Part 4 – The business of indigenous local governments**

##### **Division 2 – Managing trust land**

<b>Entity power given to</b>	<b>Section of LOGA</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>
Trustee Council	85(6)	Power to give written notice of the reasons for the proposed decision to the community forum.	N/A – TSIRC currently has no community forums			

#### **Part 5 – Caretaker period arrangements**

<b>Entity power given to</b>	<b>Section of LOGA</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	90B(2)	Power to consider it is necessary to make a major policy decision in the public interest, and power to apply to the Minister for approval to make the decision.				

## CHAPTER 4 – FINANCES AND ACCOUNTABILITY

### Part 1 – Rates and charges

Entity power given to	Section of LOGA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	95(3)(a)	Power to sign and lodge for registration a request to register a charge over the land on behalf of the local government.	N/A – no charges registrable. Delegation of this power to be made on a case-by-case basis only.			
Chief Executive Officer	95(3)(b)	Power to sign a certificate that states there is a charge of the land for overdue rates and charges.	This power does not need to be delegated as it is given directly to the CEO under the Act.			
Chief Executive Officer	95(5)(b)	Power to sign a certificate that states the overdue rates and charges have been paid.	This power does not need to be delegated as it is given directly to the CEO under the Act.			



## CHAPTER 5 – MONITORING AND ENFORCING THE LOCAL GOVERNMENT ACTS

### Part 1 – Local governments

#### Division 3 – Remedial action by minister

Entity power given to	Section of LOGA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	120(5)	Power to make submissions within the time specified in the notice.				

### Part 2 – The public

#### Division 1 – Powers of authorised persons

##### *Subdivision 3 – Powers to enter property etc.*

Entity power given to	Section of LOGA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	133(3)	Power to give, or make a reasonable attempt to give, the occupier of the property a written notice that informs the occupier of the following: (a) the intention to enter the property; (b) the reason for entering the property; (c) an estimation of when the property will be entered.				
Local Government	133(4)	Power to give, or make a reasonable attempt to give, written notice to the occupier within a reasonable time before the property is to be entered.				
Local Government	137(2)(a)	Power to agree on an amount of compensation for a person who has incurred	N/A			

		damage or loss because of the exercise or purported exercise of a power under this division.				
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## Division 2 – Powers of other persons

Entity power given to	Section of LOGA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	138(4)	Power to authorise a local government worker.				
Local Government	138AA(3)(b)	Power to give reasonable entry notice.				
Local Government	140(1)(a)	Power to give a remedial notice to the owner of a property.				
Owner / Owner's agent	140(2)	Power to enter property at the times stated in the reasonable entry notice and take the action that is required under the remedial notice.				
Local Government	142(6)	In the specified circumstances, power to give the person who failed to take the action, written notice of the amount of the debt.				
Local Government	143(1)	Power to form a belief that there is no reasonably practicable way of obtaining materials other than by removing the materials from the relevant land.				
Person	146(1)	Power to enter the property in accordance with a Court order made under this section.				
Person	146(2)	Power to apply to a Magistrate for a Court order.				
Local Government	147(3)(a)	Power to agree on an amount of compensation for a person who has incurred damage or loss because of the exercise or	N/A			

		purported exercise of a power under this division.				
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### **Part 3 – Investigation of local government records**

#### **Division 3 – Investigations by local government**

<b>Entity power given to</b>	<b>Section of LOGA</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>
Chief Executive Officer	148F(2)	Power to make all inquiries the Chief Executive Officer considers to be reasonable to find out whether and to what extent the register or record is incorrect/power to direct an authorised person to make such enquiries.	This power does not need to be delegated as it is given directly to the CEO under the Act.			
Chief Executive Officer	148G(2)	Power to, in the circumstances in subsection (1) require a person to give information or produce a document, or direct an authorised person to require a person to give information or produce a document.	This power does not need to be delegated as it is given directly to the CEO under the Act.			

## **CHAPTER 5A – COUNCILLOR CONDUCT**

### **Part 3 – Dealing with inappropriate conduct, misconduct and corrupt conduct**

#### **Division 2 – Complaints about councillor conduct**

<b>Entity power given to</b>	<b>Section of LOGA</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	150P	In the specified circumstances, the power to refer a complaint to the assessor and to give the assessor all information held by the entity that relates to the complaint.				

**Division 3 – Local government duties to notify assessor about particular councillor conduct**

Entity power given to	Section of LOGA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	150S(2)	In the specified circumstances, the power to give the assessor a notice about the councillor's conduct and all information held by the local government that relates to the conduct.				

**Division 5 – Referral of conduct to local government**

Entity power given to	Section of LOGA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	150AF(1)	In the specified circumstances, the power to investigate the conduct of the councillor.				
Local Government	150AF(4)	In the specified circumstances, the power to give information to the assessor for further investigation and take no further action in relation to the conduct.				

**Division 6 – Application to conduct tribunal about misconduct and connected inappropriate conduct**

Entity power given to	Section of LOGA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	150AK(3)	In the specified circumstances, the power to give to the councillor a copy of the application.				

**Part 4 – Investigation and enforcement powers**  
**Division 2 – Entry of place by investigators**  
**Subdivision 1 – Power to enter**

Entity power given to	Section of LOGA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Occupier at a place	150BI(1)(a)	In the specified circumstances, the power to consent to the entry of an investigator to a place.				

**Subdivision 2 – Entry by consent**

Entity power given to	Section of LOGA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Occupier at a place	150BM(1)	In the specified circumstances, the power to sign an acknowledge of the consent to allow an investigator entry to a place.				

**Division 3 – General powers of investigators after entering places**

Entity power given to	Section of LOGA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Occupier at a place	150BV(1)	In the specified circumstances, the power to provide reasonable help to an investigator to exercise a general power.				

## Division 4 – Seizure by investigators

### Subdivision 3 – Safeguards for seized things

Entity power given to	Section of LOGA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Owner of seized thing	150CD(1)	In the specified circumstances, the power to inspect the seized thing, and if it is a document, copy the document.				
Owner of seized thing	150CE(3)	In the specified circumstances, the power to apply to the assessor for return of the seized thing.				

## Division 7 – Review

### Subdivision 1 – Internal review

Entity power given to	Section of LOGA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Owner of seized thing	150CO(2)	In the specified circumstances, the power to apply to the assessor for a review of the decision.				

### Subdivision 2 – External review

Entity power given to	Section of LOGA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Applicant of a Review Decision	150CR	In the specified circumstances, the power to apply to QCAT for a review of the review decision.				

**Part 5 – Administration****Division 2 – Councillor conduct tribunal**

Entity power given to	Section of LOGA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	150DL(1)(a)	In the specified circumstances, the power to request the conduct tribunal to: (a) Investigate the suspected inappropriate conduct of a councillor; (b) to make recommendations to the local government about dealing with the conduct.	Delegation of this power to be made on a case-by-case basis only.	Sub-delegation of power not recommended		

**Part 6 – Miscellaneous****Division 1 – Councillor conduct register**

Entity power given to	Section of LOGA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	150DX(1)	The power to keep an up-to-date register about the specified matters.				
Local Government	150DX(2)(a)	The power to publish the register on the local governments website.				
Local Government	150DX(2)(b)	The power to make the register publicly available for inspection and to sell copies of an entry in the register, at the local government's public office.				

## CHAPTER 6 – ADMINISTRATION

### Part 2 – Councillors

#### Division 3 – Vacancies in councillor's office

Entity power given to	Section of LOGA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	162(1)(e)(ii)	In the specified circumstances, power to give leave to a councillor.	N/A			
Chief Executive Officer	166(6)	In the specified circumstances, power to request the political party to advise the full name and address of its nominee.	This power does not need to be delegated as it is given directly to the CEO under the Act.	Sub-delegation of power not recommended.		
Chief Executive Officer	166(8)	Power to, within 14 days after the office become vacant, invite nominations.	This power does not need to be delegated as it is given directly to the CEO under the Act.	Sub-delegation of power not recommended.		

#### Division 5 – Obligations of councillors

Entity power given to	Section of LOGA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Chief Executive Officer	170(4)(b)	Power to make available to the local government each direction mentioned under section 170(a).	This power does not need to be delegated as it is given directly to the CEO under the Act.			



**Division 5A – Dealing with councillors' personal interests in local government matters**

Entity power given to	Section of LOGA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	175C(3)	In the specified circumstances, power to delegate deciding a matter, unless deciding the matter cannot be delegated under section 257 of the LGA.	N/A – repealed			
Local Government	175E(6)	In the specified circumstances, power to delegate deciding a matter, unless deciding the matter cannot be delegated under section 257 of the LGA.	N/A – repealed			

**Division 6 – Conduct and performance of councillors**

Entity power given to	Section of LOGA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Entity dealing with the complaint under this division	176A(2)	In the specified circumstances, the power to decide not to take any further action in relation to a complaint about the conduct of a person who is no longer a councillor in the prescribed circumstances.	This power does not need to be delegates as it is given directly to the CEO under the Act	Sub-Delegation of power not recommended		
Entity dealing with the complaint under this division	176A(3)	In the specified circumstances, the power to give to an entity that made the complaint, and the accused person, a written notice that states: (a) no further action will be taken in relation to the complaint; and (b) the reasons for the decision.	This power does not need to be delegates as it is given directly to the CEO under the Act	Sub-Delegation of power not recommended		

**Part 5 – Local government employees****Division 3 – Common provisions**

Entity power given to	Section of LOGA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	198(2)	Power to make an agreement with other local governments that an employee may be employed by more than one local government.				Subject to consultation with the Divisional Councillor.

**CHAPTER 7 – OTHER PROVISIONS****Part 2 – Superannuation****Division 3 – Superannuation contributions for particular employees**

Entity power given to	Section of LOGA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	221(2)(a)	Power to make an agreement with an employee that it is exempt, on the grounds of the employee's financial hardship, from paying all or a stated part of the contributions payable under section 220A(2) by the employee.				

**Part 4 – Legal provisions**

Entity power given to	Section of LOGA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	236(1)	The power to sign a document on behalf of a local government.				Mayor to execute

						documents on behalf of Council in instances where creating, amending or surrendering interests in land, unless not reasonably practicable, then the Chief Executive Officer.
Local Government	240(1)	Power to authorise in writing another employee, other than the chief executive officer, to: (a) give instructions and act as the authorised agent for the local government; and (b) sign all documents for the local government.				

## Part 6 – Other provisions

Entity power given to	Section of LOGA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	262(2)	In the specified circumstances, power to do anything that is necessary or convenient for performing the responsibilities.				
Chief Executive Officer	265A(1)(b)	Power to authorise an employee of a local government to conduct searches of registers or documents about the land in the land registry.	This power does not need to be delegated as it is given directly to the CEO under the Act.			

Local Government	268A	The power to decide the way in which a local government will conduct a voluntary poll of electors in its area.				
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**Part 12 – Traditional provisions for the Local Government (Councillor Complaints) and Other Legislation Amendment Act 2018**

Entity power given to	Section of LOGA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Entity Holding Information	317(3)	In the specified circumstances, power to give information to the assessor.				
Entity Holding Information	319(3)	In the specified circumstances, power to give information to the assessor.				

[2019 11 18 - LOGA - Delegation Table]

## INSTRUMENT OF SUB-DELEGATION

**Torres Strait Island Regional Council**  
*Local Government Act 2009 ("LOGA")*

Under section 259 of the *Local Government Act 2009*, I, **Bruce Ranga**, Chief Executive Officer of **Torres Strait Island Regional Council**, delegate to those positions which are specified in Schedule 1, the exercise of the powers contained in Schedule 2.

These powers must be exercised subject to the limitations contained in Schedule 3.

This Instrument of Sub-Delegation repeals all prior Instruments sub-delegating to the positions specified in Schedule 1 the exercise of the powers contained in Schedule 2.

My authority to make these sub-delegations is conferred by the *Local Government Act 2009* and the resolution of **Torres Strait Island Regional Council** made on **Insert date** to delegate those powers to the Chief Executive Officer.

**DATED** this                      day of                      2020.

**Bruce Ranga**  
Chief Executive Officer  
**Torres Strait Island Regional Council**

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

## POWERS SUB-DELEGATED

### *Local Government Act 2009 ("LOGA")*

#### CHAPTER 3 – THE BUSINESS OF LOCAL GOVERNMENT

##### Part 1 – Local laws

##### Division 2 – Making, recording and reviewing local laws

Entity power given to	Section of LOGA	Description
Local Government	29(1)	Power to decide local government process for making a local law to the extent that the process is not inconsistent with this part.

##### Division 5 – Miscellaneous

Entity power given to	Section of LOGA	Description
Chief Executive Officer	38B(9)	Power to ask the police commissioner to give the chief executive officer information about noise abatement directions given to persons in the local government area.

##### Part 3 – Roads and other infrastructure

##### Division 1 – Roads

Entity power given to	Section of LOGA	Description
Local Government	61(1)	Power to give the owner of land the local government wants to acquire, a notice of intention to acquire land.
Local Government	61(5)	Power to give permission to an owner to erect, place, re-erect, replace or repair any structure or part of a structure on the land.
Local Government	62(6)	Power to reasonably require information to decide the claim.
Local Government	62(7)	In specified circumstances, power to give the claimant written notice of Council's decision on the claim.
Local Government	64(4)	Power to agree on compensation for the acquisition of the land.
Local Government	65(1)	Power to decide not to proceed with the realignment of a road or part of a road after giving a notice of intention to acquire land.
Local Government	65(3)	Power to serve notice of Council's decision on all owners of land who were served with the notice of intention to acquire land.
Local Government	65(4)(a)	Power to withdraw the notice of intention to acquire land.
Local Government	65(4)(b)	Power to lodge with the registrar of titles for registration a notice of Council's decision not to proceed with the realignment of the road, or part of the road.
Local Government	66(4)	Power to agree on an amount of compensation.

Local Government	67(1)	Power to acquire land that adjoins a road for use as a footpath.
Local Government	67(2)	In the specified circumstances, power to decide whether any of the rights specified in this subsection are appropriate.
Local Government	67(3)	Power to consider necessary structural alterations to the structure, room or cellar.
Local Government	68(4)	Power to object to the opening or closing of the road.
Local Government	69(1)	In certain circumstances, power to close a road.
Local Government	69(2)(a)	Power to close a road during a temporary obstruction to traffic.
Local Government	69(2)(b)	Power to close a road if it is in the interests of public safety.
Local Government	69(2)(c)	Power to decide that it is necessary or desirable to close a road for a temporary purpose in the circumstances specified.
Local Government	69(4)	Power to do everything necessary to stop traffic using the road after it is closed.
Local Government	69(5)	If a road is closed to traffic for a temporary purpose, power to permit the use of any part of the road on the conditions considered appropriate.
Local Government Employee or Contractor	70(3)	In the specified circumstances, power to: (a) make an agreement with the owner or occupier of the land; or (b) give the owner or occupier of the land at least 3 days written notice.
Local Government	70(4)	In the specified circumstances, power to give the owner or occupier of the land oral notice of the matters mentioned in subsection (3)(b).
Chief Executive Officer	70(6)(b)	Power to allow a later time for receipt of a claim for compensation.
Local Government	70(7)(a)	Power to make an agreement with a person for the amount of compensation.
Local Government	71(2)	Power to give the owner or occupier advice about the permanent level of the road.
Local Government	71(4)(a)	Power to make an agreement with the owner or occupier, or their successor in title, for the amount of compensation.
Local Government	72(1)(b)	Power to consider that the conduct of the activity is having, or will have, a significant adverse impact on a road in the local government area.
Local Government	72(2)	Power to require the entity which is conducting an activity to provide information, within a reasonable time, that will enable the local government to assess the impact of the activity on the road.
Local Government	72(3)	After assessing the impact of the activity on the road, power to do one or more of the following: (a) give the entity a direction about the use of the road to lessen the impact; (b) require the entity: (i) to carry out works to lessen the impact; or (ii) to pay an amount as compensation for the impact.
Local Government	74(2)	Power to consider appropriate particulars to be shown on the register of roads.



Local Government	75(2)	For the specified reasons, power to give written approval.
Local Government	75(4)	Power to decide the conditions of an approval under subsection (2).

### **Division 2 – Stormwater drains**

<b>Entity power given to</b>	<b>Section of LOGA</b>	<b>Description</b>
Local Government	77(1)	Power to, by written notice, require the owner of a property to connect a stormwater installation for the property to the local government's stormwater drain in the way, under the conditions and within the time stated in the notice.
Local Government	77(3)(b)	Power to give approval for the connection to a local government stormwater drain.
Local Government	77(4)	Power to impose conditions on approval for the connection, including about the way the connection must be made.
Local Government	78(4)	Under the specified circumstances, power to, by written notice, require the owner of the property to perform the work stated in the notice, within the time stated in the notice.
Local Government	78(5)	For a notice provided in subsection (4), power to decide a time that is reasonable.
Local Government	79(4)(e)(i)	Power to approve the maximum temperature for a substance.

## **Part 4 – The business of indigenous local governments**

### **Division 2 – Managing trust land**

<b>Entity power given to</b>	<b>Section of LOGA</b>	<b>Description</b>
Trustee Council	85(6)	Power to give written notice of the reasons for the proposed decision to the community forum.

## **Part 5 – Caretaker period arrangements**

<b>Entity power given to</b>	<b>Section of LOGA</b>	<b>Description</b>
Local Government	90B(2)	Power to consider it is necessary to make a major policy decision in the public interest, and power to apply to the Minister for approval to make the decision.

## **CHAPTER 4 – FINANCES AND ACCOUNTABILITY**

### **Part 1 – Rates and charges**

<b>Entity power given to</b>	<b>Section of LOGA</b>	<b>Description</b>
Local Government	95(3)(a)	Power to sign and lodge for registration a request to register a charge over the land on behalf of the local government.
Chief Executive Officer	95(3)(b)	Power to sign a certificate that states there is a charge of the land for overdue rates and charges.
Chief Executive Officer	95(5)(b)	Power to sign a certificate that states the overdue rates and charges have been paid.

## CHAPTER 5 – MONITORING AND ENFORCING THE LOCAL GOVERNMENT ACTS

### Part 1 – Local governments

#### Division 3 – Remedial action by minister

Entity power given to	Section of LOGA	Description
Local Government	120(5)	Power to make submissions within the time specified in the notice.

### Part 2 – The public

#### Division 1 – Powers of authorised persons

##### *Subdivision 3 – Powers to enter property etc.*

Entity power given to	Section of LOGA	Description
Local Government	133(3)	Power to give, or make a reasonable attempt to give, the occupier of the property a written notice that informs the occupier of the following: (a) the intention to enter the property; (b) the reason for entering the property; (c) an estimation of when the property will be entered.
Local Government	133(4)	Power to give, or make a reasonable attempt to give, written notice to the occupier within a reasonable time before the property is to be entered.
Local Government	137(2)(a)	Power to agree on an amount of compensation for a person who has incurred damage or loss because of the exercise or purported exercise of a power under this division.

#### Division 2 – Powers of other persons

Entity power given to	Section of LOGA	Description
Local Government	138(4)	Power to authorise a local government worker.
Local Government	138AA(3)(b)	Power to give reasonable entry notice.
Local Government	140(1)(a)	Power to give a remedial notice to the owner of a property.
Owner / Owner's agent	140(2)	Power to enter property at the times stated in the reasonable entry notice and take the action that is required under the remedial notice.
Local Government	142(6)	In the specified circumstances, power to give the person who failed to take the action, written notice of the amount of the debt.
Local Government	143(1)	Power to form a belief that there is no reasonably practicable way of obtaining materials other than by removing the materials from the relevant land.
Person	146(1)	Power to enter the property in accordance with a Court order made under this section.
Person	146(2)	Power to apply to a Magistrate for a Court order.
Local Government	147(3)(a)	Power to agree on an amount of compensation for a person who has incurred damage or loss because of the exercise or purported exercise of a power under this division.

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**Part 3 – Investigation of local government records****Division 3 – Investigations by local government**

Entity power given to	Section of LOGA	Description
Chief Executive Officer	148F(2)	Power to make all inquiries the Chief Executive Officer considers to be reasonable to find out whether and to what extent the register or record is incorrect/power to direct an authorised person to make such enquiries.
Chief Executive Officer	148G(2)	Power to, in the circumstances in subsection (1) require a person to give information or produce a document, or direct an authorised person to require a person to give information or produce a document.

**CHAPTER 5A – COUNCILLOR CONDUCT****Part 3 – Dealing with inappropriate conduct, misconduct and corrupt conduct****Division 2 – Complaints about councillor conduct**

Entity power given to	Section of LOGA	Description
Local Government	150P	In the specified circumstances, the power to refer a complaint to the assessor and to give the assessor all information held by the entity that relates to the complaint.

**Division 3 – Local government duties to notify assessor about particular councillor conduct**

Entity power given to	Section of LOGA	Description
Local Government	150S(2)	In the specified circumstances, the power to give the assessor a notice about the councillor's conduct and all information held by the local government that relates to the conduct.

**Division 5 – Referral of conduct to local government**

Entity power given to	Section of LOGA	Description
Local Government	150AF(1)	In the specified circumstances, the power to investigate the conduct of the councillor.
Local Government	150AF(4)	In the specified circumstances, the power to give information to the assessor for further investigation and take no further action in relation to the conduct.

**Division 6 – Application to conduct tribunal about misconduct and connected inappropriate conduct**

Entity power given to	Section of LOGA	Description
Local Government	150AK(3)	In the specified circumstances, the power to give to the councillor a copy of the application.

**Part 4 – Investigation and enforcement powers**  
**Division 2 – Entry of place by investigators**  
***Subdivision 1 – Power to enter***

Entity power given to	Section of LOGA	Description
Occupier at a place	150BI(1)(a)	In the specified circumstances, the power to consent to the entry of an investigator to a place.

***Subdivision 2 – Entry by consent***

Entity power given to	Section of LOGA	Description
Occupier at a place	150BM(1)	In the specified circumstances, the power to sign an acknowledge of the consent to allow an investigator entry to a place.

**Division 3 – General powers of investigators after entering places**

Entity power given to	Section of LOGA	Description
Occupier at a place	150BV(1)	In the specified circumstances, the power to provide reasonable help to an investigator to exercise a general power.

**Division 4 – Seizure by investigators**

***Subdivision 3 – Safeguards for seized things***

Entity power given to	Section of LOGA	Description
Owner of seized thing	150CD(1)	In the specified circumstances, the power to inspect the seized thing, and if it is a document, copy the document.
Owner of seized thing	150CE(3)	In the specified circumstances, the power to apply to the assessor for return of the seized thing.

**Division 7 – Review**

***Subdivision 1 – Internal review***

Entity power given to	Section of LOGA	Description
Owner of seized thing	150CO(2)	In the specified circumstances, the power to apply to the assessor for a review of the decision.

***Subdivision 2 – External review***

Entity power given to	Section of LOGA	Description
Applicant of a Review Decision	150CR	In the specified circumstances, the power to apply to QCAT for a review of the review decision.

**Part 5 –****Administration****Division 2 – Councillor conduct tribunal**

Entity power given to	Section of LOGA	Description
Local Government	150DL(1)(a)	In the specified circumstances, the power to request the conduct tribunal to: (a) Investigate the suspected inappropriate conduct of a councillor; (b) to make recommendations to the local government about dealing with the conduct.

**Part 6 –****Miscellaneous****Division 1 – Councillor conduct register**

Entity power given to	Section of LOGA	Description
Local Government	150DX(1)	The power to keep an up-to-date register about the specified matters.
Local Government	150DX(2)(a)	The power to publish the register on the local governments website.
Local Government	150DX(2)(b)	The power to make the register publicly available for inspection and to sell copies of an entry in the register, at the local government's public office.

**CHAPTER 6 – ADMINISTRATION****Part 2 –****Councillors****Division 3 – Vacancies in councillor's office**

Entity power given to	Section of LOGA	Description
Local Government	162(1)(d)(ii)	In the specified circumstances, power to give leave to a councillor.
Chief Executive Officer	166(6)	In the specified circumstances, power to request the political party to advise the full name and address of its nominee.
Chief Executive Officer	166(8)	Power to, within 14 days after the office become vacant, invite nominations.

**Division 5 – Obligations of councillors**

Entity power given to	Section of LOGA	Description
Chief Executive Officer	170(4)(b)	Power to make available to the local government each direction mentioned under section 170(a).

### **Division 5A – Dealing with councillors' personal interests in local government matters**

<b>Entity power given to</b>	<b>Section of LOGA</b>	<b>Description</b>
Local Government	175C(3)	In the specified circumstances, power to delegate deciding a matter, unless deciding the matter cannot be delegated under section 257 of the LGA.
Local Government	175E(6)	In the specified circumstances, power to delegate deciding a matter, unless deciding the matter cannot be delegated under section 257 of the LGA.

### **Division 6 – Conduct and performance of councillors**

<b>Entity power given to</b>	<b>Section of LOGA</b>	<b>Description</b>
Entity dealing with the complaint under this division	176A(2)	In the specified circumstances, the power to decide not to take any further action in relation to a complaint about the conduct of a person who is no longer a councillor in the prescribed circumstances.
Entity dealing with the complaint under this division	176A(3)	In the specified circumstances, the power to give to an entity that made the complaint, and the accused person, a written notice that states: (a) no further action will be taken in relation to the complaint; and (b) the reasons for the decision.

## **Part 5 – Local government employees**

### **Division 3 – Common provisions**

<b>Entity power given to</b>	<b>Section of LOGA</b>	<b>Description</b>
Local Government	198(2)	Power to make an agreement with other local governments that an employee may be employed by more than one local government.

## **CHAPTER 7 – OTHER PROVISIONS**

### **Part 2 – Superannuation**

#### **Division 3 – Superannuation contributions for particular employees**

<b>Entity power given to</b>	<b>Section of LOGA</b>	<b>Description</b>
Local Government	221(2)(a)	Power to make an agreement with an employee that it is exempt, on the grounds of the employee's financial hardship, from paying all or a stated part of the contributions payable under section 220A(2) by the employee.

### **Part 4 – Legal provisions**

<b>Entity power given to</b>	<b>Section of LOGA</b>	<b>Description</b>
Local Government	236(1)	The power to sign a document on behalf of a local government.

Local Government	240(1)	Power to authorise in writing another employee, other than the chief executive officer, to: (a) give instructions and act as the authorised agent for the local government; and (b) sign all documents for the local government.
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**Part 6 – Other provisions**

Entity power given to	Section of LOGA	Description
Local Government	262(2)	In the specified circumstances, power to do anything that is necessary or convenient for performing the responsibilities.
Chief Executive Officer	265A(1)(b)	Power to authorise an employee of a local government to conduct searches of registers or documents about the land in the land registry.
Local Government	268A	The power to decide the way in which a local government will conduct a voluntary poll of electors in its area.

**Part 12 – Traditional provisions for the Local Government (Councillor Complaints) and Other Legislation Amendment Act 2018**

Entity power given to	Section of LOGA	Description
Entity Holding Information	317(3)	In the specified circumstances, power to give information to the assessor.
Entity Holding Information	319(3)	In the specified circumstances, power to give information to the assessor.

## **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.

[2019 11 18 - LOGA - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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.

# **INSTRUMENT OF DELEGATION**

## **Torres Strait Island Regional Council** ***Local Government Regulation 2012 ("LOGR")***

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.

**Local Government Regulation 2012 ("LOGR")****CHAPTER 3 – THE BUSINESS OF LOCAL GOVERNMENTS****Part 2 – Business reform, including competitive neutrality****Division 7 – Competitive neutrality complaints****Subdivision 2 – Complaint process**

Entity power given to	Section of LOGR	Description
Local Government	55(4)	Power to, within seven (7) days after making the resolution, give notice of the resolution to: (a) The complainant; and (b) The QCA; and (c) If a corporatised business entity is conducting the business activity—the corporatised business entity.

**Part 3 – Roads and other infrastructure****Division 2 – Malls**

Entity power given to	Section of LOGR	Description
Local Government	58(2)(b)	Power to permit the use of any part of the mall (including for the use of erecting any structure, for example) on the conditions it considers appropriate.

**CHAPTER 4 – RATES AND CHARGES****Part 5 – Differential general rates****Division 2 – Entering land to categorise land**

Entity power given to	Section of LOGR	Description
Chief Executive Officer	83(1)	Power to appoint a qualified person as a categorisation officer for this division.
Local Government	83(2)(b)	Power to authorise a person for the purpose of this division.
Chief Executive Officer	84(1)	Power to give a categorisation officer an identity card.

**Division 4 – Objecting to rates category**

Entity power given to	Section of LOGR	Description
Chief Executive Officer	91(2)	Power to consider the objection and decide: (a) to change the rating category for the land: (i) to the rating category to which the owner claims in the objection notice the land should belong; or (ii) to another rating category; or (b) not to allow the objection.

Chief Executive Officer	91(3)	Power to give the owner notice of the decision and the reasons for the decision.
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**Part 12 –**

**Overdue rates and charges**

**Division 3 – Selling or acquiring land for overdue rates or charges**

***Subdivision 2 – Selling land for overdue rates or charges***

Entity power given to	Section of LOGR	Description
Local Government	138(3)	Power to give the State or government entity that has the interest in the land under the State encumbrance a notice of the local government's intention to sell the land, before the local government sells the land.
Local Government	140(3)	In certain circumstances, power to give all interested parties a notice of intention to sell the land.
Local Government	143(1)	Power to set a reserve price for the land at auction.
Local Government	143(2)	In certain circumstances, power to enter into negotiations with the any bidder who attended the auction to sell the land by agreement.
Local Government	144(1)	Power to prepare the sales notice.
Local Government	144(4)	Power to decide to offer the land for sale by negotiation.
Local Government	144(5)(a)	Power to give a copy of the sales notice to each interested party who was given a notice of intention to sell the land.
Local Government	144(5)(b)	Power to publish the sales notice on the local government's website.
Local Government	144(5)(c)	Power to display the sales notice in a conspicuous place in the local government's office.
Local Government	144(5)(d)	Power to display the sales notice in a conspicuous place on the land.
Local Government	144(5)(e)	Power to take all reasonable steps to publish the sales notice in another way to notify the public about the sale of the land.

***Subdivision 3 – Acquiring land for overdue rates or charges***

Entity power given to	Section of LOGR	Description
Local Government	149(2)	In certain circumstances, power to, as soon as practicable, give all interested parties a notice of intention to acquire the land.

**Part 13 –**

**Land record of local government**

**Division 1 – Land record**

Entity power given to	Section of LOGR	Description
Chief Executive Officer	156(2)	In certain circumstances, power to, as soon as practicable, give the ratepayer an information notice about the amendment.

## CHAPTER 5 – FINANCIAL PLANNING AND ACCOUNTABILITY

### Part 5 – Community grants

Entity power given to	Section of LOGR	Description
Local Government	194(a)	Power to be satisfied: (a) the grant will be used for a purpose that is in the public interest; and (b) the community organisation meets the criteria stated in the local government's community grants policy.

### Part 8 – Local government funds and accounts

#### Division 1 – Trust fund

Entity power given to	Section of LOGR	Description
Local Government	201(2)	In certain circumstances, power to transfer money from a trust fund.
Local Government	201B(4)	Power to, after the adoption of the budget by the Local Government, publish a notice containing the prescribed things.
Chief Executive Officer	202(2)(a)(ii)	In the specified circumstances, power to approve an allocation of the councillor's discretionary funds.
Chief Executive Officer	202A(2)	In the specified circumstances, power to publish a notice under section 202A(1) on the Local Government's website.

### Part 9 – Accounting records

Entity power given to	Section of LOGR	Description
Chief Executive Officer	204(2)	Power to present the financial report: (a) if the local government meets less frequently than monthly—at each meeting of the local government; or (b) otherwise—at a meeting of the local government once a month.
Chief Executive Officer	205(1)	Power to present the local government's annual budget meeting with a statement of estimated financial position.

## CHAPTER 6 – CONTRACTING

### Part 3 – Default contracting procedures

#### Division 2 – Entering into particular contracts

Entity power given to	Section of LOGR	Description
Local Government	225(3)	Power to not accept any of the quotes received.
Local Government	225(4)	Power to decide to accept a quote.
Local Government	225(4)	Power to decide which quote is most advantageous to Council, having regard to the sound contracting principles.
Local Government	228(9)	Power to decide not to accept any tenders received.
Local Government	228(10)	Power to decide to accept a tender.

Local Government	228(10)	Power to decide which tender is most advantageous to Council, having regard to the sound contracting principles.
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### **Division 3 – Exceptions for medium-sized and large-sized contractual arrangements**

<b>Entity power given to</b>	<b>Section of LOGR</b>	<b>Description</b>
Local Government	232(2)	In certain circumstances, power to enter into the contract without first inviting written quotes or tenders.
Local Government	232(4)	In certain circumstances, power to establish a register of pre-qualified suppliers.

## **CHAPTER 8 – ADMINISTRATION**

### **Part 1 – Councillors**

#### **Division 1 – Councillor remuneration**

<b>Entity power given to</b>	<b>Section of LOGR</b>	<b>Description</b>
Local Government	248(1)	Power to consider that, having regard to exceptional circumstances that apply, a councillor of its local government is entitled to a different amount of remuneration from the remuneration stated in the remuneration schedule for the category of local government to which the local government belongs.

### **Part 2 – Local government meetings and committees**

#### **Division 1A – Requirements for local government meetings generally**

<b>Entity power given to</b>	<b>Section of LOGR</b>	<b>Description</b>
Local Government	254B(1)	Power to publish a notice at least once a year, of the days and times when: (a) its ordinary meetings will be held; and (b) the ordinary meetings of its standing committees will be held.
Local Government	254B(1)	Power to consider it appropriate to publish the notice mention in subsection (1) in other ways.

### **Part 3 – Local government employees**

#### **Division 1 – Disciplinary action against local government employees**

<b>Entity power given to</b>	<b>Section of LOGR</b>	<b>Description</b>
Chief Executive Officer	279	Power to be satisfied that that the employee has: (a) failed to perform their responsibilities under the Act; or (b) failed to perform a responsibility under the Act in accordance with the local government principles; or (c) taken action under the Act in a way that is not consistent with the local government principles.
Chief Executive Officer	282(1)	Power to be satisfied, on reasonable grounds, that a local government employee will be subject to disciplinary action.

Chief Executive Officer	282(1)	Power to suspend the employee from duty.
Chief Executive Officer	283(1)	Power to give the employee: (a) written notice of the following: (i) the disciplinary action to be taken; (ii) the grounds on which the disciplinary action is taken; (iii) the particulars of conduct claimed to support the grounds; and (b) a reasonable opportunity to respond to the information contained in the written notice.

## **Part 5 – Register of interests**

### **Division 1 – Disciplinary action against local government employees**

<b>Entity power given to</b>	<b>Section of LOGR</b>	<b>Description</b>
Chief Executive Officer	296	In certain circumstances, the power to inform the informed person.

## **CHAPTER 9 – OTHER PROVISIONS**

### **Part 3 – Delegation of powers**

<b>Entity power given to</b>	<b>Section of LOGR</b>	<b>Description</b>
Chief Executive Officer	305(2)	Power to consider it appropriate to include other information in the register.

### **Part 6 – Loss of local government asset**

<b>Entity power given to</b>	<b>Section of LOGR</b>	<b>Description</b>
Chief Executive Officer	307A(1)(b)	Power to form reasonable suspicion that there has been a reportable loss of an asset belonging to the local government.
Chief Executive Officer	307A(3)	Power to be satisfied the material loss is also a reportable loss and power to advise the person specified in subsection (3) as soon as practicable but not more than 6 months after the CEO becomes aware of the loss.

## **SCHEDULE 4 – PRICING PROVISIONS**

<b>Entity power given to</b>	<b>Section of LOGR</b>	<b>Description</b>
Local Government	10(2)	Power to decide the amount for the return on the capital used by a local government in conducting a relevant activity.
Local Government	10(2)	Power to form the opinion that a rate is comparable to the rate which a private sector business conducting the activity would be able to obtain the capital in the market.
Local Government	10(3)	Power to consider appropriate, for the type of business activity, the split between equity and loan capital and the return appropriate to each.





## **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.

[2020 10 12 - LOGR - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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 LOCAL GOVERNMENT REGULATION 2012 ("LOGR")

## CHAPTER 3 – THE BUSINESS OF LOCAL GOVERNMENTS

### Part 2 – Business reform, including competitive neutrality

#### Division 7 – Competitive neutrality complaints

##### *Subdivision 2 – Complaint process*

Entity power given to	Section of LOGR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	55(4)	Power to, within seven (7) days after making the resolution, give notice of the resolution to: (a) The complainant; and (b) The QCA; and (c) If a corporatised business entity is conducting the business activity—the corporatised business entity.				

### Part 3 – Roads and other infrastructure

#### Division 2 – Malls

Entity power given to	Section of LOGR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	58(2)(b)	Power to permit the use of any part of the mall (including for the use of erecting any structure, for example) on the conditions it considers appropriate.				

## CHAPTER 4 – RATES AND CHARGES

### Part 5 – Differential general rates

#### Division 2 – Entering land to categorise land

Entity power given to	Section of LOGR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Chief Executive Officer	83(1)	Power to appoint a qualified person as a categorisation officer for this division.	This power does not need to be delegated as it is given directly to the CEO under the Act.			
Local Government	83(2)(b)	Power to authorise a person for the purpose of this division.	N/A – land not currently rateable			
Chief Executive Officer	84(1)	Power to give a categorisation officer an identity card.	This power does not need to be delegated as it is given directly to the CEO under the Act.			

#### Division 4 – Objecting to rates category

Entity power given to	Section of LOGR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Chief Executive Officer	91(2)	Power to consider the objection and decide: (a) to change the rating category for the land: (i) to the rating category to which the owner claims in the objection notice the land should belong; or (ii) to another rating category; or	This power does not need to be delegated as it is given directly to the CEO under the Act.			

		(b) not to allow the objection.				
Chief Executive Officer	91(3)	Power to give the owner notice of the decision and the reasons for the decision.	This power does not need to be delegated as it is given directly to the CEO under the Act.			

## Part 12 – Overdue rates and charges

### Division 3 – Selling or acquiring land for overdue rates or charges

#### *Subdivision 2 – Selling land for overdue rates or charges*

Entity power given to	Section of LOGR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	138(3)	Power to give the State or government entity that has the interest in the land under the State encumbrance a notice of the local government's intention to sell the land, before the local government sells the land.	N/A – land not currently rateable			
Local Government	140(3)	In certain circumstances, power to give all interested parties a notice of intention to sell the land.	N/A – land not currently rateable			
Local Government	143(1)	Power to set a reserve price for the land at auction.	N/A – land not currently rateable			
Local Government	143(2)	In certain circumstances, power to enter into negotiations with the any bidder who attended the auction to sell the land by agreement.	N/A – land not currently rateable			
Local Government	144(1)	Power to prepare the sales notice.	N/A – land not currently rateable			

Local Government	144(4)	Power to decide to offer the land for sale by negotiation.	N/A – land not currently rateable			
Local Government	144(5)(a)	Power to give a copy of the sales notice to each interested party who was given a notice of intention to sell the land.	N/A – land not currently rateable			
Local Government	144(5)(b)	Power to publish the sales notice on the local government's website.	N/A – land not currently rateable			
Local Government	144(5)(c)	Power to display the sales notice in a conspicuous place in the local government's office.	N/A – land not currently rateable			
Local Government	144(5)(d)	Power to display the sales notice in a conspicuous place on the land.	N/A – land not currently rateable			
Local Government	144(5)(e)	Power to take all reasonable steps to publish the sales notice in another way to notify the public about the sale of the land.	N/A – land not currently rateable			

***Subdivision 3 – Acquiring land for overdue rates or charges***

Entity power given to	Section of LOGR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	149(2)	In certain circumstances, power to, as soon as practicable, give all interested parties a notice of intention to acquire the land.	N/A – land not currently rateable			

**Part 13 – Land record of local government****Division 1 – Land record**

Entity power given to	Section of LOGR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Chief Executive Officer	156(2)	In certain circumstances, power to, as soon as practicable, give the ratepayer an information notice about the amendment.	This power does not need to be delegated as it is given directly to the CEO under the Act.			

**CHAPTER 5 – FINANCIAL PLANNING AND ACCOUNTABILITY****Part 5 – Community grants**

Entity power given to	Section of LOGR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	194(a)	Power to be satisfied: (a) the grant will be used for a purpose that is in the public interest; and (b) the community organisation meets the criteria stated in the local government's community grants policy.				

**Part 8 – Local government funds and accounts**

**Division 1 – Trust fund**

Entity power given to	Section of LOGR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	201(2)	In certain circumstances, power to transfer money from a trust fund.				
Local Government	201B(4)	Power to, after the adoption of the budget by the Local Government, publish a notice containing the prescribed things.				
Chief Executive Officer	202(2)(a)(ii)	In the specified circumstances, power to approve an allocation of the councillor's discretionary funds.				The Mayor's approval is also required to approve the allocation of councillor's discretionary funds
Chief Executive Officer	202A(2)	In the specified circumstances, power to publish a notice under section 202A(1) on the Local Government's website.				

**Part 9 – Accounting records**

Entity power given to	Section of LOGR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Chief Executive Officer	204(2)	Power to present the financial report: (a) if the local government meets less frequently than monthly—at each meeting of the local government; or (b) otherwise—at a meeting of the local government once a month.	This power does not need to be delegated as it is given directly to the CEO under the Act.			
Chief Executive Officer	205(1)	Power to present the local government's annual budget meeting with a statement of estimated financial position.	This power does not need to be delegated as it is			



			given directly to the CEO under the Act.			
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## CHAPTER 6 – CONTRACTING

### Part 3 – Default contracting procedures

#### Division 2 – Entering into particular contracts

Entity power given to	Section of LOGR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	225(3)	Power to not accept any of the quotes received.				Notification by way of Information Report to the next available Ordinary Meeting.
Local Government	225(4)	Power to decide to accept a quote.				Notification by way of Information Report to the next available Ordinary Meeting.
Local Government	225(4)	Power to decide which quote is most advantageous to Council, having regard to the sound contracting principles.				
Local Government	228(9)	Power to decide not to accept any tenders received.				
Local Government	228(10)	Power to decide to accept a tender.				
Local Government	228(10)	Power to decide which tender is most advantageous to Council, having regard to the sound contracting principles.				

**Division 3 – Exceptions for medium-sized and large-sized contractual arrangements**

Entity power given to	Section of LOGR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	232(2)	In certain circumstances, power to enter into the contract without first inviting written quotes or tenders.				
Local Government	232(4)	In certain circumstances, power to establish a register of pre-qualified suppliers.				

**CHAPTER 8 – ADMINISTRATION**

**Part 1 – Councillors**

**Division 1 – Councillor remuneration**

Entity power given to	Section of LOGR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	248(1)	Power to consider that, having regard to exceptional circumstances that apply, a councillor of its local government is entitled to a different amount of remuneration from the remuneration stated in the remuneration schedule for the category of local government to which the local government belongs.	N/A			

**Part 2 – Local government meetings and committees**

**Division 1A – Requirements for local government meetings generally**

Entity power given to	Section of LOGR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	254B(1)	Power to publish a notice at least once a year, of the days and times when: (a) its ordinary meetings will be held; and (b) the ordinary meetings of its standing committees will be held.				Commences 12 October 2020 immediately after the commencement of section 81 of the <i>Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020</i>
Local Government	254B(1)	Power to consider it appropriate to publish the notice mention in subsection (1) in other ways.				Commences 12 October 2020 immediately after the commencement of section 81 of the <i>Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020</i>

**Part 3 – Local government employees**

**Division 1 – Disciplinary action against local government employees**

Entity power given to	Section of LOGR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Chief Executive Officer	279	Power to be satisfied that that the employee has: (a) failed to perform their responsibilities under the Act; or (b) failed to perform a responsibility under the Act in accordance with the local government principles; or (c) taken action under the Act in a way that is not consistent with the local government principles.	This power does not need to be delegated as it is given directly to the CEO under the Act.			
Chief Executive Officer	282(1)	Power to be satisfied, on reasonable grounds, that a local government employee will be subject to disciplinary action.	This power does not need to be delegated as it is given directly to the CEO under the Act.			
Chief Executive Officer	282(1)	Power to suspend the employee from duty.	This power does not need to be delegated as it is given directly to the CEO under the Act.			
Chief Executive Officer	283(1)	Power to give the employee: (a) written notice of the following: (i) the disciplinary action to be taken; (ii) the grounds on which the disciplinary action is taken;	This power does not need to be delegated as it is given directly to the CEO under the Act.			

		(iii) the particulars of conduct claimed to support the grounds; and (b) a reasonable opportunity to respond to the information contained in the written notice.				
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## Part 5 – Register of interests

### Division 1 – Disciplinary action against local government employees

Entity power given to	Section of LOGR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Chief Executive Officer	296	In certain circumstances, the power to inform the informed person.	This power does not need to be delegated as it is given directly to the CEO under the Act.			

## CHAPTER 9 – OTHER PROVISIONS

### Part 3 – Delegation of powers

Entity power given to	Section of LOGR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Chief Executive Officer	305(2)	Power to consider it appropriate to include other information in the register.	This power does not need to be delegated as it is given directly to the CEO under the Act.			

**Part 6 – Loss of local government asset**

Entity power given to	Section of LOGR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Chief Executive Officer	307A(1)(b)	Power to form reasonable suspicion that there has been a reportable loss of an asset belonging to the local government.	This power does not need to be delegated as it is given directly to the CEO under the Act.			
Chief Executive Officer	307A(3)	Power to be satisfied the material loss is also a reportable loss and power to advise the person specified in subsection (3) as soon as practicable but not more than 6 months after the CEO becomes aware of the loss.	This power does not need to be delegated as it is given directly to the CEO under the Act.			

**SCHEDULE 4 – PRICING PROVISIONS**

Entity power given to	Section of LOGR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	10(2)	Power to decide the amount for the return on the capital used by a local government in conducting a relevant activity.				
Local Government	10(2)	Power to form the opinion that a rate is comparable to the rate which a private sector business conducting the activity would be able to obtain the capital in the market.				
Local Government	10(3)	Power to consider appropriate, for the type of business activity, the split between equity and loan capital and the return appropriate to each.				

[2020 10 12 - LOGR - Delegation Table]

# INSTRUMENT OF SUB-DELEGATION

**Torres Strait Island Regional Council**  
***Local Government Regulation 2012 ("LOGR")***

Under section 259 of the *Local Government Act 2009*, I, **Bruce Ranga**, Chief Executive Officer of **Torres Strait Island Regional Council**, delegate to those positions which are specified in Schedule 1, the exercise of the powers contained in Schedule 2.

These powers must be exercised subject to the limitations contained in Schedule 3.

This Instrument of Sub-Delegation repeals all prior Instruments sub-delegating to the positions specified in Schedule 1 the exercise of the powers contained in Schedule 2.

My authority to make these sub-delegations is conferred by the *Local Government Act 2009* and the resolution of **Torres Strait Island Regional Council** made on **Insert date** to delegate those powers to the Chief Executive Officer.

**DATED** this                      day of                      2018.

**Bruce Ranga**  
Chief Executive Officer  
**Torres Strait Island Regional Council**

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



## POWERS SUB-DELEGATED

### *Local Government Regulation 2012 ("LOGR")*

#### CHAPTER 3 – THE BUSINESS OF LOCAL GOVERNMENTS

##### Part 2 – Business reform, including competitive neutrality

##### Division 7 – Competitive neutrality complaints

##### *Subdivision 2 – Complaint process*

Entity power given to	Section of LOGR	Description
Local Government	55(4)	Power to, within seven (7) days after making the resolution, give notice of the resolution to: (a) The complainant; and (b) The QCA; and (c) If a corporatised business entity is conducting the business activity—the corporatised business entity.

##### Part 3 – Roads and other infrastructure

##### Division 2 – Malls

Entity power given to	Section of LOGR	Description
Local Government	58(2)(b)	Power to permit the use of any part of the mall (including for the use of erecting any structure, for example) on the conditions it considers appropriate.

#### CHAPTER 4 – RATES AND CHARGES

##### Part 5 – Differential general rates

##### Division 2 – Entering land to categorise land

Entity power given to	Section of LOGR	Description
Chief Executive Officer	83(1)	Power to appoint a qualified person as a categorisation officer for this division.
Local Government	83(2)(b)	Power to authorise a person for the purpose of this division.
Chief Executive Officer	84(1)	Power to give a categorisation officer an identity card.

##### Division 4 – Objecting to rates category

Entity power given to	Section of LOGR	Description
Chief Executive Officer	91(2)	Power to consider the objection and decide: (a) to change the rating category for the land:

		<p>(i) to the rating category to which the owner claims in the objection notice the land should belong; or</p> <p>(ii) to another rating category; or</p> <p>(b) not to allow the objection.</p>
Chief Executive Officer	91(3)	Power to give the owner notice of the decision and the reasons for the decision.

## Part 12 –

## Overdue rates and charges

### Division 3 – Selling or acquiring land for overdue rates or charges

#### *Subdivision 2 – Selling land for overdue rates or charges*

Entity power given to	Section of LOGR	Description
Local Government	138(3)	Power to give the State or government entity that has the interest in the land under the State encumbrance a notice of the local government's intention to sell the land, before the local government sells the land.
Local Government	140(3)	In certain circumstances, power to give all interested parties a notice of intention to sell the land.
Local Government	143(1)	Power to set a reserve price for the land at auction.
Local Government	143(2)	In certain circumstances, power to enter into negotiations with the any bidder who attended the auction to sell the land by agreement.
Local Government	144(1)	Power to prepare the sales notice.
Local Government	144(4)	Power to decide to offer the land for sale by negotiation.
Local Government	144(5)(a)	Power to give a copy of the sales notice to each interested party who was given a notice of intention to sell the land.
Local Government	144(5)(b)	Power to publish the sales notice on the local government's website.
Local Government	144(5)(c)	Power to display the sales notice in a conspicuous place in the local government's office.
Local Government	144(5)(d)	Power to display the sales notice in a conspicuous place on the land.
Local Government	144(5)(e)	Power to take all reasonable steps to publish the sales notice in another way to notify the public about the sale of the land.

#### *Subdivision 3 – Acquiring land for overdue rates or charges*

Entity power given to	Section of LOGR	Description
Local Government	149(2)	In certain circumstances, power to, as soon as practicable, give all interested parties a notice of intention to acquire the land.

## Part 13 –

## Land record of local government

### Division 1 – Land record

Entity power given to	Section of LOGR	Description
Chief Executive Officer	156(2)	In certain circumstances, power to, as soon as practicable, give the ratepayer an information notice about the amendment.

## CHAPTER 5 – FINANCIAL PLANNING AND ACCOUNTABILITY

### Part 5 – Community grants

Entity power given to	Section of LOGR	Description
Local Government	194(a)	Power to be satisfied: (a) the grant will be used for a purpose that is in the public interest; and (b) the community organisation meets the criteria stated in the local government's community grants policy.

### Part 8 – Local government funds and accounts

#### Division 1 – Trust fund

Entity power given to	Section of LOGR	Description
Local Government	201(2)	In certain circumstances, power to transfer money from a trust fund.
Local Government	201B(4)	Power to, after the adoption of the budget by the Local Government, publish a notice containing the prescribed things.
Chief Executive Officer	202(2)(a)(ii)	In the specified circumstances, power to approve an allocation of the councillor's discretionary funds.
Chief Executive Officer	202A(2)	In the specified circumstances, power to publish a notice under section 202A(1) on the Local Government's website.

### Part 9 – Accounting records

Entity power given to	Section of LOGR	Description
Chief Executive Officer	204(2)	Power to present the financial report: (a) if the local government meets less frequently than monthly—at each meeting of the local government; or (b) otherwise—at a meeting of the local government once a month.
Chief Executive Officer	205(1)	Power to present the local government's annual budget meeting with a statement of estimated financial position.

## CHAPTER 6 – CONTRACTING

### Part 3 – Default contracting procedures

#### Division 2 – Entering into particular contracts

Entity power given to	Section of LOGR	Description
Local Government	225(3)	Power to not accept any of the quotes received.
Local Government	225(4)	Power to decide to accept a quote.
Local Government	225(4)	Power to decide which quote is most advantageous to Council, having regard to the sound contracting principles.
Local Government	228(9)	Power to decide not to accept any tenders received.

Local Government	228(10)	Power to decide to accept a tender.
Local Government	228(10)	Power to decide which tender is most advantageous to Council, having regard to the sound contracting principles.

### **Division 3 – Exceptions for medium-sized and large-sized contractual arrangements**

<b>Entity power given to</b>	<b>Section of LOGR</b>	<b>Description</b>
Local Government	232(2)	In certain circumstances, power to enter into the contract without first inviting written quotes or tenders.
Local Government	232(4)	In certain circumstances, power to establish a register of pre-qualified suppliers.

## **CHAPTER 8 – ADMINISTRATION**

### **Part 1 – Councillors**

#### **Division 1 – Councillor remuneration**

<b>Entity power given to</b>	<b>Section of LOGR</b>	<b>Description</b>
Local Government	248(1)	Power to consider that, having regard to exceptional circumstances that apply, a councillor of its local government is entitled to a different amount of remuneration from the remuneration stated in the remuneration schedule for the category of local government to which the local government belongs.

### **Part 2 – Local government meetings and committees**

#### **Division 1A – Requirements for local government meetings generally**

<b>Entity power given to</b>	<b>Section of LOGR</b>	<b>Description</b>
Local Government	254B(1)	Power to publish a notice at least once a year, of the days and times when: (a) its ordinary meetings will be held; and (b) the ordinary meetings of its standing committees will be held.
Local Government	254B(1)	Power to consider it appropriate to publish the notice mention in subsection (1) in other ways.

### **Part 3 – Local government employees**

#### **Division 1 – Disciplinary action against local government employees**

<b>Entity power given to</b>	<b>Section of LOGR</b>	<b>Description</b>
Chief Executive Officer	279	Power to be satisfied that that the employee has: (a) failed to perform their responsibilities under the Act; or (b) failed to perform a responsibility under the Act in accordance with the local government principles; or (c) taken action under the Act in a way that is not consistent with the local government principles.

Chief Executive Officer	282(1)	Power to be satisfied, on reasonable grounds, that a local government employee will be subject to disciplinary action.
Chief Executive Officer	282(1)	Power to suspend the employee from duty.
Chief Executive Officer	283(1)	Power to give the employee: (a) written notice of the following: (i) the disciplinary action to be taken; (ii) the grounds on which the disciplinary action is taken; (iii) the particulars of conduct claimed to support the grounds; and (b) a reasonable opportunity to respond to the information contained in the written notice.

## **Part 5 – Register of interests**

### **Division 1 – Disciplinary action against local government employees**

<b>Entity power given to</b>	<b>Section of LOGR</b>	<b>Description</b>
Chief Executive Officer	296	In certain circumstances, the power to inform the informed person.

## **CHAPTER 9 – OTHER PROVISIONS**

### **Part 3 – Delegation of powers**

<b>Entity power given to</b>	<b>Section of LOGR</b>	<b>Description</b>
Chief Executive Officer	305(2)	Power to consider it appropriate to include other information in the register.

### **Part 6 – Loss of local government asset**

<b>Entity power given to</b>	<b>Section of LOGR</b>	<b>Description</b>
Chief Executive Officer	307A(1)(b)	Power to form reasonable suspicion that there has been a reportable loss of an asset belonging to the local government.
Chief Executive Officer	307A(3)	Power to be satisfied the material loss is also a reportable loss and power to advise the person specified in subsection (3) as soon as practicable but not more than 6 months after the CEO becomes aware of the loss.

## **SCHEDULE 4 – PRICING PROVISIONS**

<b>Entity power given to</b>	<b>Section of LOGR</b>	<b>Description</b>
Local Government	10(2)	Power to decide the amount for the return on the capital used by a local government in conducting a relevant activity.
Local Government	10(2)	Power to form the opinion that a rate is comparable to the rate which a private sector business conducting the activity would be able to obtain the capital in the market.

Local Government	10(3)	Power to consider appropriate, for the type of business activity, the split between equity and loan capital and the return appropriate to each.
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## **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.

[2020 10 12 - LOGR - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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.



# **INSTRUMENT OF DELEGATION**

## **Torres Strait Island Regional Council** ***Mineral Resources Act 1989 ("MIRA")***

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.

**Mineral Resources Act 1989 ("MIRA")****CHAPTER 2 – PROSPECTING PERMITS****Part 1 – Prospecting Permit Categories and Entitlements**

Entity power given to	Section of MIRA	Description
Owner of a Reserve	19(1)	In the specified circumstances, the power to give written consent to a parcel prospecting permit holder entering the surface of a reserve for prospecting purposes.
Owner of Occupied Land	19(2)	In the specified circumstances, the power to give written consent to a district prospecting permit holder entering the surface of occupied land.
Owner of Occupied Land	19(3)	In the specified circumstances, the power to give written consent to a prospecting permit holder entering occupied land for hand mining only.
Occupier of Land	20(3)	In the specified circumstances, the power to give a prospecting permit holder consent to enter land.
Owner or Occupier of Land	20(6)	In the specified circumstances, the power to, by written notice given to a prospecting permit holder and the mining registrar, amend or withdraw a consent given for land.

**Part 2 – Other Provisions About Prospecting Permits**

Entity power given to	Section of MIRA	Description
Owner of any Land	26(3)	Power to apply in writing to the mining registrar to rectify damage referred to in section 26(1) of the <i>Mineral Resources Act 1989</i> that has been caused by an activity allegedly authorised under a prospecting permit in respect of the land.
Owner of Occupied Land	26(9)(a)(i)	In the specified circumstances, the power to give the mining registrar written approval to refund the security.
Owner of Land	32(2)	Power to accept a shorter time period within which notice must be given by a parcel prospecting permit holder before entry to the land.
Owner of Land	34(1)	In the specified circumstances, the power to report to the chief executive.
Owner of Land or Agent	46(1)(b)	In the specified circumstances, the power to ask that a person purporting to enter or be upon land under the authority of a prospecting permit, produce the prospecting permit.
Owner of Occupied Land	47(1)	In the specified circumstances, the power to give written consent to a person, entitled to enter occupied land under a district prospecting permit, entering the land at night.
Owner of Occupied Land	47(2)	In the specified circumstances, the power to give written consent to a person, entitled to enter occupied land under a parcel prospecting permit, entering the land at night.
Occupier of Land	47(4)	In the specified circumstances, the power to give consent.

## CHAPTER 3 – MINING CLAIMS

Entity power given to	Section of MIRA	Description
Owner of Restricted Land	51(2)(a)	In the specified circumstances, the power to give written consent to an application for a mining claim over the surface of restricted land being lodged.
Owner of Reserve	54(a)	In the specified circumstances, the power to give consent to the granting of a mining claim over a reserve.
Owner of Land	65(1)(a)	In the specified circumstances, the power to give the chief executive a written request for a conference.
Relevant Local Government	71(1)	Lodge a written objection in the approved form to an application for a mining claim.
Owner of Land	71(2)	In the specified circumstances and within the specified time periods, the power to lodge an objection to an application for a mining claim.
Objector	71A(1)	To withdraw an objection to an application for a mining claim by giving written notice of the withdrawal.
Owner of Land	85(1)(a)	In the specified circumstances, the power to agree with the applicant for a mining claim on an amount of compensation.
Interested Party	85(4)	In the specified circumstances, the power to apply in writing to the Land Court.
Owner of Land	125(9)(a)(i)	In the specified circumstances, the power to give written consent to an application under section 125 of the <i>Mineral Resources Act 1989</i> being lodged.
Owner of Land	125(10)	In the specified circumstances, the power to agree with a mining claim holder on compensation payable in respect of the proposed use of the land as access in respect of the mining claim.

## CHAPTER 4 – EXPLORATION PERMITS

### Part 1 – Preliminary

Entity power given to	Section of MIRA	Description
Owner of Restricted Land	129(3)(a)	In the specified circumstances, the power to give written consent to a person entering the surface of the restricted land.
Owner of Reserve	129(6)	In the specified circumstances, the power to withdraw consent given under section 129(1)(a)(ii) of the <i>Mineral Resources Act 1989</i> by giving written notice to the chief executive.

### Part 4 – Other Provisions About Exploration Permit

Owner of Land or Agent	167(1)(b)	In the specified circumstances, the power to ask that a person purporting to enter or be on land under the authority of an exploration permit to produce the exploration permit or a copy of the exploration permit.
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## CHAPTER 5 – MINERAL DEVELOPMENT LICENCES

### Part 1 – Mineral Development Licences Generally

Entity power given to	Section of MIRA	Description
Owner of Land	190(7)	In the specified circumstances, the power to lodge a claim for rectification of actual damage to land caused under the authority, or purported authority, of a mineral development licence.
Owner of Land	190(8)(a)	In the specified circumstances, the power to certify that there is no actual damage to land that should be rectified.
Owner of Land or Agent	216(1)(b)	In the specified circumstances, the power to ask that a person purporting to enter or be on land under the authority of a mineral development licence to produce the mineral development licence or a copy of the mineral development licence.

## CHAPTER 6 – MINING LEASES

### Part 1 – Mining Leases Generally

Entity power given to	Section of MIRA	Description
Owner of Land	237(2)(d)(i)	In the specified circumstances, the power to consent to an application to conduct drilling and other activities on land not included in the surface area covered under a mining lease.
Owner of Land	237(2)(d)(ii)	In the specified circumstances, the power to agree with the mining lease holder about the compensation payable for the activities.
Owner of Restricted Land	238(1)(a)	Power to give written consent to a mining lease application.
Affected Person	260(1)	Power to lodge an objection in writing in an approved form before the objection date for the application of a mining lease.
Objector	260(4)	Power to serve a copy of the objection lodged by the objector in respect of an application for a grant of a mining lease.
Owner of Land	261(1)	In the specified circumstances, the power to withdraw an objection to an application for a grant of a mining lease.
Owner of Restricted Land	275A(2)(a)	In the specified circumstances, the power to consent in writing to an application to include the surface of restricted land for the mining lease in the mining lease.
Owner of Land	279(1)(a)	In the specified circumstances, the power to agree with a mining lease holder on compensation.
Owner of Land	280(1)	In the specified circumstances, the power to agree with the holder of a mining lease as to compensation for any damage caused to the surface of the land.
Person who could be party to an agreement under section 279 or 280	281(1)	In the specified circumstances, the power to apply in writing to the Land Court to have the Land Court determine compensation.
Owner of Land	283A(2)	In the specified circumstances, the power to agree to amend the original compensation (the <b>amended agreement</b> ).

Owner of Land	317(10)	In the specified circumstances, the power to agree with the holder of a mining lease on compensation payable in respect of the proposed use of the land as access in respect of a mining lease.
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## CHAPTER 12A – PROVISIONS ABOUT WATER FOR MINERAL DEVELOPMENT LICENCES AND MINING LEASES

### Part 4 – Water monitoring bores

#### Division 1 – Transfer of water monitoring bores

Entity power given to	Section of MIRA	Description
Owner of a Water Monitoring Bore	334ZZO(1)	Power to transfer the bore to a landowner in the specified circumstances.
Land Owner	334ZZO(2)(b)	Power to consent to the transfer.
Owner of a Water Monitoring Bore	334ZZP(1)	In the specified circumstances, the power to transfer the bore to the State.
Owner of a Water Monitoring Bore	334ZZQ(1)	In the specified circumstances, the power to transfer the bore to a holder of a mineral development licence, mining lease or water monitoring authority.

## CHAPTER 13 – ADMINISTRATION AND JUDICIAL FUNCTIONS




**Part 4 – Remediation of abandoned mine sites and rehabilitation of final rehabilitation sites**

Entity power given to	Section of MIRA	Description
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**Division 2 – Authorisation to carry out remediation activities or rehabilitation activities**

Owner or Occupier	344G(4)	Power to give consent to the authorised person to enter the land and to sign an acknowledgement of consent
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**Division 3 – Compensation**

Owner of Land	345(1)(a)	In the specified circumstances, the power to enter into a compensation agreement with the holder of an environmental authority who is authorised under section 344A(3) to enter land.
Owner of Land	345(3)	Power to apply in writing to the Chief Executive to have the Land Court decide the amount of compensation and the terms, conditions and times of its payment payable under section 345(1)(a)

**CHAPTER 14 – MISCELLANEOUS**

Entity power given to	Section of MIRA	Description
Owner of Land	403(1)(e)	In the specified circumstances, the power to authorise a person to enter, be upon, use, occupy, or erect any building or structure on or make any other improvement to land.

**SCHEDULE 1 – CONDITIONS OF CARRYING OUT ACTIVITY FOR BOUNDARY DEFINITION PURPOSES**

Entity power given to	Section of MIRA	Description
Owner of Occupier of Restricted Land	2(1)(a)	Power to give written consent to enter restricted land.
Owner of Land	3(1)(a)	Power to give written consent for a person to enter occupied land.
Occupier of Occupied Land	3(3)	In certain circumstances, power to give consent to a person to enter occupied land.
Owner of Reserve	4(1)(b)	Power to impose reasonable and relevant conditions on entry by a person under section 386V to the surface of a reserve.

## **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.

[2020 07 01 - MIRA - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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 MINERAL RESOURCES ACT 1989 ("MIRA")

## CHAPTER 2 – PROSPECTING PERMITS

### Part 1 – Prospecting Permit Categories and Entitlements

Entity power given to	Section of MIRA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Owner of a Reserve	19(1)	In the specified circumstances, the power to give written consent to a parcel prospecting permit holder entering the surface of a reserve for prospecting purposes.	N/A			
Owner of Occupied Land	19(2)	In the specified circumstances, the power to give written consent to a district prospecting permit holder entering the surface of occupied land.	N/A			
Owner of Occupied Land	19(3)	In the specified circumstances, the power to give written consent to a prospecting permit holder entering occupied land for hand mining only.	Delegation of this power to be made on a case-by-case basis only.			
Occupier of Land	20(3)	In the specified circumstances, the power to give a prospecting permit holder consent to enter land.				Subject to consultation with the Divisional Councillor
Owner or Occupier of Land	20(6)	In the specified circumstances, the power to, by written notice given to a prospecting permit holder and the mining registrar, amend or withdraw a consent given for land.	Delegation of this power to be made on a case-by-case basis only.			

## Part 2 – Other Provisions About Prospecting Permits

Entity power given to	Section of MIRA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Owner of any Land	26(3)	Power to apply in writing to the mining registrar to rectify damage referred to in section 26(1) of the <i>Mineral Resources Act 1989</i> that has been caused by an activity allegedly authorised under a prospecting permit in respect of the land.				
Owner of Occupied Land	26(9)(a)(i)	In the specified circumstances, the power to give the mining registrar written approval to refund the security.	Delegation of this power to be made on a case-by-case basis only.			
Owner of Land	32(2)	Power to accept a shorter time period within which notice must be given by a parcel prospecting permit holder before entry to the land.	Delegation of this power to be made on a case-by-case basis only.			
Owner of Land	34(1)	In the specified circumstances, the power to report to the chief executive.				
Owner of Land or Agent	46(1)(b)	In the specified circumstances, the power to ask that a person purporting to enter or be upon land under the authority of a prospecting permit, produce the prospecting permit.				
Owner of Occupied Land	47(1)	In the specified circumstances, the power to give written consent to a person, entitled to enter occupied land under a district prospecting permit, entering the land at night.				Subject to consultation with the Divisional Councillor
Owner of Occupied Land	47(2)	In the specified circumstances, the power to give written consent to a person, entitled to enter occupied land under a parcel prospecting permit, entering the land at night.				Subject to consultation with the Divisional Councillor

Occupier of Land	47(4)	In the specified circumstances, the power to give consent.				Subject to consultation with the Divisional Councillor
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### CHAPTER 3 – MINING CLAIMS

Entity power given to	Section of MIRA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Owner of Restricted Land	51(2)(a)	In the specified circumstances, the power to give written consent to an application for a mining claim over the surface of restricted land being lodged.	N/A			
Owner of Reserve	54(a)	In the specified circumstances, the power to give consent to the granting of a mining claim over a reserve.	N/A			
Owner of Land	65(1)(a)	In the specified circumstances, the power to give the chief executive a written request for a conference.				
Relevant Local Government	71(1)	Lodge a written objection in the approved form to an application for a mining claim.				
Owner of Land	71(2)	In the specified circumstances and within the specified time periods, the power to lodge an objection to an application for a mining claim.				
Objector	71A(1)	To withdraw an objection to an application for a mining claim by giving written notice of the withdrawal.				Subject to consultation with the Divisional Councillor
Owner of Land	85(1)(a)	In the specified circumstances, the power to agree with the applicant for a mining claim on an amount of compensation.	N/A			
Interested Party	85(4)	In the specified circumstances, the power to apply in writing to the Land Court.				

Owner of Land	125(9)(a)(i)	In the specified circumstances, the power to give written consent to an application under section 125 of the <i>Mineral Resources Act 1989</i> being lodged.				Subject to consultation with the Divisional Councillor
Owner of Land	125(10)	In the specified circumstances, the power to agree with a mining claim holder on compensation payable in respect of the proposed use of the land as access in respect of the mining claim.	N/A			

## CHAPTER 4 – EXPLORATION PERMITS

### Part 1 – Preliminary

Entity power given to	Section of MIRA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Owner of Restricted Land	129(3)(a)	In the specified circumstances, the power to give written consent to a person entering the surface of the restricted land.				Subject to consultation with the Divisional Councillor
Owner of Reserve	129(6)	In the specified circumstances, the power to withdraw consent given under section 129(1)(a)(ii) of the <i>Mineral Resources Act 1989</i> by giving written notice to the chief executive.				

### Part 4 – Other Provisions About Exploration Permit

Owner of Land or Agent	167(1)(b)	In the specified circumstances, the power to ask that a person purporting to enter or be on land under the authority of an exploration permit to produce the exploration permit or a copy of the exploration permit.				
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## CHAPTER 5 – MINERAL DEVELOPMENT LICENCES

### Part 1 – Mineral Development Licences Generally

Entity power given to	Section of MIRA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Owner of Land	190(7)	In the specified circumstances, the power to lodge a claim for rectification of actual damage to land caused under the authority, or purported authority, of a mineral development licence.				
Owner of Land	190(8)(a)	In the specified circumstances, the power to certify that there is no actual damage to land that should be rectified.				
Owner of Land or Agent	216(1)(b)	In the specified circumstances, the power to ask that a person purporting to enter or be on land under the authority of a mineral development licence to produce the mineral development licence or a copy of the mineral development licence.				

## CHAPTER 6 – MINING LEASES

### Part 1 – Mining Leases Generally

Entity power given to	Section of MIRA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Owner of Land	237(2)(d)(i)	In the specified circumstances, the power to consent to an application to conduct drilling and other activities on land not included in the surface area covered under a mining lease.	N/A			

Owner of Land	237(2)(d)(ii)	In the specified circumstances, the power to agree with the mining lease holder about the compensation payable for the activities.	N/A			
Owner of Restricted Land	238(1)(a)	Power to give written consent to a mining lease application.	N/A			
Affected Person	260(1)	Power to lodge an objection in writing in an approved form before the objection date for the application of a mining lease.				Subject to consultation with the Divisional Councillor
Objector	260(4)	Power to serve a copy of the objection lodged by the objector in respect of an application for a grant of a mining lease.				
Owner of Land	261(1)	In the specified circumstances, the power to withdraw an objection to an application for a grant of a mining lease.				Subject to consultation with the Divisional Councillor
Owner of Restricted Land	275A(2)(a)	In the specified circumstances, the power to consent in writing to an application to include the surface of restricted land for the mining lease in the mining lease.	N/A			
Owner of Land	279(1)(a)	In the specified circumstances, the power to agree with a mining lease holder on compensation.	N/A			
Owner of Land	280(1)	In the specified circumstances, the power to agree with the holder of a mining lease as to compensation for any damage caused to the surface of the land.	N/A			
Person who could be party to an agreement under section 279 or 280	281(1)	In the specified circumstances, the power to apply in writing to the Land Court to have the Land Court determine compensation.				

Owner of Land	283A(2)	In the specified circumstances, the power to agree to amend the original compensation (the <b><i>amended agreement</i></b> ).	N/A			
Owner of Land	317(10)	In the specified circumstances, the power to agree with the holder of a mining lease on compensation payable in respect of the proposed use of the land as access in respect of a mining lease.	N/A			

## CHAPTER 12A – PROVISIONS ABOUT WATER FOR MINERAL DEVELOPMENT LICENCES AND MINING LEASES

### Part 4 – Water monitoring bores

#### Division 1 – Transfer of water monitoring bores

Entity power given to	Section of MIRA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Owner of a Water Monitoring Bore	334ZZO(1)	Power to transfer the bore to a landowner in the specified circumstances.	N/A			
Land Owner	334ZZO(2)(b)	Power to consent to the transfer.	N/A			
Owner of a Water Monitoring Bore	334ZZP(1)	In the specified circumstances, the power to transfer the bore to the State.	N/A			
Owner of a Water Monitoring Bore	334ZZQ(1)	In the specified circumstances, the power to transfer the bore to a holder of a mineral development licence, mining lease or water monitoring authority.	N/A			

## CHAPTER 13 – ADMINISTRATION AND JUDICIAL FUNCTIONS











### Part 4 – Remediation of abandoned mine sites and rehabilitation of final rehabilitation sites

Entity power given to	Section of MIRA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
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#### Division 2 – Authorisation to carry out remediation activities or rehabilitation activities

Owner or Occupier	344G(4)	Power to give consent to the authorised person to enter the land and to sign an acknowledgement of consent				Subject to consultation with
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						Divisional Councillor
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### Division 3 – Compensation

Owner of Land	345(1)(a)	In the specified circumstances, the power to enter into a compensation agreement with the holder of an environmental authority who is authorised under section 344A(3) to enter land.	N/A			
Owner of Land	345(3)	Power to apply in writing to the Chief Executive to have the Land Court decide the amount of compensation and the terms, conditions and times of its payment payable under section 345(1)(a)				

## CHAPTER 14 – MISCELLANEOUS

Entity power given to	Section of MIRA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Owner of Land	403(1)(e)	In the specified circumstances, the power to authorise a person to enter, be upon, use, occupy, or erect any building or structure on or make any other improvement to land.	N/A			

## SCHEDULE 1 – CONDITIONS OF CARRYING OUT ACTIVITY FOR BOUNDARY DEFINITION PURPOSES

Entity power given to	Section of MIRA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Owner of Occupier of Restricted Land	2(1)(a)	Power to give written consent to enter restricted land.				Subject to consultation with the Divisional Councillor

Owner of Land	3(1)(a)	Power to give written consent for a person to enter occupied land.				Subject to consultation with the Divisional Councillor
Occupier of Occupied Land	3(3)	In certain circumstances, power to give consent to a person to enter occupied land.				Subject to consultation with the Divisional Councillor
Owner of Reserve	4(1)(b)	Power to impose reasonable and relevant conditions on entry by a person under section 386V to the surface of a reserve.				Subject to consultation with the Divisional Councillor

[2020 07 01 - MIRA - Delegation Table]

# INSTRUMENT OF SUB-DELEGATION

**Torres Strait Island Regional Council**  
*Mineral Resources Act 1989 ("MIRA")*

Under section 259 of the *Local Government Act 2009*, I, **Bruce Ranga**, Chief Executive Officer of **Torres Strait Island Regional Council**, delegate to those positions which are specified in Schedule 1, the exercise of the powers contained in Schedule 2.

These powers must be exercised subject to the limitations contained in Schedule 3.

This Instrument of Sub-Delegation repeals all prior Instruments sub-delegating to the positions specified in Schedule 1 the exercise of the powers contained in Schedule 2.

My authority to make these sub-delegations is conferred by the *Local Government Act 2009* and the resolution of **Torres Strait Island Regional Council** made on **Insert date** to delegate those powers to the Chief Executive Officer.

**DATED** this                      day of                      2020.

**Bruce Ranga**  
Chief Executive Officer  
**Torres Strait Island Regional Council**

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

## POWERS SUB-DELEGATED

### *Mineral Resources Act 1989 ("MIRA")*

#### CHAPTER 2 – PROSPECTING PERMITS

##### Part 1 – Prospecting Permit Categories and Entitlements

Entity power given to	Section of MIRA	Description
Owner of a Reserve	19(1)	In the specified circumstances, the power to give written consent to a parcel prospecting permit holder entering the surface of a reserve for prospecting purposes.
Owner of Occupied Land	19(2)	In the specified circumstances, the power to give written consent to a district prospecting permit holder entering the surface of occupied land.
Owner of Occupied Land	19(3)	In the specified circumstances, the power to give written consent to a prospecting permit holder entering occupied land for hand mining only.
Occupier of Land	20(3)	In the specified circumstances, the power to give a prospecting permit holder consent to enter land.
Owner or Occupier of Land	20(6)	In the specified circumstances, the power to, by written notice given to a prospecting permit holder and the mining registrar, amend or withdraw a consent given for land.

##### Part 2 – Other Provisions About Prospecting Permits

Entity power given to	Section of MIRA	Description
Owner of any Land	26(3)	Power to apply in writing to the mining registrar to rectify damage referred to in section 26(1) of the <i>Mineral Resources Act 1989</i> that has been caused by an activity allegedly authorised under a prospecting permit in respect of the land.
Owner of Occupied Land	26(9)(a)(i)	In the specified circumstances, the power to give the mining registrar written approval to refund the security.
Owner of Land	32(2)	Power to accept a shorter time period within which notice must be given by a parcel prospecting permit holder before entry to the land.
Owner of Land	34(1)	In the specified circumstances, the power to report to the chief executive.
Owner of Land or Agent	46(1)(b)	In the specified circumstances, the power to ask that a person purporting to enter or be upon land under the authority of a prospecting permit, produce the prospecting permit.
Owner of Occupied Land	47(1)	In the specified circumstances, the power to give written consent to a person, entitled to enter occupied land under a district prospecting permit, entering the land at night.
Owner of Occupied Land	47(2)	In the specified circumstances, the power to give written consent to a person, entitled to enter occupied land under a parcel prospecting permit, entering the land at night.
Occupier of Land	47(4)	In the specified circumstances, the power to give consent.

## CHAPTER 3 – MINING CLAIMS

Entity power given to	Section of MIRA	Description
Owner of Restricted Land	51(2)(a)	In the specified circumstances, the power to give written consent to an application for a mining claim over the surface of restricted land being lodged.
Owner of Reserve	54(a)	In the specified circumstances, the power to give consent to the granting of a mining claim over a reserve.
Owner of Land	65(1)(a)	In the specified circumstances, the power to give the chief executive a written request for a conference.
Relevant Local Government	71(1)	Lodge a written objection in the approved form to an application for a mining claim.
Owner of Land	71(2)	In the specified circumstances and within the specified time periods, the power to lodge an objection to an application for a mining claim.
Objector	71A(1)	To withdraw an objection to an application for a mining claim by giving written notice of the withdrawal.
Owner of Land	85(1)(a)	In the specified circumstances, the power to agree with the applicant for a mining claim on an amount of compensation.
Interested Party	85(4)	In the specified circumstances, the power to apply in writing to the Land Court.
Owner of Land	125(9)(a)(i)	In the specified circumstances, the power to give written consent to an application under section 125 of the <i>Mineral Resources Act 1989</i> being lodged.
Owner of Land	125(10)	In the specified circumstances, the power to agree with a mining claim holder on compensation payable in respect of the proposed use of the land as access in respect of the mining claim.

## CHAPTER 4 – EXPLORATION PERMITS

### Part 1 – Preliminary

Entity power given to	Section of MIRA	Description
Owner of Restricted Land	129(3)(a)	In the specified circumstances, the power to give written consent to a person entering the surface of the restricted land.
Owner of Reserve	129(6)	In the specified circumstances, the power to withdraw consent given under section 129(1)(a)(ii) of the <i>Mineral Resources Act 1989</i> by giving written notice to the chief executive.

### Part 4 – Other Provisions About Exploration Permit

Owner of Land or Agent	167(1)(b)	In the specified circumstances, the power to ask that a person purporting to enter or be on land under the authority of an exploration permit to produce the exploration permit or a copy of the exploration permit.
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## CHAPTER 5 – MINERAL DEVELOPMENT LICENCES

### Part 1 – Mineral Development Licences Generally

Entity power given to	Section of MIRA	Description
Owner of Land	190(7)	In the specified circumstances, the power to lodge a claim for rectification of actual damage to land caused under the authority, or purported authority, of a mineral development licence.
Owner of Land	190(8)(a)	In the specified circumstances, the power to certify that there is no actual damage to land that should be rectified.
Owner of Land or Agent	216(1)(b)	In the specified circumstances, the power to ask that a person purporting to enter or be on land under the authority of a mineral development licence to produce the mineral development licence or a copy of the mineral development licence.

## CHAPTER 6 – MINING LEASES

### Part 1 – Mining Leases Generally

Entity power given to	Section of MIRA	Description
Owner of Land	237(2)(d)(i)	In the specified circumstances, the power to consent to an application to conduct drilling and other activities on land not included in the surface area covered under a mining lease.
Owner of Land	237(2)(d)(ii)	In the specified circumstances, the power to agree with the mining lease holder about the compensation payable for the activities.
Owner of Restricted Land	238(1)(a)	Power to give written consent to a mining lease application.
Affected Person	260(1)	Power to lodge an objection in writing in an approved form before the objection date for the application of a mining lease.
Objector	260(4)	Power to serve a copy of the objection lodged by the objector in respect of an application for a grant of a mining lease.
Owner of Land	261(1)	In the specified circumstances, the power to withdraw an objection to an application for a grant of a mining lease.
Owner of Restricted Land	275A(2)(a)	In the specified circumstances, the power to consent in writing to an application to include the surface of restricted land for the mining lease in the mining lease.
Owner of Land	279(1)(a)	In the specified circumstances, the power to agree with a mining lease holder on compensation.
Owner of Land	280(1)	In the specified circumstances, the power to agree with the holder of a mining lease as to compensation for any damage caused to the surface of the land.
Person who could be party to an agreement under section 279 or 280	281(1)	In the specified circumstances, the power to apply in writing to the Land Court to have the Land Court determine compensation.
Owner of Land	283A(2)	In the specified circumstances, the power to agree to amend the original compensation (the <b>amended agreement</b> ).

Owner of Land	317(10)	In the specified circumstances, the power to agree with the holder of a mining lease on compensation payable in respect of the proposed use of the land as access in respect of a mining lease.
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## CHAPTER 12A – PROVISIONS ABOUT WATER FOR MINERAL DEVELOPMENT LICENCES AND MINING LEASES

### Part 4 – Water monitoring bores

#### Division 1 – Transfer of water monitoring bores

Entity power given to	Section of MIRA	Description
Owner of a Water Monitoring Bore	334ZZO(1)	Power to transfer the bore to a landowner in the specified circumstances.
Land Owner	334ZZO(2)(b)	Power to consent to the transfer.
Owner of a Water Monitoring Bore	334ZZP(1)	In the specified circumstances, the power to transfer the bore to the State.
Owner of a Water Monitoring Bore	334ZZQ(1)	In the specified circumstances, the power to transfer the bore to a holder of a mineral development licence, mining lease or water monitoring authority.

## CHAPTER 13 – ADMINISTRATION AND JUDICIAL FUNCTIONS






**Part 4 – Remediation of abandoned mine sites and rehabilitation of final rehabilitation sites**

Entity power given to	Section of MIRA	Description
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**Division 2 – Authorisation to carry out remediation activities or rehabilitation activities**

Owner or Occupier	344G(4)	Power to give consent to the authorised person to enter the land and to sign an acknowledgement of consent
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**Division 3 – Compensation**

Owner of Land	345(1)(a)	In the specified circumstances, the power to enter into a compensation agreement with the holder of an environmental authority who is authorised under section 344A(3) to enter land.
Owner of Land	345(3)	Power to apply in writing to the Chief Executive to have the Land Court decide the amount of compensation and the terms, conditions and times of its payment payable under section 345(1)(a)

**CHAPTER 14 – MISCELLANEOUS**

Entity power given to	Section of MIRA	Description
Owner of Land	403(1)(e)	In the specified circumstances, the power to authorise a person to enter, be upon, use, occupy, or erect any building or structure on or make any other improvement to land.

**SCHEDULE 1 – CONDITIONS OF CARRYING OUT ACTIVITY FOR BOUNDARY DEFINITION PURPOSES**

Entity power given to	Section of MIRA	Description
Owner of Occupier of Restricted Land	2(1)(a)	Power to give written consent to enter restricted land.
Owner of Land	3(1)(a)	Power to give written consent for a person to enter occupied land.
Occupier of Occupied Land	3(3)	In certain circumstances, power to give consent to a person to enter occupied land.
Owner of Reserve	4(1)(b)	Power to impose reasonable and relevant conditions on entry by a person under section 386V to the surface of a reserve.

## **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.

[2020 07 01 - MIRA - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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.

# **INSTRUMENT OF DELEGATION**

## **Torres Strait Island Regional Council *Planning Act 2016 ("PLAA") Development Assessment Rules***

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.

## Development Assessment Rules under the Planning Act 2016 ("PLAA")

### Part 1 – Application

Entity power given to	Rule	Description
Assessment Manager	1.2	Power to decide a properly made application.
Assessment Manager	2.2	Power to give a confirmation notice.
Assessment Manager	3.1	Power to give an action notice.

### Part 2 – Referral

Entity power given to	Rule	Description
Referral Agency	6.2	Power to decide a properly made application.
Referral Agency	7.1	Power to give a confirmation notice.
Referral Agency	8.1	Power to give an action notice.
Referral Agency	9.2	Power to give a referral agency response.

### Part 3 – Information request

Entity power given to	Rule	Description
Assessment Authority	12.1	Power to make an information request.
Assessment Authority	12.5	Power to give advice about an information request.

### Part 4 – Public Notification

Entity power given to	Rule	Description
Assessment Manager	17.1	Power to publish, place or give a public notice pursuant to section 53(10) of the PA.
Assessment Manager	19.1	Power to accept a property made submission.

### Part 5 – Decision

Entity power given to	Rule	Description
Assessment Manager	22.2	Power to give a copy of a decision notice to each principal submitter.

Assessment Manager	23.1	Power to receive a notice from a concurrence agency.
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**Part 6 – Changes to the application and referral agency responses**

Entity power given to	Section of DEAR	Description
Assessment Manager	25.1	Power to give a notice of a changed application to a referral agency.
Assessment Manager	26.2(a)	Power to give a confirmation notice of receipt of a changed application.
Assessment Manager	26.2(c)	Power to give a notice that public notification is required with respect to the changed application.
Assessment Manager	26.3	Power to refer a changed application to a referral agency.
Concurrence Agency	28.1	Power to change a referral agency response to any changed application.
Concurrence Agency	28.3	Power to give a late referral agency response before a changed application is decided with the agreement of the applicant.
Concurrence Agency	28.4	Power to give an amended referral agency response to an assessment manager.

**Part 7 – Miscellaneous**

Entity power given to	Section of DEAR	Description
Referral Agency	29.6	Power to make an information request with respect to a missed referral agency application.
Assessment Manager	34.1	Power to request third party advice from a third party about an application.
Assessment Manager	35.1	Power to give a further advice to an applicant.

**SCHEDULE 1 – SUBSTANTIALLY DIFFERENT DEVELOPMENT**

Entity power given to	Section of DEAR	Description
Assessment Manager	1	Power to determine if a change to an application is a minor change.
Assessment Manager	2	Power to determine if a change would result in a substantially different development

## 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.

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### 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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 Planning Act 2016 ("PLAA")

## CHAPTER 2 – PLANNING

### Part 3 – Local planning instruments

#### Division 2 – Making or amending planning schemes

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	18(1)	Power to propose to make or amend a planning scheme.				This delegation does not include any powers that are required to be exercised by Council pursuant to a resolution of Council.
Local Government	18(2)	Power to give notice of the proposed planning scheme or proposed amendment to the Chief Executive.				This delegation does not include any powers that are required to be exercised by Council pursuant to a resolution of Council.
Local Government	18(3)	Power to consult with the Chief Executive about the process for making or amending the planning scheme.				This delegation does not include any powers that are required to be exercised by Council pursuant to a resolution of Council.

Local Government	18(6)	Power to make or amend the planning scheme by following the process in the notice or amended notice.				This delegation does not include any powers that are required to be exercised by Council pursuant to a resolution of Council.
Local Government	19(1)	In certain circumstances, power to apply a planning scheme as a categorising instrument in relation to prescribed tidal works.				
Local Government	20(2)	Power to amend a planning scheme by following the process in the Minister's rules, instead of complying with section 18.				This delegation does not include any powers that are required to be exercised by Council pursuant to a resolution of Council.
Local Government	21	In certain circumstances, power to follow the process in the Minister's rules for making or amending an LGIP.				This delegation does not include any powers that are required to be exercised by Council pursuant to a resolution of Council.
Local Government	22(1)	Power to amend a planning scheme policy by following the process in the Minister's rules.				This delegation does not include any powers that are required to be exercised by Council pursuant to a resolution of Council.

Local Government	23(1)	Power to make a TLPI if the local government and Minister decide – (a) there is significant risk of serious adverse cultural, economic, environmental or social conditions happening in the local government area; (b) the delay involved in using the process in sections 18 to 22 to make or amend another local planning instrument would increase the risk; and (c) the making of the TLPI would not adversely affect State interests.				This delegation does not include any powers that are required to be exercised by Council pursuant to a resolution of Council.
Local Government	23(2)	Power to amend a TLPI if the Minister decides the amendment of the TLPI would not adversely affect State interests.				This delegation does not include any powers that are required to be exercised by Council pursuant to a resolution of Council.
Local Government	24(5)	Power to repeal a TLPI by making, or amending, a planning scheme to specifically repeal the TLPI.				This delegation does not include any powers that are required to be exercised by Council pursuant to a resolution of Council.
Local Government	25(1)(a)	Power to review planning scheme.				This delegation does not include any powers that are required to be exercised by Council pursuant to a resolution of Council.

Local Government	25(1)(b)	Power to decide, based on that review, whether to amend or replace the planning scheme.				This delegation does not include any powers that are required to be exercised by Council pursuant to a resolution of Council.
Local Government	25(2)	Power to: (a) give written reasons for the decision to the Chief Executive; (b) publish a public notice in the approved form about the decision; and (c) keep a copy of the public notice in a conspicuous place in the local government's public office for a period of at least 40 business days after the notice is published.				This delegation does not include any powers that are required to be exercised by Council pursuant to a resolution of Council.
Local Government	25(3)	Power to undertake an LGIP review.				This delegation does not include any powers that are required to be exercised by Council pursuant to a resolution of Council.

**Division 3 – State powers for local planning instruments**

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	26(3)(c)	Power to make a submission to the Minister about taking the action.				This delegation does not include any powers that are required to be

						exercised by Council pursuant to a resolution of Council.
Local Government	26(4)(a)	Power to take action in accordance with Minister's direction under a Notice.				This delegation does not include any powers that are required to be exercised by Council pursuant to a resolution of Council.
Local Government	26(4)(b)	Power to take other action in accordance with Minister's direction.				This delegation does not include any powers that are required to be exercised by Council pursuant to a resolution of Council.

#### Part 4 – Superseded planning schemes

##### Division 1 – Applying superseded planning schemes

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	29(4)(a)	Power to accept, assess and decide a development application (a superseded planning scheme application) under a superseded planning scheme.				
Local Government	29(4)(b)	Power to apply a superseded planning scheme to the carrying out of development that was accepted development under the superseded planning scheme.				

Local Government	29(6)	Power to decide whether or not to agree to a superseded planning scheme request within the period prescribed by, or extended as required under, the regulation.				
Local Government	29(7)	Power to give a decision notice to the person who made the superseded planning scheme request.				

### Division 2 – Compensation

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	30(5)	Power to prepare a report assessing feasible alternatives for reducing the risk stated in subsection (4)(e), including imposing development conditions on development approvals.				
Local Government	32(1)(a)	Power to approve all or part of a compensation claim.	Delegation of this power to be made on a case-by-case basis only.			
Local Government	32(1)(b)	Power to refuse a compensation claim.				
Local Government	32(1)(c)	Power to give a notice of intention to resume the affected owner's interest in premises under the Acquisition Act, section 7.				
Local Government	32(2)	Power to decide to amend the planning scheme to allow premises to be used for the purposes that the premises could be used for under the superseded planning scheme.				

Chief Executive Officer	32(3)	Power to give the affected owner: (a) notice of intention to resume; (b) a notice that states the local government's decision, any amount of compensation to be paid and the affected owner's appeal rights.	This power has been given directly to the Chief Executive Officer and so a delegation to the CEO is not required.			
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**Part 5 – Designation of premises for development of infrastructure**

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Designator	35(1)	Power to identify premises for the development of 1 or more types of infrastructure that are prescribed by regulation.				This delegation does not include any powers that are required to be exercised by Council pursuant to a resolution of Council.
Designator	35(2)	Power to include designation requirements about any of the matter contained in 35(2)(a)-(c).				This delegation does not include any powers that are required to be exercised by Council pursuant to a resolution of Council.
Designator	36(1)(a)	Power to be satisfied that the infrastructure will satisfy statutory requirements, or budgetary commitments, for the supply of the infrastructure.				This delegation does not include any powers that are required to be exercised by Council pursuant to

						a resolution of Council.
Designator	36(1)(b)	Power to be satisfied that there is or will be a need for the efficient and timely supply of the infrastructure.				This delegation does not include any powers that are required to be exercised by Council pursuant to a resolution of Council.
Local Government	36(7)(e)	Power to make submission to a Designator in relation to making or amending a designation.				This delegation does not include any powers that are required to be exercised by Council pursuant to a resolution of Council.
Affected Party	37(4)	Power to make a submission to the Minister about the designation.				This delegation does not include any powers that are required to be exercised by Council pursuant to a resolution of Council.
Designator	38(1)	Power to: (a) consider properly made submissions; (b) decide to make or amend a designation; and (c) publish a gazette notice.				This delegation does not include any powers that are required to be exercised by Council pursuant to a resolution of Council.
Designator	39(2)	Power to extend the duration of a designation, for up to 6 years, by publishing a gazette notice about the				



		extension before the designation stops having effect.				
Public Sector Entity	39(4)	Power to discontinue proceedings to resume designated premises.				
Designator	40(1)	Power to repeal a designation by publishing a gazette notice that states: (a) that the designation is repealed; and (b) a description of the designated premises; and (c) the type of infrastructure for which the premises were designated; and (d) the reasons for the repeal.				
Designator	41(4)	Power to: (a) repeal the designation; (b) decide to refuse the request; and (c) decide to take other action that designator considers appropriate in the circumstances.				
Designator	41(5)	Power to give a decision notice.				
Local Government	42(2)	Power to include a note about the making, amendment, extension or appeal of a designation in the planning scheme.				
Local Government	42(4)	Power to include a note in the planning scheme in a way that ensures the other provisions of the scheme that apply to the designated premises remain effective.				

## CHAPTER 3 – DEVELOPMENT ASSESSMENT

### Part 1 – Types of development and assessment

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	45(5)(b)	Power to consider and assess against assessment benchmarks and prescribed matters under a regulation and other relevant matters.				
Assessment Manager	45(7)	Power to assess a development application against or have regard to the statutory instrument, or other document, as in effect when the development application was properly made.				
Assessment Manager	45(8)(a)	Power to give weight the Assessment Manager considers is appropriate, in the circumstances, to a statutory instrument or other document that has been amended or replaced after the development application was properly made but before it was decided by the Assessment Manager.				
Assessment Manager	45(8)(b)	Power to give weight the Assessment Manager considers is appropriate in the circumstances to another statutory instrument that came into effect after the development application was properly made but before it was decided by the Assessment Manager.				
Local Government	46(2)(a)	Power to give an exemption certificate for a development.				
Local Government	46(3)(a)	Power to seek agreement in writing from referral agencies about the giving of an exemption certificate.				

**Part 2 – Development applications**

**Division 2 – Making or changing applications**

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Owner	51(2)	Power to give owner's consent.	N/A			
Assessment Manager	51(4)(a)	Power to be satisfied an application complies with subsections (1) to (3).				
Assessment Manager	51(4)(b)	Power to be satisfied an application complies with subsection (2) and (3).				
Assessment Manager	51(4)(c)	Power to accept an application that does not comply with subsection (1)(a) or (b)(i).				
Assessment Manager	51(4)(d)	Power to accept an application that does not comply with subsection (1)(b)(ii) to the extent the required fee has been waived under section 109(b).				
Assessment Manager	51(5)	Power to accept a properly made application.				
Assessment Manager	52(3)	Power to assess and decide if a change is a minor change.				
Assessment Manager	53(3)	Power to assess and decide a development application even if some of the requirements of the development assessment rules about the notice have not been complied with, if the assessment manager considers any noncompliance has not: (a) adversely affected the public's awareness of the existence and nature of the application; or (b) restricted the public's opportunity to make properly made submissions about the application.				

Assessment Manager	53(4)(a)	Power to consider submissions about a development application.				
Assessment Manager	53(10)	Power to give notice on behalf of an applicant to a referral agency for a fee.				

### Part 3 –

### Assessing and deciding development applications

#### Division 1 – Referral agency's assessment

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Assessment Manager	54(5)	Power to give a copy of a development application on behalf of an applicant to a referral agency for a fee.				
Assessment Manager/ Referral Agency	55(1)	Power to assess the application as required under section 45, as if the agency were the assessment manager.				
Referral Agency	55(2)(a)	Power to assess a development application against matters prescribed by the regulation.				
Referral Agency	55(2)(b)	Power to have regard to matters prescribed by the regulation for the assessment.				
Referral Agency	55(4)	Power to assess the development application against or having regard to the statutory instrument, or other document, as in effect when the application was properly made.				
Referral Agency	55(5)(a)	Power to give weight the Referral Agency considers is appropriate, in the circumstances, to a statutory instrument or other document that has been amended or				

		replaced after the development application was properly made.				
Referral Agency	55(5)(b)	Power to give the weight the Referral Agency considers is appropriate, in the circumstances, to another statutory instrument that came into effect after the development application was properly made.				
Referral Agency	56(1)(a)	Power to decide to tell the assessment manager that the agency has no requirements for the application.				
Referral Agency	56(1)(b)	Power to decide to direct the assessment manager to do any or all of the following: (i) to give any development approval subject to stated development conditions; (ii) to give any development approval for only a stated part of the application; (iii) to give any development approval only as a preliminary approval; (iv) to improve a stated currency period for a development approval given.				
Referral Agency	56(1)(c)	Power to decide to direct the assessment manager to refuse the application for stated reasons.				
Referral Agency	56(2)(a)	Power to decide to tell the assessment manager that the agency has no requirements for the variation request.				
Referral Agency	56(2)(b)	Power to decide to direct the assessment manager to do any or all of the following: (i) to approve only some of the variations sought; (ii) subject to section 61(3) to approve different variations from those sought.				

Referral Agency	56(2)(c)	Power to decide to direct the assessment manager to refuse the variation request.				
Referral Agency	56(3)	Power to give advice about the application to the assessment manager.				

#### Division 2 – Assessment manager's decision

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Assessment Manager	60(2)(a)	Power to assess and decide the extent to which the application complies with all of the assessment benchmarks for the development.				
Assessment Manager	60(2)(b)	Power to decide to approve the application even if the development does not comply with some of the assessment benchmarks.				
Assessment Manager	60(2)(c)	Power to impose development conditions on an approval.				
Assessment Manager	60(2)(d)	To the extent the development does not comply with some or all the assessment benchmarks, power to decide to refuse the application where compliance cannot be achieved by imposing development conditions.				
Assessment Manager	60(3)(a)	Power to decide to approve all or part of the application.	N/A			
Assessment Manager	60(3)(b)	Power to decide to approve all or part of the application, but impose development conditions on the approval.	N/A			
Assessment Manager	60(3)(c)	Power to decide to refuse the application.	N/A			

Assessment Manager	60(5)	Power to give a preliminary approval for all or part of the development application, even though the development application sought a development permit.				
Assessment Manager	61(3)(a)(i)	Power to decide to approve all or some of the variations sought.	N/A			
Assessment Manager	61(3)(a)(ii)	Power to decide to approve different variations from those sought.	N/A			
Assessment Manager	61(3)(b)	Power to decide to refuse the variations sought.	N/A			
Assessment Manager	63(1)	Power to give a decision notice.				
Assessment Manager	63(4)	Power to publish a notice about the decision on the assessment managers website.				
Assessment Manager	64(6)(a)	Power to give an applicant a decision notice which approves the application.				
Assessment Manager	64(6)(b)	Power to give an applicant a decision notice which approves the application subject to development conditions.				

### Division 3 – Development conditions

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Owner of a Premises	66(2)(c)	Power to agree in writing to a later condition applying.				
Assessment Manager/ Referral Agency	67	Power to make an agreement with an applicant to establish the responsibilities, or secure the performance, of a party to the agreement about a development condition.				

**Part 5 –**

**Development approvals**

**Division 2 – Changing development approvals**

***Subdivision 1 – Changes during appeal period***

<b>Entity power given to</b>	<b>Section of PA</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	75(4)(b)(ii)	Power to provide an applicant with a notice that they do not agree with the change representations.				
Assessment Manager	75(4)(b)(iii)	Power to agree with an applicant to a longer period to make change representations.				
Assessment Manager	76(1)	Power to assess change representations against and having regard to the matters that must be considered when assessing a development application to the extent those matters are relevant.				
Assessment Manager	76(2)	Power to give a negotiated decision notice.				
Local Government	76(6)	Power to give a replacement infrastructure charges notice to an applicant.				

***Subdivision 2 – Changes after appeal period***

<b>Entity power given to</b>	<b>Section of PA</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>
Referral Agency	78A(1)(a)	Power to consider a change application.				
Assessment Manager	78A(1)(b)	Power to consider a change application.				
Assessment Manager	78A(5)	Power to consider a change application if referred by the Minister.				



Responsible Entity	79(2)(a)	Power to be satisfied that an application complies with subsections (1) and (1A).				
Responsible Entity	79(2)(b)	Power to be satisfied the application complies with subsection (1A).				
Responsible Entity	79(2)(c)	Power to accept an application that does not comply with subsection (1)(a) or (b)(ii).				
Responsible Entity	79(2)(d)	Power to accept an application that does not comply with subsection (1)(b)(i) to the extent the required fee has been waived under section 109(b).				
Affected Entity	80(2)	Power to give the person who proposes to make the change application a notice (a pre-request response notice) that states— (a) whether the affected entity objects to the change; and (b) the reasons for any objection.				
Affected Entity	80(4)(a)	Power to give a responsible entity and the applicant a response notice that states that the affected entity has no objection to the change.				
Affected Entity	80(4)(b)	Power to give a responsible entity and the applicant a response notice that states that the affected entity objects to the change and the reasons for objection.				
Responsible Entity	81(4)	Power to consider, for a change application, a statutory instrument, or other document, as in effect when the development application for the development approval was properly made.				
Responsible Entity	81(5)(a)	Power to give weight the Responsible Entity considers appropriate in the circumstances to the statutory instrument or other document as in effect when the change application was made.				

Responsible Entity	81(5)(b)	Power to give the weight the Responsible Entity considers is appropriate, in the circumstances, to a statutory instrument or other document that has amended or replaced after the change application was made but before it was decided.				
Responsible Entity	81(5)(c)	Power to give the weight the Responsible Entity considers is appropriate, in the circumstances, to another statutory instrument that came into effect after the change application was made but before it was decided.				
Responsible Entity	81A(2)(a)	Power to decide to approve the change application with or without development conditions.	N/A			
Responsible Entity	81A(2)(b)	Power to decide to refuse the change application.	N/A			
Responsible Entity / Applicant	81A(5)	Power to agree to extend the period for deciding the change application.				
Applicant	81B(2)	Power to give notice of withdrawal of a change application before it is decided.				

***Subdivision 3 – Notice of decision***

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Responsible Entity	83(1)	Power to give a decision notice.				
Responsible Entity	83(2)	Power to give a decision notice if a negotiated decision notice is not given in relation to the decision.				

### Division 3 – Cancelling development approvals

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Assessment Manager	84(4)	Power to cancel the development approval and give notice of the cancellation.				

### Division 4 – Lapsing of and extending development approvals

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Assessment Manager	86(3)(a)	Power to be satisfied that an application complies with subsections (2) and (2A).				
Assessment Manager	86(3)(b)	Power to be satisfied that an application complies with subsection (2A) before an application can be accepted.				
Assessment Manager	86(3)(c)	Power to accept an application that does not comply with subsection (2)(a).				
Assessment Manager	86(3)(d)	Power to accept an application that does not comply with subsection (2)(b) to the extent the required fee has been waived under section 109(b).				
Assessment Manager	87(1)	Power to consider any matter that the assessment manager considers relevant, even if the matter was not relevant to assessing the development application.				
Assessment Manager	87(2)(a)	Power to decide whether to give or refuse the extension sought.	N/A			
Assessment Manager	87(2)(b)	Power to extend the currency period for a period that is different from the extension sought.	Delegation of this power to be made on a case-by-case basis only.			

Assessment Manager	87(3)	Power to agree to extend the 20 business day period.				
Assessment Manager	88(3)	Power to use any security paid under a condition stated in section 65(2)(e) for the purpose stated in the approval or agreement under section 67.				

**Division 5 – Noting development approvals on planning schemes**

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	89(1)(a)	Power to consider whether a development approval is substantially inconsistent with its planning scheme.				

**Part 6 – Minister's powers**

**Division 3 – Minister's call in**

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Person	102(2)	Power to make representations about the proposed call in notice.				
Decision-maker	105(3)	Power to provide Minister with reasonable help.				

**Part 7 – Miscellaneous**

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Assessment Manager or Referral	109(a)	Power to refund all or part of a required fee.	N/A			

Agency or Responsible Entity						
Assessment Manager or Referral Agency or Responsible Entity	109(b)	Power to waive all or part of a required fee, in the circumstances prescribed by regulation.	N/A			

## CHAPTER 4 – INFRASTRUCTURE

### Part 2 – Provisions for Local Governments

#### Division 2 – Changes for trunk infrastructure

##### *Subdivision 2 – Charges resolutions*

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Participating Local Government for a distribution-retailer	115(2)	Power to enter into an agreement (a <b><i>breakup agreement</i></b> ) about the charges breakup.				

##### *Subdivision 3 – Levying charges*

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	119(2)	Power to give an infrastructure charges notices.				
Local Government	119(6)	Power to give an applicant an amended infrastructure charges notice.				

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***Subdivision 4 – Payment***

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	123(1)(a)	Power to make an agreement with recipient of an infrastructure charges notice about whether the levied charge under the notice may be paid other than as required under section 122 including whether the charge may be paid by instalments.				
Local Government	123(1)(b)	Power to make an agreement with recipient of an infrastructure charges notice about whether infrastructure may be provided instead of paying all or part of the levied charge.				

***Subdivision 5 – Changing charges during relevant appeal period***

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	125(2)	Power to consider representations.				
Local Government	125(3)	Power to give a negotiated notice to the recipient.				

**Division 3 – Development approval conditions about truck infrastructure**

***Subdivision 2 – Conditions for extra trunk infrastructure costs***

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	130(1)	In certain circumstances, the power to require the payment of extra trunk infrastructure costs.				
Local Government	130(1)(a)	Power to decide if the development: (i) will generate infrastructure demand of more than that required to service the type or scale of future development that the LGIP assumes; or (ii) will require new trunk infrastructure earlier than when identified in the LGIP; or (iii) is for premises completely or partly outside of the PIA.				
Local Government	130(1)(b)	Power to decide whether the development would impose extra trunk infrastructure costs on the local government and to take into account either or both of the following to decide: (i) levied charges for the development; (ii) trunk infrastructure provided, or to be provided, by the applicant under this part.				
Local Government	131(2)	Power to agree to an alternative payment time.				
Local Government	135(3)	Power to make an agreement with a payer in relation to a refund.				

**Division 4 – Miscellaneous provisions about trunk infrastructure**

***Subdivision 1 – Conversion of particular non-trunk infrastructure before construction starts***

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	140(1)	Power to consider and decide the conversion application.				
Local Government	140(3)	Power to give the applicant a notice requiring the applicant to give information that the local government reasonably needs to make the decision.				
Local Government	140(5)(b)	Power to agree to a later period for giving the information in respect of a conversion application.				
Local Government	142(3)	Power to amend the development approval by imposing a necessary infrastructure condition for the trunk infrastructure.				

***Subdivision 2 – Other provisions***

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	144(2)	Power to make an agreement with an applicant in relation to a levied charge.				



**Part 3 - Provisions for State infrastructure providers**

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	149(2)(b)	Power to agree with the state infrastructure provider and the person who provided the replacement infrastructure about when the amount of the levy charge will be paid.				

**Part 4 – Infrastructure agreements**

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Public Sector Entity	151(2)	Power to tell the entity making the proposal if the recipient agrees to enter into negotiations for an infrastructure agreement.				
Public Sector Entity	158(1)(a)	Power to enter into an agreement with a person about providing or funding infrastructure.				
Public Sector Entity	158(1)(b)	Power to enter into an agreement with a person about refunding payments made towards the cost of providing or funding infrastructure.				

## CHAPTER 5 – OFFENCES AND ENFORCEMENT

### Part 3 – Enforcement notices

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Enforcement Authority	167(1)(a)	Power to form reasonable belief that a person has committed, or is committing, a development offence.				
Enforcement Authority	167(1)(b)	Power to consider giving an enforcement notice for an offence to a person.				
Enforcement Authority	167(2)	Power to give a show cause notice.				
Enforcement Authority	167(4)	Power to give an enforcement notice to a person if it still considers it appropriate to do so.				
Enforcement Authority	167(5)(b)	Power to form reasonable belief that it is not appropriate in the circumstances to give the show cause notice.				
Enforcement Authority	168(1)	Power to form reasonable belief a person has committed, or is committing, a development offence, and give an enforcement notice to: (a) the person; and (b) if the offence involves premises and the person is not the owner of the premises— the owner of the premises.				
Enforcement Authority	168(4)(a)	Power to form a reasonable belief that it is not possible or practical to take steps to make the development accepted development.				

Enforcement Authority	168(4)(b)	Power to form a reasonable belief that it is not possible or practical to take steps to make the works comply with a development approval.				
Enforcement Authority	168(4)(c)	Power to form a reasonable belief that the works are dangerous and that it is not possible or practical to take steps to remove the danger.				
Enforcement Authority	169(2)(a)	Power to consult with a private certifier about the giving of a notice.				
Enforcement Authority	169(3)	Power to form a reasonable belief the works for which the enforcement notice is to be given are dangerous.				
Enforcement Authority	169(5)	Power to carry out consultation in the way the enforcement authority considers appropriate.				

**Part 4 – Offence proceedings in Magistrates Court**

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Person	174(1)	Power to bring offence proceedings.				
Representative Person	175(1)(a)	With consent, power to bring offence proceedings in a representative capacity on behalf of a body of persons or a corporation.				Subject to section 237 of the <i>Local Government Act 2009</i>
Representative Person	175(1)(b)	With consent, power to bring offence proceedings on behalf of an individual.				Subject to section 237 of the <i>Local Government Act 2009</i>
Enforcement Authority	176(10)(a)	Power to take action required under an order.				

Enforcement Authority	176(10)(b)	Power to recover the reasonable cost of taking the action as a debt owing to the authority from the defendant.				
Enforcement Authority	178(1)(b)	Power to apply to a Magistrate for an order for the payment of expenses.				

**Part 5 - Enforcement orders in P&E Court**

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Person	180(1)	Power to start proceedings in the P&E Court for an enforcement order.				
Person	180(11)	Power to apply to the P&E Court for a compliance order.				
Enforcement Authority	180(13)(a)	Power to take action required under an order.				
Enforcement Authority	180(13)(b)	Power to recover the reasonable cost of taking the action as a debt owing to the authority from the respondent.				
Person	181(4)	Power to apply to the P&E Court to cancel or change an enforcement order or interim enforcement order.				

**CHAPTER 6 – DISPUTE RESOLUTION**

**Part 1 – Appeal rights**

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Appellant	229(2)	Power to start an appeal within the appeal period.				

Assessment Manager	229(5)	Power to apply to the tribunal or the P&E Court to withdraw from the appeal if an appeal is only about a referral agencies response.				
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**Part 2 – Development Tribunal**

**Division 2 – Applications for declaration**

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Person	239(1)	Power to start proceedings for a declaration by a tribunal by filing an application, in the approved form, with the registrar.				
Assessment Manager	240(1)	Power to start proceedings for a declaration about whether a development application is properly made.				
Responsible Entity	241(2)	Power to start proceedings for a declaration about whether the proposed change to the approval is a minor change.				

**CHAPTER 7 – MISCELLANEOUS**

**Part 2 – Taking or purchasing land for planning purposes**

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	263(1)(a)	Power to consider that taking or purchasing land would help to achieve the outcomes stated in a local planning instrument.	N/A			

Local Government	263(1)(b)(i)	Power to be satisfied that the development would create a need to construct infrastructure on land or to carry drainage over land.				
Local Government	263(1)(b) (ii)	Power to be satisfied that a person with the benefit of the approval has taken reasonable steps to get the agreement of the owner of the land to actions that would facilitate the construction or carriage, but has not been able to get the agreement.				
Local Government	263(1)(b) (iii)	Power to be satisfied that the action is necessary for the development.				
Local Government	263(3)	In certain circumstances, power to take or purchase land under the Acquisition Act.	N/A			

**Part 3 – Public access to documents**

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	264(1)(a)	Power to keep or keep publicly available documents including registers relating to local government functions as prescribed in the Reg.				
Local Government	264(2)	Power to keep a copy of each exemption certificate given pursuant to section 46 (2) of the Act and power to keep a register of exemption certificates.				
Local Government	264(5)	Power to allow a person to inspect or obtain a copy of a document prescribed in the Reg				

Local Government	264(6)	Power to decide if a document or information in a document prescribed under the Reg is not disclosable.				
Local Government	265(3)	Power to give a limited, standard or full planning and development certificate for premises.				

**Part 4A – Service of document**

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Person	275C(2)	Power to sign a certificate of service.				

**CHAPTER 8 – TRANSITIONAL PROVISIONS AND REPEAL**

**Part 1 – Transitional provisions for the repeal of Sustainable Planning Act 2009**

**Division 3 – Planning**

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	293(5)	Power to make an amendment of a type mentioned in subsection (1) by following the process set out in the rules.				This delegation does not include any powers that are required to be exercised by Council pursuant to a resolution of Council.

### Division 5 – Infrastructure

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	304(4)(a)	Power to adopt charges under section 113.				
Local Government	304(4)(b)	Power to give an infrastructure charges notice under section 119.				
Local Government	304(4)(c)	Power to impose conditions about trunk infrastructure under section 128 or 130.				

### Division 6 – Enforcement and dispute resolution

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Person	312	Power to bring a proceeding under the section of the old Act stated in column 2, after the commencement, whether the matter happened before or after the commencement.				

### Division 7 – Miscellaneous

Entity power given to	Section of PA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	314(6)	Power to apply funds received under a funding agreement to fulfil the local government's responsibilities under subsections (3) or (4), as required by the local government's policy under the unamended old Act, section 143(2).				



**Part 1A – Transitional and saving provisions for Waste Reduction and Recycling Amendment Act 2017**

<b>Entity power given to</b>	<b>Section of PA</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>
Responsible Entity	324B(5)	Power to apply section 79(2), as in force on the commencement, to make a decision about accepting the existing change application.				
Assessment Manager	324C(5)	Power to apply section 86(3), as in force on the commencement, to make a decision about accepting the existing extension application.				

[2019 04 11 - PLAA - Delegation Table]

## Development Assessment Rules under the Planning Act 2016 ("PLAA")

### Part 1 – Application

Entity power given to	Rule	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Assessment Manager	1.2	Power to decide a properly made application.				
Assessment Manager	2.2	Power to give a confirmation notice.				
Assessment Manager	3.1	Power to give an action notice.				

### Part 2 – Referral

Entity power given to	Rule	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Referral Agency	6.2	Power to decide a properly made application.				
Referral Agency	7.1	Power to give a confirmation notice.				
Referral Agency	8.1	Power to give an action notice.				
Referral Agency	9.2	Power to give a referral agency response.				

**Part 3 – Information request**

Entity power given to	Rule	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Assessment Authority	12.1	Power to make an information request.				
Assessment Authority	12.5	Power to give advice about an information request.				

**Part 4 – Public Notification**

Entity power given to	Rule	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Assessment Manager	17.1	Power to publish, place or give a public notice pursuant to section 53(10) of the PA.				
Assessment Manager	19.1	Power to accept a property made submission.				

**Part 5 – Decision**

Entity power given to	Rule	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Assessment Manager	22.2	Power to give a copy of a decision notice to each principal submitter.				
Assessment Manager	23.1	Power to receive a notice from a concurrence agency.				

**Part 6 – Changes to the application and referral agency responses**

Entity power given to	Section of DEAR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Assessment Manager	25.1	Power to give a notice of a changed application to a referral agency.				
Assessment Manager	26.2(a)	Power to give a confirmation notice of receipt of a changed application.				
Assessment Manager	26.2(c)	Power to give a notice that public notification is required with respect to the changed application.				
Assessment Manager	26.3	Power to refer a changed application to a referral agency.				
Concurrence Agency	28.1	Power to change a referral agency response to any changed application.				
Concurrence Agency	28.3	Power to give a late referral agency response before a changed application is decided with the agreement of the applicant.				
Concurrence Agency	28.4	Power to give an amended referral agency response to an assessment manager.				

**Part 7 – Miscellaneous**

Entity power given to	Section of DEAR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Referral Agency	29.6	Power to make an information request with respect to a missed referral agency application.				
Assessment Manager	34.1	Power to request third party advice from a third party about an application.				

Assessment Manager	35.1	Power to give a further advice to an applicant.				
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#### **SCHEDULE 1 – SUBSTANTIALLY DIFFERENT DEVELOPMENT**

<b>Entity power given to</b>	<b>Section of DEAR</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	1	Power to determine if a change to an application is a minor change.				
Assessment Manager	2	Power to determine if a change would result in a substantially different development				

[2019 04 11 - PLAA - Planning Act - Development Assessment Rules Table

## INSTRUMENT OF SUB-DELEGATION

**Torres Strait Island Regional Council**  
***Planning Act 2016 ("PLAA")***  
***Development Assessment Rules***

Under section 259 of the Local Government Act 2009, I, **Bruce Ranga**, Chief Executive Officer of **Torres Strait Island Regional Council**, delegate to those positions which are specified in Schedule 1, the exercise of the powers contained in Schedule 2.

These powers must be exercised subject to the limitations contained in Schedule 3.

This Instrument of Sub-Delegation repeals all prior Instruments sub-delegating to the positions specified in Schedule 1 the exercise of the powers contained in Schedule 2.

My authority to make these sub-delegations is conferred by the *Local Government Act 2009* and the resolution of **Torres Strait Island Regional Council**, made on **Insert date** to delegate those powers to the Chief Executive Officer.

**DATED** this                      day of                      2020.

**Bruce Ranga**  
Chief Executive Officer  
**Torres Strait Island Regional Council**

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

## Powers sub-delegated

### Development Assessment Rules under the Planning Act 2016 ("PLAA")

#### Part 1 – Application

Entity power given to	Rule	Description
Assessment Manager	1.2	Power to decide a properly made application.
Assessment Manager	2.2	Power to give a confirmation notice.
Assessment Manager	3.1	Power to give an action notice.

#### Part 2 – Referral

Entity power given to	Rule	Description
Referral Agency	6.2	Power to decide a properly made application.
Referral Agency	7.1	Power to give a confirmation notice.
Referral Agency	8.1	Power to give an action notice.
Referral Agency	9.2	Power to give a referral agency response.

#### Part 3 – Information request

Entity power given to	Rule	Description
Assessment Authority	12.1	Power to make an information request.
Assessment Authority	12.5	Power to give advice about an information request.

#### Part 4 – Public Notification

Entity power given to	Rule	Description
Assessment Manager	17.1	Power to publish, place or give a public notice pursuant to section 53(10) of the PA.
Assessment Manager	19.1	Power to accept a property made submission.



**Part 5 – Decision**

Entity power given to	Rule	Description
Assessment Manager	22.2	Power to give a copy of a decision notice to each principal submitter.
Assessment Manager	23.1	Power to receive a notice from a concurrence agency.

**Part 6 – Changes to the application and referral agency responses**

Entity power given to	Section of DEAR	Description
Assessment Manager	25.1	Power to give a notice of a changed application to a referral agency.
Assessment Manager	26.2(a)	Power to give a confirmation notice of receipt of a changed application.
Assessment Manager	26.2(c)	Power to give a notice that public notification is required with respect to the changed application.
Assessment Manager	26.3	Power to refer a changed application to a referral agency.
Concurrence Agency	28.1	Power to change a referral agency response to any changed application.
Concurrence Agency	28.3	Power to give a late referral agency response before a changed application is decided with the agreement of the applicant.
Concurrence Agency	28.4	Power to give an amended referral agency response to an assessment manager.

**Part 7 – Miscellaneous**

Entity power given to	Section of DEAR	Description
Referral Agency	29.6	Power to make an information request with respect to a missed referral agency application.
Assessment Manager	34.1	Power to request third party advice from a third party about an application.
Assessment Manager	35.1	Power to give a further advice to an applicant.

**SCHEDULE 1 – SUBSTANTIALLY DIFFERENT DEVELOPMENT**

Entity power given to	Section of DEAR	Description
Assessment Manager	1	Power to determine if a change to an application is a minor change.
Assessment Manager	2	Power to determine if a change would result in a substantially different development

## 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.

[2019 04 11 - PLAA – Sub-Delegation Instrument – Development Assessment Rules -Torres Strait Island Regional Council

### 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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.

## INSTRUMENT OF SUB-DELEGATION

**Torres Strait Island Regional Council**  
***Planning Act 2016 ("PLAA")***

Under section 259 of the *Local Government Act 2009*, I, **Bruce Ranga**, Chief Executive Officer of **Torres Strait Island Regional Council**, delegate to those positions which are specified in Schedule 1, the exercise of the powers contained in Schedule 2.

These powers must be exercised subject to the limitations contained in Schedule 3.

This Instrument of Sub-Delegation repeals all prior Instruments sub-delegating to the positions specified in Schedule 1 the exercise of the powers contained in Schedule 2.

My authority to make these sub-delegations is conferred by the *Local Government Act 2009* and the resolution of **Torres Strait Island Regional Council** made on **Insert date** to delegate those powers to the Chief Executive Officer.

**DATED** this                      day of                      2020.

**Bruce Ranga**  
Chief Executive Officer  
**Torres Strait Island Regional Council**

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

## Powers sub-delegated

### *Planning Act 2016 ("PLAA")*

#### CHAPTER 2 – PLANNING

##### Part 3 – Local planning instruments

##### Division 2 – Making or amending planning schemes

Entity power given to	Section of PA	Description
Local Government	18(1)	Power to propose to make or amend a planning scheme.
Local Government	18(2)	Power to give notice of the proposed planning scheme or proposed amendment to the Chief Executive.
Local Government	18(3)	Power to consult with the Chief Executive about the process for making or amending the planning scheme.
Local Government	18(6)	Power to make or amend the planning scheme by following the process in the notice or amended notice.
Local Government	19(1)	In certain circumstances, power to apply a planning scheme as a categorising instrument in relation to prescribed tidal works.
Local Government	20(2)	Power to amend a planning scheme by following the process in the Minister's rules, instead of complying with section 18.
Local Government	21	In certain circumstances, power to follow the process in the Minister's rules for making or amending an LGIP.
Local Government	22(1)	Power to amend a planning scheme policy by following the process in the Minister's rules.
Local Government	23(1)	Power to make a TLPI if the local government and Minister decide – (d) there is significant risk of serious adverse cultural, economic, environmental or social conditions happening in the local government area; (e) the delay involved in using the process in sections 18 to 22 to make or amend another local planning instrument would increase the risk; and (f) the making of the TLPI would not adversely affect State interests.
Local Government	23(2)	Power to amend a TLPI if the Minister decides the amendment of the TLPI would not adversely affect State interests.
Local Government	24(5)	Power to repeal a TLPI by making, or amending, a planning scheme to specifically repeal the TLPI.
Local Government	25(1)(a)	Power to review planning scheme.
Local Government	25(1)(b)	Power to decide, based on that review, whether to amend or replace the planning scheme.
Local Government	25(2)	Power to:

		(d) give written reasons for the decision to the Chief Executive; (e) publish a public notice in the approved form about the decision; and (f) keep a copy of the public notice in a conspicuous place in the local government's public office for a period of at least 40 business days after the notice is published.
Local Government	25(3)	Power to undertake an LGIP review.

### Division 3 – State powers for local planning instruments

Entity power given to	Section of PA	Description
Local Government	26(3)(c)	Power to make a submission to the Minister about taking the action.
Local Government	26(4)(a)	Power to take action in accordance with Minister's direction under a Notice.
Local Government	26(4)(b)	Power to take other action in accordance with Minister's direction.

## Part 4 – Superseded planning schemes

### Division 1 – Applying superseded planning schemes

Entity power given to	Section of PA	Description
Local Government	29(4)(a)	Power to accept, assess and decide a development application (a superseded planning scheme application) under a superseded planning scheme.
Local Government	29(4)(b)	Power to apply a superseded planning scheme to the carrying out of development that was accepted development under the superseded planning scheme.
Local Government	29(6)	Power to decide whether or not to agree to a superseded planning scheme request within the period prescribed by, or extended as required under, the regulation.
Local Government	29(7)	Power to give a decision notice to the person who made the superseded planning scheme request.

### Division 2 – Compensation

Entity power given to	Section of PA	Description
Local Government	30(5)	Power to prepare a report assessing feasible alternatives for reducing the risk stated in subsection (4)(e), including imposing development conditions on development approvals.
Local Government	32(1)(a)	Power to approve all or part of a compensation claim.
Local Government	32(1)(b)	Power to refuse a compensation claim.
Local Government	32(1)(c)	Power to give a notice of intention to resume the affected owner's interest in premises under the Acquisition Act, section 7.

Local Government	32(2)	Power to decide to amend the planning scheme to allow premises to be used for the purposes that the premises could be used for under the superseded planning scheme.
Chief Executive Officer	32(3)	Power to give the affected owner: (c) notice of intention to resume; (d) a notice that states the local government's decision, any amount of compensation to be paid and the affected owner's appeal rights.

**Part 5 – Designation of premises for development of infrastructure**

Entity power given to	Section of PA	Description
Designator	35(1)	Power to identify premises for the development of 1 or more types of infrastructure that are prescribed by regulation.
Designator	35(2)	Power to include designation requirements about any of the matter contained in 35(2)(a)-(c).
Designator	36(1)(a)	Power to be satisfied that the infrastructure will satisfy statutory requirements, or budgetary commitments, for the supply of the infrastructure.
Designator	36(1)(b)	Power to be satisfied that there is or will be a need for the efficient and timely supply of the infrastructure.
Local Government	36(7)(e)	Power to make submission to a Designator in relation to making or amending a designation.
Affected Party	37(4)	Power to make a submission to the Minister about the designation.
Designator	38(1)	Power to: (d) consider properly made submissions; (e) decide to make or amend a designation; and (f) publish a gazette notice.
Designator	39(2)	Power to extend the duration of a designation, for up to 6 years, by publishing a gazette notice about the extension before the designation stops having effect.
Public Sector Entity	39(4)	Power to discontinue proceedings to resume designated premises.
Designator	40(1)	Power to repeal a designation by publishing a gazette notice that states: (e) that the designation is repealed; and (f) a description of the designated premises; and (g) the type of infrastructure for which the premises were designated; and (h) the reasons for the repeal.
Designator	41(4)	Power to: (d) repeal the designation; (e) decide to refuse the request; and (f) decide to take other action that designator considers appropriate in the circumstances.
Designator	41(5)	Power to give a decision notice.
Local Government	42(2)	Power to include a note about the making, amendment, extension or appeal of a designation in the planning scheme.



Local Government	42(4)	Power to include a note in the planning scheme in a way that ensures the other provisions of the scheme that apply to the designated premises remain effective.
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## CHAPTER 3 – DEVELOPMENT ASSESSMENT

### Part 1 – Types of development and assessment

Entity power given to	Section of PA	Description
Local Government	45(5)(b)	Power to consider and assess against assessment benchmarks and prescribed matters under a regulation and other relevant matters.
Assessment Manager	45(7)	Power to assess a development application against or have regard to the statutory instrument, or other document, as in effect when the development application was properly made.
Assessment Manager	45(8)(a)	Power to give weight the Assessment Manager considers is appropriate, in the circumstances, to a statutory instrument or other document that has been amended or replaced after the development application was properly made but before it was decided by the Assessment Manager.
Assessment Manager	45(8)(b)	Power to give weight the Assessment Manager considers is appropriate in the circumstances to another statutory instrument that came into effect after the development application was properly made but before it was decided by the Assessment Manager.
Local Government	46(2)(a)	Power to give an exemption certificate for a development.
Local Government	46(3)(a)	Power to seek agreement in writing from referral agencies about the giving of an exemption certificate.

### Part 2 – Development applications

#### Division 2 – Making or changing applications

Entity power given to	Section of PA	Description
Owner	51(2)	Power to give owner's consent.
Assessment Manager	51(4)(a)	Power to be satisfied an application complies with subsections (1) to (3).
Assessment Manager	51(4)(b)	Power to be satisfied an application complies with subsection (2) and (3).
Assessment Manager	51(4)(c)	Power to accept an application that does not comply with subsection (1)(a) or (b)(i).
Assessment Manager	51(4)(d)	Power to accept an application that does not comply with subsection (1)(b)(ii) to the extent the required fee has been waived under section 109(b).
Assessment Manager	51(5)	Power to accept a properly made application.
Assessment Manager	52(3)	Power to assess and decide if a change is a minor change.

Assessment Manager	53(3)	Power to assess and decide a development application even if some of the requirements of the development assessment rules about the notice have not been complied with, if the assessment manager considers any noncompliance has not: (c) adversely affected the public's awareness of the existence and nature of the application; or (d) restricted the public's opportunity to make properly made submissions about the application.
Assessment Manager	53(4)(a)	Power to consider submissions about a development application.
Assessment Manager	53(10)	Power to give notice on behalf of an applicant to a referral agency for a fee.

### Part 3 –

### Assessing and deciding development applications

#### Division 1 – Referral agency's assessment

Entity power given to	Section of PA	Description
Assessment Manager	54(5)	Power to give a copy of a development application on behalf of an applicant to a referral agency for a fee.
Assessment Manager/ Referral Agency	55(1)	Power to assess the application as required under section 45, as if the agency were the assessment manager.
Referral Agency	55(2)(a)	Power to assess a development application against matters prescribed by the regulation.
Referral Agency	55(2)(b)	Power to have regard to matters prescribed by the regulation for the assessment.
Referral Agency	55(4)	Power to assess the development application against or having regard to the statutory instrument, or other document, as in effect when the application was properly made.
Referral Agency	55(5)(a)	Power to give weight the Referral Agency considers is appropriate, in the circumstances, to a statutory instrument or other document that has been amended or replaced after the development application was properly made.
Referral Agency	55(5)(b)	Power to give the weight the Referral Agency considers is appropriate, in the circumstances, to another statutory instrument that came into effect after the development application was properly made.
Referral Agency	56(1)(a)	Power to decide to tell the assessment manager that the agency has no requirements for the application.
Referral Agency	56(1)(b)	Power to decide to direct the assessment manager to do any or all of the following: (v) to give any development approval subject to stated development conditions; (vi) to give any development approval for only a stated part of the application; (vii) to give any development approval only as a preliminary approval; (viii) to improve a stated currency period for a development approval given.

Referral Agency	56(1)(c)	Power to decide to direct the assessment manager to refuse the application for stated reasons.
Referral Agency	56(2)(a)	Power to decide to tell the assessment manager that the agency has no requirements for the variation request.
Referral Agency	56(2)(b)	Power to decide to direct the assessment manager to do any or all of the following: (iii) to approve only some of the variations sought; (iv) subject to section 61(3) to approve different variations from those sought.
Referral Agency	56(2)(c)	Power to decide to direct the assessment manager to refuse the variation request.
Referral Agency	56(3)	Power to give advice about the application to the assessment manager.

#### Division 2 – Assessment manager's decision

Entity power given to	Section of PA	Description
Assessment Manager	60(2)(a)	Power to assess and decide the extent to which the application complies with all of the assessment benchmarks for the development.
Assessment Manager	60(2)(b)	Power to decide to approve the application even if the development does not comply with some of the assessment benchmarks.
Assessment Manager	60(2)(c)	Power to impose development conditions on an approval.
Assessment Manager	60(2)(d)	To the extent the development does not comply with some or all the assessment benchmarks, power to decide to refuse the application where compliance cannot be achieved by imposing development conditions.
Assessment Manager	60(3)(a)	Power to decide to approve all or part of the application.
Assessment Manager	60(3)(b)	Power to decide to approve all or part of the application, but impose development conditions on the approval.
Assessment Manager	60(3)(c)	Power to decide to refuse the application.
Assessment Manager	60(5)	Power to give a preliminary approval for all or part of the development application, even though the development application sought a development permit.
Assessment Manager	61(3)(a)(i)	Power to decide to approve all or some of the variations sought.
Assessment Manager	61(3)(a)(ii)	Power to decide to approve different variations from those sought.
Assessment Manager	61(3)(b)	Power to decide to refuse the variations sought.
Assessment Manager	63(1)	Power to give a decision notice.
Assessment Manager	63(4)	Power to publish a notice about the decision on the assessment managers website.

Assessment Manager	64(6)(a)	Power to give an applicant a decision notice which approves the application.
Assessment Manager	64(6)(b)	Power to give an applicant a decision notice which approves the application subject to development conditions.

### **Division 3 – Development conditions**

<b>Entity power given to</b>	<b>Section of PA</b>	<b>Description</b>
Owner of a Premises	66(2)(c)	Power to agree in writing to a later condition applying.
Assessment Manager/ Referral Agency	67	Power to make an agreement with an applicant to establish the responsibilities, or secure the performance, of a party to the agreement about a development condition.

## **Part 5 –**

### **Development approvals**

#### **Division 2 – Changing development approvals**

##### ***Subdivision 1 – Changes during appeal period***

<b>Entity power given to</b>	<b>Section of PA</b>	<b>Description</b>
Assessment Manager	75(4)(b)(ii)	Power to provide an applicant with a notice that they do not agree with the change representations.
Assessment Manager	75(4)(b)(iii)	Power to agree with an applicant to a longer period to make change representations.
Assessment Manager	76(1)	Power to assess change representations against and having regard to the matters that must be considered when assessing a development application to the extent those matters are relevant.
Assessment Manager	76(2)	Power to give a negotiated decision notice.
Local Government	76(6)	Power to give a replacement infrastructure charges notice to an applicant.

##### ***Subdivision 2 – Changes after appeal period***

<b>Entity power given to</b>	<b>Section of PA</b>	<b>Description</b>
Referral Agency	78A(1)(a)	Power to consider a change application.
Assessment Manager	78A(1)(b)	Power to consider a change application.
Assessment Manager	78A(5)	Power to consider a change application if referred by the Minister.
Responsible Entity	79(2)(a)	Power to be satisfied that an application complies with subsections (1) and (1A).
Responsible Entity	79(2)(b)	Power to be satisfied the application complies with subsection (1A).
Responsible Entity	79(2)(c)	Power to accept an application that does not comply with subsection (1)(a) or (b)(ii).

Responsible Entity	79(2)(d)	Power to accept an application that does not comply with subsection (1)(b)(i) to the extent the required fee has been waived under section 109(b).
Affected Entity	80(2)	Power to give the person who proposes to make the change application a notice (a pre-request response notice) that states— (c) whether the affected entity objects to the change; and (d) the reasons for any objection.
Affected Entity	80(4)(a)	Power to give a responsible entity and the applicant a response notice that states that the affected entity has no objection to the change.
Affected Entity	80(4)(b)	Power to give a responsible entity and the applicant a response notice that states that the affected entity objects to the change and the reasons for objection.
Responsible Entity	81(4)	Power to consider, for a change application, a statutory instrument, or other document, as in effect when the development application for the development approval was properly made.
Responsible Entity	81(5)(a)	Power to give weight the Responsible Entity considers appropriate in the circumstances to the statutory instrument or other document as in effect when the change application was made.
Responsible Entity	81(5)(b)	Power to give the weight the Responsible Entity considers is appropriate, in the circumstances, to a statutory instrument or other document that has amended or replaced after the change application was made but before it was decided.
Responsible Entity	81(5)(c)	Power to give the weight the Responsible Entity considers is appropriate, in the circumstances, to another statutory instrument that came into effect after the change application was made but before it was decided.
Responsible Entity	81A(2)(a)	Power to decide to approve the change application with or without development conditions.
Responsible Entity	81A(2)(b)	Power to decide to refuse the change application.
Responsible Entity / Applicant	81A(5)	Power to agree to extend the period for deciding the change application.
Applicant	81B(2)	Power to give notice of withdrawal of a change application before it is decided.

### ***Subdivision 3 – Notice of decision***

<b>Entity power given to</b>	<b>Section of PA</b>	<b>Description</b>
Responsible Entity	83(1)	Power to give a decision notice.
Responsible Entity	83(2)	Power to give a decision notice if a negotiated decision notice is not given in relation to the decision.

**Division 3 – Cancelling development approvals**

Entity power given to	Section of PA	Description
Assessment Manager	84(4)	Power to cancel the development approval and give notice of the cancellation.

**Division 4 – Lapsing of and extending development approvals**

Entity power given to	Section of PA	Description
Assessment Manager	86(3)(a)	Power to be satisfied that an application complies with subsections (2) and (2A).
Assessment Manager	86(3)(b)	Power to be satisfied that an application complies with subsection (2A) before an application can be accepted.
Assessment Manager	86(3)(c)	Power to accept an application that does not comply with subsection (2)(a).
Assessment Manager	86(3)(d)	Power to accept an application that does not comply with subsection (2)(b) to the extent the required fee has been waived under section 109(b).
Assessment Manager	87(1)	Power to consider any matter that the assessment manager considers relevant, even if the matter was not relevant to assessing the development application.
Assessment Manager	87(2)(a)	Power to decide whether to give or refuse the extension sought.
Assessment Manager	87(2)(b)	Power to extend the currency period for a period that is different from the extension sought.
Assessment Manager	87(3)	Power to agree to extend the 20 business day period.
Assessment Manager	88(3)	Power to use any security paid under a condition stated in section 65(2)(e) for the purpose stated in the approval or agreement under section 67.

**Division 5 – Noting development approvals on planning schemes**

Entity power given to	Section of PA	Description
Local Government	89(1)(a)	Power to consider whether a development approval is substantially inconsistent with its planning scheme.

**Part 6 – Minister's powers****Division 3 – Minister's call in**

Entity power given to	Section of PA	Description
Person	102(2)	Power to make representations about the proposed call in notice.
Decision-maker	105(3)	Power to provide Minister with reasonable help.

**Part 7 – Miscellaneous**

Entity power given to	Section of PA	Description
Assessment Manager or Referral Agency or Responsible Entity	109(a)	Power to refund all or part of a required fee.
Assessment Manager or Referral Agency or Responsible Entity	109(b)	Power to waive all or part of a required fee, in the circumstances prescribed by regulation.

**CHAPTER 4 – INFRASTRUCTURE**

**Part 2 – Provisions for Local Governments**

**Division 2 – Changes for trunk infrastructure**

**Subdivision 2 – Charges resolutions**

Entity power given to	Section of PA	Description
Participating Local Government for a distribution-retailer	115(2)	Power to enter into an agreement (a <b>breakup agreement</b> ) about the charges breakup.

**Subdivision 3 – Levying charges**

Entity power given to	Section of PA	Description
Local Government	119(2)	Power to give an infrastructure charges notices.
Local Government	119(6)	Power to give an applicant an amended infrastructure charges notice.

**Subdivision 4 – Payment**

Entity power given to	Section of PA	Description
Local Government	123(1)(a)	Power to make an agreement with recipient of an infrastructure charges notice about whether the levied charge under the notice may be paid other than as required under section 122 including whether the charge may be paid by instalments.
Local Government	123(1)(b)	Power to make an agreement with recipient of an infrastructure charges notice about whether infrastructure may be provided instead of paying all or part of the levied charge.

**Subdivision 5 – Changing charges during relevant appeal period**

Entity power given to	Section of PA	Description
Local Government	125(2)	Power to consider representations.

Local Government	125(3)	Power to give a negotiated notice to the recipient.
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### **Division 3 – Development approval conditions about truck infrastructure**

#### ***Subdivision 2 – Conditions for extra trunk infrastructure costs***

<b>Entity power given to</b>	<b>Section of PA</b>	<b>Description</b>
Local Government	130(1)	In certain circumstances, the power to require the payment of extra trunk infrastructure costs.
Local Government	130(1)(a)	Power to decide if the development: (i) will generate infrastructure demand of more than that required to service the type or scale of future development that the LGIP assumes; or (ii) will require new trunk infrastructure earlier than when identified in the LGIP; or (iii) is for premises completely or partly outside of the PIA.
Local Government	130(1)(b)	Power to decide whether the development would impose extra trunk infrastructure costs on the local government and to take into account either or both of the following to decide: (i) levied charges for the development; (ii) trunk infrastructure provided, or to be provided, by the applicant under this part.
Local Government	131(2)	Power to agree to an alternative payment time.
Local Government	135(3)	Power to make an agreement with a payer in relation to a refund.

### **Division 4 – Miscellaneous provisions about trunk infrastructure**

#### ***Subdivision 1 – Conversion of particular non-trunk infrastructure before construction starts***

<b>Entity power given to</b>	<b>Section of PA</b>	<b>Description</b>
Local Government	140(1)	Power to consider and decide the conversion application.
Local Government	140(3)	Power to give the applicant a notice requiring the applicant to give information that the local government reasonably needs to make the decision.
Local Government	140(5)(b)	Power to agree to a later period for giving the information in respect of a conversion application.
Local Government	142(3)	Power to amend the development approval by imposing a necessary infrastructure condition for the trunk infrastructure.

#### ***Subdivision 2 – Other provisions***

<b>Entity power given to</b>	<b>Section of PA</b>	<b>Description</b>
Local Government	144(2)	Power to make an agreement with an applicant in relation to a levied charge.



**Part 3 - Provisions for State infrastructure providers**

Entity power given to	Section of PA	Description
Local Government	149(2)(b)	Power to agree with the state infrastructure provider and the person who provided the replacement infrastructure about when the amount of the levy charge will be paid.

**Part 4 – Infrastructure agreements**

Entity power given to	Section of PA	Description
Public Sector Entity	151(2)	Power to tell the entity making the proposal if the recipient agrees to enter into negotiations for an infrastructure agreement.
Public Sector Entity	158(1)(a)	Power to enter into an agreement with a person about providing or funding infrastructure.
Public Sector Entity	158(1)(b)	Power to enter into an agreement with a person about refunding payments made towards the cost of providing or funding infrastructure.

**CHAPTER 5 – OFFENCES AND ENFORCEMENT****Part 3 – Enforcement notices**

Entity power given to	Section of PA	Description
Enforcement Authority	167(1)(a)	Power to form reasonable belief that a person has committed, or is committing, a development offence.
Enforcement Authority	167(1)(b)	Power to consider giving an enforcement notice for an offence to a person.
Enforcement Authority	167(2)	Power to give a show cause notice.
Enforcement Authority	167(4)	Power to give an enforcement notice to a person if it still considers it appropriate to do so.
Enforcement Authority	167(5)(b)	Power to form reasonable belief that it is not appropriate in the circumstances to give the show cause notice.
Enforcement Authority	168(1)	Power to form reasonable belief a person has committed, or is committing, a development offence, and give an enforcement notice to: (c) the person; and (d) if the offence involves premises and the person is not the owner of the premises— the owner of the premises.
Enforcement Authority	168(4)(a)	Power to form a reasonable belief that it is not possible or practical to take steps to make the development accepted development.
Enforcement Authority	168(4)(b)	Power to form a reasonable belief that it is not possible or practical to take steps to make the works comply with a development approval.
Enforcement Authority	168(4)(c)	Power to form a reasonable belief that the works are dangerous and that it is not possible or practical to take steps to remove the danger.

Enforcement Authority	169(2)(a)	Power to consult with a private certifier about the giving of a notice.
Enforcement Authority	169(3)	Power to form a reasonable belief the works for which the enforcement notice is to be given are dangerous.
Enforcement Authority	169(5)	Power to carry out consultation in the way the enforcement authority considers appropriate.

**Part 4 – Offence proceedings in Magistrates Court**

Entity power given to	Section of PA	Description
Person	174(1)	Power to bring offence proceedings.
Representative Person	175(1)(a)	With consent, power to bring offence proceedings in a representative capacity on behalf of a body of persons or a corporation.
Representative Person	175(1)(b)	With consent, power to bring offence proceedings on behalf of an individual.
Enforcement Authority	176(10)(a)	Power to take action required under an order.
Enforcement Authority	176(10)(b)	Power to recover the reasonable cost of taking the action as a debt owing to the authority from the defendant.
Enforcement Authority	178(1)(b)	Power to apply to a Magistrate for an order for the payment of expenses.

**Part 5 - Enforcement orders in P&E Court**

Entity power given to	Section of PA	Description
Person	180(1)	Power to start proceedings in the P&E Court for an enforcement order.
Person	180(11)	Power to apply to the P&E Court for a compliance order.
Enforcement Authority	180(13)(a)	Power to take action required under an order.
Enforcement Authority	180(13)(b)	Power to recover the reasonable cost of taking the action as a debt owing to the authority from the respondent.
Person	181(4)	Power to apply to the P&E Court to cancel or change an enforcement order or interim enforcement order.

**CHAPTER 6 – DISPUTE RESOLUTION**

**Part 1 – Appeal rights**

Entity power given to	Section of PA	Description
Appellant	229(2)	Power to start an appeal within the appeal period.
Assessment Manager	229(5)	Power to apply to the tribunal or the P&E Court to withdraw from the appeal if an appeal is only about a referral agencies response.

**Part 2 –****Development Tribunal****Division 2 – Applications for declaration**

<b>Entity power given to</b>	<b>Section of PA</b>	<b>Description</b>
Person	239(1)	Power to start proceedings for a declaration by a tribunal by filing an application, in the approved form, with the registrar.
Assessment Manager	240(1)	Power to start proceedings for a declaration about whether a development application is properly made.
Responsible Entity	241(2)	Power to start proceedings for a declaration about whether the proposed change to the approval is a minor change.

**CHAPTER 7 – MISCELLANEOUS****Part 2 –****Taking or purchasing land for planning purposes**

<b>Entity power given to</b>	<b>Section of PA</b>	<b>Description</b>
Local Government	263(1)(a)	Power to consider that taking or purchasing land would help to achieve the outcomes stated in a local planning instrument.
Local Government	263(1)(b)(i)	Power to be satisfied that the development would create a need to construct infrastructure on land or to carry drainage over land.
Local Government	263(1)(b) (ii)	Power to be satisfied that a person with the benefit of the approval has taken reasonable steps to get the agreement of the owner of the land to actions that would facilitate the construction or carriage, but has not been able to get the agreement.
Local Government	263(1)(b) (iii)	Power to be satisfied that the action is necessary for the development.
Local Government	263(3)	In certain circumstances, power to take or purchase land under the Acquisition Act.

**Part 3 –****Public access to documents**

<b>Entity power given to</b>	<b>Section of PA</b>	<b>Description</b>
Local Government	264(1)(a)	Power to keep or keep publicly available documents including registers relating to local government functions as prescribed in the Reg.
Local Government	264(2)	Power to keep a copy of each exemption certificate given pursuant to section 46 (2) of the Act and power to keep a register of exemption certificates.
Local Government	264(5)	Power to allow a person to inspect or obtain a copy of a document prescribed in the Reg
Local Government	264(6)	Power to decide if a document or information in a document prescribed under the Reg is not disclosable.
Local Government	265(3)	Power to give a limited, standard or full planning and development certificate for premises.

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**Part 4A – Service of document**

Entity power given to	Section of PA	Description
Person	275C(2)	Power to sign a certificate of service.

**CHAPTER 8 – TRANSITIONAL PROVISIONS AND REPEAL****Part 1 – Transitional provisions for the repeal of Sustainable Planning Act 2009****Division 3 – Planning**

Entity power given to	Section of PA	Description
Local Government	293(5)	Power to make an amendment of a type mentioned in subsection (1) by following the process set out in the rules.

**Division 5 – Infrastructure**

Entity power given to	Section of PA	Description
Local Government	304(4)(a)	Power to adopt charges under section 113.
Local Government	304(4)(b)	Power to give an infrastructure charges notice under section 119.
Local Government	304(4)(c)	Power to impose conditions about trunk infrastructure under section 128 or 130.

**Division 6 – Enforcement and dispute resolution**

Entity power given to	Section of PA	Description
Person	312	Power to bring a proceeding under the section of the old Act stated in column 2, after the commencement, whether the matter happened before or after the commencement.

**Division 7 – Miscellaneous**

Entity power given to	Section of PA	Description
Local Government	314(6)	Power to apply funds received under a funding agreement to fulfil the local government's responsibilities under subsections (3) or (4), as required by the local government's policy under the unamended old Act, section 143(2).

**Part 1A – Transitional and saving provisions for Waste Reduction and Recycling Amendment Act 2017**

Entity power given to	Section of PA	Description
Responsible Entity	324B(5)	Power to apply section 79(2), as in force on the commencement, to make a decision about accepting the existing change application.

Assessment Manager	324C(5)	Power to apply section 86(3), as in force on the commencement, to make a decision about accepting the existing extension application.
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## 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.

[2019 04 11 - PLAA - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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.







# **INSTRUMENT OF DELEGATION**

## **Torres Strait Island Regional Council** ***Planning Regulation 2017 ("PLAR")***

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.

**Planning Regulation 2017 ("PLAR")****Part 2 –****Planning****Division 3 – Superseded planning schemes**

Entity power given to	Section of PLAR	Description
Local Government	12(b)	Power to request an extension to the decision making period specific in 12(a).

**SCHEDULE 11 – ASSESSMENT BENCHMARKS FOR DEVELOPMENT IN KOALA HABITAT**

Entity power given to	Section of PLAR	Description
Local Government	10(1)	Power to make a requested decision.
Local Government	10(2)	Power to give a notice of a requested decision.
Local Government	10(3)	Power to decide not to make a requested decision and power to give notice of the decision.

**SCHEDULE 16 – PRESCRIBED AMOUNT**

Entity power given to	Section of PLAR	Description
Local Government	Table 1 "Other uses"	Power to apply to a use that is listed in Column 1 a prescribed amount for another similar use listed in Column 1 (other than in this row).

**SCHEDULE 18 – APPROVING PLANS OF SUBDIVISION**

Entity power given to	Section of PLAR	Description
Local Government	3(1)	Power to approve a request where compliant with section 2.
Local Government	3(2)	Power to give notice of an approval to request.

**SCHEDULE 22 – PUBLICLY ACCESSIBLE DOCUMENTS**

Entity power given to	Section of PLAR	Description
Local Government	1(1)	Power to keep documents prescribed therein for inspection and purchase.
Local Government	2(1)	Power to keep documents prescribed therein available for inspection only.
Local Government	3(1)	Power to publish documents on the local government website.

Local Government	3A	In the specified circumstances, power to publish on the local government website a register that complies with section 3A. <sup>1</sup>
Local Government	3B	Power to keep available for inspection and purchase a document that includes the trunk infrastructure information that the local government publishes on its website under 3A(4)-(5). <sup>2</sup>
Assessment Manager	5(1)	Power to keep documents prescribed therein for inspection and purchase.
Assessment Manager	6(1)	Power to keep documents prescribed therein available for inspection only.
Assessment Manager	7(1)	Power to publish documents on the local government website.
Local Government as a referral agency	8(1)	Power to keep documents prescribed therein for inspection and purchase.
Local Government as a referral agency	9(1)	Power to keep documents prescribed therein available for inspection only.
Local Government as a referral agency	10(1)	Power to publish documents as a referral agency on the local government website.

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<sup>1</sup> Commences on 1 January 2020.

<sup>2</sup> Commences on 1 January 2020.

## **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.

[2019 10 04 - PLAR - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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 PLANNING REGULATION 2017 ("PLAR")

### Part 2 – Planning

#### Division 3 – Superseded planning schemes

Entity power given to	Section of PLAR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	12(b)	Power to request an extension to the decision making period specific in 12(a).				

### SCHEDULE 11 – ASSESSMENT BENCHMARKS FOR DEVELOPMENT IN KOALA HABITAT

Entity power given to	Section of PLAR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	10(1)	Power to make a requested decision.				
Local Government	10(2)	Power to give a notice of a requested decision.				
Local Government	10(3)	Power to decide not to make a requested decision and power to give notice of the decision.				

**SCHEDULE 16 – PRESCRIBED AMOUNT**

Entity power given to	Section of PLAR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	Table 1 "Other uses"	Power to apply to a use that is listed in Column 1 a prescribed amount for another similar use listed in Column 1 (other than in this row).				

**SCHEDULE 18 – APPROVING PLANS OF SUBDIVISION**

Entity power given to	Section of PLAR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	3(1)	Power to approve a request where compliant with section 2.				
Local Government	3(2)	Power to give notice of an approval to request.				

**SCHEDULE 22 – PUBLICLY ACCESSIBLE DOCUMENTS**

Entity power given to	Section of PLAR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	1(1)	Power to keep documents prescribed therein for inspection and purchase.				
Local Government	2(1)	Power to keep documents prescribed therein available for inspection only.				
Local Government	3(1)	Power to publish documents on the local government website.				

Local Government	3A	In the specified circumstances, power to publish on the local government website a register that complies with section 3A. <sup>3</sup>				
Local Government	3B	Power to keep available for inspection and purchase a document that includes the trunk infrastructure information that the local government publishes on its website under 3A(4)-(5). <sup>4</sup>				
Assessment Manager	5(1)	Power to keep documents prescribed therein for inspection and purchase.				
Assessment Manager	6(1)	Power to keep documents prescribed therein available for inspection only.				
Assessment Manager	7(1)	Power to publish documents on the local government website.				
Local Government as a referral agency	8(1)	Power to keep documents prescribed therein for inspection and purchase.				
Local Government as a referral agency	9(1)	Power to keep documents prescribed therein available for inspection only.				
Local Government as a referral agency	10(1)	Power to publish documents as a referral agency on the local government website.				

[2019 10 04 - PLAR - Delegation Table]

<sup>3</sup> Commences on 1 January 2020.

<sup>4</sup> Commences on 1 January 2020.



## INSTRUMENT OF SUB-DELEGATION

**Torres Strait Island Regional Council**  
***Planning Regulation 2017 ("PLAR")***

Under section 259 of the *Local Government Act 2009*, I, **Bruce Ranga**, Chief Executive Officer of **Torres Strait Island Regional Council**, delegate to those positions which are specified in Schedule 1, the exercise of the powers contained in Schedule 2.

These powers must be exercised subject to the limitations contained in Schedule 3.

This Instrument of Sub-Delegation repeals all prior Instruments sub-delegating to the positions specified in Schedule 1 the exercise of the powers contained in Schedule 2.

My authority to make these sub-delegations is conferred by the *Local Government Act 2009* and the resolution of **Torres Strait Island Regional Council** made on **Insert date** to delegate those powers to the Chief Executive Officer.

**DATED** this                      day of                      2020.

**Bruce Ranga**  
Chief Executive Officer  
**Torres Strait Island Regional Council**

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

## POWERS SUB-DELEGATED

### *Planning Regulation 2017 ("PLAR")*

#### Part 2 –

#### Planning

#### Division 3 – Superseded planning schemes

Entity power given to	Section of PLAR	Description
Local Government	12(b)	Power to request an extension to the decision making period specific in 12(a).

#### SCHEDULE 11 – ASSESSMENT BENCHMARKS FOR DEVELOPMENT IN KOALA HABITAT

Entity power given to	Section of PLAR	Description
Local Government	10(1)	Power to make a requested decision.
Local Government	10(2)	Power to give a notice of a requested decision.
Local Government	10(3)	Power to decide not to make a requested decision and power to give notice of the decision.

#### SCHEDULE 16 – PRESCRIBED AMOUNT

Entity power given to	Section of PLAR	Description
Local Government	Table 1 "Other uses"	Power to apply to a use that is listed in Column 1 a prescribed amount for another similar use listed in Column 1 (other than in this row).

#### SCHEDULE 18 – APPROVING PLANS OF SUBDIVISION

Entity power given to	Section of PLAR	Description
Local Government	3(1)	Power to approve a request where compliant with section 2.
Local Government	3(2)	Power to give notice of an approval to request.

#### SCHEDULE 22 – PUBLICLY ACCESSIBLE DOCUMENTS

Entity power given to	Section of PLAR	Description
Local Government	1(1)	Power to keep documents prescribed therein for inspection and purchase.
Local Government	2(1)	Power to keep documents prescribed therein available for inspection only.

Local Government	3(1)	Power to publish documents on the local government website.
Local Government	3A	In the specified circumstances, power to publish on the local government website a register that complies with section 3A. <sup>5</sup>
Local Government	3B	Power to keep available for inspection and purchase a document that includes the trunk infrastructure information that the local government publishes on its website under 3A(4)-(5). <sup>6</sup>
Assessment Manager	5(1)	Power to keep documents prescribed therein for inspection and purchase.
Assessment Manager	6(1)	Power to keep documents prescribed therein available for inspection only.
Assessment Manager	7(1)	Power to publish documents on the local government website.
Local Government as a referral agency	8(1)	Power to keep documents prescribed therein for inspection and purchase.
Local Government as a referral agency	9(1)	Power to keep documents prescribed therein available for inspection only.
Local Government as a referral agency	10(1)	Power to publish documents as a referral agency on the local government website.

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<sup>5</sup> Commences on 1 January 2020.

<sup>6</sup> Commences on 1 January 2020.

## **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.

[2019 10 04 - PLAR - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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.

# **INSTRUMENT OF DELEGATION**

## **Torres Strait Island Regional Council** ***Public Health Regulation 2018 ("PUHR")***

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.

***Public Health Regulation 2018 ("PUHR")*****Part 2 – Public Health Risks**

Entity power given to	Section of PUHR	Description
Local Government	12(2)(c)	Power to approve a site for the disposal of asbestos waste.



## **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.

[2019 03 29 - PUHR - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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 PUBLIC HEALTH REGULATION 2018 ("PUHR")

### Part 2 – Public Health Risks

Entity power given to	Section of PUHR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	12(2)(c)	Power to approve a site for the disposal of asbestos waste.				

[2019 03 29 - PUHR - Delegation Table]

## INSTRUMENT OF SUB-DELEGATION

**Torres Strait Island Regional Council**  
*Public Health Regulation 2018 ("PUHR")*

Under section 259 of the *Local Government Act 2009*, I, **Bruce Ranga**, Chief Executive Officer of **Torres Strait Island Regional Council**, delegate to those positions which are specified in Schedule 1, the exercise of the powers contained in Schedule 2.

These powers must be exercised subject to the limitations contained in Schedule 3.

This Instrument of Sub-Delegation repeals all prior Instruments sub-delegating to the positions specified in Schedule 1 the exercise of the powers contained in Schedule 2.

My authority to make these sub-delegations is conferred by the *Local Government Act 2009* and the resolution of **Torres Strait Island Regional Council** made on **Insert date** to delegate those powers to the Chief Executive Officer.

**DATED** this                      day of                      2020.

**Bruce Ranga**  
Chief Executive Officer  
**Torres Strait Island Regional Council**

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

## POWERS SUB-DELEGATED

### *Public Health Regulation 2018 ("PUHR")*

#### Part 2 – Public Health Risks

Entity power given to	Section of PUHR	Description
Local Government	12(2)(c)	Power to approve a site for the disposal of asbestos waste.

## 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.

[2019 03 29 - PUHR - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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.



# **INSTRUMENT OF DELEGATION**

## **Torres Strait Island Regional Council** ***Right to Information Act 2009 ("RTIA")***

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.

***Right to Information Act 2009 ("RTIA")*****CHAPTER 3 – DISCLOSURE BY APPLICATION UNDER THIS ACT****Part 3 – Dealing with application****Division 2 – Preliminary contact with applicant**

Entity power given to	Section of RTIA	Description
<b>NOTE</b>	<b>30(1)</b>	<b>Power to deal with all access applications made to a local government as an agency under this Act, is given directly to the Chief Executive Officer as the Council's "principal officer".</b>
Principal Officer	30(2)	The CEO as the Council's Principal Officer has the power to delegate the principal officer powers to deal with an application to another officer of the agency.
Entity	32(1)(b)	Power to decide the application is outside the scope of this Act.
Entity	32(2)	Power to give a prescribed written notice to the applicant of the decision.
Agency	33(2)	Power to inform the person how the application does not comply with the relevant application requirement.
Agency	33(3)	Power to consult with the applicant with a view to making an application in a form complying with all relevant application requirements.
Agency	33(6)	Power to decide the application does not comply with all relevant application requirements and give the applicant prescribed written notice of the decision.
Agency	34(2)	Power to, within 15 business days after the application is received, inform the applicant that: <ul style="list-style-type: none"> <li>(a) the application could have been made under the Information Privacy Act without any application fee or processing charge being payable; and</li> <li>(b) the applicant may either: <ul style="list-style-type: none"> <li>(i) ask for the application to be dealt with under the Information Privacy Act; or</li> <li>(ii) confirm the application as an application under this Act.</li> </ul> </li> </ul>
Agency	35(1)	In the specified circumstances, power to ask the applicant for a further specified period to consider the application.
Agency	35(3)	In the specified circumstances, power to continue to consider the application and make a considered decision relating to it.
Agency	36(1)	If a person makes an access application, power to: <ul style="list-style-type: none"> <li>(a) consider whether a processing charge or access charge is payable in relation to the application; and</li> <li>(b) before the end of the processing period for the application, give the applicant: <ul style="list-style-type: none"> <li>(i) a schedule of relevant documents for the applicant unless the applicant waives the requirement; and</li> <li>(ii) a charges estimate notice.</li> </ul> </li> </ul>

Agency	36(2)	Power to consult with the applicant with a view to narrowing the application to reduce the applicable charges.
Agency	36(4)	Power to give the applicant a new charges estimate notice.
Agency	36(7)	Power to agree to extend the prescribed period.

### Division 3 – Contact with relevant third party

Entity power given to	Section of RTIA	Description
Agency	37(1)	Power to give access to a document that contains information the disclosure of which may reasonably be expected to be of concern to a government, agency or person ( <b>relevant third party</b> ) only after taking steps that are reasonably practicable to: <ul style="list-style-type: none"> <li>(a) obtain the views of the relevant third party about whether: <ul style="list-style-type: none"> <li>(i) the document is a document to which this Act does not apply; or</li> <li>(ii) the information is exempt information or contrary to public interest information; and</li> </ul> </li> <li>(b) inform the relevant third party that if access is given to the document because of an access application, access may also be given to the document under a disclosure log.</li> </ul>
Agency	37(3)(b)	Power to decide: <ul style="list-style-type: none"> <li>(i) the document is a document to which this Act does apply; or</li> <li>(ii) the information is not exempt information or contrary to public interest information.</li> </ul>
Agency	37(3)(c)	Power to give prescribed written notice of the decision to the applicant and relevant third party.
Agency	37(4)	Power to give the applicant written notice when access is no longer deferred under subsection (3)(d).

### Division 4 – Transfers

Entity power given to	Section of RTIA	Description
Agency	38(2)	In the specified circumstances, power to transfer an application to another agency.
Agency	38(2)(b)	Power to consent to the transfer of an application.

### Part 4 – Refusal to deal with application

Entity power given to	Section of RTIA	Description
Agency	40(2)	Power to refuse to deal with the application without having identified any or all of the documents.
Agency	41(1)	Power to consider that the work involved in dealing with an application or all of the applications would substantially and unreasonably divert the resources of agency from their use, and subsequently the power to refuse to deal with an access application, or if there are 2 or more, all of the applications.
Agency	42(1)(a)	Power to give the applicant a written notice:

		<ul style="list-style-type: none"> <li>(i) stating an intention to refuse to deal with the application; and</li> <li>(ii) advising that, for the prescribed consultation period for the notice, the applicant may consult with the agency with a view to making an application in a form that would remove the ground for refusal; and</li> <li>(iii) stating the effect of subsections (2) to (6).</li> </ul>
Agency	42(1)(a)(ii)	Power to consult the applicant with a view to making an application in the form that would remove the ground for refusal.
Agency	42(6)	Power to agree to a longer prescribed consultation period.
Agency	43(3)	In the specified circumstances, power to refuse to deal with a later application to the extent it is for access to a document or documents sought under the first application.
Agency	43(3)(b)(ii)	Power to decide that the application is for a document to which this Act does not apply.
Agency	43(3)(b)(iii)	Power to decide that the document or documents sought are documents access to which was refused under section 47.
Agency	43(3)(c)(ii)	Power to decide that the application is for a document to which chapter 3 of the Information Privacy Act does not apply.

## Part 5 – Decision

Entity power given to	Section of RTIA	Description
Agency	45(a)	In the specified circumstances, power to make a considered decision: <ul style="list-style-type: none"> <li>(i) whether access is to be given to the document; and</li> <li>(ii) if the access is to be given – whether any charge must be paid before access is given.</li> </ul>
Agency	45(b)	Power to give the person written notice of the decision under section 54.
Principal Officer	46(2)	In the specified circumstances, power to give prescribed written notice of the decision to the applicant.
Agency	47(3)	In the specified circumstances, power to refuse access to a document of the agency.
Agency	48(1)	For an access application made for a document, power to decide to give access to the document unless disclosure would, on balance, be contrary to the public interest.
Agency	48(3)	Despite section 48(1), power to decide to give access to all or part of a document.
Agency	49(1)	For an access application made for a document, power to decide to give access to the document unless disclosure would, on balance, be contrary to the public interest.
Agency	49(3)	Power to consider on the balance, disclosure of information would be contrary to the public interest.
Agency	49(5)	Despite section 47(3)(b), power to decide to give access to all or part of a document.
Agency	50(1)	For an access application made for a document, power to decide to give access to the document unless disclosure would, on balance, be contrary to the public interest.
Agency	50(4)	Despite section 47(3)(c), power to decide to give access to all or part of a document.

Agency	51(1)	For an access application made for a document, power to decide to give access to the document unless disclosure would, on balance, be contrary to the public interest.
Agency	51(3)	Despite section 47(3)(d), power to decide to give access to all or part of a document.
Agency	52(1)(a)	Power to be satisfied that a document does not exist.
Agency	52(1)(b)	Power to be satisfied that: (i) the document has been or should be in the agency's possession; and (ii) all reasonable steps have been taken to find the document but the document cannot be found.
Agency	52(2)	In the specified circumstances, power to consider the document has been kept in, and is retrievable from, the backup system.
Agency	54(1)	In the specified purposes, power to give a prescribed written notice to an applicant for an access application.
Agency	55(2)	In the specified circumstances, power to give a prescribed written notice.

**Part 6 – Charging regime**  
**Division 3 – Waiver of charges**

Entity power given to	Section of RTIA	Description
Agency	64(1)	Power to consider that the likely associated costs to the agency would be more than the likely amount of the charge, and waive a processing or access charge.
Agency	66(2)	In the specified circumstances, power to decide to waive any processing charge, or access charge for the application.
Agency	66(3)	Power to give the applicant a prescribed written notice of a decision under subsection (2) before the end of the processing period.

**Part 7 – Giving access**  
**Division 1 – Giving access to applicant**

Entity power given to	Section of RTIA	Description
Agency	68(4)	In the specified circumstances, power to refuse access in a particular form and to give in another form.
Agency	68(8)	Power to give access to a document in another form if agreed to by the applicant.
Agency	72(1)	In the specified circumstances, power to defer giving access to a document for a reasonable period.
Agency	72(2)	Power to give the applicant written notice when access is no longer deferred under section 72(1).
Agency	73(1)	Power to reasonably consider whether information in a document is not relevant to the access application for the document.
Agency	73(2)	Power to delete irrelevant information from a copy of a document and give access to the document by giving access to a copy of the document with the irrelevant information deleted.

Agency	73(3)	Power to decide that it is reasonably practicable to give access to the copy.
Agency	74(2)	In the specified circumstances, power to give access.
Agency	75(2)	In the specified circumstances, power to give access.
Agency	75B(2)	In the specified circumstances, power to give access.
Agency	76(2)	In the specified circumstances, power to consider whether it is consistent with the primary object of the Act to give the applicant, or a person nominated by the applicant and approved by the agency (an <i>intermediary</i> ), a summary of the person information on conditions of use or disclosure agreed between the agency and the intermediary, or between the agency, the intermediary and the applicant.
Agency	76(3)	Power to: (a) consult with the information giver; (b) consult with the other person.
Agency	77(2)	In the specified circumstances, power to direct that access to the document is to be given instead to an appropriately qualified healthcare professional nominated by the applicant and approved by the agency.

## Part 8 – Internal review

Entity power given to	Section of RTIA	Description
Agency	83(1)	Power to decide an internal review application.
Agency	83(2)	Power to notify the applicant of the decision in the circumstances specified.
Principal Officer	83(3)	Power to give prescribed written notice of the decision to the applicant.

## Part 9 – External review

### Division 3 – After application made

Entity power given to	Section of RTIA	Description
Agency	93(1)(b)	Power to apply to the commissioner to allow further time to deal with the access application.

### Division 5 – Powers of information commissioner on external review

Entity power given to	Section of RTIA	Description
Agency	99(2)	Power to give an additional statement to the commissioner and the applicant, containing further and better particulars of the reasons for the decision.

## Part 10 – Vexatious applicants

Entity power given to	Section of RTIA	Description
Agency	114(1)	Power to apply to the information commissioner to request a declaration that a person is a vexatious applicant.

**Part 11 – References of questions of law and appeals**

<b>Entity power given to</b>	<b>Section of RTIA</b>	<b>Description</b>
Participant in an external review	118(1)	Power to request the commissioner refer a question of law arising on an external review to QCAT.
Participant in an external review	119(1)	Power to appeal to the appeal tribunal against the decision of the information commissioner on the external review.

**SCHEDULE 4 – Factors for deciding the public interest**

**Part 4 – Factors favouring nondisclosure in the public interest because of public interest harming disclosure**

<b>Entity power given to</b>	<b>Section of RTIA</b>	<b>Description</b>
Prescribed entity	1(3)	Power to make an application to the information commissioner to extend the 10 year period if the commissioner considers the extension in the public interest.

## **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.

[2019 04 01 - RTIA - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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 RIGHT TO INFORMATION ACT 2009 ("RTIA")

## CHAPTER 3 – DISCLOSURE BY APPLICATION UNDER THIS ACT

### Part 3 – Dealing with application

#### Division 2 – Preliminary contact with applicant

Entity power given to	Section of RTIA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
NOTE	30(1)	Power to deal with all access applications made to a local government as an agency under this Act, is given directly to the Chief Executive Officer as the Council's "principal officer".				
Principal Officer	30(2)	The CEO as the Council's Principal Officer has the power to delegate the principal officer powers to deal with an application to another officer of the agency.	This power does not need to be delegated as it is given directly to the CEO (as the agency's principal officer) under the Act.			
Entity	32(1)(b)	Power to decide the application is outside the scope of this Act.				
Entity	32(2)	Power to give a prescribed written notice to the applicant of the decision.				
Agency	33(2)	Power to inform the person how the application does not comply with the relevant application requirement.				

Agency	33(3)	Power to consult with the applicant with a view to making an application in a form complying with all relevant application requirements.				
Agency	33(6)	Power to decide the application does not comply with all relevant application requirements and give the applicant prescribed written notice of the decision.				
Agency	34(2)	Power to, within 15 business days after the application is received, inform the applicant that: (a) the application could have been made under the Information Privacy Act without any application fee or processing charge being payable; and (b) the applicant may either: (i) ask for the application to be dealt with under the Information Privacy Act; or (ii) confirm the application as an application under this Act.				
Agency	35(1)	In the specified circumstances, power to ask the applicant for a further specified period to consider the application.				
Agency	35(3)	In the specified circumstances, power to continue to consider the application and make a considered decision relating to it.				
Agency	36(1)	If a person makes an access application, power to: (a) consider whether a processing charge or access charge is payable in relation to the application; and				

		(b) before the end of the processing period for the application, give the applicant: (i) a schedule of relevant documents for the applicant unless the applicant waives the requirement; and (ii) a charges estimate notice.				
Agency	36(2)	Power to consult with the applicant with a view to narrowing the application to reduce the applicable charges.				
Agency	36(4)	Power to give the applicant a new charges estimate notice.				
Agency	36(7)	Power to agree to extend the prescribed period.				

### Division 3 – Contact with relevant third party

Entity power given to	Section of RTIA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Agency	37(1)	Power to give access to a document that contains information the disclosure of which may reasonably be expected to be of concern to a government, agency or person ( <b>relevant third party</b> ) only after taking steps that are reasonably practicable to: (a) obtain the views of the relevant third party about whether: (i) the document is a document to which this Act does not apply; or (ii) the information is exempt information or contrary to				

		public interest information; and (b) inform the relevant third party that if access is given to the document because of an access application, access may also be given to the document under a disclosure log.				
Agency	37(3)(b)	Power to decide: (i) the document is a document to which this Act does apply; or (ii) the information is not exempt information or contrary to public interest information.				
Agency	37(3)(c)	Power to give prescribed written notice of the decision to the applicant and relevant third party.				
Agency	37(4)	Power to give the applicant written notice when access is no longer deferred under subsection (3)(d).				

#### Division 4 – Transfers

Entity power given to	Section of RTIA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Agency	38(2)	In the specified circumstances, power to transfer an application to another agency.				
Agency	38(2)(b)	Power to consent to the transfer of an application.				

**Part 4 – Refusal to deal with application**

Entity power given to	Section of RTIA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Agency	40(2)	Power to refuse to deal with the application without having identified any or all of the documents.				
Agency	41(1)	Power to consider that the work involved in dealing with an application or all of the applications would substantially and unreasonably divert the resources of agency from their use, and subsequently the power to refuse to deal with an access application, or if there are 2 or more, all of the applications.				
Agency	42(1)(a)	Power to give the applicant a written notice: (i) stating an intention to refuse to deal with the application; and (ii) advising that, for the prescribed consultation period for the notice, the applicant may consult with the agency with a view to making an application in a form that would remove the ground for refusal; and (iii) stating the effect of subsections (2) to (6).				
Agency	42(1)(a)(ii)	Power to consult the applicant with a view to making an application in the form that would remove the ground for refusal.				
Agency	42(6)	Power to agree to a longer prescribed consultation period.				
Agency	43(3)	In the specified circumstances, power to refuse to deal with a later application to the				

		extent it is for access to a document or documents sought under the first application.				
Agency	43(3)(b)(ii)	Power to decide that the application is for a document to which this Act does not apply.				
Agency	43(3)(b)(iii)	Power to decide that the document or documents sought are documents access to which was refused under section 47.				
Agency	43(3)(c)(ii)	Power to decide that the application is for a document to which chapter 3 of the Information Privacy Act does not apply.				

## Part 5 – Decision

Entity power given to	Section of RTIA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Agency	45(a)	In the specified circumstances, power to make a considered decision: (i) whether access is to be given to the document; and (ii) if the access is to be given – whether any charge must be paid before access is given.				
Agency	45(b)	Power to give the person written notice of the decision under section 54.				
Principal Officer	46(2)	In the specified circumstances, power to give prescribed written notice of the decision to the applicant.	This power does not need to be delegated as it is given directly to the CEO as the Principal Officer under the Act.			
Agency	47(3)	In the specified circumstances, power to refuse access to a document of the agency.				Note that section 30(5) and section 30(6) prevents

						powers under section 47(3)(d) to be delegated to an officer other than the CEO.
Agency	48(1)	For an access application made for a document, power to decide to give access to the document unless disclosure would, on balance, be contrary to the public interest.				
Agency	48(3)	Despite section 48(1), power to decide to give access to all or part of a document.				
Agency	49(1)	For an access application made for a document, power to decide to give access to the document unless disclosure would, on balance, be contrary to the public interest.				
Agency	49(3)	Power to consider on the balance, disclosure of information would be contrary to the public interest.				
Agency	49(5)	Despite section 47(3)(b), power to decide to give access to all or part of a document.				
Agency	50(1)	For an access application made for a document, power to decide to give access to the document unless disclosure would, on balance, be contrary to the public interest.				
Agency	50(4)	Despite section 47(3)(c), power to decide to give access to all of part of a document.				
Agency	51(1)	For an access application made for a document, power to decide to give access to the document unless disclosure would, on balance, be contrary to the public interest.				This section cannot be delegated to an officer other than the CEO, given the operation of section 30(5) and (6).
Agency	51(3)	Despite section 47(3)(d), power to decide to give access to all or part of a document.				This section cannot be delegated to an



						officer other than the CEO, given the operation of section 30(5) and (6).
Agency	52(1)(a)	Power to be satisfied that a document does not exist.				
Agency	52(1)(b)	Power to be satisfied that: (i) the document has been or should be in the agency's possession; and (ii) all reasonable steps have been taken to find the document but the document cannot be found.				
Agency	52(2)	In the specified circumstances, power to consider the document has been kept in, and is retrievable from, the backup system.				
Agency	54(1)	In the specified purposes, power to give a prescribed written notice to an applicant for an access application.				
Agency	55(2)	In the specified circumstances, power to give a prescribed written notice.				

## Part 6 – Charging regime

### Division 3 – Waiver of charges

Entity power given to	Section of RTIA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Agency	64(1)	Power to consider that the likely associated costs to the agency would be more than the likely amount of the charge, and waive a processing or access charge.				
Agency	66(2)	In the specified circumstances, power to decide to waive any processing charge, or access charge for the application.				

Agency	66(3)	Power to give the applicant a prescribed written notice of a decision under subsection (2) before the end of the processing period.				
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## Part 7 – Giving access

### Division 1 – Giving access to applicant

Entity power given to	Section of RTIA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Agency	68(4)	In the specified circumstances, power to refuse access in a particular form and to give in another form.				
Agency	68(8)	Power to give access to a document in another form if agreed to by the applicant.				
Agency	72(1)	In the specified circumstances, power to defer giving access to a document for a reasonable period.				
Agency	72(2)	Power to give the applicant written notice when access is no longer deferred under section 72(1).				
Agency	73(1)	Power to reasonably consider whether information in a document is not relevant to the access application for the document.				
Agency	73(2)	Power to delete irrelevant information from a copy of a document and give access to the document by giving access to a copy of the document with the irrelevant information deleted.				
Agency	73(3)	Power to decide that it is reasonably practicable to give access to the copy.				
Agency	74(2)	In the specified circumstances, power to give access.				

Agency	75(2)	In the specified circumstances, power to give access.				
Agency	75B(2)	In the specified circumstances, power to give access.				
Agency	76(2)	In the specified circumstances, power to consider whether it is consistent with the primary object of the Act to give the applicant, or a person nominated by the applicant and approved by the agency (an <b>intermediary</b> ), a summary of the person information on conditions of use or disclosure agreed between the agency and the intermediary, or between the agency, the intermediary and the applicant.				
Agency	76(3)	Power to: (a) consult with the information giver; (b) consult with the other person.				
Agency	77(2)	In the specified circumstances, power to direct that access to the document is to be given instead to an appropriately qualified healthcare professional nominated by the applicant and approved by the agency.				This section cannot be delegated to an officer other than the CEO, given the operation of section 30(5) and (6).

## Part 8 – Internal review

Entity power given to	Section of RTIA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Agency	83(1)	Power to decide an internal review application.				
Agency	83(2)	Power to notify the applicant of the decision in the circumstances specified.				
Principal Officer	83(3)	Power to give prescribed written notice of the decision to the applicant.	This power does not need to be			

			delegated as it is given directly to the CEO as the Principal Officer under the Act.			
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## Part 9 – External review

### Division 3 – After application made

Entity power given to	Section of RTIA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Agency	93(1)(b)	Power to apply to the commissioner to allow further time to deal with the access application.				

### Division 5 – Powers of information commissioner on external review

Entity power given to	Section of RTIA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Agency	99(2)	Power to give an additional statement to the commissioner and the applicant, containing further and better particulars of the reasons for the decision.				

## Part 10 – Vexatious applicants

Entity power given to	Section of RTIA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Agency	114(1)	Power to apply to the information commissioner to request a declaration that a person is a vexatious applicant.				

**Part 11 – References of questions of law and appeals**

Entity power given to	Section of RTIA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Participant in an external review	118(1)	Power to request the commissioner refer a question of law arising on an external review to QCAT.				
Participant in an external review	119(1)	Power to appeal to the appeal tribunal against the decision of the information commissioner on the external review.				

**SCHEDULE 4 – Factors for deciding the public interest**

**Part 4 – Factors favouring nondisclosure in the public interest because of public interest harming disclosure**

Entity power given to	Section of RTIA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Prescribed entity	1(3)	Power to make an application to the information commissioner to extend the 10 year period if the commissioner considers the extension in the public interest.				

[2019 04 01 - RTIA - Delegation Table]

## INSTRUMENT OF SUB-DELEGATION

**Torres Strait Island Regional Council**  
*Right to Information Act 2009 ("RTIA")*

Under section 259 of the *Local Government Act 2009*, I, **Bruce Ranga**, Chief Executive Officer of **Torres Strait Island Regional Council**, delegate to those positions which are specified in Schedule 1, the exercise of the powers contained in Schedule 2.

These powers must be exercised subject to the limitations contained in Schedule 3.

This Instrument of Sub-Delegation repeals all prior Instruments sub-delegating to the positions specified in Schedule 1 the exercise of the powers contained in Schedule 2.

My authority to make these sub-delegations is conferred by the *Local Government Act 2009* and the resolution of **Torres Strait Island Regional Council** made on **Insert date** to delegate those powers to the Chief Executive Officer.

**DATED** this                      day of                      2020.

**Bruce Ranga**  
Chief Executive Officer  
**Torres Strait Island Regional Council**

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

## POWERS SUB-DELEGATED

### *Right to Information Act 2009 ("RTIA")*

#### CHAPTER 3 – DISCLOSURE BY APPLICATION UNDER THIS ACT

##### Part 3 – Dealing with application

##### Division 2 – Preliminary contact with applicant

Entity power given to	Section of RTIA	Description
<b>NOTE</b>	<b>30(1)</b>	<b>Power to deal with all access applications made to a local government as an agency under this Act, is given directly to the Chief Executive Officer as the Council's "principal officer".</b>
Principal Officer	30(2)	The CEO as the Council's Principal Officer has the power to delegate the principal officer powers to deal with an application to another officer of the agency.
Entity	32(1)(b)	Power to decide the application is outside the scope of this Act.
Entity	32(2)	Power to give a prescribed written notice to the applicant of the decision.
Agency	33(2)	Power to inform the person how the application does not comply with the relevant application requirement.
Agency	33(3)	Power to consult with the applicant with a view to making an application in a form complying with all relevant application requirements.
Agency	33(6)	Power to decide the application does not comply with all relevant application requirements and give the applicant prescribed written notice of the decision.
Agency	34(2)	Power to, within 15 business days after the application is received, inform the applicant that: <ul style="list-style-type: none"> <li>(a) the application could have been made under the Information Privacy Act without any application fee or processing charge being payable; and</li> <li>(b) the applicant may either:               <ul style="list-style-type: none"> <li>(i) ask for the application to be dealt with under the Information Privacy Act; or</li> <li>(ii) confirm the application as an application under this Act.</li> </ul> </li> </ul>
Agency	35(1)	In the specified circumstances, power to ask the applicant for a further specified period to consider the application.
Agency	35(3)	In the specified circumstances, power to continue to consider the application and make a considered decision relating to it.
Agency	36(1)	If a person makes an access application, power to: <ul style="list-style-type: none"> <li>(a) consider whether a processing charge or access charge is payable in relation to the application; and</li> <li>(b) before the end of the processing period for the application, give the applicant:</li> </ul>



		(i) a schedule of relevant documents for the applicant unless the applicant waives the requirement; and (ii) a charges estimate notice.
Agency	36(2)	Power to consult with the applicant with a view to narrowing the application to reduce the applicable charges.
Agency	36(4)	Power to give the applicant a new charges estimate notice.
Agency	36(7)	Power to agree to extend the prescribed period.

### Division 3 – Contact with relevant third party

Entity power given to	Section of RTIA	Description
Agency	37(1)	Power to give access to a document that contains information the disclosure of which may reasonably be expected to be of concern to a government, agency or person ( <b>relevant third party</b> ) only after taking steps that are reasonably practicable to: <ul style="list-style-type: none"> <li>(a) obtain the views of the relevant third party about whether:               <ul style="list-style-type: none"> <li>(i) the document is a document to which this Act does not apply; or</li> <li>(ii) the information is exempt information or contrary to public interest information; and</li> </ul> </li> <li>(b) inform the relevant third party that if access is given to the document because of an access application, access may also be given to the document under a disclosure log.</li> </ul>
Agency	37(3)(b)	Power to decide: <ul style="list-style-type: none"> <li>(i) the document is a document to which this Act does apply; or</li> <li>(ii) the information is not exempt information or contrary to public interest information.</li> </ul>
Agency	37(3)(c)	Power to give prescribed written notice of the decision to the applicant and relevant third party.
Agency	37(4)	Power to give the applicant written notice when access is no longer deferred under subsection (3)(d).

### Division 4 – Transfers

Entity power given to	Section of RTIA	Description
Agency	38(2)	In the specified circumstances, power to transfer an application to another agency.
Agency	38(2)(b)	Power to consent to the transfer of an application.

### Part 4 – Refusal to deal with application

Entity power given to	Section of RTIA	Description
Agency	40(2)	Power to refuse to deal with the application without having identified any or all of the documents.
Agency	41(1)	Power to consider that the work involved in dealing with an application or all of the applications would substantially and unreasonably divert the resources of agency from their use, and

		subsequently the power to refuse to deal with an access application, or if there are 2 or more, all of the applications.
Agency	42(1)(a)	Power to give the applicant a written notice: (i) stating an intention to refuse to deal with the application; and (ii) advising that, for the prescribed consultation period for the notice, the applicant may consult with the agency with a view to making an application in a form that would remove the ground for refusal; and (iii) stating the effect of subsections (2) to (6).
Agency	42(1)(a)(ii)	Power to consult the applicant with a view to making an application in the form that would remove the ground for refusal.
Agency	42(6)	Power to agree to a longer prescribed consultation period.
Agency	43(3)	In the specified circumstances, power to refuse to deal with a later application to the extent it is for access to a document or documents sought under the first application.
Agency	43(3)(b)(ii)	Power to decide that the application is for a document to which this Act does not apply.
Agency	43(3)(b)(iii)	Power to decide that the document or documents sought are documents access to which was refused under section 47.
Agency	43(3)(c)(ii)	Power to decide that the application is for a document to which chapter 3 of the Information Privacy Act does not apply.

## Part 5 – Decision

Entity power given to	Section of RTIA	Description
Agency	45(a)	In the specified circumstances, power to make a considered decision: (i) whether access is to be given to the document; and (ii) if the access is to be given – whether any charge must be paid before access is given.
Agency	45(b)	Power to give the person written notice of the decision under section 54.
Principal Officer	46(2)	In the specified circumstances, power to give prescribed written notice of the decision to the applicant.
Agency	47(3)	In the specified circumstances, power to refuse access to a document of the agency.
Agency	48(1)	For an access application made for a document, power to decide to give access to the document unless disclosure would, on balance, be contrary to the public interest.
Agency	48(3)	Despite section 48(1), power to decide to give access to all or part of a document.
Agency	49(1)	For an access application made for a document, power to decide to give access to the document unless disclosure would, on balance, be contrary to the public interest.
Agency	49(3)	Power to consider on the balance, disclosure of information would be contrary to the public interest.
Agency	49(5)	Despite section 47(3)(b), power to decide to give access to all or part of a document.

Agency	50(1)	For an access application made for a document, power to decide to give access to the document unless disclosure would, on balance, be contrary to the public interest.
Agency	50(4)	Despite section 47(3)(c), power to decide to give access to all or part of a document.
Agency	51(1)	For an access application made for a document, power to decide to give access to the document unless disclosure would, on balance, be contrary to the public interest.
Agency	51(3)	Despite section 47(3)(d), power to decide to give access to all or part of a document.
Agency	52(1)(a)	Power to be satisfied that a document does not exist.
Agency	52(1)(b)	Power to be satisfied that: (i) the document has been or should be in the agency's possession; and (ii) all reasonable steps have been taken to find the document but the document cannot be found.
Agency	52(2)	In the specified circumstances, power to consider the document has been kept in, and is retrievable from, the backup system.
Agency	54(1)	In the specified purposes, power to give a prescribed written notice to an applicant for an access application.
Agency	55(2)	In the specified circumstances, power to give a prescribed written notice.

## **Part 6 – Charging regime**

### **Division 3 – Waiver of charges**

<b>Entity power given to</b>	<b>Section of RTIA</b>	<b>Description</b>
Agency	64(1)	Power to consider that the likely associated costs to the agency would be more than the likely amount of the charge, and waive a processing or access charge.
Agency	66(2)	In the specified circumstances, power to decide to waive any processing charge, or access charge for the application.
Agency	66(3)	Power to give the applicant a prescribed written notice of a decision under subsection (2) before the end of the processing period.

## **Part 7 – Giving access**

### **Division 1 – Giving access to applicant**

<b>Entity power given to</b>	<b>Section of RTIA</b>	<b>Description</b>
Agency	68(4)	In the specified circumstances, power to refuse access in a particular form and to give in another form.
Agency	68(8)	Power to give access to a document in another form if agreed to by the applicant.
Agency	72(1)	In the specified circumstances, power to defer giving access to a document for a reasonable period.
Agency	72(2)	Power to give the applicant written notice when access is no longer deferred under section 72(1).

Agency	73(1)	Power to reasonably consider whether information in a document is not relevant to the access application for the document.
Agency	73(2)	Power to delete irrelevant information from a copy of a document and give access to the document by giving access to a copy of the document with the irrelevant information deleted.
Agency	73(3)	Power to decide that it is reasonably practicable to give access to the copy.
Agency	74(2)	In the specified circumstances, power to give access.
Agency	75(2)	In the specified circumstances, power to give access.
Agency	75B(2)	In the specified circumstances, power to give access.
Agency	76(2)	In the specified circumstances, power to consider whether it is consistent with the primary object of the Act to give the applicant, or a person nominated by the applicant and approved by the agency (an <i>intermediary</i> ), a summary of the person information on conditions of use or disclosure agreed between the agency and the intermediary, or between the agency, the intermediary and the applicant.
Agency	76(3)	Power to: (a) consult with the information giver; (b) consult with the other person.
Agency	77(2)	In the specified circumstances, power to direct that access to the document is to be given instead to an appropriately qualified healthcare professional nominated by the applicant and approved by the agency.

## Part 8 – Internal review

Entity power given to	Section of RTIA	Description
Agency	83(1)	Power to decide an internal review application.
Agency	83(2)	Power to notify the applicant of the decision in the circumstances specified.
Principal Officer	83(3)	Power to give prescribed written notice of the decision to the applicant.

## Part 9 – External review

### Division 3 – After application made

Entity power given to	Section of RTIA	Description
Agency	93(1)(b)	Power to apply to the commissioner to allow further time to deal with the access application.

### Division 5 – Powers of information commissioner on external review

Entity power given to	Section of RTIA	Description
Agency	99(2)	Power to give an additional statement to the commissioner and the applicant, containing further and better particulars of the reasons for the decision.

**Part 10 – Vexatious applicants**

Entity power given to	Section of RTIA	Description
Agency	114(1)	Power to apply to the information commissioner to request a declaration that a person is a vexatious applicant.

**Part 11 – References of questions of law and appeals**

Entity power given to	Section of RTIA	Description
Participant in an external review	118(1)	Power to request the commissioner refer a question of law arising on an external review to QCAT.
Participant in an external review	119(1)	Power to appeal to the appeal tribunal against the decision of the information commissioner on the external review.

**SCHEDULE 4 – Factors for deciding the public interest****Part 4 – Factors favouring nondisclosure in the public interest because of public interest harming disclosure**

Entity power given to	Section of RTIA	Description
Prescribed entity	1(3)	Power to make an application to the information commissioner to extend the 10 year period if the commissioner considers the extension in the public interest.

## **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.

[2019 04 01 - RTIA - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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.

# **INSTRUMENT OF DELEGATION**

## **Torres Strait Island Regional Council** ***Tobacco and Other Smoking Products Act 1998 ("TOSP")***

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.



***Tobacco and Other Smoking Products Act 1998 ("TOSP")*****Part 2C – Smoke-free outdoor places****Division 4 – Prohibition on smoking at public transport waiting points and malls by local governments**

<b>Entity power given to</b>	<b>Section of TOSP</b>	<b>Description</b>
Local Government	26ZPC(2)	In the specified circumstances, power to give the Chief Executive information about the local government's administration and enforcement of the local law.

**Part 3 – Monitoring and enforcement****Division 1 – Appointment of authorised persons and other matters**

<b>Entity power given to</b>	<b>Section of TOSP</b>	<b>Description</b>
Chief Executive Officer	28(2)	Power to appoint any of the following persons as an authorised person for the local government and its area: (a) an employee of the local government; (b) if another local government consents, an employee of the other local government; or (c) another person under contract to the local government.
Chief Executive Officer	28(3)	Power to join with 1 or more other Chief Executive Officers of other local governments, to appoint an employee of one of the local governments or another person under contract to one of the local governments as an authorised person for the local governments' areas.

## **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.

[2019 04 01 - TOSP - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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 TOBACCO AND OTHER SMOKING PRODUCTS ACT 1998 ("TOSP")

### Part 2C – Smoke-free outdoor places

#### Division 4 – Prohibition on smoking at public transport waiting points and malls by local governments

Entity power given to	Section of TOSP	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	26ZPC(2)	In the specified circumstances, power to give the Chief Executive information about the local government's administration and enforcement of the local law.				

### Part 3 – Monitoring and enforcement

#### Division 1 – Appointment of authorised persons and other matters

Entity power given to	Section of TOSP	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Chief Executive Officer	28(2)	Power to appoint any of the following persons as an authorised person for the local government and its area: (a) an employee of the local government;	This power does not need to be delegated as it is given directly to the CEO under the Act.			

		<p>(b) if another local government consents, an employee of the other local government; or</p> <p>(c) another person under contract to the local government.</p>				
Chief Executive Officer	28(3)	Power to join with 1 or more other Chief Executive Officers of other local governments, to appoint an employee of one of the local governments or another person under contract to one of the local governments as an authorised person for the local governments' areas.	This power does not need to be delegated as it is given directly to the CEO under the Act.			

[2019 04 01 - TOSP - Delegation Table]

**Torres Strait Island Regional Council**  
***Tobacco and Other Smoking Products Act 1998 ("TOSP")***

**Bruce Ranga**  
Chief Executive Officer  
**Torres Strait Island Regional Council**

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

## POWERS SUB-DELEGATED

### *Tobacco and Other Smoking Products Act 1998 ("TOSP")*

#### Part 2C – Smoke-free outdoor places

##### Division 4 – Prohibition on smoking at public transport waiting points and malls by local governments

Entity power given to	Section of TOSP	Description
Local Government	26ZPC(2)	In the specified circumstances, power to give the Chief Executive information about the local government's administration and enforcement of the local law.

#### Part 3 – Monitoring and enforcement

##### Division 1 – Appointment of authorised persons and other matters

Entity power given to	Section of TOSP	Description
Chief Executive Officer	28(2)	Power to appoint any of the following persons as an authorised person for the local government and its area: (a) an employee of the local government; (b) if another local government consents, an employee of the other local government; or (c) another person under contract to the local government.
Chief Executive Officer	28(3)	Power to join with 1 or more other Chief Executive Officers of other local governments, to appoint an employee of one of the local governments or another person under contract to one of the local governments as an authorised person for the local governments' areas.



## **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.

[2019 04 01 - TOSP - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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.

# **INSTRUMENT OF DELEGATION**

## **Torres Strait Island Regional Council** ***Transport Infrastructure Act 1994 ("TRIA")***

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.

**Transport Infrastructure Act 1994 ("TRIA")****CHAPTER 6 – ROAD TRANSPORT INFRASTRUCTURE****Part 2 – State-controlled roads****Division 1 – Declaration of state-controlled roads**

Entity power given to	Section of TRIA	Description
Local Government	25(b)	In the specified circumstances, the power to make submissions to the Minister on a proposed declaration, or revocation of a declaration, of a State-controlled road.

**Division 2 – Motorways**

Entity power given to	Section of TRIA	Description
Local Government	27(3)(b)	In the specified circumstances, the power to make submissions to the Minister on a proposed declaration, or revocation of a declaration, of a State-controlled road as a motorway.

**Part 3 – Construction, maintenance and operation**

Entity power given to	Section of TRIA	Description
Other Persons	29(1)	Power to enter into an agreement with the Chief Executive for the carrying out of specified works.
Local Government	29(2)	Power to enter into an agreement with the Chief Executive for the carrying out of road works on the local government road.
Local Government	29(3)	Power to enter in a contract with the Chief Executive for the local government to carry out road works.
Local Government	29(4)	Power to contract with the state about the maintenance and operation of a State-controlled road, including arrangements about which powers of the local government are to be exercised by the Chief Executive and which powers are to be exerted by the local government.
Local Government	29(5)	Power to enter into a contract with the Chief Executive for the carrying out of specified works under subsection (1) even though the contract relates to works or operations outside the local government's area.
Person carrying out accommodation works <sup>1</sup>	29(6A)	Power to enter into a contract with the Chief Executive to carry out accommodation works.

<sup>1</sup> Accommodation works means 'temporary or permanent works carried out on, over or under land affected by bus way transport infrastructure, bus way transport infrastructure works, light rail transport infrastructure, light rail transport infrastructure works or road works to:

- (a) minimise the impact of those works or that infrastructure that had on the land;
- (b) restore the land to its former condition, purpose or use; or
- (c) provide safety for the persons who use the land.'

Schedule 6 – Dictionary.

Proposed Temporary Occupier	36(1)(a)	Power to give written notice to the owner or occupier of land and the persons referred to in that subsection.
Proposed Temporary Occupier	36(4)	Power to consider any submissions that are made in response to the notice given.
Proposed Temporary Occupier	36(5)	In the specified circumstances, the power to enter the land and carry out the road works specified in the notice.
Proposed Temporary Occupier	36(6)	In the specified circumstances, the power to notify the owner or occupier of the land orally.

#### **Part 4 – Relationship with local governments**

<b>Entity power given to</b>	<b>Section of TRIA</b>	<b>Description</b>
Local Government	41	In the specified circumstances, the power to make financial arrangements with the Chief Executive for improvements to be made to a State-controlled road.
Local Government	42(1)	In the specified circumstances, the power to apply to the Chief Executive for written approval.
Local Government	43(1)	In the specified circumstances, the power to apply to the Chief Executive for written approval where the local government intends to approve the erection, alteration or operation of an advertising sign or other advertising device that would be: <ul style="list-style-type: none"> <li>(a) visible from a motorway; and</li> <li>(b) beyond the boundaries of the motorway; and</li> <li>(c) reasonably likely to create a traffic hazard for the motorway.</li> </ul>

#### **Part 5 – Management of State – Controlled roads**

##### **Division 2 – Ancillary works and encroachments and roadside facilities**

##### ***Subdivision 2 – Special arrangements about access***

<b>Entity power given to</b>	<b>Section of TRIA</b>	<b>Description</b>
Local Government	55(b)	In the specified circumstances, the power to make submissions to the Chief Executive in relation to proposal to publish a gazette notice to make, amend or revoke a declaration or to make, amend or replace a policy for a limited access road.

#### **Part 8 – Local government tollways**

##### **Division 2 – Approval of tollway project**

<b>Entity power given to</b>	<b>Section of TRIA</b>	<b>Description</b>
Local Government	105C(1)	In the specified circumstances, the power to ask the Minister for approval for a tollway project.

## **Division 2A – Local government tollway**

### ***Subdivision 1 – Declaration***

<b>Entity power given to</b>	<b>Section of TRIA</b>	<b>Description</b>
Local Government	105G(1)	In the specified circumstances, power to ask the Minister to declare a local government tollway for the approved project.
Local Government	105GB(1)	In the specified circumstances, power to ask the Minister the items prescribed in 1(a) to (c) of section 105GB(1).

## **CHAPTER 7 - ROAD TRANSPORT INFRASTRUCTURE AND OTHER MATTERS**

### **Part 8 – General**

<b>Entity power given to</b>	<b>Section of TRIA</b>	<b>Description</b>
Local Government	253(1)	<p>In the specified circumstances, the power to make a request to the Chief Executive for permission to construct, maintain and operate a road on rail corridor land or non-rail corridor land by way of:</p> <ul style="list-style-type: none"><li>(a) a bridge or other structure over a relevant infrastructure on the land; or</li><li>(b) a bridge or other structure that allows the road to pass under the relevant infrastructure on the land; or</li><li>(c) a level crossing.</li></ul>

## **CHAPTER 9 – BUSWAYS AND BUSWAY TRANSPORT INFRASTRUCTURE**

### **Part 2— Chief Executive's functions and powers**

#### **Division 1 – Transport infrastructure interaction**

<b>Entity power given to</b>	<b>Section of TRIA</b>	<b>Description</b>
Person proposing to enter, occupy or use land under this Part	299(2)	Power to enter, occupy or use the land without the permission of, or notice to, the owner or occupier of the land to perform urgent remedial work to facilitate or maintain the operation of busway transport infrastructure.
Person proposing to enter, occupy or use land under this Part	299(3)	Power to notify the occupier orally or in writing before entering the land.
Person proposing to enter, occupy or use land under this Part	299(4)	In the specified circumstances, the power to obtain written permission in the manner prescribed, or give notice to the occupier before the entry, occupation or use of land.
Person proposing to enter, occupy or use land under this Part	299(7)	Power to consider any submissions made in response to a notice given before carrying out accommodation works.

**Part 4 – Management of busway land and busway transport infrastructure**  
**Division 1 – Transport infrastructure interaction**

Entity power given to	Section of TRIA	Description
Local Government	307(1)	In the specified circumstances, the power to make a request to the Chief Executive for permission to construct, maintain and operate a road located on busway land, consisting of: (a) a bridge or other structure allowing traffic to pass over the level at which buses use the busway land; or (b) a structure allowing traffic to pass under the level at which buses use the busway land.
Local Government	309(1)	In the specified circumstances, the power to apply to the Chief Executive for written approval where the local government intends to approve the erection, alteration or operation of an advertising sign or other advertising device that would be: (a) visible from a busway; and (b) reasonably likely to create a traffic hazard for the busway.

**CHAPTER 10 – LIGHT RAIL AND LIGHT RAIL TRANSPORT INFRASTRUCTURE**

**Part 4 – Management of light rail and light rail transport infrastructure**  
**Division 1 – Transport infrastructure interaction**

Entity power given to	Section of TRIA	Description
Local Government	358(1)	In the specified circumstances, the power to make a request to the Chief Executive for permission to construct, maintain and operate a road located on light rail land, consisting of: (a) a bridge or other structure allowing traffic to pass over the level at which light rail vehicles use the light rail land; or (b) a structure allowing traffic to pass under the level at which light rail vehicles use the light rail land.

**CHAPTER 12 – MISCELLANEOUS TRANSPORT INFRASTRUCTURE**

**Part 2 – Operational licences and approvals for licensees**  
**Division 3 – Approvals for licensees for intersecting areas**

Entity power given to	Section of TRIA	Description
Responsible Entity	420(3)	In the specified circumstances, the power to grant or refuse an application for approval by a licensee to construct, maintain, use or operate miscellaneous transport infrastructure stated in the licensee's operational licence across, over or under an intersecting area.
Responsible Entity	421	In the specified circumstances and if an application for approval has been refused, the power to give the applicant a written notice within 14 days after refusing the application stating the specified matters.

#### Division 4 – Conditions for approvals

Entity power given to	Section of TRIA	Description
Responsible Entity	423(1)	In the specified circumstances and if an approval is granted, the power to impose reasonable conditions for the approval ( <b><i>approval conditions</i></b> ).
Responsible Entity	424	In the specified circumstances and if approval conditions are imposed, the power to give the applicant for the approval written notice within 14 days after imposing the conditions stating the specified matters.

#### Division 5 – Arbitration of approval conditions

Entity power given to	Section of TRIA	Description
Responsible Entity	426(1)	In the specified circumstances, the power to join with the applicant in appointing an independent arbitrator to resolve the dispute.



## **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.

[2019 04 11 - TRIA - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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 TRANSPORT INFRASTRUCTURE ACT 1994 ("TRIA")

## CHAPTER 6 – ROAD TRANSPORT INFRASTRUCTURE

### Part 2 – State-controlled roads

#### Division 1 – Declaration of state-controlled roads

Entity power given to	Section of TRIA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	25(b)	In the specified circumstances, the power to make submissions to the Minister on a proposed declaration, or revocation of a declaration, of a State-controlled road.				

#### Division 2 – Motorways

Entity power given to	Section of TRIA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	27(3)(b)	In the specified circumstances, the power to make submissions to the Minister on a proposed declaration, or revocation of a declaration, of a State-controlled road as a motorway.				

**Part 3 – Construction, maintenance and operation**

Entity power given to	Section of TRIA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Other Persons	29(1)	Power to enter into an agreement with the Chief Executive for the carrying out of specified works.				
Local Government	29(2)	Power to enter into an agreement with the Chief Executive for the carrying out of road works on the local government road.				
Local Government	29(3)	Power to enter in a contract with the Chief Executive for the local government to carry out road works.				
Local Government	29(4)	Power to contract with the state about the maintenance and operation of a State-controlled road, including arrangements about which powers of the local government are to be exercised by the Chief Executive and which powers are to be exerted by the local government.				
Local Government	29(5)	Power to enter into a contract with the Chief Executive for the carrying out of specified works under subsection (1) even though the contract relates to works or operations outside the local government's area.				
Person carrying out	29(6A)	Power to enter into a contract with the Chief Executive to carry out accommodation works.				

accommodation works <sup>2</sup>						
Proposed Temporary Occupier	36(1)(a)	Power to give written notice to the owner or occupier of land and the persons referred to in that subsection.				
Proposed Temporary Occupier	36(4)	Power to consider any submissions that are made in response to the notice given.				
Proposed Temporary Occupier	36(5)	In the specified circumstances, the power to enter the land and carry out the road works specified in the notice.				
Proposed Temporary Occupier	36(6)	In the specified circumstances, the power to notify the owner or occupier of the land orally.				

#### Part 4 – Relationship with local governments

Entity power given to	Section of TRIA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	41	In the specified circumstances, the power to make financial arrangements with the Chief Executive for improvements to be made to a State-controlled road.				
Local Government	42(1)	In the specified circumstances, the power to apply to the Chief Executive for written approval.				

<sup>2</sup> Accommodation works means 'temporary or permanent works carried out on, over or under land affected by bus way transport infrastructure, bus way transport infrastructure works, light rail transport infrastructure, light rail transport infrastructure works or road works to:

- (a) minimise the impact of those works or that infrastructure that had on the land;
- (b) restore the land to its former condition, purpose or use; or
- (c) provide safety for the persons who use the land.'

Schedule 6 – Dictionary.

Local Government	43(1)	<p>In the specified circumstances, the power to apply to the Chief Executive for written approval where the local government intends to approve the erection, alteration or operation of an advertising sign or other advertising device that would be:</p> <ul style="list-style-type: none"> <li>(a) visible from a motorway; and</li> <li>(b) beyond the boundaries of the motorway; and</li> <li>(c) reasonably likely to create a traffic hazard for the motorway.</li> </ul>				
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**Part 5 – Management of State – Controlled roads**

**Division 2 – Ancillary works and encroachments and roadside facilities**

***Subdivision 2 – Special arrangements about access***

Entity power given to	Section of TRIA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	55(b)	In the specified circumstances, the power to make submissions to the Chief Executive in relation to proposal to publish a gazette notice to make, amend or revoke a declaration or to make, amend or replace a policy for a limited access road.				

**Part 8 – Local government tollways**

**Division 2 – Approval of tollway project**

Entity power given to	Section of TRIA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	105C(1)	In the specified circumstances, the power to ask the Minister for approval for a tollway project.				

**Division 2A – Local government tollway**

**Subdivision 1 – Declaration**

Entity power given to	Section of TRIA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	105G(1)	In the specified circumstances, power to ask the Minister to declare a local government tollway for the approved project.				
Local Government	105GB(1)	In the specified circumstances, power to ask the Minister the items prescribed in 1(a) to (c) of section 105GB(1).				

**CHAPTER 7 - ROAD TRANSPORT INFRASTRUCTURE AND OTHER MATTERS**

**Part 8 – General**

Entity power given to	Section of TRIA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	253(1)	In the specified circumstances, the power to make a request to the Chief Executive for permission to construct, maintain and	N/A			

		<p>operate a road on rail corridor land or non-rail corridor land by way of:</p> <p>(a) a bridge or other structure over a relevant infrastructure on the land; or</p> <p>(b) a bridge or other structure that allows the road to pass under the relevant infrastructure on the land; or</p> <p>(c) a level crossing.</p>				
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## CHAPTER 9 – BUSWAYS AND BUSWAY TRANSPORT INFRASTRUCTURE

### Part 2— Chief Executive's functions and powers

#### Division 1 – Transport infrastructure interaction

Entity power given to	Section of TRIA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Person proposing to enter, occupy or use land under this Part	299(2)	Power to enter, occupy or use the land without the permission of, or notice to, the owner or occupier of the land to perform urgent remedial work to facilitate or maintain the operation of busway transport infrastructure.				
Person proposing to enter, occupy or use land under this Part	299(3)	Power to notify the occupier orally or in writing before entering the land.				
Person proposing to enter, occupy or use land	299(4)	In the specified circumstances, the power to obtain written permission in the manner prescribed, or give notice to the occupier before the entry, occupation or use of land.				



under this Part						
Person proposing to enter, occupy or use land under this Part	299(7)	Power to consider any submissions made in response to a notice given before carrying out accommodation works.				

**Part 4 – Management of busway land and busway transport infrastructure**

**Division 1 – Transport infrastructure interaction**

Entity power given to	Section of TRIA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	307(1)	In the specified circumstances, the power to make a request to the Chief Executive for permission to construct, maintain and operate a road located on busway land, consisting of: (a) a bridge or other structure allowing traffic to pass over the level at which buses use the busway land; or (b) a structure allowing traffic to pass under the level at which buses use the busway land.	N/A			
Local Government	309(1)	In the specified circumstances, the power to apply to the Chief Executive for written approval where the local government intends to approve the erection, alteration or operation of an advertising sign or other advertising device that would be: (a) visible from a busway; and	N/A			

		(b) reasonably likely to create a traffic hazard for the busway.				
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## CHAPTER 10 – LIGHT RAIL AND LIGHT RAIL TRANSPORT INFRASTRUCTURE

### Part 4 – Management of light rail and light rail transport infrastructure

#### Division 1 – Transport infrastructure interaction

Entity power given to	Section of TRIA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	358(1)	<p>In the specified circumstances, the power to make a request to the Chief Executive for permission to construct, maintain and operate a road located on light rail land, consisting of:</p> <p>(a) a bridge or other structure allowing traffic to pass over the level at which light rail vehicles use the light rail land; or</p> <p>(b) a structure allowing traffic to pass under the level at which light rail vehicles use the light rail land.</p>	N/A			

## CHAPTER 12 – MISCELLANEOUS TRANSPORT INFRASTRUCTURE

### Part 2 – Operational licences and approvals for licensees

#### Division 3 – Approvals for licensees for intersecting areas

Entity power given to	Section of TRIA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Responsible Entity	420(3)	In the specified circumstances, the power to grant or refuse an application for approval by a licensee to construct, maintain, use or operate miscellaneous transport infrastructure stated in the licensee's operational licence across, over or under an intersecting area.				
Responsible Entity	421	In the specified circumstances and if an application for approval has been refused, the power to give the applicant a written notice within 14 days after refusing the application stating the specified matters.				

#### Division 4 – Conditions for approvals

Entity power given to	Section of TRIA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Responsible Entity	423(1)	In the specified circumstances and if an approval is granted, the power to impose reasonable conditions for the approval ( <b>approval conditions</b> ).				
Responsible Entity	424	In the specified circumstances and if approval conditions are imposed, the power to give the applicant for the approval written				

		notice within 14 days after imposing the conditions stating the specified matters.				
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#### Division 5 – Arbitration of approval conditions

Entity power given to	Section of TRIA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Responsible Entity	426(1)	In the specified circumstances, the power to join with the applicant in appointing an independent arbitrator to resolve the dispute.				

[2019 04 11 - TRIA - Delegation Table]

# INSTRUMENT OF SUB-DELEGATION

**Torres Strait Island Regional Council**  
*Transport Infrastructure Act 1994 ("TRIA")*

Under section 259 of the *Local Government Act 2009*, I, **Bruce Ranga**, Chief Executive Officer of **Torres Strait Island Regional Council**, delegate to those positions which are specified in Schedule 1, the exercise of the powers contained in Schedule 2.

These powers must be exercised subject to the limitations contained in Schedule 3.

This Instrument of Sub-Delegation repeals all prior Instruments sub-delegating to the positions specified in Schedule 1 the exercise of the powers contained in Schedule 2.

My authority to make these sub-delegations is conferred by the *Local Government Act 2009* and the resolution of **Torres Strait Island Regional Council** made on **Insert date** to delegate those powers to the Chief Executive Officer.

**DATED** this                      day of                      2020.

**Bruce Ranga**  
Chief Executive Officer  
**Torres Strait Island Regional Council**

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

## POWERS SUB-DELEGATED

### *Transport Infrastructure Act 1994 ("TRIA")*

#### CHAPTER 6 – ROAD TRANSPORT INFRASTRUCTURE

##### Part 2 – State-controlled roads

##### Division 1 – Declaration of state-controlled roads

Entity power given to	Section of TRIA	Description
Local Government	25(b)	In the specified circumstances, the power to make submissions to the Minister on a proposed declaration, or revocation of a declaration, of a State-controlled road.

##### Division 2 – Motorways

Entity power given to	Section of TRIA	Description
Local Government	27(3)(b)	In the specified circumstances, the power to make submissions to the Minister on a proposed declaration, or revocation of a declaration, of a State-controlled road as a motorway.

##### Part 3 – Construction, maintenance and operation

Entity power given to	Section of TRIA	Description
Other Persons	29(1)	Power to enter into an agreement with the Chief Executive for the carrying out of specified works.
Local Government	29(2)	Power to enter into an agreement with the Chief Executive for the carrying out of road works on the local government road.
Local Government	29(3)	Power to enter in a contract with the Chief Executive for the local government to carry out road works.
Local Government	29(4)	Power to contract with the state about the maintenance and operation of a State-controlled road, including arrangements about which powers of the local government are to be exercised by the Chief Executive and which powers are to be exerted by the local government.
Local Government	29(5)	Power to enter into a contract with the Chief Executive for the carrying out of specified works under subsection (1) even though the contract relates to works or operations outside the local government's area.

Person carrying out accommodation works <sup>3</sup>	29(6A)	Power to enter into a contract with the Chief Executive to carry out accommodation works.
Proposed Temporary Occupier	36(1)(a)	Power to give written notice to the owner or occupier of land and the persons referred to in that subsection.
Proposed Temporary Occupier	36(4)	Power to consider any submissions that are made in response to the notice given.
Proposed Temporary Occupier	36(5)	In the specified circumstances, the power to enter the land and carry out the road works specified in the notice.
Proposed Temporary Occupier	36(6)	In the specified circumstances, the power to notify the owner or occupier of the land orally.

#### **Part 4 – Relationship with local governments**

Entity power given to	Section of TRIA	Description
Local Government	41	In the specified circumstances, the power to make financial arrangements with the Chief Executive for improvements to be made to a State-controlled road.
Local Government	42(1)	In the specified circumstances, the power to apply to the Chief Executive for written approval.
Local Government	43(1)	In the specified circumstances, the power to apply to the Chief Executive for written approval where the local government intends to approve the erection, alteration or operation of an advertising sign or other advertising device that would be: <ul style="list-style-type: none"> <li>(a) visible from a motorway; and</li> <li>(b) beyond the boundaries of the motorway; and</li> <li>(c) reasonably likely to create a traffic hazard for the motorway.</li> </ul>

#### **Part 5 – Management of State – Controlled roads**

##### **Division 2 – Ancillary works and encroachments and roadside facilities**

##### ***Subdivision 2 – Special arrangements about access***

Entity power given to	Section of TRIA	Description
Local Government	55(b)	In the specified circumstances, the power to make submissions to the Chief Executive in relation to proposal to publish a gazette notice to make, amend or revoke a declaration or to make, amend or replace a policy for a limited access road.

<sup>3</sup> Accommodation works means 'temporary or permanent works carried out on, over or under land affected by bus way transport infrastructure, bus way transport infrastructure works, light rail transport infrastructure, light rail transport infrastructure works or road works to:

- (a) minimise the impact of those works or that infrastructure that had on the land;
- (b) restore the land to its former condition, purpose or use; or
- (c) provide safety for the persons who use the land.'

Schedule 6 – Dictionary.



**Part 8 – Local government tollways**

**Division 2 – Approval of tollway project**

Entity power given to	Section of TRIA	Description
Local Government	105C(1)	In the specified circumstances, the power to ask the Minister for approval for a tollway project.

**Division 2A – Local government tollway**

**Subdivision 1 – Declaration**

Entity power given to	Section of TRIA	Description
Local Government	105G(1)	In the specified circumstances, power to ask the Minister to declare a local government tollway for the approved project.
Local Government	105GB(1)	In the specified circumstances, power to ask the Minister the items prescribed in 1(a) to (c) of section 105GB(1).

**CHAPTER 7 - ROAD TRANSPORT INFRASTRUCTURE AND OTHER MATTERS**

**Part 8 – General**

Entity power given to	Section of TRIA	Description
Local Government	253(1)	In the specified circumstances, the power to make a request to the Chief Executive for permission to construct, maintain and operate a road on rail corridor land or non-rail corridor land by way of: (a) a bridge or other structure over a relevant infrastructure on the land; or (b) a bridge or other structure that allows the road to pass under the relevant infrastructure on the land; or (c) a level crossing.

**CHAPTER 9 – BUSWAYS AND BUSWAY TRANSPORT INFRASTRUCTURE**

**Part 2— Chief Executive's functions and powers**

**Division 1 – Transport infrastructure interaction**

Entity power given to	Section of TRIA	Description
Person proposing to enter, occupy or use land under this Part	299(2)	Power to enter, occupy or use the land without the permission of, or notice to, the owner or occupier of the land to perform urgent remedial work to facilitate or maintain the operation of busway transport infrastructure.
Person proposing to enter, occupy or use land under this Part	299(3)	Power to notify the occupier orally or in writing before entering the land.
Person proposing to enter, occupy or use land under this Part	299(4)	In the specified circumstances, the power to obtain written permission in the manner prescribed, or give notice to the occupier before the entry, occupation or use of land.

Person proposing to enter, occupy or use land under this Part	299(7)	Power to consider any submissions made in response to a notice given before carrying out accommodation works.
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**Part 4 – Management of busway land and busway transport infrastructure**  
**Division 1 – Transport infrastructure interaction**

Entity power given to	Section of TRIA	Description
Local Government	307(1)	In the specified circumstances, the power to make a request to the Chief Executive for permission to construct, maintain and operate a road located on busway land, consisting of: (a) a bridge or other structure allowing traffic to pass over the level at which buses use the busway land; or (b) a structure allowing traffic to pass under the level at which buses use the busway land.
Local Government	309(1)	In the specified circumstances, the power to apply to the Chief Executive for written approval where the local government intends to approve the erection, alteration or operation of an advertising sign or other advertising device that would be: (a) visible from a busway; and (b) reasonably likely to create a traffic hazard for the busway.

**CHAPTER 10 – LIGHT RAIL AND LIGHT RAIL TRANSPORT INFRASTRUCTURE**

**Part 4 – Management of light rail and light rail transport infrastructure**  
**Division 1 – Transport infrastructure interaction**

Entity power given to	Section of TRIA	Description
Local Government	358(1)	In the specified circumstances, the power to make a request to the Chief Executive for permission to construct, maintain and operate a road located on light rail land, consisting of: (a) a bridge or other structure allowing traffic to pass over the level at which light rail vehicles use the light rail land; or (b) a structure allowing traffic to pass under the level at which light rail vehicles use the light rail land.

**CHAPTER 12 – MISCELLANEOUS TRANSPORT INFRASTRUCTURE**

**Part 2 – Operational licences and approvals for licensees**  
**Division 3 – Approvals for licensees for intersecting areas**

Entity power given to	Section of TRIA	Description
Responsible Entity	420(3)	In the specified circumstances, the power to grant or refuse an application for approval by a licensee to construct, maintain, use or operate miscellaneous transport infrastructure stated in the licensee's operational licence across, over or under an intersecting area.

Responsible Entity	421	In the specified circumstances and if an application for approval has been refused, the power to give the applicant a written notice within 14 days after refusing the application stating the specified matters.
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#### Division 4 – Conditions for approvals

Entity power given to	Section of TRIA	Description
Responsible Entity	423(1)	In the specified circumstances and if an approval is granted, the power to impose reasonable conditions for the approval ( <b><i>approval conditions</i></b> ).
Responsible Entity	424	In the specified circumstances and if approval conditions are imposed, the power to give the applicant for the approval written notice within 14 days after imposing the conditions stating the specified matters.

#### Division 5 – Arbitration of approval conditions

Entity power given to	Section of TRIA	Description
Responsible Entity	426(1)	In the specified circumstances, the power to join with the applicant in appointing an independent arbitrator to resolve the dispute.

## **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.

[2019 04 11 - TRIA - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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.

# **INSTRUMENT OF DELEGATION**

## **Torres Strait Island Regional Council** ***Water Regulation 2016 ("WATR")***

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.

**Water Regulation 2016 ("WATR")****Part 4 – Matters relating to water licenses****Division 3 – Transfer, amendment or amalgamation of water licenses – Act, section 126****Subdivision 2 – Process for dealing with application**

Entity power given to	Section of WATR	Description
Person	34(1)	Power to apply to the Chief Executive for a transfer, amendment or amalgamation of an original license.
Holder of original license	34(3)(b)(i)	Power to give a statutory declaration in the manner required.
An interested entity	34(3)(b)(ii)	Power to give written consent to proposed transfer, amendment or amalgamation.
Applicant	37(2)	Power to give the Chief Executive notice in the approved form (a transfer notice).

**Part 5 – Water allocation****Division 2 – Seasonal water assignments****Subdivision 1 – Seasonal water assignments for water allocations not managed under resource operations licence**

Entity power given to	Section of WATR	Description
Holder of a Water Allocation	58(1)	Power to apply to the Chief Executive for a seasonal water assignment for the water allocation for the water year, or a shorter period prescribed by a water management protocol in which the application is made.
Holder of a Seasonal Water Assignment Notice for a Water Allocation	58(2)	Power to apply to the Chief Executive for a seasonal water assignment for the seasonal water assignment notice for the water year, or a shorter period prescribed by a water management protocol in which the application is made.

**Subdivision 2 – Seasonal water assignments for water allocations managed under resource operations licence**

Holder of a Water Allocation	61(2)	In certain circumstances, power to enter into an arrangement for a seasonal water assignment in relation to the allocation.
Holder of a Resource Operations Licence	61(2)(a)	Power to consent to the arrangement for a seasonal water assignment.
Distribution Operations Licence Holder	61(2)(b)	Power to consent to the arrangement for a seasonal water assignment

**Division 3 – Water allocation dealing rules applying to the whole of the State**

***Subdivision 2 – Process for applying for and deciding particular water allocation dealings***

Entity power given to	Section of WATR	Description
Applicant for a water allocation	63	Power to apply for a water allocation in the approved form.

**Part 11 – Metering**

**Division 3 – Validation of meters**

Entity power given to	Section of WATR	Description
Relevant Person	110A	Power to give the Chief Executive a written notice stating the meter is a faulty meter and information about water taken through the works.

**Division 4 – Reading meters**

Entity power given to	Section of WATR	Description
Relevant Person	113(1)(a)	Power to give a notice to the Chief Executive of the reading of the meter.
Relevant Person	113(1)(b)	Power to give a notice to the Chief Executive of the reading of the meter and notify the Chief Executive about whether or not the meter is a faulty meter.
Holder of the metered entitlement	114(a)	Power to make an application to the Chief Executive to read a meter.
Owner of the works	114(b)	Power to give the Chief Executive notice that the owner has decided to stop using the works.

**Division 6 – Ownership**

Entity power given to	Section of WATR	Description
Holder or Owner	119(3)	Power to give written notice to the Chief Executive of refusal to accept the transfer.



## **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.

[2020 04 24 - WATR - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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 WATER REGULATION 2016 ("WATR")

### Part 4 – Matters relating to water licenses

#### Division 3 – Transfer, amendment or amalgamation of water licenses – Act, section 126

#### *Subdivision 2 – Process for dealing with application*

Entity power given to	Section of WATR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Person	34(1)	Power to apply to the Chief Executive for a transfer, amendment or amalgamation of an original license.				
Holder of original license	34(3)(b)(i)	Power to give a statutory declaration in the manner required.				
An interested entity	34(3)(b)(ii)	Power to give written consent to proposed transfer, amendment or amalgamation.				
Applicant	37(2)	Power to give the Chief Executive notice in the approved form (a transfer notice).				

**Part 5 – Water allocation**

**Division 2 – Seasonal water assignments**

***Subdivision 1 – Seasonal water assignments for water allocations not managed under resource operations licence***

Entity power given to	Section of WATR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Holder of a Water Allocation	58(1)	Power to apply to the Chief Executive for a seasonal water assignment for the water allocation for the water year, or a shorter period prescribed by a water management protocol in which the application is made.				
Holder of a Seasonal Water Assignment Notice for a Water Allocation	58(2)	Power to apply to the Chief Executive for a seasonal water assignment for the seasonal water assignment notice for the water year, or a shorter period prescribed by a water management protocol in which the application is made.				

***Subdivision 2 – Seasonal water assignments for water allocations managed under resource operations licence***

Holder of a Water Allocation	61(2)	In certain circumstances, power to enter into an arrangement for a seasonal water assignment in relation to the allocation.				
Holder of a Resource Operations Licence	61(2)(a)	Power to consent to the arrangement for a seasonal water assignment.				
Distribution Operations	61(2)(b)	Power to consent to the arrangement for a seasonal water assignment				

Licence Holder						
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**Division 3 – Water allocation dealing rules  
applying to the whole of the State**

***Subdivision 2 – Process for applying for and  
deciding particular water allocation dealings***

Entity power given to	Section of WATR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Applicant for a water allocation	63	Power to apply for a water allocation in the approved form.				

**Part 11 – Metering**

**Division 3 – Validation of meters**

Entity power given to	Section of WATR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Relevant Person	110A	Power to give the Chief Executive a written notice stating the meter is a faulty meter and information about water taken through the works.				

**Division 4 – Reading meters**

Entity power given to	Section of WATR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Relevant Person	113(1)(a)	Power to give a notice to the Chief Executive of the reading of the meter.				
Relevant Person	113(1)(b)	Power to give a notice to the Chief Executive of the reading of the meter and notify the				

		Chief Executive about whether or not the meter is a faulty meter.				
Holder of the metered entitlement	114(a)	Power to make an application to the Chief Executive to read a meter.				
Owner of the works	114(b)	Power to give the Chief Executive notice that the owner has decided to stop using the works.				

### Division 6 – Ownership

Entity power given to	Section of WATR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Holder or Owner	119(3)	Power to give written notice to the Chief Executive of refusal to accept the transfer.				

[2020 04 24 - WATR - Delegation Table]

## INSTRUMENT OF SUB-DELEGATION

**Torres Strait Island Regional Council**  
*Water Regulation 2016 ("WATR")*

Under section 259 of the *Local Government Act 2009*, I, **Bruce Ranga**, Chief Executive Officer of **Torres Strait Island Regional Council**, delegate to those positions which are specified in Schedule 1, the exercise of the powers contained in Schedule 2.

These powers must be exercised subject to the limitations contained in Schedule 3.

This Instrument of Sub-Delegation repeals all prior Instruments sub-delegating to the positions specified in Schedule 1 the exercise of the powers contained in Schedule 2.

My authority to make these sub-delegations is conferred by the *Local Government Act 2009* and the resolution of **Torres Strait Island Regional Council** made on **Insert date** to delegate those powers to the Chief Executive Officer.

**DATED** this                      day of                      2020.

**Bruce Ranga**  
Chief Executive Officer  
**Torres Strait Island Regional Council**

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



## POWERS SUB-DELEGATED

### *Water Regulation 2016 ("WATR")*

#### **Part 4 – Matters relating to water licenses**

##### **Division 3 – Transfer, amendment or amalgamation of water licenses – Act, section 126**

##### ***Subdivision 2 – Process for dealing with application***

<b>Entity power given to</b>	<b>Section of WATR</b>	<b>Description</b>
Person	34(1)	Power to apply to the Chief Executive for a transfer, amendment or amalgamation of an original license.
Holder of original license	34(3)(b)(i)	Power to give a statutory declaration in the manner required.
An interested entity	34(3)(b)(ii)	Power to give written consent to proposed transfer, amendment or amalgamation.
Applicant	37(2)	Power to give the Chief Executive notice in the approved form (a transfer notice).

#### **Part 5 – Water allocation**

##### **Division 2 – Seasonal water assignments**

##### ***Subdivision 1 – Seasonal water assignments for water allocations not managed under resource operations licence***

<b>Entity power given to</b>	<b>Section of WATR</b>	<b>Description</b>
Holder of a Water Allocation	58(1)	Power to apply to the Chief Executive for a seasonal water assignment for the water allocation for the water year, or a shorter period prescribed by a water management protocol in which the application is made.
Holder of a Seasonal Water Assignment Notice for a Water Allocation	58(2)	Power to apply to the Chief Executive for a seasonal water assignment for the seasonal water assignment notice for the water year, or a shorter period prescribed by a water management protocol in which the application is made.

##### ***Subdivision 2 – Seasonal water assignments for water allocations managed under resource operations licence***

Holder of a Water Allocation	61(2)	In certain circumstances, power to enter into an arrangement for a seasonal water assignment in relation to the allocation.
Holder of a Resource Operations Licence	61(2)(a)	Power to consent to the arrangement for a seasonal water assignment.
Distribution Operations Licence Holder	61(2)(b)	Power to consent to the arrangement for a seasonal water assignment

**Division 3 – Water allocation dealing rules applying to the whole of the State**

***Subdivision 2 – Process for applying for and deciding particular water allocation dealings***

Entity power given to	Section of WATR	Description
Applicant for a water allocation	63	Power to apply for a water allocation in the approved form.

**Part 11 – Metering**

**Division 3 – Validation of meters**

Entity power given to	Section of WATR	Description
Relevant Person	110A	Power to give the Chief Executive a written notice stating the meter is a faulty meter and information about water taken through the works.

**Division 4 – Reading meters**

Entity power given to	Section of WATR	Description
Relevant Person	113(1)(a)	Power to give a notice to the Chief Executive of the reading of the meter.
Relevant Person	113(1)(b)	Power to give a notice to the Chief Executive of the reading of the meter and notify the Chief Executive about whether or not the meter is a faulty meter.
Holder of the metered entitlement	114(a)	Power to make an application to the Chief Executive to read a meter.
Owner of the works	114(b)	Power to give the Chief Executive notice that the owner has decided to stop using the works.

**Division 6 – Ownership**

Entity power given to	Section of WATR	Description
Holder or Owner	119(3)	Power to give written notice to the Chief Executive of refusal to accept the transfer.

## **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.

[2020 04 24 - WATR - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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.

# **INSTRUMENT OF DELEGATION**

## **Torres Strait Island Regional Council** ***Work Health and Safety Act 2011 ("WHSA")***

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.

**Work Health and Safety Act 2011 ("WHS")****Part 3 – Incident notification**

Entity power given to	Section of WHSA	Description
Person who conducts a business or undertaking	38(1)	Power to notify the regulator immediately after becoming aware that a notifiable incident arising out of the conduct of the business or undertaking has occurred.
Person who conducts a business or undertaking	38(4)(b)	Power to, if required by the regulator, give written notice of the incident within 48 hours of that requirement being made.

**Part 5 – Consultation, representation and participation****Division 3 – Health and safety representatives****Subdivision 2 – Determination of work groups**

Entity power given to	Section of WHSA	Description
Person who conducts a business or undertaking	52(1)	Power to negotiate and agree upon the work group.
Person who conducts a business or undertaking	52(4)	Power to negotiate a variation of the agreement upon a work group.
Person who conducts a business or undertaking	53(1)	Power to notify the workers of the outcome of negotiations and of any work groups determined by agreement.
Person who conducts a business or undertaking	53(2)	Power to notify the worker of the outcome of the negotiations and of the variation (if any) to the agreement.
Any person who is or would be a party to negotiations	54(1)	Power to ask the regulator to appoint an inspector for the purposes of this section.

**Subdivision 3 – Multiple-business work group**

Entity power given to	Section of WHSA	Description
Parties to an agreement	55(3)	Power to negotiate a variation of the agreement.
Any party to the negotiations	56(3)	Power to ask the regulator to appoint an inspector.
Person who conducts a	57(1)	Power to notify the workers of the outcome of the negotiations and of any work groups determined by agreement.

business or undertaking		
Person who conducts a business or undertaking	57(2)	Power to notify the workers of the outcome of the negotiations and of the variation (if any) to the agreement.
A party to a negotiation for an agreement	58(1)	Power to withdraw from the negotiation or agreement by giving notice in writing to the other parties.

***Subdivision 6 – Obligations of person conducting business or undertaking to health and safety representatives***

Entity power given to	Section of WHSA	Description
Person who conducts a business or undertaking	71(5)	Power to refuse, on reasonable grounds to grant access to the workplace to a person assisting a health and safety representative for a work group.
Person who conducts a business or undertaking	71(7)	Power to refuse to grant access to information relating to hazards at the workplace and the health and safety of the workers if the information is confidential commercial information.
Person who conducts business or undertaking	71(8)	Power to decide that financial information or other information that has a commercial value, if disclosed, will cause significant financial harm to a business or undertaking.
Person who conducts a business or undertaking	73(1)	Power to agree to apportion the costs.
Person who conducts a business or undertaking	73(2)	Power to negotiate and agree upon a variation to the apportionment of costs between persons conducting the businesses or undertakings.

**Division 4 – Health and safety committees**

Entity power given to	Section of WHSA	Description
Person who conducts a business or undertaking	76(1)	Subject to subsections (2) to (4) power to agree upon the constitution of a health and safety committee.
Person who conducts a business or undertaking	76(5)	Power to ask the regulator to appoint an inspector to decide the matter.
Person who conducts a business or undertaking	77(c)	Power to agree upon the functions of a health and safety committee.

### **Division 5 – Issue resolution**

<b>Entity power given to</b>	<b>Section of WHS Act</b>	<b>Description</b>
A party to the issue	82(2)	Power to ask the regulator to appoint an inspector to attend the workplace to assist in resolving the issue.

### **Division 6 – Right to cease or direct cessation of unsafe work**

<b>Entity power given to</b>	<b>Section of WHS Act</b>	<b>Description</b>
Person who conducts a business or undertaking	87	Power to direct a worker to carry out suitable alternative work at the same or another workplace if that work is safe and appropriate for the worker to carry out until the worker can resume normal duties.
Person who conducts a business or undertaking	89	Power to ask the regulator to appoint an inspector to attend the workplace to assist in resolving an issue arising in relation to the cessation of work.

### **Division 7A – Work health and safety disputes**

<b>Entity power given to</b>	<b>Section of WHS Act</b>	<b>Description</b>
Party to the dispute	102B(2)	Power to give the industrial registrar notice of the dispute.
A person dissatisfied with a decision made by the commission under this division.	102G	Power to appeal the decision under the Industrial Relations Act 2016.

## **Part 7 – Workplace entry by WHS entry permit holders**

### **Division 6 – Dealing with disputes**

<b>Entity power given to</b>	<b>Section of WHS Act</b>	<b>Description</b>
Party to the dispute	141	Power to ask the regulator to appoint an inspector to attend the workplace to assist in resolving the dispute.

### **Subdivision 2 – Role of commission**

<b>Entity power given to</b>	<b>Section of WHS Act</b>	<b>Description</b>
A person dissatisfied with a decision made by the commission under this division.	142A(4)	Power to appeal the decision under the Industrial Relations Act 2016.



**Part 12 –****Review of decisions****Division 2 – Internal review**

<b>Entity power given to</b>	<b>Section of WHS</b>	<b>Description</b>
An eligible person in relation to a reviewable decision	224	Power to apply to the regulator for internal review.

**Division 3 – External review**

<b>Entity power given to</b>	<b>Section of WHS</b>	<b>Description</b>
Eligible person	229	Power to apply to the external review body for an external review.

## **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.

[2019 03 18 - WHSA - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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 WORK HEALTH AND SAFETY ACT 2011 ("WHS")

### Part 3 – Incident notification

Entity power given to	Section of WHSA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Person who conducts a business or undertaking	38(1)	Power to notify the regulator immediately after becoming aware that a notifiable incident arising out of the conduct of the business or undertaking has occurred.				
Person who conducts a business or undertaking	38(4)(b)	Power to, if required by the regulator, give written notice of the incident within 48 hours of that requirement being made.				

### Part 5 – Consultation, representation and participation

#### Division 3 – Health and safety representatives

##### *Subdivision 2 – Determination of work groups*

Entity power given to	Section of WHSA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Person who conducts a business or undertaking	52(1)	Power to negotiate and agree upon the work group.				
Person who conducts a business or undertaking	52(4)	Power to negotiate a variation of the agreement upon a work group.				

Person who conducts a business or undertaking	53(1)	Power to notify the workers of the outcome of negotiations and of any work groups determined by agreement.				
Person who conducts a business or undertaking	53(2)	Power to notify the worker of the outcome of the negotiations and of the variation (if any) to the agreement.				
Any person who is or would be a party to negotiations	54(1)	Power to ask the regulator to appoint an inspector for the purposes of this section.				

***Subdivision 3 – Multiple-business work group***

Entity power given to	Section of WHSA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Parties to an agreement	55(3)	Power to negotiate a variation of the agreement.				
Any party to the negotiations	56(3)	Power to ask the regulator to appoint an inspector.				
Person who conducts a business or undertaking	57(1)	Power to notify the workers of the outcome of the negotiations and of any work groups determined by agreement.				
Person who conducts a business or undertaking	57(2)	Power to notify the workers of the outcome of the negotiations and of the variation (if any) to the agreement.				
A party to a negotiation	58(1)	Power to withdraw from the negotiation or agreement by giving notice in writing to the other parties.				

for an agreement						
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***Subdivision 6 – Obligations of person conducting business or undertaking to health and safety representatives***

Entity power given to	Section of WHSA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Person who conducts a business or undertaking	71(5)	Power to refuse, on reasonable grounds to grant access to the workplace to a person assisting a health and safety representative for a work group.				
Person who conducts a business or undertaking	71(7)	Power to refuse to grant access to information relating to hazards at the workplace and the health and safety of the workers if the information is confidential commercial information.				
Person who conducts business or undertaking	71(8)	Power to decide that financial information or other information that has a commercial value, if disclosed, will cause significant financial harm to a business or undertaking.				
Person who conducts a business or undertaking	73(1)	Power to agree to apportion the costs.				
Person who conducts a business or undertaking	73(2)	Power to negotiate and agree upon a variation to the apportionment of costs between persons conducting the businesses or undertakings.				

#### Division 4 – Health and safety committees

Entity power given to	Section of WHSA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Person who conducts a business or undertaking	76(1)	Subject to subsections (2) to (4) power to agree upon the constitution of a health and safety committee.				
Person who conducts a business or undertaking	76(5)	Power to ask the regulator to appoint an inspector to decide the matter.				
Person who conducts a business or undertaking	77(c)	Power to agree upon the functions of a health and safety committee.				

#### Division 5 – Issue resolution

Entity power given to	Section of WHSA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
A party to the issue	82(2)	Power to ask the regulator to appoint an inspector to attend the workplace to assist in resolving the issue.				

#### Division 6 – Right to cease or direct cessation of unsafe work

Entity power given to	Section of WHSA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Person who conducts a	87	Power to direct a worker to carry out suitable alternative work at the same or another workplace if that work is safe and				

business or undertaking		appropriate for the worker to carry out until the worker can resume normal duties.				
Person who conducts a business or undertaking	89	Power to ask the regulator to appoint an inspector to attend the workplace to assist in resolving an issue arising in relation to the cessation of work.				

#### **Division 7A – Work health and safety disputes**

<b>Entity power given to</b>	<b>Section of WHSA</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>
Party to the dispute	102B(2)	Power to give the industrial registrar notice of the dispute.				
A person dissatisfied with a decision made by the commission under this division.	102G	Power to appeal the decision under the Industrial Relations Act 2016.				

### **Part 7 – Workplace entry by WHS entry permit holders**

#### **Division 6 – Dealing with disputes**

<b>Entity power given to</b>	<b>Section of WHSA</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>
Party to the dispute	141	Power to ask the regulator to appoint an inspector to attend the workplace to assist in resolving the dispute.				



**Subdivision 2 – Role of commission**

Entity power given to	Section of WHSA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
A person dissatisfied with a decision made by the commission under this division.	142A(4)	Power to appeal the decision under the Industrial Relations Act 2016.				

**Part 12 – Review of decisions**

**Division 2 – Internal review**

Entity power given to	Section of WHSA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
An eligible person in relation to a reviewable decision	224	Power to apply to the regulator for internal review.				

**Division 3 – External review**

Entity power given to	Section of WHSA	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Eligible person	229	Power to apply to the external review body for an external review.				

[2019 03 18 - WHSA - Delegation Table]

# INSTRUMENT OF SUB-DELEGATION

**Torres Strait Island Regional Council**  
***Work Health and Safety Act 2011 ("WHS")***

Under section 259 of the *Local Government Act 2009*, I, **Bruce Ranga**, Chief Executive Officer of **Torres Strait Island Regional Council**, delegate to those positions which are specified in Schedule 1, the exercise of the powers contained in Schedule 2.

These powers must be exercised subject to the limitations contained in Schedule 3.

This Instrument of Sub-Delegation repeals all prior Instruments sub-delegating to the positions specified in Schedule 1 the exercise of the powers contained in Schedule 2.

My authority to make these sub-delegations is conferred by the *Local Government Act 2009* and the resolution of **Torres Strait Island Regional Council** made on **Insert date** to delegate those powers to the Chief Executive Officer.

**DATED** this                      day of                      2020.

**Bruce Ranga**  
Chief Executive Officer  
**Torres Strait Island Regional Council**

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

## POWERS SUB-DELEGATED

### *Work Health and Safety Act 2011 ("WHS Act")*

#### Part 3 – Incident notification

Entity power given to	Section of WHSA	Description
Person who conducts a business or undertaking	38(1)	Power to notify the regulator immediately after becoming aware that a notifiable incident arising out of the conduct of the business or undertaking has occurred.
Person who conducts a business or undertaking	38(4)(b)	Power to, if required by the regulator, give written notice of the incident within 48 hours of that requirement being made.

#### Part 5 – Consultation, representation and participation

##### Division 3 – Health and safety representatives

##### *Subdivision 2 – Determination of work groups*

Entity power given to	Section of WHSA	Description
Person who conducts a business or undertaking	52(1)	Power to negotiate and agree upon the work group.
Person who conducts a business or undertaking	52(4)	Power to negotiate a variation of the agreement upon a work group.
Person who conducts a business or undertaking	53(1)	Power to notify the workers of the outcome of negotiations and of any work groups determined by agreement.
Person who conducts a business or undertaking	53(2)	Power to notify the worker of the outcome of the negotiations and of the variation (if any) to the agreement.
Any person who is or would be a party to negotiations	54(1)	Power to ask the regulator to appoint an inspector for the purposes of this section.

##### *Subdivision 3 – Multiple-business work group*

Entity power given to	Section of WHSA	Description
Parties to an agreement	55(3)	Power to negotiate a variation of the agreement.
Any party to the negotiations	56(3)	Power to ask the regulator to appoint an inspector.

Person who conducts a business or undertaking	57(1)	Power to notify the workers of the outcome of the negotiations and of any work groups determined by agreement.
Person who conducts a business or undertaking	57(2)	Power to notify the workers of the outcome of the negotiations and of the variation (if any) to the agreement.
A party to a negotiation for an agreement	58(1)	Power to withdraw from the negotiation or agreement by giving notice in writing to the other parties.

***Subdivision 6 – Obligations of person conducting business or undertaking to health and safety representatives***

Entity power given to	Section of WHSA	Description
Person who conducts a business or undertaking	71(5)	Power to refuse, on reasonable grounds to grant access to the workplace to a person assisting a health and safety representative for a work group.
Person who conducts a business or undertaking	71(7)	Power to refuse to grant access to information relating to hazards at the workplace and the health and safety of the workers if the information is confidential commercial information.
Person who conducts business or undertaking	71(8)	Power to decide that financial information or other information that has a commercial value, if disclosed, will cause significant financial harm to a business or undertaking.
Person who conducts a business or undertaking	73(1)	Power to agree to apportion the costs.
Person who conducts a business or undertaking	73(2)	Power to negotiate and agree upon a variation to the apportionment of costs between persons conducting the businesses or undertakings.

**Division 4 – Health and safety committees**

Entity power given to	Section of WHSA	Description
Person who conducts a business or undertaking	76(1)	Subject to subsections (2) to (4) power to agree upon the constitution of a health and safety committee.
Person who conducts a business or undertaking	76(5)	Power to ask the regulator to appoint an inspector to decide the matter.
Person who conducts a business or undertaking	77(c)	Power to agree upon the functions of a health and safety committee.

### **Division 5 – Issue resolution**

<b>Entity power given to</b>	<b>Section of WHS Act</b>	<b>Description</b>
A party to the issue	82(2)	Power to ask the regulator to appoint an inspector to attend the workplace to assist in resolving the issue.

### **Division 6 – Right to cease or direct cessation of unsafe work**

<b>Entity power given to</b>	<b>Section of WHS Act</b>	<b>Description</b>
Person who conducts a business or undertaking	87	Power to direct a worker to carry out suitable alternative work at the same or another workplace if that work is safe and appropriate for the worker to carry out until the worker can resume normal duties.
Person who conducts a business or undertaking	89	Power to ask the regulator to appoint an inspector to attend the workplace to assist in resolving an issue arising in relation to the cessation of work.

### **Division 7A – Work health and safety disputes**

<b>Entity power given to</b>	<b>Section of WHS Act</b>	<b>Description</b>
Party to the dispute	102B(2)	Power to give the industrial registrar notice of the dispute.
A person dissatisfied with a decision made by the commission under this division.	102G	Power to appeal the decision under the Industrial Relations Act 2016.

## **Part 7 – Workplace entry by WHS entry permit holders**

### **Division 6 – Dealing with disputes**

<b>Entity power given to</b>	<b>Section of WHS Act</b>	<b>Description</b>
Party to the dispute	141	Power to ask the regulator to appoint an inspector to attend the workplace to assist in resolving the dispute.

### **Subdivision 2 – Role of commission**

<b>Entity power given to</b>	<b>Section of WHS Act</b>	<b>Description</b>
A person dissatisfied with a decision made by the commission under this division.	142A(4)	Power to appeal the decision under the Industrial Relations Act 2016.

**Part 12 –****Review of decisions****Division 2 – Internal review**

<b>Entity power given to</b>	<b>Section of WHS</b>	<b>Description</b>
An eligible person in relation to a reviewable decision	224	Power to apply to the regulator for internal review.

**Division 3 – External review**

<b>Entity power given to</b>	<b>Section of WHS</b>	<b>Description</b>
Eligible person	229	Power to apply to the external review body for an external review.

## **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.

[2019 03 18 - WHSA - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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.

# **INSTRUMENT OF DELEGATION**

## **Torres Strait Island Regional Council** ***Waste Reduction and Recycling Regulation 2011 ("WRRR")***

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.

**Waste Reduction and Recycling Regulation 2011 ("WRRR")****Part 2A – Designation of areas by local governments for general or green waste collection**

Entity power given to	Section of WRRR	Description
Local Government	7(b)	Power to decide the frequency of general waste or green waste collection in the designated areas.

**Part 3 - Waste levy****Division 4 – Discounting waste levy for residue waste**

Entity power given to	Section of WRRR	Description
Holder of the approval	11J(1)(b)	In the circumstances, the power to give the chief executive a report that complies with subsection (2) within 2 months after each reporting period ends.

## **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.

[2019 09 01 - WRRR - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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 WASTE REDUCTION AND RECYCLING REGULATION 2011 ("WRRR")

### Part 2A – Designation of areas by local governments for general or green waste collection

Entity power given to	Section of WRRR		Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Local Government	7(b)	Power to decide the frequency of general waste or green waste collection in the designated areas.				

### Part 3 - Waste levy

#### Division 4 – Discounting waste levy for residue waste

Entity power given to	Section of WRRR	Description	Delegation to the CEO / Date of Resolution	Sub-Delegation to Officers	Date of Sub-Delegation	Limitations and Conditions
Holder of the approval	11J(1)(b)	In the circumstances, the power to give the chief executive a report that complies with subsection (2) within 2 months after each reporting period ends.				Effective 1 July 2019

[2019 09 01 - WRRR - Delegation Table]

**Torres Strait Island Regional Council**  
***Waste Reduction and Recycling Regulation 2011 ("WRRR")***

**Bruce Ranga**  
Chief Executive Officer  
**Torres Strait Island Regional Council**

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



## POWERS SUB-DELEGATED

### *Waste Reduction and Recycling Regulation 2011 ("WRRR")*

**Part 2A – Designation of areas by local governments for general or green waste collection**

Entity power given to	Section of WRRR	Description
Local Government	7(b)	Power to decide the frequency of general waste or green waste collection in the designated areas.

**Part 3 - Waste levy**

**Division 4 – Discounting waste levy for residue waste**

Entity power given to	Section of WRRR	Description
Holder of the approval	11J(1)(b)	In the circumstances, the power to give the chief executive a report that complies with subsection (2) within 2 months after each reporting period ends.

## **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.

[2019 09 01 - WRRR - 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 may take into account Ailan Kastom (section 9(3) LGA 2009); 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

## REPORT/DISCUSSION PAPER

<b>ORDINARY MEETING:</b>	November 2020
<b>DATE:</b>	16/11/2020
<b>ITEM:</b>	Agenda Item for Resolution by Council
<b>SUBJECT:</b>	Community Grants Program Allocation – November 2020
<b>AUTHOR:</b>	Kim Kelly, Grants Administration Officer

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### **Resolution:**

Council resolves to allocate Community Grants Program funding to the following applicants in accordance with the Community Grants Policy:

#### Community Grant Applications:

- Kulpiyam Youth and Sport Inc. for the eligible amount of \$ 2,500.00 exclusive of GST, as per the submitted application.
- Tigi Bani for the eligible amount of \$ 500.00 exclusive of GST, as per the submitted application.
- Blood Covenant Ministry for the eligible amount of \$ 5,000.00 exclusive of GST, as per the submitted application.
- Malu Kiyay School Graduation for the eligible amount of \$ 5,000.00 exclusive of GST, as per the submitted application.
- St Pauls P&C for the eligible amount of \$ 698.87 exclusive of GST, as per the submitted application.
- St Pauls School Graduation Committee for the eligible amount of \$ 2,000.00 exclusive of GST, as per the submitted application.
- Saibai Island Youth & Community for the eligible amount of \$ 2,500.00 exclusive of GST, as per the submitted application.
- Stephen Island Campus P&C Association for the eligible amount of \$ 1,000.00 exclusive of GST, as per the submitted application.

### **Executive Summary:**

As per Council's Community Grants Policy, which was endorsed by Council at the June 2020 Ordinary Meeting, all community grants applications must be decided monthly at the Ordinary Council meeting.

### **Background:**

For the month of October eight community grant applications meeting the eligibility requirements were received.

An assessment based on eligibility criteria was conducted in accordance with the Community Grant Policy, by Council officers.

An acknowledgement of the application being received and assessed as compliant was issued to the applicant.

The eight applications, which meet eligibility requirements, are:

<b>Applicant</b>	<b>Project</b>	<b>Location</b>	<b>Application Amount</b>	<b>Supported Amount</b>
<b>Community Grants</b>				
Kulpiyam Youth and Sport Inc.	Badu Kuki Sports – financial assistance towards operational costs of running the carnival	Badu	2,500.00	2,500.00
Tigi Bani	Mabuiag Island Community Christmas Party – financial assistance towards catering of the party	Mabuiag	500.00	500.00
Blood Covenant Ministry	Church rally – financial assistance towards catering and accommodation	Boigu	5,000.00	5,000.00
Malu Kiyay School Graduation	School Graduation – financial assistance towards catering of the graduation	Boigu	5,000.00	2,000.00
St Pauls P&C	School end of year concert – financial assistance towards catering of the concert	St Pauls	698.87	698.87
St Pauls School Graduation Committee	Year 6 students transition to High School – financial assistance towards catering of the celebration	St Pauls	2,000.00	2,000.00
Saibai Island Youth & Community	Retirement celebration for 3 long term EQ employees – financial assistance towards catering of the celebration	Saibai	2,500.00	1,800.00
Stephen Island Campus P&C Association	School Graduation – financial assistance towards catering of the graduation	Ugar	1,000.00	1,000.00

**Links to Strategic Plans:**

These projects strategically align to specific delivery objectives under the People and Prosperity pillars of Council's Corporate Plan.

**Finance & Risk:**

No financial risk identified as the allocation is within existing Community Grants budget.

**Sustainability:**

N/A

**Statutory Requirements:**

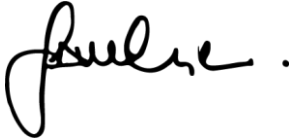
*Local Government Act 2009 (Qld)*

**Conclusion:**

That Council resolves to provide Community Grant support to the eligible applicant in accordance with the Community Grants policy.

**Endorsed:**

Luke Ranga  
Head of Corporate Affairs

A handwritten signature in black ink, appearing to read 'Luke Ranga', followed by a period.

**Recommended:**

Nicola Daniels  
A/Chief Financial Officer

A handwritten signature in black ink, appearing to read 'ndaniels'.



# TORRES STRAIT ISLAND REGIONAL COUNCIL

## AGENDA REPORT

<b>ORDINARY MEETING:</b>	November 2020
<b>DATE:</b>	16/11/2020
<b>ITEM:</b>	Agenda Item for Resolution by Council
<b>SUBJECT:</b>	Policy Matter – Policy review
<b>AUTHOR:</b>	Mette Nordling, Manager of Governance and Compliance

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### **Recommendation:**

Council resolves to:

1. amend the following Torres Strait Island Regional Council policies:
  - Councillor Code of Conduct (*Local Government Act 2009*, section 150D)
  - Meeting Procedure (*Local Government Act 2009*, section 150G)
  - Standing Orders (*Local Government Act 2009*, section 150G)
  - Councillor Remuneration, Reimbursement and Facilities Provision Policy (*Local Government Regulation 2012*, sections 247 and 250)

previously endorsed by Council at its Ordinary Meeting on 28 April 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.

As such these policies have been reviewed in the light of the legislative changes that commenced in October 2020.

The Policies have been drafted to include all legislative requirements and to provide an overview to Council officers and Council residents of how Council functions. The Policies have a stronger focus on the local government principles to ensure the elected members are fully informed of their roles and responsibilities and that there is transparency and accountability to the Council residents.

The Councillor Remuneration, Reimbursement and Facilitates Provision Policy has been updated to incorporate Council's request to allow for advance payment of a Councillor's base salary.

**Background:**

Following the Crime and Corruption Commission Operation Belcarra report, which was released in October 2017, stage 1 of the Local Government reform was introduced with the assent to the *Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Act 2018* (the Amendment Act). This first stage introduced the Councillor complaints framework including:

- introducing a uniform Code of Conduct for Councillors in Queensland
- model meeting procedures for meeting behaviour
- amendment of the publicly available councillor conduct register
- creation of the Office of the Independent Assessor
- new annual report requirements.

In October 2019 stage 2 was introduced, including:

- mandatory *So you want to be a councillor?* candidate training
- transparent candidate bank accounts
- changes to how a budget is presented to councillors
- expanded councillor rights to access information
- limits on the size of councillor 'discretionary' funds and new requirement to publicise spending (regulatory amendment in effect from 30 March 2020).

In November 2019 the Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019 was introduced to Parliament, including:

- changes to register of interest requirements
- new and clarified conflict of interest requirements
- new requirements for political advisors.

This Bill was passed in August 2020.

Regulation changes have also been made and include:

- improved transparency through changes for meeting agendas, minutes, and closed meetings
- Councils being required to consult with the community on their budgets
- strengthening the requirements on the use of council-controlled entities.

The reforms strengthen the transparency, accountability and integrity measures that apply to the system of local government in Queensland with renewed focus on the five Local Government principles with which Councillors must comply while performing their roles as elected representatives. These principles are:

- Transparent and effective processes, and decision-making in the public interest
- Sustainable development and management of assets and infrastructure, and delivery of effective services
- Democratic representation, social inclusion and meaningful community engagement
- Good governance of, and by, Local Government
- Ethical and legal behaviour of Councillors and Local Government employees.



**Comment:**

Policies to be endorsed:

- Councillor Code of Conduct (*Local Government Act 2009*, section 150D)
- Meeting Procedure (*Local Government Act 2009*, section 150G)
- Standing Orders (*Local Government Act 2009*, section 150G)
- Councillor Remuneration, Reimbursement and Facilities Provision Policy (*Local Government Regulation 2012*, sections 247 and 250)

**Consultation:**

Department of Local Government, Racing and Multicultural Affairs

**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:**

The local government reform has introduced harsher penalties for Councillors not adhering to the local government principles and values.

Failure to comply with the standards of behaviour or other conduct may give rise to a complaint against a Councillor's conduct and subsequent disciplinary action under the *Local Government Act 2012*.

A complaint about the conduct of a Councillor is to be submitted to the Independent Assessor who will assess the complaint and determine the category of the allegation. In order of most to least serious, the categories of complaint are corrupt conduct, misconduct, inappropriate conduct and then unsuitable meeting conduct.

Some of these categories can incur disciplinary action, others monetary penalties or imprisonment.

By having these policies reflecting the legislative changes, Council procedures will be aligned with the legislation and thereby mitigating these risks.

**Statutory Requirements:**

*Local Government Act 2009* (Qld)

*Local Government Regulation 2012* (Qld)

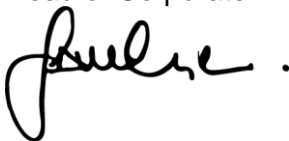
**Conclusion:**

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:**

Luke Ranga

Head of Corporate Affairs and Engagement

**Recommended:**

Nicola Daniels

A/Chief Financial Officer

**Attachments:**

- Councillor Code of Conduct
- Meeting Procedure
- Standing Orders
- Councillor Remuneration, Reimbursement and Facilities Provision Policy

# **Code of Conduct** for Councillors in Queensland

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Approved on 4 August 2020

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# Purpose of the Code of Conduct

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The Code of Conduct sets out the principles and standards of behaviour expected of Councillors and Mayors when carrying out their roles, responsibilities and obligations as elected representatives for their communities. By adhering to the behaviours set out below, Councillors will increase public confidence in local government and Council decisions.

## Background

Under section 150D of the *Local Government Act 2009* (the LGA), the Minister for Local Government (the Minister) must make a Code of Conduct stating the standards of behaviour for Councillors in the performance of their responsibilities as Councillors. In addition to this, the Code of Conduct may contain anything the Minister considers necessary for, or incidental to, the standards of behaviour.

Before assuming public office, Councillors must understand and commit to complying with the local government principles and obligations of Councillors in accordance with section 169 of the LGA and 169 of the *City of Brisbane Act 2010* (CoBA), as well as the standards of behaviour set out in this Code of Conduct.

All Councillors are required to make a declaration of office under the applicable legislation. As part of that declaration, Councillors must declare that they will abide by this Code of Conduct.

# The local government principles and values

The legislation is founded on five local government principles with which Councillors must comply while performing their roles as elected representatives. These principles are listed below:

1. Transparent and effective processes, and decision-making in the public interest
2. Sustainable development and management of assets and infrastructure, and delivery of effective services
3. Democratic representation, social inclusion and meaningful community engagement.
4. Good governance of, and by, local government
5. Ethical and legal behaviour of Councillors and local government employees.

This Code of Conduct provides a set of values that describe the types of conduct Councillors should demonstrate to ensure their compliance with the local government principles. These values are listed below:

1. In making decisions in the public interest, Councillors will:
  - make decisions in open council meetings
  - properly inform relevant personnel of all relevant information
  - make decisions in accordance with law and policy
  - commit to exercising proper diligence, care and attention.
2. To ensure the effective and economical delivery of services, Councillors will:
  - manage council resources effectively, efficiently and economically
  - foster a culture of excellence in service delivery.

3. In representing and meaningfully engaging with the community, Councillors will:
  - show respect to all persons
  - clearly and accurately explain Council's decisions
  - accept and value differences of opinion.
4. In exercising good governance, Councillors are committed to:
  - the development of open and transparent processes and procedures
  - keeping clear, concise and accessible records of decisions.
5. To meet the community's expectations for high level leadership, Councillors will:
  - be committed to the highest ethical standards
  - uphold the system of local government and relevant laws applicable.

This Code of Conduct also sets out standards of behaviour aimed at helping Councillors understand how the principles and values are put into practice while performing their official duties as elected representatives.

Each standard of behaviour is not intended to cover every possible scenario. However, they provide general guidance about the manner in which Councillors are expected to conduct themselves.

It is important to note that the principles, values and standards set out in the Code of Conduct are of equal importance.

# Standards of behaviour

This Code of Conduct sets out the standards of behaviour applying to all Councillors in Queensland. The behavioural standards relate to, and are consistent with, the local government principles and their associated values.

The standards of behaviour are summarised as the three Rs, being:

## 1. RESPONSIBILITIES

## 2. RESPECT

## 3. REPUTATION.

Each standard of behaviour includes, but is not limited to, several examples to guide Councillors in complying with the Code of Conduct when carrying out their role as elected officials. Councillors are to understand and comply with the following standards of behaviour as set out in the Code of Conduct listed below.

### 1. Carry out RESPONSIBILITIES conscientiously and in the best interests of the Council and the community

For example, Councillors will, at a minimum, have the following responsibilities:

- 1.1 Attend and participate meaningfully in all Council meetings, committee meetings, informal meetings, briefings, relevant workshops and training opportunities to assist them in fulfilling their roles other than in exceptional circumstances and/or where prior leave is given
- 1.2 Respect and comply with all policies, procedures and resolutions of Council

- 1.3 Use only official Council electronic communication accounts (e.g. email accounts) when conducting Council business
- 1.4 Report any suspected wrongdoing to the appropriate entity in a timely manner
- 1.5 Ensure that their behaviour or capacity to perform their responsibilities as a Councillor is not impaired by the use of substances that may put them or others at risk while performing their duties (for example, alcohol, illegal drugs or prescribed/non-prescribed and/or restricted substances)
- 1.6 Cooperate with any investigation being undertaken by the local government or other entity
- 1.7 Ensure that the Councillor's Advisor is aware of their obligations to comply with the standards of behaviour in the Code of Conduct for Councillor Advisors in Queensland.

### 2. Treat people in a reasonable, just, RESPECTFUL and non-discriminatory way

For example, Councillors will, at a minimum, act in the following ways:

- 2.1 Treat fellow Councillors, Council employees and members of the public with courtesy, honesty and fairness
- 2.2 Not use abusive, obscene or threatening language (either oral or written) or behaviour towards other Councillors, Council employees or members of the public
- 2.3 Have proper regard for other people's rights, obligations, cultural differences, safety, health and welfare.

### **3. Ensure conduct does not reflect adversely on the REPUTATION of Council**

For example, Councillors will, at a minimum, conduct themselves in the following manner:

- 3.1 When expressing an opinion dissenting with the majority decision of Council, respect the democratic process by acknowledging that the Council decision represents the majority view of the Council
- 3.2 When making public comment, clearly state whether they are speaking on behalf of Council or expressing their personal views
- 3.3 At all times strive to maintain and strengthen the public's trust and confidence in the integrity of Council and avoid any action which may diminish its standing, authority or dignity.



# Consequences of failing to comply with the Code of Conduct

Failure to comply with the standards of behaviour in this Code of Conduct, or other conduct prescribed in this code of conduct may give rise to a complaint against a Councillor's conduct and subsequent disciplinary action under the legislation.

A complaint about the conduct of a Councillor must be submitted to the Office of the Independent Assessor (OIA), who will assess the complaint and determine the category of the allegation. In order of least to most serious, the categories of complaint are **unsuitable meeting conduct, inappropriate conduct, misconduct**, and then **corrupt conduct**.

## Unsuitable meeting conduct

Under the legislation, any conduct by a Councillor that is contrary to the standards of behavior in the Code of Conduct that occurs within a meeting of Council (including standing committee meetings), is dealt with as **unsuitable meeting conduct**.

Unsuitable meeting conduct by a Councillor is dealt with by the Chairperson of the meeting. It is important that the Chairperson deal with matters of unsuitable meeting conduct locally, and as efficiently and effectively as possible so that Council can continue with their business of making effective decisions in the public interest.

### NOTE

Chairpersons of meetings are carrying out a statutory responsibility under the legislation to manage and lead the meeting. As such, where a Chairperson behaves inappropriately in a meeting this involves a serious breach of the trust placed in them as the Chairperson of the meeting and may be dealt with as misconduct (see right).

## Inappropriate conduct

Under the legislation, any conduct by a Councillor that is contrary to the standards of behavior in the Code of Conduct or a policy, procedure or resolution of a Council, and is not unsuitable meeting conduct, misconduct or corrupt conduct is dealt with as **inappropriate conduct**.

The conduct of a Councillor is also inappropriate conduct if the conduct contravenes an order by the Chairperson of a meeting of Council for the Councillor to leave the meeting or is a series of conduct at Council meetings that leads to orders for the Councillor's unsuitable meeting conduct being made on three occasions within a period of one year. The local government is not required to notify the OIA and may deal with the conduct under section 150AG of the LGA (including Brisbane City Council).

The OIA is responsible for assessing allegations of suspected inappropriate conduct other than those arising from unsuitable meeting conduct. If the OIA chooses to refer the matter to the Council to deal with, the Council must deal with the matter as quickly and effectively as possible.

## Misconduct

Councillors are required to comply with all laws that apply to local governments, this includes refraining from engaging in **misconduct**.

The OIA is responsible for assessing and investigating instances of suspected misconduct. The OIA may make an application to the Councillor Conduct Tribunal to be heard and determined.

The conduct of a Councillor is misconduct if the conduct:

- adversely affects, directly or indirectly, the honest and impartial performance of the Councillor's functions or exercise of the Councillor's powers, or
- is, or involves:
  - a breach of trust placed in the Councillor, either knowingly or recklessly
  - misuse of information or material acquired by the Councillor, whether the misuse is for the benefit of the Councillor or for the benefit or to the detriment of another person
  - a Councillor giving a direction to any Council employee (other than the Mayor giving direction to the Chief Executive Officer, or for Brisbane City Council, the Lord Mayor giving direction to the Chief Executive Officer and senior contract officers)
  - a release of confidential information outside of the Council
  - failure to declare a conflict of interest or appropriately deal with a conflict of interest in a meeting
  - attempting to influence a decision maker about a matter in which the Councillor has a conflict of interest
  - failure by a Councillor to report a suspected prescribed conflict of interest of another Councillor
  - failure to submit, update or review your registers of interests, or
- is a failure by the Councillor to comply with:
  - an order made by the Council or the Councillor Conduct Tribunal
  - any acceptable request guidelines of the Council made under the legislation
  - the reimbursement of expenses policy of the Council.

The conduct of a Councillor is also misconduct if the conduct leads to the Councillor being disciplined for inappropriate conduct on three occasions within a

period of one year or is conduct that is identified in an order of Council that will be dealt with as misconduct if the Councillor engages in the conduct again.

The conduct of a Councillor may also be misconduct if a Councillor purports to direct the Chief Executive Officer in relation to disciplinary action regarding the conduct of a Councillor Advisor.

## Corrupt conduct

**Corrupt conduct** is defined by, and dealt with, under the *Crime and Corruption Act 2001*<sup>1</sup> and must be referred to the Crime and Corruption Commission (CCC). For a Councillor, corrupt conduct involves behaviour that:

- adversely affects or could adversely affect the performance of the Councillor's responsibilities, and
- involves the performance of the Councillor's responsibilities in a way that:
  - is not honest or impartial, or
  - involves a breach of the trust placed in the Councillor, or
  - involves the misuse of information acquired by the Councillor, and
- is engaged in for the purpose of providing a benefit or a detriment to a person, and
- if proven would be a criminal offence.

Councillors are reminded of their obligations under section 38 of the *Crime and Corruption Act 2001* to report suspected corrupt conduct.

The OIA has entered into a section 40<sup>2</sup> arrangement with the CCC which allows the OIA to commence investigation into some allegations of corrupt conduct and report the matters to the CCC on a monthly basis, to provide the CCC with the opportunity to assume responsibility for or monitor an investigation, should the CCC consider that appropriate.

Further information about the CCC's jurisdiction and other topics in relation to local government is available at <https://www.ccc.qld.gov.au/sites/default/files/Docs/Publications/CCC/Corruption-in-focus-Guide-2020.pdf> (Chapter 4).

<sup>1</sup>Section 15, Crime and Corruption Act 2001

<sup>2</sup>Section 40, Crime and Corruption Act 2001

## More information

The Department of Local Government, Racing and Multicultural Affairs website at [www.dlgrma.qld.gov.au](http://www.dlgrma.qld.gov.au) provides further information and resources for Councillors.

The Department also provides and facilitates training for Councillors and Council employees to assist them to develop the knowledge, skills and understanding necessary to undertake their roles and responsibilities effectively and in the best interests of their communities.

For more information, please contact your regional office within the Local Government Division of the Department of Local Government, Racing and Multicultural Affairs on:

### Southern office

Phone: (07) 3452 6762

Email: [southern@dlgrma.qld.gov.au](mailto:southern@dlgrma.qld.gov.au)

### Northern office

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# Meeting Procedure 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>	
<b>Last reviewed</b>	November 2020
<b>Review history</b>	2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020
<b>To be reviewed on</b>	June 2021
<b>Corporate Plan</b>	People, Sustainability and Prosperity

## **1. Purpose**

The purpose of the model meeting procedures is to set out certain procedures to ensure the local government principles are reflected in the conduct of council meetings, standing and advisory committee meetings as defined in the *Local Government Regulation 2012* (LGR). However, model meeting procedures do not apply to meetings of the Council's audit committee. It is not intended that the model meeting procedures would deal with all aspects of meeting conduct but only those required to strengthen public confidence in council to deal with the conduct of councillors in meetings.

## **2. Scope/Application**

A Local Government must either adopt the Model Meeting Procedures provided by the Department of Local Government, Racing and Multicultural Affairs or prepare and adopt other procedures for the conduct of its meetings and meetings of its committees that are consistent with the Model Meeting Procedures.

A Local Government must conduct its meetings in a manner that is consistent with either the Model Meeting Procedures or its own procedures.

## **3. Provisions/Legal/Policies**

As required under section 150F of the Local Government Act 2009 (LGA) this document sets out:

- the process for how a Chairperson of a Local Government meeting may deal with instances of unsuitable meeting conduct by Councillors.
- the process for how suspected inappropriate conduct of a Councillor referred to the local government by the Independent Assessor (the Assessor) is to be dealt with at a Local Government meeting.

## **4. Dealing with unsuitable meeting conduct by a councillor in a meeting**

The conduct of a councillor is unsuitable meeting conduct if the conduct happens during a council meeting and contravenes a behavioural standard of the code of conduct for councillors. When dealing with an instance of unsuitable conduct by a councillor in a meeting, the following procedures must be followed:

- 4.1. The chairperson must reasonably believe that unsuitable meeting conduct has been displayed by a councillor at a meeting.
- 4.2. If the Chairperson decides the unsuitable meeting conduct has occurred, the Chairperson must consider the severity of the conduct and whether the Councillor has had any previous warnings for unsuitable meeting conduct issued. If the Chairperson decides the conduct is of a serious nature or another warning is unwarranted, proceed to 4.7 for the steps to be taken.
- 4.3. If the Chairperson decides unsuitable meeting conduct has occurred but is of a less serious nature, the Chairperson may request the Councillor take remedial actions such as:

- 4.3.1. Ceasing the unsuitable meeting conduct and refraining from exhibiting the conduct
  - 4.3.2. Apologising for their conduct
  - 4.3.3. Withdrawing their comments.
- 4.4. If the Councillor complies with the Chairperson's request for remedial action, no further action is required.
- 4.5. If the Councillor fails to comply with the Chairperson's request for remedial action, the Chairperson may warn the Councillor that failing to comply with the request may result in an order being issued.
- 4.6. If the Councillor complies with the Chairperson's warning and request for remedial action, no further action is required.
- 4.7. If the Councillor continues to fail to comply with the chairperson's request for remedial action or the chairperson decided a warning was not appropriate under 4.3, the chairperson may make one or more of the orders below:
  - 4.7.1. an order reprimanding the Councillor for the conduct
  - 4.7.2. an order requiring the Councillor to leave the meeting, including any area set aside for the public and stay out for the duration of the meeting.
- 4.8. If the Councillor fails to comply with an order to leave and stay away from the meeting, the Chairperson can issue an order that the Councillor be removed from the meeting.
- 4.9. Following the completion of the meeting, the Chairperson must ensure:
  - 4.9.1. details of any order issued is recorded in the minutes of the meeting
  - 4.9.2. if it is the third (3rd) or more order within a 12-month period made against a Councillor or the Councillor has refused to leave following an order issued to leave the meeting, these matters are dealt with at the next meeting of the Council and treated as inappropriate conduct
  - 4.9.3. the Council's Chief Executive Officer is advised to ensure details of any order made is updated in the Council's Conduct Register.
- 4.10. Any Councillor aggrieved with an order issued by the Chairperson can move a motion of dissent for parts 4.1, 4.7 and 4.8 above.

**Note:** Chairpersons of a meeting are carrying out a statutory responsibility under the LGA to manage and lead the meeting. As such, where a chairperson behaves inappropriately in a meeting, this involves a breach of the trust placed in them as the chairperson of the meeting and may be dealt with as misconduct. The breach can be referred to the Office of the Independent Assessor (OIA) to be dealt with. However, breaches of trust don't arise because councillors disagree with the chairperson's decision or ruling during the meeting.

## **5. Meeting process for dealing with suspected Inappropriate Conduct which has been referred to a Local Government by the IA**

Pursuant to Chapter 5A, Division 5 of the LGA (Referral of conduct to local government), a referral from the Independent Assessor of inappropriate conduct or an instance of suspected inappropriate conduct may arise from circumstances under paragraph 4.9.2 of this document.

In either case, the council must complete an investigation into the alleged conduct:

- consistent with any recommendations from the IA; and
- consistent with the council's investigation policy; or
- in another way decided by resolution of the council.

After the completion of the investigation, the council must decide in a council meeting, whether the councillor has engaged in inappropriate conduct, unless it has delegated responsibility for this decision under section 257 of the LGA.

When dealing with an instance of suspected inappropriate conduct which has been referred to a council by the IA:

- 5.1. The council must be consistent with the local government principle of transparent and accountable decision making in the public interest by dealing with suspected inappropriate conduct in an open meeting of the council. However, where the matter may directly affect the health and safety of the complainant due to the nature of the complaint, the council may resolve to go into closed session under section 254J of the LGR to discuss the allegation.
- 5.2. The subject councillor has a declarable conflict of interest in the matter and is permitted by the council to remain in the meeting during the debate about whether the councillor engaged in the inappropriate conduct and answer questions put to the subject councillor through the chairperson to assist the other councillors in making a decision. The permission to remain in the meeting for the debate is on the condition that the subject councillor must leave the place where the meeting is being held, including any area set aside for the public, during the vote on whether they have committed inappropriate conduct and what, if any, penalty to impose if the councillor is found to have committed inappropriate conduct.
- 5.3. Should the complainant be a councillor, that councillor may have a declarable conflict of interest in the matter and if so, must follow the declarable conflict of interest procedures in section 7. If the complainant councillor who has a conflict of interest, wishes to remain in the meeting during the debate and vote on the matter, the other councillors must decide how to deal with the conflict of interest under section 7. The complainant councillor can be ordered to leave the meeting place or conditions may be applied to allow that councillor to participate in either the debate, the vote or the decision on any disciplinary action to be applied.
- 5.4. The council must debate the issue and decide whether the subject councillor engaged in inappropriate conduct. If the council has lost quorum due to the number of conflicted councillors or another reason, the matter must be delegated consistent with section 257 of the LGA or deferred to another date when a quorum will be present.
- 5.5. If a decision is reached that the subject councillor has engaged in inappropriate conduct, then the councillors must decide what penalty or penalties from the orders



detailed in 5.6, if any, to impose on the councillor. In deciding what penalty to impose, the council may consider any previous inappropriate conduct of the councillor and any allegation made in the investigation that was admitted, or not challenged, and that the council is reasonably satisfied is true.

- 5.6. The Council may order that no action be taken against the Councillor or make one or more of the following:
  - 5.6.1. an order that the Councillor make a public admission that the Councillor has engaged in inappropriate conduct
  - 5.6.2. an order reprimanding the Councillor for the conduct
  - 5.6.3. an order that the Councillor attend training or counselling to address the Councillor's conduct, including at the Councillor's expense
  - 5.6.4. an order that the Councillor be excluded from a stated Council meeting
  - 5.6.5. an order that the Councillor is removed, or must resign, from a position representing the Local Government, other than the office of Councillor, for example, the Councillor is ordered to resign from an appointment representing the Local Government on a State board or committee
  - 5.6.6. an order that if the Councillor engages in the same type of conduct again, it will be treated as misconduct
  - 5.6.7. an order that the Councillor reimburse the Council for all or some of the costs arising from the Councillor's inappropriate conduct.
- 5.7. A Local Government may not make an order under 5.6.3; 5.6.4; 5.6.5; 5.6.6 in relation to a person who is no longer a councillor.
- 5.8. The subject councillor, and where relevant, the complainant councillor, must be invited back into the place where the meeting is being held once a decision has been made, and the chairperson must advise them of the details of the decision
- 5.9. The Local Government must ensure the meeting minutes reflect the resolution made.

## **6. Prescribed Conflict of Interest**

Councillors are ultimately responsible for informing of any prescribed conflict of interest on matters to be discussed at a Council meeting, standing or advisory committee meeting (other than ordinary business matters). When dealing with a prescribed conflict of interest, Councillors must abide by the following procedures:

- 6.1. A Councillor who has notified the chief executive officer of a prescribed conflict of interest in a matter to be discussed in a council meeting must also give notice during the meeting:
- 6.2. A councillor who first becomes aware of a prescribed conflict of interest in a matter during a council meeting must immediately inform the meeting of the conflict of interest.
- 6.3. When notifying the meeting of a prescribed conflict of interest, the following details must, at a minimum, be provided:

- 6.3.1. if it arises because of a gift, loan or contract, the value of the gift, loan or contract
- 6.3.2. if it arises because of an application or submission, the subject of the application or submission
- 6.3.3. the name of any entity, other than the councillor, that has an interest in the matter
- 6.3.4. the nature of the councillor's relationship with the entity that has an interest in a matter
- 6.3.5. details of the councillor's and any other entity's interest in the matter.
- 6.4. The councillor must then leave the place of the meeting, including any area set aside for the public, and stay away while the matter is being discussed and voted on, unless the subject councillor has written notice from the Minister to participate in the matter.
- 6.5. Once the councillor has left the area where the meeting is being conducted, the council can continue discussing and deciding on the matter at hand.

## **7. Declarable Conflict of Interest**

Councillors are ultimately responsible for informing of any declarable conflict of interest on matters to be discussed at council meetings, standing or advisory committee meetings that might lead to a decision that is contrary to the public interest (other than ordinary business matters). A councillor may raise their personal interests in a matter at the meeting to canvas the view of the other councillors prior to deciding to declare a conflict of interest. If the other councillors suspect the personal interest might be a conflict of interest, the councillor may disclose their suspicion and the processes under section 150EW of the LGA applies. When dealing with a declarable conflict of interest, councillors must abide by the following procedures:

- 7.1. A councillor who has notified the chief executive officer of a declarable conflict of interest in a matter to be discussed at a council meeting must also give notice during the meeting.
- 7.2. A councillor who first becomes aware of a declarable conflict of interest in a matter during a council meeting must inform the meeting of the conflict of interest.
- 7.3. When notifying the meeting of a declarable conflict of interest, councillors should provide sufficient detail to allow the other councillors to make an informed decision about how best to manage the declarable conflict of interest in the public interest. The following minimum details must be provided:
  - 7.3.1. the nature of the declarable conflict of interest
  - 7.3.2. if it arises because of the councillor's relationship with a related party:
    - (i) the name of the related party to the councillor
    - (ii) the nature of the relationship of the related party to the councillor
    - (iii) the nature of the related party's interest in the matter
  - 7.3.3. if it arises because of a gift or loan from another person to the councillor or a related party:

- (i) the name of the other person
- (ii) the nature of the relationship of the other person to the councillor or related party
- (iii) the nature of the other person's interest in the matter
- (iv) the value of the gift or loan and the date the gift or loan was made.

- 7.4. After a councillor has declared a conflict of interest, the councillor should consider leaving the meeting while the matter is discussed unless they have reasons why their participation would improve making the decision in the public interest.
- 7.5. If the councillor chooses not to leave the meeting, the councillor may advise the other councillors of their reasons for seeking permission to participate in making the decision.
- 7.6. The other councillors at the meeting must then decide, by resolution, whether the councillor can participate in the decision making in relation to the matter, including voting on the matter, or whether they should not participate in the decision and leave the place of the meeting while the matter is decided by the non-conflicted councillors. The non-conflicted councillors may impose conditions on the councillor under a decision to either participate or leave the meeting e.g. may stay for the debate but must leave for the vote. The councillor must comply with any decision or condition imposed by the non-conflicted councillors
- 7.7. In deciding on whether a councillor may participate in a decision about a matter in which the councillor has a declarable conflict of interest, only councillors who do not themselves have a prescribed or declarable conflict of interest in the matter are eligible to participate in the decision making. The decision may be made even if the number of those councillors is less than a majority or less than a quorum for the meeting consistent with section 150ET of the LGA.
- 7.8. The councillor who is the subject of the decision may remain in the meeting while the debate is occurring and can participate by answering questions from the chairperson to assist the other councillors in making their decision. The subject councillor must not vote or otherwise participate in making the decision but may remain in the meeting while the vote on the matter takes place and the decision is declared by the chairperson, on whether the councillor may remain in the meeting and participate in deciding the matter in which the councillor has a declarable conflict of interest.
- 7.9. When deciding whether a councillor may participate in the decision making on a matter in which they have a declarable conflict of interest, the other councillors should consider the circumstances of the matter including, but not limited to:
- 7.9.1. how does the inclusion of the councillor in the deliberation affect the public trust
  - 7.9.2. how close or remote is the councillor's relationship to the related party
  - 7.9.3. if the declarable conflict of interest relates to a gift or other benefit, how long ago was the gift or benefit received
  - 7.9.4. will the benefit or detriment the subject councillor or their related party stands to receive from the decision have major or minor impact on them

- 7.9.5. how does the benefit or detriment the subject councillor stands to receive compare to others in the community
- 7.9.6. how does this compare with similar matters that council has decided and have other councillors with the same or similar interests decided to leave the meeting
- 7.9.7. whether the subject councillor has unique skills, knowledge or expertise that might help make the best decision in the public interest.
- 7.10. If the non-conflicted councillors cannot decide about the declarable conflict of interest of a councillor, they are taken to have decided that the councillor must leave and stay away from the meeting while the non-conflicted councillors discuss and vote on the matter.
- 7.11. A decision about a councillor who has a declarable conflict of interest in a matter applies in relation to the councillor for participating in the decision, and subsequent decisions, about the same matter unless there is a change to the councillor's personal interests and/or the nature of the matter being discussed. If the non-conflicted councillors decide that the councillor can act in the public interest on the matter, then the councillor may participate in the meeting and be involved in processes occurring outside of a council meeting about the same matter e.g. briefing sessions or workshops.
- 7.12. In making the decision under 7.6 and 7.9, it is irrelevant how the subject councillor intended to vote on the issue or any other issue (if known or suspected).
- 7.13. A councillor does not contravene the above procedures if the councillor participates in a decision under written approval from the Minister.

## **8. Reporting a Suspected Conflict of Interest**

- 8.1. If a councillor at a meeting reasonably believes or suspects that another councillor has a personal interest in a matter that may be a prescribed or declarable conflict of interest, and that councillor is participating in a decision on that matter, the councillor must immediately inform the chairperson of the meeting of their belief or suspicion, and the facts and circumstances that led to their belief or suspicion.
- 8.2. The chairperson should ask the relevant councillor with the suspected personal interest whether they have any prescribed or declarable conflict of interest in the matter. If the councillor agrees they have a conflict of interest, the councillor must follow the relevant procedures above.
- 8.3. If the councillor believes they do not have a conflict of interest, they must inform the meeting of that belief and their reasons for that belief.
- 8.4. The non-conflicted councillors must then decide whether the councillor has a prescribed conflict of interest, a declarable conflict of interest or that the councillor does not have a prescribed or declarable conflict of interest in the matter. If the meeting decides the councillor has a conflict of interest, the councillor must follow the relevant procedures above.
- 8.5. If the councillors cannot reach a majority decision then they are taken to have determined that the councillor has a declarable conflict of interest.

## **9. Loss of quorum**

- 9.1. In the event where one or more councillors leave a meeting due to a prescribed or declarable conflict of interest in a matter that results in a loss of a quorum for deciding the matter, the council must resolve to:
- delegate the consideration and decision on the matter, pursuant to section 257 of the LGA; or
  - defer the matter to a later meeting
  - not to decide the matter and take no further action in relation to the matter. All councillors including the conflicted councillors, may participate in deciding to delegate or defer a matter.
- 9.2. The council must not delegate a decision to an entity if the entity, or a majority being at least half of its members, has a prescribed or declarable conflict of interest in the matter.
- 9.3. If the matter cannot be delegated under an Act, the council should seek ministerial approval for the councillors to be able to consider and vote on the matter, subject to any conditions the Minister for Local Government may impose.

## **10. Recording prescribed and declarable conflicts of interest**

When a councillor informs a meeting that they or another councillor have a prescribed or declarable conflict of interest in a matter, the minutes of the meeting must record all of the relevant details of how the conflict of interest was dealt with, being:

- the name of any councillor and any other councillor who may have a prescribed or declarable conflict of interest
- the particulars of the prescribed or declarable conflict of interest provided by the councillor the actions taken by a councillor after informing the meeting that they have, or they reasonably suspect another councillor has a prescribed or declarable conflict of interest
- any decision then made by the eligible councillors
- whether the councillor with a prescribed or declarable conflict of interest participated in or was present for the decision under ministerial approval
- the council's decision on what actions the councillor with a declarable conflict of interest must take and the reasons for the decision
- the name of each councillor who voted on the matter and how each voted
- If the councillor has a declarable conflict of interest the following additional information must be recorded in the minutes of the meeting when the meeting is informed of a councillor's personal interest by someone other than the councillor, the name of each councillor who voted in relation to whether the councillor has a declarable conflict of interest, and how each of the councillors voted
- where a decision has been made under section 7.6 above – the minutes must include the decision and reasons for the decision, and the name of each eligible councillor who voted and how each eligible councillor voted.

## 11. Closed meetings

Council meetings, standing and advisory committee meetings may resolve that a meeting be closed to the public if its councillors consider it necessary to discuss any of the following matters:

- appointment, dismissal or discipline of the CEO or, in the case of Brisbane City Council only, for senior executive employees
- industrial matters affecting employees
- the council's budget
- rating concessions
- legal advice obtained by the council, including legal proceedings that may be taken by or against the council
- matters that may directly affect the health and safety of an individual or a group of individuals
- negotiations relating to a commercial matter involving the council for which a public discussion could prejudice the interests of the council
- negotiations relating to the taking of land by the council under the *Acquisition of Land Act 1967*
- a matter that the council is required to keep confidential under a law of, or a formal agreement with, the Commonwealth or state.

A council meeting, standing and advisory committee meeting cannot resolve that a meeting be closed where the meeting is informed of a councillor's personal interest in the matter by another person and the eligible councillors at the meeting must decide whether the councillor has a declarable conflict of interest in the matter.

Further, the meeting must not be closed if a quorum is lost due to the number of conflicted councillors who leave the meeting and the council must;

- delegate the matter
- decide by resolution to defer to a later meeting
- decide by resolution to take no further action on the matter.

None of the above will be considered, discussed, voted on or made during a closed session. If a closed session includes attendance by teleconference, the councillor/s attending by teleconference must maintain confidentiality by ensuring no other person can hear their conversation while in the closed meeting. To take a matter into a closed session the council must abide by the following:

11.1. Pass a resolution to close the meeting.

11.2. The resolution must state the matter to be discussed, an overview of what is to be discussed and why the meeting should be closed while the matter is considered.

11.3. If the matter is known in advance, the agenda should clearly identify that the matter will be considered in closed session, and an explanation of why it is deemed necessary to

take the issue into closed session must be stated.

11.4. Not make a resolution while in a closed meeting (other than a procedural resolution).

## **12. Teleconferencing meetings**

12.1. If a councillor wishes to be absent from a council meeting place during a meeting, the councillor must apply to the chairperson to participate by teleconference, at least three business days prior to the meeting or as soon as practicable once the councillor becomes aware of their intended absence. The chairperson may allow a councillor to participate in a council meeting, standing or advisory committee meeting by teleconference.

12.2. A councillor taking part by teleconference is taken to be present at the meeting if the councillor was simultaneously in audio contact with each other person at the meeting. The attendance of the councillor must be recorded in the minutes as present at the meeting.

**Note:** Teleconferencing includes the use of a telephone, video conferencing equipment or other means of instant communication that allows a person to take part in a discussion as it happens.

12.3. In order for councils to manage the safety rules during the COVID-19 pandemic, changes have been added to the LGR that will expire in June 2021.

These provisions allow the council:

- the option to conduct the entire council meeting via phone, teleconference or video conference
- where possible, that they must provide streaming or other facilities so that the public can observe or hear the meeting as it is happening, at one of the council's public offices or on the council's website
- chairperson the option to close the meeting on health and safety grounds to protect participants or observers from risk of exposure to COVID-19.

Manager Responsible for Review:

Head of Corporate Affairs

**Adoption:**

**Due for Revision:**

Chief Executive Officer

# Standing Orders 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>	
<b>Last reviewed:</b>	November 2020
<b>Review history:</b>	
<b>To be reviewed:</b>	June 2021
<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 conduct of local government meetings and committee meetings.

To assist local governments, the Department of Local Government, Racing and Multicultural Affairs (DLGRMA) provides best practice standing orders that local governments can choose to adopt to provide written rules for the orderly conduct of local government meetings.

## **2. Application**

This policy applies to local government meetings including standing committee meetings. These standing orders do not apply to meetings of the audit committee.

A provision of these standing orders may be suspended by resolution of any meeting of the local government except those sections that are mandatory under the model meeting procedures. A separate resolution is required for any suspension and must specify the application and duration of each suspension.

Where a matter arises at the local government meeting that is not provided for in these standing orders, the matters shall be determined by resolution of the local government upon a motion which may be put without notice but otherwise conforming with these standing orders.

## **3. Legislation/Policies**

This policy is established with reference to obligations specified in the *Local Government Act 2009*, the *Local Government Regulation 2012* and other guiding documents adopted by Council to ensure the orderly and proper conduct of meetings of the local government and its committees.

The Council has an obligation to act in accordance with the local government principles set out at Section 4 of the *Local Government Act 2009*, 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

## **4. Presiding Officer**

- 4.1 The Mayor will preside at a meeting of Council.
- 4.2 If the Mayor is absent or unavailable to preside, the Deputy Mayor will preside.
- 4.3 If both the Mayor and the Deputy Mayor, or the Mayors' delegate, are absent or unavailable to preside, a Councillor chosen by the Councillors present at the meeting will preside at the meeting.
- 4.4 Council will choose the Chairperson for a Committee meeting. This Chairperson will normally preside over meetings of the Committee.
- 4.5 If the Chairperson of a Committee is absent or unavailable to preside, a Councillor chosen by the Councillors present will preside over the Committee meeting.
- 4.6 Before proceeding with the business of the Council meeting, the person presiding at

the meeting will undertake the acknowledgement and/or greetings deemed appropriate by the local government.

## **5. Order of Business**

- 5.1 The order of business shall be determined by resolution of Council from time to time. The order of business may be altered for a particular meeting where the Councillors at that meeting pass a motion to that effect. A motion to alter the order of business may be moved without notice.
- 5.2 Unless otherwise altered, the order of business shall be as follows:
- attendances
  - apologies and granting of leaves of absence
  - confirmation of Minutes
  - Officers Reports.

**Note:** The minutes of a preceding meeting, whether an ordinary or a special meeting, not previously confirmed will be taken into consideration, at every ordinary meeting of the local government, in order that the minutes may be confirmed. No discussion will be permitted about these minutes except with respect to their accuracy as a record of the proceedings. Amendments to the minutes may be made prior to confirming the minutes. This must be done by moving a motion to amend the minutes that must be voted on and carried. Once the resolution is passed the minutes can be amended. All councillors present at the meeting can vote to confirm the minutes including those who were absent at the previous meeting and those who had a conflict of interest at the previous meeting.

## **6. Agendas**

- 6.1 The Agenda may contain:
- Notice of meeting
  - Minutes of the previous meetings
  - Business arising out of previous meetings
  - Business which the Mayor wishes to have considered at that meeting without notice
  - Matters of which notice has been given
  - Committees' reports to Council referred to the meeting by the CEO
  - Officers' reports to Council referred to the meeting by the CEO
  - Deputations and delegations from the community that are approved to attend
  - Any other business Council determines by resolution be included in the agenda paper.
- 6.2 Business not on the Agenda or not fairly arising from the Agenda shall not be considered at any meeting unless permission for that purpose is given by Council at the meeting. Business must be in accordance with the adopted Terms of Reference for each Committee.
- 6.3 The agenda for the local government must be made publicly available by 5pm on the business day after the notice of meeting is given to the Councillors. The related reports for the local government meeting must also be included and available to the public excluding confidential reports.
- 6.4 Matters on the agenda that will require the meeting to be in a closed session will be clearly identified including the reasons why the session will be closed.

## **7. Petitions**

- 7.1 Any petition presented to a meeting of Council will:
- be in legible writing or typewritten and contain a minimum of ten (10) signatures
  - include the name and contact details of the Principal Petitioner (i.e., the key contact)
  - include the postcode of all petitioners, and
  - have the details of the specific request/matter appear on each page of the petition.
- 7.2 Where a Councillor presents a petition to a meeting of Council no debate on or in relation to it shall be allowed and the only motion which may be moved is:
- that the petition be received;
  - received and referred to a committee or officer for consideration and a report to Council; or
  - not be received because it is deemed invalid.
- 7.3 Council will respond to the Principal Petitioner in relation to all petitions deemed valid.

## **8. Deputations**

- 8.1 A deputation wishing to attend and address a meeting of Council shall apply in writing to the CEO not less than seven (7) business days before the meeting.
- 8.2 The CEO, on receiving an application for a deputation shall notify the Chairperson who shall determine whether the deputation may be heard. The CEO shall inform the deputation of the determination in writing. Where it has been determined the deputation will be heard, a convenient time shall be arranged for that purpose, and an appropriate time period allowed (e.g. 15 minutes).
- 8.3 For deputations comprising three or more persons, only three persons shall be at liberty to address Council unless the Councillors at the meeting determine otherwise by resolution. A deputation shall be given adequate opportunity to explain the purpose of the deputation.
- 8.4 If a member of the deputation other than the appointed speakers interjects or attempts to address the Council, the Chairperson may finalise the deputation.
- 8.5 The Chairperson may terminate an address by a person in a deputation at any time where:
- the Chairperson is satisfied that the purpose of the deputation has been sufficiently explained to the Councillors at the meeting
  - the time period allowed for a deputation has expired, or
  - the person uses insulting or offensive language or is derogatory towards Councillors or staff members.
- 8.6 The CEO is responsible for the deputation including that the appointed speaker/s are notified in writing of developments or future actions as appropriate.

## **9. Public participation at meetings**

- 9.1 A member of the public may take part in the proceeding of a meeting only when invited to do so by the chairperson.
- 9.2 In each local government meeting, time may be required to permit members of the public to address the local government on matters of public interest related to local government. The time allotted shall not exceed fifteen (15) minutes and no more than

three (3) speakers shall be permitted to speak at one meeting. The right of any individual to address the local government during this period shall be at the absolute discretion of the local government.

- 9.3 If any address or comment is irrelevant, offensive, or unduly long, the chairperson may require the person to cease making the submission or comment.
- 9.4 For any matter arising from such an address, the local government may take the following actions:
- refer the matter to a committee
  - deal with the matter immediately
  - place the matter on notice for discussion at a future meeting
  - note the matter and take no further action.
- 9.5 Any person addressing the local government shall stand, and act and speak with decorum and frame any remarks in respectful and courteous language.
- 9.6 Any person who is considered by the local government or the mayor to be unsuitably dressed may be directed by the mayor or chairperson to immediately withdraw from the meeting. Failure to comply with such a request may be considered an act of disorder.

## **10. Prescribed conflict of interest**

Councillors are ultimately responsible for informing of any prescribed conflict of interest on matters to be discussed at a council or committee meeting (other than ordinary business matters). When dealing with a prescribed conflict of interest, councillors must abide by the following procedures:

- 10.1 A councillor who has notified the chief executive officer of a prescribed conflict of interest in a matter to be discussed in a council meeting must also give notice during the meeting.
- 10.2 A councillor who first becomes aware of a prescribed conflict of interest in a matter during a council meeting must immediately inform the meeting of the conflict of the interest.
- 10.3 When notifying the meeting of a prescribed conflict of interest, the following details must be provided:
- if it arises because of a gift, loan or contract, the value of the gift, loan or contract
  - if it arises because of an application or submission, the subject of the application or submission
  - the name of any entity other than the councillor that has an interest in the matter
  - the nature of the councillor's relationship with the entity that has an interest in a matter
  - details of the councillor's and any other entity's interest in the matter.
- 10.4 The councillor must then leave the place of the meeting, including any area set aside for the public, and stay away while the matter is being discussed and voted on, unless the subject councillor has written notice from the Minister to participate in the matter.
- 10.5 Once the councillor has left the area where the meeting is being conducted, the council can continue discussing and deciding on the matter at hand.

## **11. Declarable conflict of interest**

Councillors are ultimately responsible for informing of any declarable conflict of interest on matters to be discussed at council or committee meetings that might lead to a decision that is contrary to the public interest (other than ordinary business matters).

A councillor may raise their personal interests in a matter at the meeting to canvas the view of the other councillors prior to deciding to declare a conflict of interest. If the other councillors suspect the personal interest might be a conflict of interest, the councillor may disclose their suspicion and the processes under section 150EW of the LGA.

When dealing with a declarable conflict of interest, councillors must abide by the following procedures:

- 11.1 A councillor who has notified the chief executive officer of a declarable conflict of interest in a matter to be discussed at a council meeting must also give notice during the meeting.
- 11.2 A councillor who first becomes aware of a declarable conflict of interest in a matter during a council meeting must inform the meeting of the conflict of interest
- 11.3 When notifying the meeting of a declarable conflict of interest, councillors should provide sufficient detail to allow the other councillors to make an informed decision about how best to manage the declarable conflict of interest in the public interest. The following details must be provided:
  - the nature of the declarable conflict of interest
  - if it arises because of the councillor's relationship with a related party:
    - (i) the name of the related party to the councillor
    - (ii) the nature of the relationship of the related party to the councillor
    - (iii) the nature of the related party's interest in the matter
  - if it arises because of a gift or loan from another person to the councillor or a related party:
    - (i) the name of the other person
    - (ii) the nature of the relationship of the other person to the councillor or related party
    - (iii) the nature of the other person's interest in the matter
    - (iv) the value of the gift or loan and the date the gift or loan was made.
- 11.4 After a councillor has declared a conflict of interest, the councillor should consider leaving the meeting while the matter is discussed unless they have reasons why their participation would improve making the decision in the public interest.
- 11.5 If the councillor chooses not to leave the meeting, the councillor may advise the other councillors of their reasons for seeking permission to participate in making the decision.
- 11.6 The other non-conflicted councillors at the meeting must then decide, by resolution, whether the councillor can participate in the decision making in relation to the matter, including voting on the matter, or whether they should not participate in the decision and leave the place of the meeting while the matter is decided by the non-conflicted councillors. The non-conflicted councillors may impose conditions on the councillor under a decision to either participate or leave the meeting e.g. may stay for the debate but must leave for the vote. The councillor must comply with any decision or condition imposed by the non-conflicted councillors.
- 11.7 In deciding on a councillor's declarable conflict of interest in a matter, only councillors who do not themselves have a prescribed or declarable conflict of interest in the matter are eligible to participate in the decision making. The decision may be made even if the number of those councillors is less than a majority or less than a quorum for the meeting consistent with section 150ET of the LGA.
- 11.8 The councillor who is the subject of the decision may remain in the meeting while the debate is occurring and can participate by answering questions from the chairperson

to assist the other councillors in making their decision. The subject councillor must not vote or otherwise participate in making the decision but may remain in the meeting while the vote on the matter takes place and the decision is declared by the chairperson, on whether the councillor may remain in the meeting and participate in deciding the matter in which the councillor has a declarable conflict of interest.

11.9 When deciding whether a councillor may participate in the decision making on a matter in which they have a declarable conflict of interest, the other councillors should consider the particular circumstances of the matter including, but not limited to:

- how does the inclusion of the councillor in the deliberation affect the public trust
- how close or remote is the councillor's relationship to the related part
- if the declarable conflict of interest relates to a gift or other benefit, how long ago was the gift or benefit received
- will the benefit or detriment the subject councillor or their related party stands to receive from the decision have major or minor impact on them
- how does the benefit or detriment the subject councillor stands to receive compare to others in the community
- how does this compare with similar matters that council has decided and have other councillors with the same or similar interests decided to leave the meeting
- whether the subject councillor has unique skills, knowledge or expertise that might help make the best decision in the public interest.

11.10 If the non-conflicted councillors cannot decide about the declarable conflict of interest of a councillor, they are taken to have decided that the councillor must leave and stay away from the meeting while the non-conflicted councillors discuss and vote on the matter.

11.11 A decision about a councillor who has a declarable conflict of interest in a matter applies in relation to the councillor for participating in the decision, and all subsequent decisions, about the same matter unless there is a change to the councillor's personal interests and/or the nature of the matter being discussed. If the non-conflicted councillors decide that the councillor can act in the public interest on the matter, then the councillor may participate in the meeting and be involved in processes occurring outside of a council meeting about the same matter e.g. briefing sessions or workshops.

11.12 In making the decision under 9.6 and 9.9, it is irrelevant how the subject councillor intended to vote on the issue or any other issue (if known or suspected).

11.13 A councillor does not contravene the above procedures if the councillor participates in a decision under written approval from the Minister.

## **12. Reporting a suspected conflict of interest**

12.1 If a councillor at a meeting reasonably believes or suspects that another councillor has a personal interest in a matter that may be a prescribed or declarable conflict of interest, and that councillor is participating in a decision on that matter, the councillor must immediately inform the chairperson of the meeting of their belief or suspicion, and the facts and circumstances that led to their belief or suspicion.

12.2 The chairperson then should ask the relevant councillor with the suspected personal interest whether they have any prescribed or declarable conflict of interest in the matter. If the councillor agrees they have a conflict of interest, the councillor must follow the relevant procedures above.

12.3 If the councillor believes they do not have a conflict of interest, they must inform the meeting of that belief and their reasons for that belief.

12.4 The non-conflicted councillors must then decide whether the councillor has a prescribed conflict of interest, a declarable conflict of interest or that the councillor

does not have prescribed or declarable conflict of interest in the matter. If the meeting decides the councillor has a conflict of interest, the councillor must follow the relevant procedures above.

- 12.5 If the councillors cannot reach a majority decision, then they are taken to have determined that the councillor has a declarable conflict of interest.

### **13. Loss of quorum**

- 13.1 In the event where one or more councillors leave a meeting due to a prescribed or declarable conflict of interest in a matter that results in a loss of a quorum for deciding the matter, the council must resolve to:

- delegate the consideration and decision on the matter, pursuant to section 257 of the LGA
- defer the matter to a later meeting
- not decide the matter and take no further action in relation to the matter.

- 13.2 All councillors including the conflicted councillors, may participate in deciding to delegate or defer a matter.

- 13.3 The council must not delegate a decision to an entity if the entity, or a majority being at least half of its members, has a prescribed or declarable conflict of interest in the matter.

- 13.4 If the matter cannot be delegated under an Act, the council should seek ministerial approval for the councillors to be able to consider and vote on the matter, subject to any conditions the Minister may impose.

### **14. Motions to be moved**

- 14.1 A Councillor is required to 'move' a motion and then another Councillor is required to 'second' the motion.

- 14.2 When a motion has been moved and seconded, it shall become subject to the control of Council and shall not be withdrawn without the consent of Council.

- 14.3 Other Councillors can propose amendments to the motion which must be voted on before voting on the final motion.

- A motion brought before a meeting of Council in accordance with the *Local Government Act 2009* or these Standing Orders shall be received and put to the meeting by the Chairperson.
- The Chairperson may require a motion or amendment to a motion to be stated in full or be in writing before permitting it to be received.
- The Chairperson may refuse to accept a motion if it is not within the meeting's jurisdiction and rule a motion out of order if necessary. Any motion that is vague, proposes an unlawful action, is outside the scope of the meeting, is defamatory, vexatious or is unnecessary, may be ruled out of order.

- 14.4 The Chairperson may call the notices of motion in the order in which they appear on the agenda. Where no objection is taken to a motion being taken as a formal motion, and the motion is then seconded, the Chairperson may put the motion to the vote without discussion and the vote occur.

- 14.5 Not more than one motion or one proposed amendment to a motion may be put before a meeting of a local government at any one time.

## **15. Absence of Mover of Motion**

- 15.1 Where a Councillor who has given notice of a motion is absent from the meeting of Council at which the motion is to be considered, the motion may be:
- moved by another Councillor at the meeting, or
  - deferred to the next meeting.

## **16. Motions to be Seconded**

- 16.1 A motion or an amendment to a motion shall not be debated at a meeting of Council unless or until the motion or the amendment is seconded, with the exception of Procedural Motions.

## **17. Amendment of Motion**

- 17.1 An amendment to a motion will be in terms which maintain or further clarify the intent of the original motion and do not contradict the motion.
- 17.2 Where an amendment to a motion is before a meeting of Council, no other amendment to the motion shall be considered until after the first amendment has been put.
- 17.3 Where a motion is amended by another motion, the original motion shall not be put as a subsequent motion to amend that other motion.

## **18. Speaking to motions and amendments**

- 18.1 The mover of a motion or amendment shall read it and shall state that it is so moved but will not speak to it until it is seconded.
- 18.2 The Chairperson will manage the debate by allowing the Councillor who proposed the motion the option of speaking first on the motion. The Chairperson will then call on any other Councillor who wishes to speak against the motion and then alternatively for and against the motion as available, until all Councillors who wish to speak have had the opportunity.
- 18.3 A Councillor may make a request to the Chairperson for further information before or after the motion or amendment is seconded.
- 18.4 The mover of a motion or an amendment has the right to reply. Each Councillor will speak no more than once to the same motion or same amendment except as a right of reply. Once the right of reply has been delivered the debate ends.
- 18.5 Each speaker shall be restricted to not more than five (5) minutes unless the Chairperson rules otherwise.
- 18.6 Where two or more Councillors indicate they may wish to speak at the same time, the Chairperson shall determine who is entitled to priority.
- 18.7 In accordance with Section 254H of the *Local Government Regulation 2012*, if a decision made at a meeting is inconsistent with a recommendation or advice given to Council by an advisor of the Council, the minutes of the meeting must include a statement of the reasons for not adopting the recommendation or advice.

## **19. Method of taking vote**

- 19.1 The Chairperson will call for all Councillors in favour of the motion to indicate their support. The Chairperson will then call for all Councillors against the motion to indicate their objection. A Councillor may call for a 'division' to ensure their objection to the motion is recorded in the minutes. If a division is taken, the minute secretary shall record the names of Councillors voting in the affirmative and of those voting in the



negative. The Chairperson shall declare the result of a vote or a division as soon as it has been determined.

19.2 Councillors have the right to request that their names and how they voted be recorded in the minutes if they so request, for voting other than by Division.

19.3 Except upon a motion to repeal or amend it, the resolution shall not be discussed after the vote has been declared.

**Note:** If a report contains distinct recommendations, the decision of Council may be taken separately on each recommendation. If a decision by the meeting is contra to a recommendation in a report the minutes must give the reasons for the decision.

## **20. Withdrawing a motion**

20.1 A motion or amendment may be withdrawn by the mover with the consent of the council, which will be without debate, and a councillor will not speak to the motion or amendment after the mover has been granted permission by the council meeting for its withdrawal.

## **21. Repealing or amending resolutions**

21.1 A resolution of Council may not be amended or repealed unless notice of motion is given in accordance with the requirements of the legislation.

21.2 Councillors present at the meeting at which a motion to repeal or amend a resolution is put, may defer consideration of that motion. The deferral will not be longer than three (3) months.

## **22. Procedural motions**

22.1 A Councillor at a meeting of Council may, during the debate of a matter at the meeting, move the following motions, as a procedural motion, without the need for a seconder:

- that the question/motion be now put
- that the motion or amendment now before the meeting be adjourned
- that the meeting proceeds to the next item of business
- that the question lies on the table
- a point of order
- a motion of dissent against the Chairpersons decision
- that this report/document be tabled
- to suspend the rule requiring that (insert requirement)
- that the meeting stands adjourned.

22.2 A procedural motion, that 'the question be put', may be moved and where such a procedural motion is carried, the Chairperson shall immediately 'put the question to the motion' or amendment to that motion under consideration. Where such procedural motion is lost, debate on the motion or amendment to that motion shall continue.

22.3 The procedural motion, that the motion or amendment now before the meeting be adjourned, may specify a time or date, to which the debate shall be adjourned. Where no date or time is specified:

- a further motion may be moved to specify such a time or date, or
- the matter about which the debate is to be adjourned, shall be included in the business paper for the next meeting.

- 22.4 Where a procedural motion, that the meeting proceed to the next item is carried, debate on the matter that is the subject of the motion shall cease and may be considered again by Council on the giving of notice in accordance with the Standing Orders.
- 22.5 A procedural motion, that the question lie on the table, shall only be moved where the Chairperson or a Councillor requires additional information on the matter before the meeting (or the result of some other action of Council or person is required) before the matter may be concluded at the meeting. Where such a procedural motion is passed, the Council shall proceed with the next matter on the business paper. The motion, that the matter be taken from the table, may be moved at the meeting at which the procedural motion was carried or at any later meeting.
- 22.6 Any Councillor may ask the Chairperson to decide on a 'point of order' where it is believed that another Councillor:
- has failed to comply with proper procedures
  - is in contravention of the Local Government Act/Regulations, or
  - is beyond the jurisdiction power of Council.

**Note:** Points of order cannot be used as a means of contradicting a statement made by the Councillor speaking. Where a point of order is moved, consideration of the matter to which the motion was moved will be suspended. The Chairperson will determine whether the point of order is upheld.

Upon the question of order suddenly arising during the process of a debate, a Councillor may raise a point of order, and thereupon the Councillor against whom the point of order is raised, shall immediately cease speaking. Notwithstanding anything contained in these standing orders to the contrary, all questions or points of order at any time arising shall, until decided, suspend the consideration and decision of every other question.

- 22.7 A Councillor may move a motion of dissent in relation to a ruling of the Chairperson on a point of order. Where such motion is moved, further consideration of any matter shall be suspended until after a ruling is made. Where a motion of dissent is carried, the matter to which the ruling of the Chairperson was made shall proceed as though that ruling had not been made. Whereas a result of that ruling the matter was discharged as out of order, it shall be restored to the business paper and be dealt with in the normal course of business.
- 22.8 The motion, that this report/document be tabled, may be used by a Councillor to introduce a report or other document to the meeting, only if the report or other document is not otherwise protected under confidentiality or information privacy laws. On tabling the document, it ceases to be a confidential document and is available for public scrutiny.
- 22.9 A procedural motion, "to suspend the rule requiring that ....", may be made by any Councillor in order to permit some action that otherwise would be prevented by a procedural rule. A motion to suspend a rule shall specify the duration of such a suspension.
- 22.10A procedural motion, that the meeting stands adjourned, may be moved by a Councillor at the conclusion of debate on any matter on the business paper or at the conclusion of a Councillor's time for speaking to the matter, and shall be put without debate. Such a procedural motion will specify a time for the resumption of the meeting and on resumption of the meeting the Council shall continue with the business before the meeting at the point where it was discontinued on the adjournment.

## **23. Questions**

- 23.1 A Councillor may at the Council meeting ask a question for reply by another Councillor

or an officer regarding any matter under consideration at the meeting. A question will be asked categorically and without argument and no discussion will be permitted at the council meeting in relation to a reply or a refusal to reply to the question. A Councillor or officer to whom a question is asked without notice may request that the question be taken on notice for the next meeting.

- 23.2 A Councillor who asks a question at a meeting, whether or not upon notice, will be deemed not to have spoken to the debate of the motion to which the question relates.
- 23.3 The Chairperson may disallow a question which is considered inconsistent with an acceptable request or good order, provided that a councillor may move a motion that the Chairperson's ruling be disagreed with, and if carried the chairperson will allow the question.

## **24. Process for dealing with Unsuitable Meeting Conduct**

The conduct of a councillor is unsuitable meeting conduct if the conduct happens during a council meeting and contravenes a behavioural standard of the code of conduct for councillors (Add Link to COC). When dealing with an instance of unsuitable conduct by a councillor in a meeting, the following procedures must be followed:

- 24.1 The chairperson must reasonably believe that unsuitable meeting conduct has been displayed by a councillor at a meeting.
- 24.2 If the chairperson decides the unsuitable meeting conduct has occurred, the chairperson may consider the severity of the conduct and whether the councillor has had any previous warnings for unsuitable meeting conduct issued. If the chairperson decides the conduct is of a serious nature or another warning is unwarranted, proceed to step 23.7.
- 24.3 If the chairperson decides unsuitable meeting conduct has occurred but is of a less serious nature, the chairperson may request the councillor take remedial actions such as:
- ceasing the unsuitable meeting conduct and refraining from exhibiting the conduct;
  - apologising for their conduct;
  - withdrawing their comments.
- 24.4 If the councillor complies with the chairperson's request for remedial action, no further action is required.  
If the councillor fails to comply with the chairperson's request for remedial action, the chairperson may warn the councillor that failing to comply with the request could result in an order being issued.
- 24.5 If the councillor complies with the chairperson's warning and request for remedial action, no further action is required.
- 24.6 If the councillor still continues to fail to comply with the chairperson's request for remedial action or the chairperson decided a warning was not appropriate under 22.3, the chairperson may make one or more of the orders below:
- an order reprimanding the councillor for the conduct
  - an order requiring the councillor to leave the meeting, including any area set aside for the public and stay out for the duration of the meeting.
- 24.7 If the councillor fails to comply with an order to leave and stay away from the meeting, the chairperson can issue an order that the councillor be removed from the meeting.
- 24.8 Following the completion of the meeting, the chairperson must ensure:
- details of any order issued is recorded in the minutes of the meeting

- if it is the third or more order made within a 12-month period against a councillor, or the councillor has refused to comply with an order issued to leave the meeting, these matters are dealt with at the next meeting of the council and treated as inappropriate conduct

24.9 the council's chief executive officer (CEO) is advised to ensure details of any order made is updated in the council's councillor conduct register.  
Any councillor aggrieved with an order issued by the chairperson can move a motion of dissent for parts 22.1, 22.7 and 22.8 above.

**Note:** Chairpersons of a meeting are carrying out a statutory responsibility under the LGA to manage and lead the meeting. As such, where a chairperson behaves inappropriately in a meeting this involves a serious breach of the trust placed in them as the chairperson of the meeting and may be dealt with as misconduct. The breach can be referred to the Office of the Independent Assessor (OIA) to be dealt with. However, breaches of trust don't arise because councillors disagree with the chairperson's decision or ruling during the meeting.

## **25. General conduct during meetings**

- 25.1 After a meeting of the council has been formally constituted and the business commenced, a councillor will not enter or leave from the meeting without first notifying the chairperson.
- 25.2 Councillors will speak to each other or about each other during the local government meeting by their respective titles ('mayor' or 'councillor'), and when speaking of or addressing officers will call them by their respective official or departmental title and will confine their remarks to the matter under consideration.
- 25.3 No councillor who is speaking will be interrupted except upon a point of order being raised either by the chairperson or by another councillor.
- 25.4 When the chairperson speaks during the process of a debate, the councillor speaking or offering to speak will immediately cease speaking, and each councillor present will observe strict silence so that the chairperson may be heard without interruption.

## **26. Meeting process for dealing with suspected inappropriate conduct which has been referred to a local government by the Independent Assessor (IA)**

Pursuant to Chapter 5A, Division 5 of the LGA (Referral of conduct to a local government) a referral from the IA of inappropriate conduct or an instance of suspected inappropriate conduct may arise from circumstances under paragraph 22.9 dot point two of this document.

When dealing with an instance of suspected inappropriate conduct which has been referred to a local government by the IA:

- 26.1 The council must be consistent with the local government principle of transparent and accountable decision making in the public interest by dealing with suspected inappropriate conduct in an open meeting of the council. However, where the matter may directly affect the health and safety of the complainant due to the nature of the complaint, the council may resolve to go into closed session under section 254J of the LGR to discuss the allegation.
- 26.2 The subject councillor has a declarable conflict of interest in the matter and is permitted by the council to remain in the meeting during the debate about whether the councillor engaged in the inappropriate conduct and answer questions put to the subject councillor by the chairperson to assist the other councillors in making a decision. This permission to remain in the meeting for the debate is on the condition that the subject councillor must leave the place where the meeting is being held, including any area set aside for the public, during the vote on whether they have committed inappropriate conduct and what, if any, penalty to impose if the councillor is found to have committed inappropriate conduct.

- 26.3 Should the complainant be a councillor, that councillor may have a declarable conflict of interest in the matter and if so, must follow the declarable conflict of interest procedures in section 11. If the complainant councillor who has a declarable conflict of interest, wishes to remain in the meeting during the debate and vote on the matter, the other councillors must decide how to deal with the conflict of interest under section 11. The complainant councillor can be ordered to leave the meeting place or conditions may be applied to allow that councillor to participate in either the debate, the vote or the decision on any disciplinary action to be applied.
- 26.4 The council must debate the issue and decide whether the accused councillor engaged in inappropriate conduct. If the council has lost quorum due to the number of conflicted councillors or another reason, the matter must be delegated consistent with section 257 of the LGA or deferred to another date when a quorum will be present.
- 26.5 If a decision is reached that the accused councillor has engaged in inappropriate conduct, then the councillors must decide what penalty or penalties from the orders detailed in 24.6, if any, to impose on the councillor. In deciding what penalty to impose, the council may consider any previous inappropriate conduct of the councillor and any allegation made in the investigation that was admitted, or not challenged, and that the council is reasonably satisfied is true.
- 26.6 The council may order that no action be taken against the councillor or make one or more of the following:
- an order that the councillor make a public admission that the councillor has engaged in inappropriate conduct
  - an order reprimanding the councillor for the conduct
  - an order that the councillor attend training or counselling to address the councillor's conduct, including at the councillor's expense
  - an order that the councillor be excluded from a stated council meeting
  - an order that the councillor is removed, or must resign, from a position representing the local government, other than the office of councillor, for example that the councillor is ordered to resign from an appointment representing the local government on a state board or committee
  - an order that if the councillor engages in the same type of conduct again, it will be treated as misconduct
  - an order that the councillor reimburse the council for all or some of the costs arising from the councillor's inappropriate conduct.
- 26.7 A local government may not make an order that the councillor attend training/counselling, be suspended from a meeting, be removed or resign from a position or that the same conduct will be treated as misconduct in future, in relation to a person who is no longer a councillor.
- 26.8 The subject councillor, and where relevant, the complainant councillor, must be invited back into the place where the meeting is being held once a decision has been made, and the chairperson must advise them of the details of the decision.
- 26.9 The chairperson must ensure the meeting minutes reflect the resolution made.

## **27. Disorder**

- 27.1 The chairperson may adjourn the meeting of the local government, where disorder arises at a meeting other than by a councillor. On resumption of the meeting, the chairperson will move a motion to be put without debate, to determine whether the meeting will proceed. Where the motion is lost, the chairperson shall declare the meeting closed, and any outstanding matters referred to a future meeting.

## **28. Attendance of public and the media at meeting**

- 28.1 An area shall be made available at the place where any meeting of the local government is to take place for members of the public and representatives of the media to attend the meeting and as many members of the public as reasonably can be accommodated in that area will be permitted to attend the meeting.
- 28.2 When the local government is sitting in closed session, the public and representatives of the media will be excluded.

## **29. Closed session**

- 29.1 Council and standing committee meetings may resolve that a meeting be closed to the public if its councillors consider it necessary to discuss any of the following matters:
- appointment, dismissal or discipline of the CEO
  - industrial matters affecting employees
  - the council's budget
  - rating concessions
  - legal advice obtained by the council, including legal proceedings that may be taken by or against the council
  - matters that may directly affect the health and safety of an individual or a group of individuals
  - negotiations relating to a commercial matter involving the council for which a public discussion could prejudice the interests of the council
  - negotiations relating to the taking of land by the council under the *Acquisition of Land Act 1967*
  - a matter that the council is required to keep confidential under a law of, or a formal agreement with, the Commonwealth or state.
- 29.2 A council or committee meeting cannot resolve that a meeting be closed where the meeting is informed of a councillor's personal interest in the matter by another person and the eligible councillors at the meeting must decide whether the councillor has a declarable conflict of interest in the matter.
- 29.3 Further, the meeting must not be closed if a quorum is lost due to the number of conflicted councillors who leave the meeting and the council must;
- delegate the matter
  - decide by resolution to defer to a later meeting
  - decide by resolution to take no further action on the matter.

**Note:** None of the above will be considered, discussed, voted on or made during a closed session.

If a closed session includes attendance by teleconference, the councillor/s attending by teleconference must maintain confidentiality by ensuring no other person can hear their conversation while in the closed meeting.

- 29.4 To take a matter into a closed session the council must abide by the following:
- pass a resolution to close the meeting
  - the resolution must state the matter to be discussed, an overview of what is to be discussed and why the meeting should be closed while the matter is considered

- if the matter is known in advance, the agenda should clearly identify that the matter will be considered in closed session, and an explanation of why it is deemed necessary to take the issue into closed session must be stated
- not make a resolution while in a closed meeting (other than a procedural resolution).

### **30. Teleconferencing of meetings**

30.1 If a councillor wishes to be absent from a council meeting place during a meeting, the councillor must apply to the chairperson to participate by teleconference, at least three (3) business days prior to the meeting or as soon as practicable once the councillor becomes aware of their intended absence. The chairperson may allow a councillor to participate in a council or committee meeting by teleconference.

30.2 A councillor taking part by teleconference is taken to be present at the meeting if the councillor was simultaneously in audio contact with each other person at the meeting. The attendance of the councillor must be recorded in the minutes as present at the meeting.

**Note:** Teleconferencing includes the use of a telephone, video conferencing equipment or other means of instant communication that allows a person to take part in a discussion as it happens.

30.3 In order for councils to manage the safety rules during the COVID-19 pandemic, changes have been added to the LGR that will expire in June 2021.

30.4 These provisions allow the council:

- the option to conduct the entire council meeting via phone, teleconference or video conference
- where possible, must provide streaming or other facilities so that the public can observe or hear the meeting as it is happening, at one of the council's public offices or on the council's website
- chairperson has the option to close the meeting on health and safety grounds to protect participants or observers from risk of exposure to COVID-19.

Manager Responsible for Review:

Head of Corporate Affairs

**Adoption:**

**Due for Revision:** June 2021

Chief Executive Officer

# **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>	
<b>Implemented from:</b>	
<b>Last reviewed:</b>	November 2020
<b>Review history:</b>	
<b>To be reviewed:</b>	June 2021
<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 2020/21 Financial Year:

Position	Remuneration amount effective 1 July 2020
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 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:

Position	Remuneration amount effective 1 July 2019
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 by 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 pay 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 [XXXX];
6. all Advance Payments are to be repaid to Council, without exception, prior to the last six months of the Councillor's term.

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.

Travel costs including 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:**

**Due for Revision:** June 2021

Chief Executive Officer

## Appendix A



# 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
<p>I authorise and request Torres Strait Island Regional Council (<b>TSIRC</b>) to deduct the sum of \$_____ (agreed instalment), each fortnight from my base salary beginning _____ (date) until the total amount of the Advance Payment, being \$_____ is repaid.</p> <p>I further agree that, if at any time the balance owing is less than the agreed instalment, I will pay a final instalment for the balance then outstanding and I authorise for this final instalment to be deducted from my base salary.</p> <p>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.</p> <p>This authorisation is to remain in force until the Councillor has repaid the Advance Payment Amount.</p>
<p>Details/Comments</p> <p>_____</p> <p>Frequency of repayment: Fortnightly base salary</p>

### 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: \_\_\_\_/\_\_\_\_/\_\_\_\_



# TORRES STRAIT ISLAND REGIONAL COUNCIL

## Council Report – Funding Matter

<b>ORDINARY MEETING:</b>	October 2020
<b>DATE:</b>	3/11/2020
<b>ITEM:</b>	Agenda Item for Resolution by Council
<b>SUBJECT:</b>	Funding Matter – SCADA System Upgrade with added Historian Function
<b>AUTHORS:</b>	Paul Ransom, Water and Wastewater Manager

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### **Resolution:**

Council resolves to delegate authority to the Chief Executive Officer under the provisions of the *Local Government Act 2009* to:

1. Enter into the proposed Funding Agreement, TSIRC.0014.1920M.QRF for the grant sum of \$268,207.00 excluding GST on the terms and conditions proposed by the Queensland Resilience & Risk Reduction Fund (QRRRF) to the CEOs satisfaction.

### **Purpose:**

The purpose of this report is to brief Council and recommend entering into the funding agreement with the QRRRF to enable SCADA upgrade works to take place.

### **Background:**

#### Project Background

TSIRC has implemented and is using Citect SCADA 2015. The overall development of the system has been implemented by different suppliers, all with different design philosophies.

The system is considered in need of an upgrade and improvement, and cleansing the system and removing legacy code and older redundant items.

An independent review of the SCADA system was undertaken in July 2020, by Welcon Technologies, and this confirmed the state of the system was beyond being able to band aid fix it, and it was advised that a complete upgrade was the best way to move forward. Along with a fresh start environment, the implementation of a Historian, Alarm Server and Web Based Interface for staff. The installation of a Historian will allow infinite retention of historical trend data, that will allow modelling of water and sewer assets to predict the future needs of the community as well as putting staff in to a proactive role using predictive analysis tools. The historian will also provide adequate data logging that can be used to satisfy elements of mandatory state government department compliance reporting.

The Alarm Server will be used to improve response to operational issues by the Divisional based staff. and alarms will be paged directly to the water and sewer officer, and then escalated if not responded to. This will give the field operators more real time information and help avoid incidents in the field including water contaminations and sewer spills, making for a safer community water and sewer system. Web Based access for all staff will be available, allowing a tighter cyber security profile as well as making accessing SCADA easier. Cyber security has now become a major topic for government water agencies and this will be a step in the right direction to improving our compliance.

The overall advantages of this project will be a stable, and usable system to enable monitoring of remote locations, and provide ongoing support to Water and Sewerage Staff, and provide communities with the assurance that they have the best water and sewer process available.

#### Funding Agreement

In July 2020 an application for funding was submitted to the QRRRF for a grant sum of \$268,207.00 excluding GST. The funding application was accepted on 9<sup>th</sup> October 2020 with 100% of the requested funds being awarded. The funding agreement states a project completion date of the 30<sup>th</sup> June 2022, and a project funding agreement end date of 30<sup>th</sup> June 2023.

#### **Proposed Works;**

The project scope will include the following;

- The upgrade of the existing Citect environment, following the WSA 302-2016 SCADA Guidelines as a base for design philosophy. The server configuration will include redundancy, with automatic failover so that if one server fails the other server will continue to collect historical data and provide alarm notifications.
- The implementation of a Historian to capture all analogue tags, alarm tags and digital tags.
- Establish an escalated alarming system.
- Upgrade and automation of reports.
- Implementation with SWIM, to allow data to be automatically uploaded to the SWIM database.
- Removal of the Master RTU, which will reduce the overall technical footprint and lower maintenance costs.

#### **Consultation:**

- Torres Strait Island Regional Council (TSIRC)
- Welcon Technologies (external consultant)
- Parysin (external consultant)

#### **Finance & Risk:**

The requested \$268,207 funding has an overall contingency allowance of 15% to ensure that any changes or unknowns can be managed within the requested budget.

It is the Project Managers responsibility to track and forecast remaining works in conjunction with available funds.

#### **Statutory Requirements:**

*Local Government Act 2009 (Qld)*

#### **Conclusion:**

That Council delegates to the Chief Executive Officer to enter into the varied funding agreement to enable commencement of the SCADA System Upgrade.

#### **Endorsed:**

David Baldwin  
Chief Engineer

#### **Recommended:**

Hollie Faithfull  
A/Chief Executive Officer

#### **Attachments:**

1. CEO Letter and Project Funding Schedule - 2019-2020 QRRRF - TSIRC.0014.1...
2. Approval Payment Certificate - TSIRC.0014.1920M.QRF

# Queensland Reconstruction Authority

For reply please quote: QRA/Prog Del/TS – QRATF/20/3414

09 October 2020

Mr Bruce Ranga  
Chief Executive Officer  
Torres Strait Island Regional Council  
PO Box 7336  
CAIRNS QLD 4870

Dear Mr Ranga

I refer to Torres Strait Island Regional Council's application under the 2019-20 Queensland Resilience and Risk Reduction Fund (QRRRF).

I am pleased to confirm that the following project has been successful in obtaining funds from the Queensland and Commonwealth Governments:

Project Name	Funding Source	Eligible Project Cost	
		QRRRF Funding	Applicant Contribution
SCADA System Upgrade with added Historian Function	QRRRF	\$268,207.00	N/A

The application has been assessed by the Queensland Reconstruction Authority (QRA) according to the criteria set out in the 2019-20 QRRRF Guidelines, which align with the *Queensland Strategy for Disaster Resilience* and the *National Disaster Risk Reduction Framework*.

The outcome of QRA's assessment is detailed in the attached Project Funding Schedule. To accept this approval please sign and return the Project Funding Schedule via email to [submissions@qra.qld.gov.au](mailto:submissions@qra.qld.gov.au). By signing the Project Funding Schedule, a Project Funding Agreement will be formed in accordance with clause 2.3 of the Head Agreement.

QRA has authorised a payment of \$80,462.10 (excluding GST) as a Recipient Created Tax Invoice (RCTI). Until the Project Funding Schedule is signed, this payment will be considered an advance in accordance with clause 4.1 of the Head Agreement.

Please note, no media or public announcement should be made in relation to funding under QRRRF until projects are announced by the Queensland and/or Commonwealth Governments.

Unfortunately, other submitted projects were unsuccessful in this funding round. However I thank you for the time and effort taken to develop and submit your applications and would encourage you to consider submitting for future funding rounds.

If you require further information about the assessment of your applications, or the content of the Project Funding Schedule, please contact Stuart Head, Regional Liaison Officer, Liaison and Recovery Division, on 0421 336 637.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Brendan Moon', with a long horizontal stroke extending to the right.

Brendan Moon  
**Chief Executive Officer**  
Encl

Project Funding Schedule				
1. QRA Program	Queensland Resilience and Risk Reduction Fund (QRRRF)			
2. Project Title, Event Identifier	SCADA System Upgrade with added Historian Function, TSIRC.0014.1920M.QRF			
3. Recipient Name	Torres Strait Island Regional Council			
4. Project Description	The project described in Attachment 1 to this Project Funding Schedule			
5. Project Funding (ex GST)	\$268,207.00			
6. Recipient Contribution (ex GST)	N/A			
7. Type of Project Funding	Capped Funding			
8. Program Guidelines	Resilience and Risk Reduction Funding Guidelines 2019-20			
9. Approved Project Plan	The approved project scope assessed and approved by QRA in accordance with the Program Guidelines and detailed in the Assessment Outcome Report			
10. QRA Contact	Chief Executive Officer			
11. Recipient Contact	Chief Executive Officer			
12. Key Dates	Project Funding Agreement Commencement Date		The date the last party signs this Project Funding Schedule	
	Project Completion Date		30 June 2022	
	Project Funding Agreement End Date		30 June 2023	
13. Milestone Schedule	No.	Milestone Date	Milestone Requirements	Milestone Amount
	1	The Project Funding Agreement Commencement Date	Provision of this Project Funding Agreement to the Recipient	30% of the Project Funding
	2	Various (the Recipient may submit multiple Payment Claims in respect of Milestone 2)	Provision of a Payment Claim	Up to 60% of the Project Funding
	3	Within three months of the Project Completion Date	Evidence that the Recipient has completed the Project Provision of a Payment Claim	Up to the total amount of any unpaid Eligible Project Costs
14. Payment Claim Requirements	Provision of a payment claim and supporting materials in accordance with the payment claim requirements set out in the Program Guidelines			
15. Eligible Project Costs	Eligible Project Costs means the costs described as “Eligible Costs” in the Program Guidelines up to the capped Project Funding value.			
16. Ineligible Project Costs	Ineligible Project Costs means the costs described as “Ineligible Costs” in the Program Guidelines and any costs in excess of the capped Project Funding value.			
17. Reporting	Report Type	Report Contents and Form		Lodgement Timing
	Progress Report	In the Progress Report, and containing all information identified in the Program Guidelines and MARS Portal		Monthly progress reports
	Final Report and Acquittal Report	In the Progress Report, and containing all information identified in the Program Guidelines and MARS Portal		Within three months of the Project Completion Date



<b>18. Project Specific Bank Account Details (if applicable)</b>	<b>Account Name</b>	N/A
	<b>BSB</b>	N/A
	<b>Account Number</b>	N/A
	<b>Branch</b>	N/A
	<b>Email for Remittance</b>	N/A
<b>19. Acknowledgement Requirements</b>	In line with the 'Acknowledgement of Queensland and/or Commonwealth Government assistance' requirements in the Program Guidelines, all public advice and media releases should refer to the Queensland and/or Commonwealth Governments in published references to this funding.	
<b>20. Special Conditions</b>	N/A	
By signing below, a Project Funding Agreement will be formed in accordance with the Head Agreement entered into between QRA and the Recipient on 3 August 2018 in respect of the Project.		
<b>Signed</b> for and on behalf of the <b>State of Queensland acting through the Queensland Reconstruction Authority ABN 13 640 918 183</b> by a duly authorised officer in the presence of		<b>Signed</b> for and on behalf of <b>the Recipient</b> by a duly authorised officer in the presence of
Signature of witness		Signature of witness
Name of witness		Name of witness
Signature of Authorised Person		Signature of Authorised Person
Name of Authorised Person		Name of Authorised Person
Date		Date

# Queensland Reconstruction Authority

## Attachment 1

## QRRRF Payment Certificate

Recipient	Torres Strait Island Regional Council
Date	21/09/2020
Event Year	2019-2020

QRA submission number	Description	Requested project funding	Ineligible project costs	Under investigation	Eligible project costs	Recipient contribution	Project funding amount	Payment for milestone 1		
								Drawdown on grant advance	RCTI payment	Total payment amount
TSIRC.0014.1920M.QRF	Resilience and Risk Reduction Funding - Queensland Resilience and Risk Reduction Funding, 2019-2020 - - SCADA System Upgrade with added Historian Function	\$268,207.00	\$0.00	\$0.00	\$268,207.00	\$0.00	\$268,207.00	\$0.00	\$80,462.10	\$80,462.10
TOTAL		\$268,207.00	\$0.00	\$0.00	\$268,207.00	\$0.00	\$268,207.00	\$0.00	\$80,462.10	\$80,462.10

### NOTES

1. All amounts in the body of the above table are GST exclusive
2. Payments will be grossed up for GST



# TORRES STRAIT ISLAND REGIONAL COUNCIL

## COUNCIL REPORT

**COUNCIL MEETING:** November 2020

**DATE:** 16 November 2020

**ITEM:** Agenda report for Council

**SUBJECT:** Contractual Matter – Sea Freight Services and Fuel Supply

**AUTHOR:**

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### Resolution:

Council resolves to:

#### Option 1

Council resolves:

1. to enter into a contract with Sea Swift generally on the basis and for the amount set out in its conforming tender submission for a 2-year term with 2 possible 1-year options exercisable at Council's discretion;
2. that pursuant to Section 257 of the *Local Government Act 2009*, Council delegates to the Chief Executive Officer:
  - a. power to make, amend or discharge a contract;
  - b. power to negotiate, finalise and execute any and all matters associated with or in relation to this contract including without limitation exercising the 2 x 1-year options and/or any variations.

#### Option 2

Council resolves:

1. to pursue further negotiations with Sea Swift on the basis of their non-conforming tender submission;
2. that pursuant to Section 257 of the *Local Government Act 2009*, Council delegates power to the Chief Executive Officer to undertake negotiations with Sea Swift on the basis of their non-conforming tender submission.

#### Option 3

Council resolves:

1. That until further resolution, that it will enter into contract/s for the supply of sea freight services and fuel supply with a supplier from the Register of Pre-qualified Suppliers for Goods, Services and Materials (TSIRC 2019-209);
2. That pursuant to Section 257 of the *Local Government Act 2009*, Council delegates to the Chief Executive Officer:
  - a. power to make, amend or discharge contract/s for the supply of sea freight services and fuel supply with a supplier from the Register of Pre-qualified Suppliers for Goods, Services and Materials (TSIRC 2019-209);
  - b. power to negotiate, finalise and execute any and all matters associated with or in relation to those contract/s including without limitation any options and/or variations which may be required.

## Executive Summary:

In late June 2020 it was decided to commence a public tender process to enable Council to enter into a new contract or provision of sea freight services and fuel supply.

The tender was advertised in late July 2020 and closed on 19 August 2020. Two tenders were received by the closing time and both tenderers submitted tenders for both the sea freight services and the fuel supply.

An evaluation panel evaluated the two tenders as outlined in the agreed evaluation plan.

## Background:

Council currently has an exclusive contract with Sea Swift Pty Ltd to conduct sea freight services and fuel supply to Council. This contract was entered into in late 2017 for a 2-year period with a 2-year extension option.

In late November 2019 Council extended the contract for a short period to negotiate a longer non-exclusive contract with Sea Swift. That extension was entered into in February 2020 for a 5-month period to allow Council to conduct testing of the market. Due to the COVID-19 pandemic there was limited testing of the market conducted. In late June 2020 it was decided to go out to tender with the aim to enter into a new contract.

Breakdown of costs for general freight, fuel and gas as follows;

Category	Actuals 2019-2020	Budget 2020-2021
General Freight	\$1,503,352	\$1,979,207
Fuel incl freight	\$1,938,028	\$2,276,217
Gas incl freight	\$ 460,971	\$ 277,753

The tender was advertised on 28 July 2020 in the Cairns Post, on Council's website and on LG Tenderbox. The tender was downloaded by several freight companies as well as fuel companies, but only two tenders were received by the closing time on 19 August 2020.

## Comment:

### Tender Scope

This scope in the tender was for the provision of sea freight services and fuel supply between Cairns and the individual islands in the Torres Strait Regional Council local government area for a 2-year term with 2 possible 1 year extensions.

### Tender details and result

In accordance with the Local Government Regulation 2012 and Council's Procurement and Ethical Sourcing Policy an open tender process was conducted for tender number TSIRC 2020-323.

The tender/quotation process was conducted through LG Tenderbox.

Table 1 below outlines the tender process undertaken for tender TSIRC 2020-323.

Description	Details
Tender opening date	28 July 2020
Advertising	Open tender in Cairns Post, Council's website and LG Tenderbox
Tender closing date	19 August 2020
Tender period	3 weeks
Submissions received	two

Tenders were received from the following respondents”

<b>Respondent</b>
Weipa Hire t/a Carpentaria Contracting
Sea Swift Pty Ltd

#### Tender review panel members

The tenders were assessed by the following:

- David Baldwin – Chief Engineer
- Ilario Sabatino – Chief Operational Officer
- Mette Nordling – Manager of Governance and Compliance

Gerard Meade of Helix Legal was engaged as Probity Advisor.

#### Ranking of submissions

The evaluation was undertaken with regard to the sound contracting principles in the *Local Government Act 2009*, section 104 – Value for money, Open and effective competition, Development of competitive local business and industry, Environmental protection and Ethical behaviour and fair dealing.

#### **Freight**

The following evaluation criteria and weightings were utilised for freight:

- Relevant experience and capacity – 40%
- Proposed methodology and Contingency measures – 40%
- Environmental Management – 5%
- Local Supplier – 15%

The following evaluation criteria were considered but not applied a weighting:

- Value for money – acceptable/not acceptable
- Financial Stability – pass/fail

Following scoring and evaluation, Sea Swift Pty Ltd was the highest ranked submission:

<b>Criteria</b>	<b>Carpentaria Marine Services</b>	<b>Sea Swift Pty Ltd</b>
Relevant experience and capacity	7	8
Proposed methodology and Contingency measures	6	8
Environmental Management	8	8
Local Supplier	6	7
Value for money	Acceptable	Acceptable
Financial Stability	Pass	Pass
<b>Total score</b>	<b>6.5</b>	<b>7.85</b>

### **Fuel and Gas – Supply and Delivery**

The following evaluation criteria and weightings were utilised for fuel:

- Relevant experience and capacity – 30%
- Proposed methodology and Contingency measures – 20%
- Environmental Management – 5%
- Local Supplier – 15%
- Value for money – 30% (A formula was applied based on pricing provided by the tenderers. This formula was applied to the fuel component as this is the major expenditure in this category.)

The following evaluation criteria were considered but not applied a weighting:

- Financial Stability – pass/fail

Following scoring and evaluation, Sea Swift Pty Ltd was the highest ranked submission:

Criteria	Carpentaria Marine Services	Sea Swift Pty Ltd
Relevant experience and capacity	7	8
Proposed methodology and Contingency measures	6	8
Environmental Management	8	8
Local Supplier	6	7
Value for money	9	10
Financial Stability	Pass	Pass
<b>Total score</b>	<b>7.3</b>	<b>8.45</b>

### **Carpentaria Marine Services**

#### Relevant experience and capacity:

Good experience, Concerns around vessel capacity, Good experience of personnel, propose within a 3-month lead time to achieve regular service delivery, Potential risk around – proposed landing barge vessel availability. Tug and barge proposed for the backup service.

Tender states that fortnightly service (not weekly) would be achieved based solely on TSIRC freight volume assumptions.

#### Financial stability:

Have been in business for a number of years, No apparent concerns around financial stability.

#### Proposed methodology and contingency measures:

Depot located in Cairns in close proximity to wharf, No depots in the region, Fortnightly services proposed, Concerns around contingency - road freight to Weipa during dry season - little detail of back-up and time frame, Tug and barge proposed for the backup service in the event the landing barge is not available.

#### Environmental management:

Independent certified EMS and QMS, exercises with AMSA

#### Local Supplier:

Principal office in Weipa with an office and depot in Cairns. No current footprint in the Torres Strait. Have a local and indigenous employment and opportunities plan and a large percentage of workforce is indigenous (no details as to the percentage of Torres Strait Islanders). Not sure of current benefits provided to the Torres Strait community.

#### Value for money:

Cost of freight seem to be higher on some items and cheaper on other - especially dry cargo appear to be more expensive, possibly not much room to negotiate.

Freight of fuel appear to be quite a bit higher, fixed margin and TGP lower at the nominated date.

#### **Sea Swift Pty Ltd**

##### Relevant experience and capacity:

Currently providing services to Council - some issues around delays at times, Ability to put on extra service when required, Proposed equipment appear to be sufficient, Good experience of personnel.

##### Financial stability:

Have been in business for a number of years, No apparent concerns around financial stability.

##### Proposed methodology and contingency measures:

Depot located in Cairns as well as several places in the region, Hub at Horn, Schedule for each community is well designed, Weekly services proposed, able to insert extra vessel at times, adequate redundancy in place, acknowledge that not all freight may necessarily make it the same week, but stated it will be identified for the next "available space".

##### Environmental management:

Independent certified EMS and QMS.

#### Local Supplier:

Head office based in Cairns with depots on Horn, TI, Badu, Weipa and Seisia, Currently have a number of Torres Strait islanders employed.

#### Value for money:

Cost of freight seem to be higher on some items and cheaper on other - especially refrigerated cargo appear to be more expensive, possibly room to negotiate and 15% discount depending on volumes.

Freight of fuel appear to be lower, % margin and TGP higher at the nominated date.

#### **Alternative offers**

Both tenderers provided alternative offers, but due to the very limited information provided on these alternative offers, the panel did not consider that there was sufficient time to adequately investigate these options further prior to the current contract with Sea Swift expiring on 1 November 2020.

The alternative offers would require significant changes to Council's freight related business model, and adequate time for robust business case development would be required to assess such alternatives

Some aspects, such as utilisation of back-loads, community benefits and metal recycling themes, of the offers would however require less review and thus some aspects may be negotiated for



inclusion as part any final offers.

## **Comparison**

It is considered that both tenderers would be able to provide an acceptable service to Council.

Carpentaria Marine Service (CMS) has a limited footprint in the Torres Strait with no regular vessels servicing the region but do provide specific project freight regularly. That CMS does not have a regular service in the region also means that there are no current depots in the region and therefore limited benefits to the region at the present time. There are some concerns around CMS's ability to provide consistent service especially in the event of a possible breakdown. There is a smaller number of vessels available to provide the service and the proposal is for a fortnightly service due to TSIRC being the only possible client for the time being.

Sea Swift currently provides weekly services to the Torres Strait and has a number of other clients in the region, which makes Sea Swift able to ensure the weekly service to each community (except Ugar). Sea Swift has a number of depots in the region and has a current depot on Badu employing two people. There are current benefits to the region due to the already existing service as well as the depots in the region. Sea Swift has a large number of vessels, but there are still some concerns around freight being left behind and not carried as scheduled. Due to the number of vessels and other clients Sea Swift is however able to insert an extra service at times to clear the backlog.

Sea Swift has offered a discount (15%) if freight reaches a certain volume in a year. The volume being equal to the estimated general freight volume as stated in the RFT Scope. While this offer provided seemingly good cost related value, it would essentially (in practice) mean that all general freight would be issued to Sea Swift and thus by default Sea Swift would be the 'exclusive' service provider to Council for general freight if the discount was to be realised. There is a risk that confirmation and agreeance of the actual volume of freight delivered could be difficult to ascertain and thus a dispute could result, and/or the volume was not realised. Thus, there is a risk that the 15% discount would not materialise.

CMS stated that their tender (pricing, etc) was based on their assumption that all general freight, to at least the estimated general freight volume as stated in the RFT Scope, would be available to them. Thus, their conforming tender would essentially (in practice) mean that all general Council freight would be issued to them, and thus they would effectively be as being an 'exclusive' service provider for general freight.

## **Summary**

The assessment and evaluation of submissions resulted in Sea Swift scoring highest.

Even though Sea Swift scored the highest the panel considered that more information was required. Both tenderers were approached to clarify and confirm that they had provided their best price to Council based on a 2-year exclusive general freight and fuel contract. The panel also requested more information on what community benefits the tenderers would offer.

Carpentaria Marine Service confirmed that they had provided their best price in their tender submission, which was based on 2-years exclusivity and reiterated their alternative offer.

Carpentaria Marine Service's proposed community benefits included some employment opportunities proportional to the frequency of engagement.

Sea Swift confirmed that the price provided was their best price for a two-year (non-exclusive) contract and that the 15% discount (of the 'rack rates') would be available based on Council meeting the minimum volumes (which would essentially in practice) mean Sea Swift would provide all general freight.

Sea Swift community benefits would continue as currently for a two-year contract.

Sea Swift further provided the option of a 5-year exclusive contract with a further 5% discount of the discounted rates (thus equalling a  $15+5 = 20\%$  discount to the 'rack rates') submitted in their conforming tender. This proposal also included more community benefits. Note that Sea Swift have not been clear in relation to the term of this discounted 'exclusive' offer, and further clarification of the basis of the 5 year term would require clarification and negotiation, noting that a 2 year exclusive contract (not volume dependant) was also offered by Sea Swift which appears to be essentially the same rates as the 5 year.

### **Options:**

There are a number of options available to Council:

**Option 1** – Award a 2-year contract, non-exclusive, to Sea Swift based on their conforming tender submission, with 2 possible 1-year extensions at Council's discretion.

Noting there is a risk that there would be significant operational cost implications (approx. 15-20% extra cost) compared to recent/historical annual freight costs, and that any cost discount (15%) would essentially (in practice) require all general freight be provided to Sea Swift and also the estimated annual volumes are met.

**Option 2** – Negotiate a 2-year contract to Sea Swift based on their non-conforming tender submission and further clarifications. Noting that there is estimated to be approximately a 15-20% reduction in cost compared to the 'rack rates'.

**Option 3** – Not award a contract based on the received tender submissions but engage Sea Swift on an 'as needed basis' for general and project freight on 'rack rates' and Carpentaria Marine Service for project freight both under the Register of Pre-qualified Suppliers for Goods, Services and Materials (TSIRC 2019-209) while Council officers further pursue and develop different business models.

Option	Pro	Con	Budget implications	Risk
<b>Option 1</b>  2-year non-exclusive contract on their conforming tender submission with 2 possible 1-year extension at Council's discretion	<ul style="list-style-type: none"> <li>• 2 years certainty with weekly scheduled freight and fuel delivery to all communities except Ugar, which will have a monthly schedule as currently.</li> <li>• Will give Council time to get freight consolidation activity running without the added risk of uncertainty and potentially be in a better position to determine the future freight options/business model for Council and the region.</li> <li>• Sea Swift is currently providing a number of services free of charge (moving excavator between islands etc)</li> </ul>	<ul style="list-style-type: none"> <li>• 2 years 'lock-in'</li> <li>• Significantly higher rates than currently</li> <li>• Uncertainty as to actual rates due to potential discount applied after the fact, and difficult to quantify actual quantities</li> <li>• Uncertainty as to Council's freight being a priority</li> <li>• Lack of competition</li> <li>• Council's freight consolidation efforts will be limited to freight consolidation only</li> </ul>	Estimated 20% increase compared to recent/historical general freight rates.  Risk of Council not realising a proposed 15% discount which is subject to an annual volume being met and confirmed,	<ul style="list-style-type: none"> <li>• Council does not meet the minimum volume and thereby there is no discount</li> <li>• Risk that Council is not a main client and freight is not given priority</li> </ul>
<b>Option 2</b>  2-year exclusive contract to Sea Swift based on their non-conforming tender submission and further clarifications, noting that negotiations and confirmation regarding contract term as well as other issues will need to be conducted before award.	<ul style="list-style-type: none"> <li>• 2 years certainty with weekly scheduled freight and fuel delivery to all communities except Ugar, which will have a monthly schedule as currently</li> <li>• Pricing similar to current pricing</li> <li>• Potential for further collaboration around community benefits</li> <li>• Will give Council time to get freight consolidation activity running without the added risk of uncertainty and potentially be in a better position to determine the future freight options/business model for Council and the region.</li> <li>• Sea Swift is currently providing a number of services free of charge (moving excavator between islands etc)</li> </ul>	<ul style="list-style-type: none"> <li>• 2 years 'lock-in'</li> <li>• Lack of competition</li> <li>• Council's freight consolidation efforts will be limited to freight consolidation only</li> </ul>	Estimated 5% increase compared to recent/historical general freight rates.	<ul style="list-style-type: none"> <li>• Risk that Council is not a main client and freight is not given priority</li> </ul>
<b>Option 3</b>  Not award a contract based on the received tender submissions but engage Sea Swift on an 'as needed basis' on 'rack rates' under the Register of Pre-qualified Suppliers for Goods, Services and Materials (TSIRC 2019-209) while Council officers further pursue and develop different business models.	<ul style="list-style-type: none"> <li>• No lock-in</li> <li>• Council may be able to move to other freight options sooner with possible increased bargaining power</li> <li>• May create more competition in the future, which may lead to cheaper prices for TSIRC and the community</li> <li>• Freight consolidation and potential cost efficiencies becomes achievable</li> </ul>	<ul style="list-style-type: none"> <li>• Significantly higher rates than currently</li> <li>• Pressure on Council to develop different business models rapidly</li> <li>• Tender process to potentially be repeated in 6/12 months' time depending on Council's desired business model and any alternative business start-up timing,</li> </ul>	Estimated to be 20% increase once 'rack rates' are charged.  NB: this assumes Sea Swift will not extend the existing Supply Contract and/or would be a limited extension time in any case.	<ul style="list-style-type: none"> <li>• No contract in place and Council freight is not given priority</li> <li>• Elphinstone might take longer -&gt; extended period with higher prices</li> </ul>

## **Considerations**

### Risk Management

There is risk associated with all options provided to Council.

Risk by appointing Sea Swift and TSIRC not being the main client and therefore not always being first in line for space on vessels.

Some of this risk can be mitigated by entering into the contract as non-exclusive and thereby giving Council the opportunity to offer freight to another supplier if the contracted supplier is not able to carry the freight as scheduled.

### Council Finance

Both tenderers have provided pricing above what Council is currently paying for sea freight services.

The conforming price provided by Sea Swift is based on their 'rack rates' meaning this is the general rate. They have however proposed a 15% discount based on Council meeting minimum volumes – this volume is identical to the volume estimated by Council in the tender. This discounted rate is still above what Council is currently paying by approximately 5%.

There is a risk that Council may not meet this volume and freight will therefore be at a significantly higher cost.

The alternative tender from Sea Swift is offering lower pricing and it might be possible to negotiate an exclusive contract with fixed pricing that is not volume dependant.

The higher prices can possibly be mitigated by Council improving freight consolidation, noting however that that activity also incurs costs to Council. Council currently send a significant amount of freight in small batches. Freight consolidation is part of the proposed operation of Council's Elphinstone CI depot. This will however take time to mature, and it is not yet known what the potential net savings would result to the overall freight costs

## **Statutory Requirements:**

*Local Government Act 2009*

*Local Government Regulation 2012*

## **Endorsed**

Hollie Faithfull

Chief Executive Officer



Contract TSIRC 2020-323 - Sea Freight Services and Fuel Supply																					
Evaluation Criteria	Criteria A - Experience and Capacity			Criteria B - Financial Stability			Criteria C - Proposed Methodology and Contingency Measures			Criteria D - Environmental Management			Criteria E - Local Supplier			Criteria F - Value for Money					
Weighting (%)	40%			Pass/fail			40%			5%			15%			Acceptable/unacceptable			TOTAL	100%	
Tenderer Name	Reasons for allocating score	Score	Weighted Score	Reasons for allocating score	Score	Weighted Score	Reasons for allocating score	Score	Weighted Score	Reasons for allocating score	Score	Weighted Score	Reasons for allocating score	Score	Weighted Score	Reasons for allocating score	Score	Weighted Score	Total	Rank	
Carpentaria Marine Service - conforming	Good experience Concerns around vessel capacity Good experience of personnel 3-month lead time potential risk around extra vessel acquisition no detail of back-up and time frame Tug and barge proposed for the backup service	7	2.8	Have been in business for a number of years. No apparent concerns around financial stability	pass		Depot located in Cairns in close proximity to wharf No depots in the region Fortnightly services proposed concerns around contingency - road freight to Weipa - no detail of back-up and time frame Tug and barge proposed for the backup service	6	2.4	Independent certified EMS and QMS exercises with AMSA	8	0.4	Principal office in Weipa with an office and depot in Cairns. No current footprint in the Torres Strait. Have a local and indigenous employment and opportunities plan and a large percentage of workforce is indigenous (no details as to the percentage of torres strait islanders. Not sure of current benefits provided to the torres strait community	6	0.9	Cost of freight seem to be higher on some items and cheaper on other - especially dry cargo appear to be more expensive possibly not much room to negotiate			6.5	2	
Sea Swift - conforming	Currently providing services to Council - some issues around delays at times Ability to put on extra service when required Proposed equipment appear to be sufficient Good experience of personnel	8	3.2	Have been in business for a number of years. No apparent concerns around financial stability	pass		Depot located in Cairns as well as several places in the region Hub at Horn Schedule for each community is well designed Weekly services proposed able to insert extra vesse at times adequate redundancy in place acknowledge that not all freight may necessarily make it the same week, but will be identified for the next available space	8	3.2	Independent certified EMS and QMS	8	0.4	Head office based in Cairns with depots on Horn, TI, Badu, Weipa and Seisia Currently have a number of torres strait islanders employed	7	1.05	Cost of freight seem to be higher on some items and cheaper on other - especially refrigerated cargo appear to be more expensive possibly room to negotiate and 15% discount depending on volumes nothing to make it unacceptable			7.85	1	
Weighting (%)	30%			Pass/fail			20%			5%			15%			30%			TOTAL	100%	
Carpentaria Marine Service - conforming	Good experience Concerns around vessel capacity Good experience of personnel 3-month lead time potential risk around extra vessel acquisition	7	2.1	Have been in business for a number of years. No apparent concerns around financial stability	pass		Depot located in Cairns in close proximity to wharf No depots in the region Fortnightly services proposed concerns around contingency - road freight to Weipa - No detail of back-up and time frame Tug and barge proposed for the backup service	6	1.2	Independent certified EMS and QMS exercises with AMSA	8	0.4	Principal office in Weipa with an office and depot in Cairns. No current footprint in the Torres Strait. Have a local and indigenous employment and opportunities plan and a large percentage of workforce is indigenous (no details as to the percentage of torres strait islanders. Not sure of current benefits provided to the torres strait community	6	0.9	Freight of fuel appear to be quite a bit higher fixed margin and TGP lower at the nominated date	9	2.7	7.3	2	
Sea Swift - conforming	Currently providing services to Council - some issues around delays at times Ability to put on extra service when required Proposed equipment appear to be sufficient Good experience of personnel	8	2.4	Have been in business for a number of years. No apparent concerns around financial stability	pass		Depot located in Cairns as well as several places in the region Hub at Horn Schedule for each community is well designed Weekly services proposed able to insert extra vesse at times adequate redundancy in place	8	1.6	Independent certified EMS and QMS	8	0.4	Head office based in Cairns with depots on Horn, TI, Badu, Weipa and Seisia Currently have a number of torres strait islanders employed	7	1.05	Freight of fuel appear to be lower % margin and TGP higher at the nominated date	10	3	8.45	1	

# TORRES STRAIT ISLAND REGIONAL COUNCIL

## CLOSED BUSINESS REPORT

**ORDINARY MEETING:** November 2020

**DATE:** 16<sup>th</sup> – 17<sup>th</sup> November 2020

**ITEM:** Closed Session - Agenda Item for Resolution by Council

**SUBJECT:** Closed Session - Contractual Matter – 50 Yessie Street, Warraber

**AUTHOR:** Nicholas Sturges, Acting Building Services Maintenance Manager

### Resolution:

Council resolves to:


1. Submit a tender to the Queensland State Government through the Department of Housing and Public Works to carry out various upgrade works at 50 Yessie Street, Warraber Island (WS153437) with a tender price of \$221,764.99 excl of GST
- and
2. delegate to the Chief Executive Officer's submit the tender, enter into contracts, negotiate, finalise and execute any and all matters in relation to this tender.

### Purpose:

The purpose of this report is to get Council's endorsement for Council to tender for this work with QBuild.

### Background:

General	
Search Description:*	House - Lot 10 on SP270859 aka Lot 50 (S)
Description:	House - Lot 10 on SP270859 aka Lot 50 (SLUP) Yessie St, Warraber Island
Short Description:*	House - Lot 10 on SP
Asset Status:*	Commissioned
Bar Code:	
Commission Date:	30/06/1995
Expected Commissioning:	
Disposal/Write-off Date:	
Asset Condition:*	2 <input type="button" value="Q"/> Good Condition
AMP Category:*	BLDGCOMM <input type="button" value="Q"/> Buildings Community
AMP Facility:*	HOUSING <input type="button" value="Q"/> Housing Network
PPE Reporting Ctrgy:*	BLDCOM <input type="button" value="Q"/> Buildings (Community)
Legacy PCS Number:	5736
SAM ID:	1002720.1
Heritage Asset:	NO <input type="button" value="Q"/> No



Primary Image: 1002720.jpg



Upgrade Works that include internal and external upgrades. Works are inclusive of internal/ external painting, floor coverings, bathroom upgrade, Roof Screw Replacement, Re-Roofing partial roof area, new concrete footpath, general plumbing, and electrical works.

Council has no influence on whether this work go ahead, as this is works commissioned by the State Government through the Department of Housing and Public Works.

If Council does not tender for this work, QBuild will issue this work as a public tender or award the work to a State Government pre-qualified supplier.

TSIRC Building Services completes approximately 140 tenders for work commissioned by the State and Federal Governments each financial year.

Department of Housing and Public Works through QBuild issue the tender documentation to TSIRC Building Services to respond to.

TSIRC Building Services must complete an estimation and the tender documentation for submission back to QBuild within an approximate 2-week timeframe.

The QBuild approved tender submission price becomes the formal agreement to initiate construction works.

The price submitted to QBuild includes a margin for Council. When the tender is awarded to Council, Council commences its own procurement process to engage a contractor to carry out the works on behalf of Council. The difference between the tendered price to QBuild and the contract award price to the contractor becomes Council's revenue.

**Consultation:**

- Acting Chief Executive Officer
- Chief Operational Officer
- Manager, Governance & Compliance

**Finance & Risk:**

TSIRC Building Services is bound by the tender submission to complete the works / services and invoice for the tendered amount.

TSIRC Building Services receive the first right of refusal for works to be carried out on TSIRC islands.

Non approved delays in submitting the tender could result in offer for works /services to be offered to another party.

**Sustainability:**

Tender submissions returned within the allocated timeframe enhances the workability of the relationship between TSIRC Building Services and QBuild for proactive outcomes.

**Conclusion:**

That Council resolves to submit this tender and delegate to the CEO to tender, enter into contracts, negotiate, finalise and execute any and all matters in relation to this Tender.

**Endorsed:**

Ilario Sabatino  
Chief Operating Officer

**Recommended:**

Hollie Faithfull  
Acting Chief Executive Officer



# TORRES STRAIT ISLAND REGIONAL COUNCIL

## CLOSED BUSINESS REPORT

**ORDINARY MEETING:** November 2020

**DATE:** 16<sup>th</sup> – 17<sup>th</sup> November 2020

**ITEM:** Closed Session - Agenda Item for Resolution by Council

**SUBJECT:** Closed Session - Contractual Matter – 31 Dabus Street, Warraber

**AUTHOR:** Nicholas Sturges, Acting Building Services Maintenance Manager

### Resolution:

Council resolves to:


1. Submit a tender to the Queensland State Government through the Department of Housing and Public Works to carry out various upgrade works at 31 Dabus Street, Warraber Island (WS153437) with a tender price of \$235,744.01 excl of GST
- and
2. delegate to the Chief Executive Officer's submit the tender, enter into contracts, negotiate, finalise and execute any and all matters in relation to this tender.

### Purpose:

The purpose of this report is to get Council's endorsement for Council to tender for this work with QBuild.

### Background:

General	
Search Description:*	House - Pt Lot 24 on SP270859 aka Lot 31
Description:	House - Pt Lot 24 on SP270859 aka Lot 311 (SLUP) Dabus St aka Lot 31 (DOH) Dabus St, Warraber Island
Short Description:*	House - Pt Lot 24 on
Asset Status:*	Commissioned
Bar Code:	
Commission Date:	30/06/2001
Expected Commissioning:	
Disposal/Write-off Date:	
Asset Condition:*	2  Good Condition
AMP Category:*	BLDGCOMM  Buildings Community
AMP Facility:*	HOUSING  Housing Network
PPE Reporting Ctry:*	BLDCOM  Buildings (Community
Legacy PCS Number:	5748
SAM ID:	1002732.1
Heritage Asset:	NO  No



Primary Image: 1002732.jpg



Upgrade Works that include internal and external upgrades. Works are inclusive of internal/ external painting, bathroom upgrade, roof screw replacement works, new concrete footpath, general plumbing, and electrical works.

Council has no influence on whether this work go ahead, as this is works commissioned by the State Government through the Department of Housing and Public Works.

If Council does not tender for this work, QBuild will issue this work as a public tender or award the work to a State Government pre-qualified supplier.

TSIRC Building Services completes approximately 140 tenders for work commissioned by the State and Federal Governments each financial year.

Department of Housing and Public Works through QBuild issue the tender documentation to TSIRC Building Services to respond to.

TSIRC Building Services must complete an estimation and the tender documentation for submission back to QBuild within an approximate 2-week timeframe.

The QBuild approved tender submission price becomes the formal agreement to initiate construction works.

The price submitted to QBuild includes a margin for Council. When the tender is awarded to Council, Council commences its own procurement process to engage a contractor to carry out the works on behalf of Council. The difference between the tendered price to QBuild and the contract award price to the contractor becomes Council's revenue.

**Consultation:**

- Acting Chief Executive Officer
- Chief Operational Officer
- Manager, Governance & Compliance

**Finance & Risk:**

TSIRC Building Services is bound by the tender submission to complete the works / services and invoice for the tendered amount.

TSIRC Building Services receive the first right of refusal for works to be carried out on TSIRC islands.

Non approved delays in submitting the tender could result in offer for works /services to be offered to another party.

**Sustainability:**

Tender submissions returned within the allocated timeframe enhances the workability of the relationship between TSIRC Building Services and QBuild for proactive outcomes.

**Conclusion:**

That Council resolves to submit this tender and delegate to the CEO to tender, enter into contracts, negotiate, finalise and execute any and all matters in relation to this Tender.

**Endorsed:**

Ilario Sabatino  
Chief Operating Officer

**Recommended:**

Hollie Faithfull  
Acting Chief Executive Officer

# TORRES STRAIT ISLAND REGIONAL COUNCIL

## COUNCIL REPORT

<b>ORDINARY MEETING:</b>	November 2020
<b>DATE:</b>	16/11/2020
<b>ITEM:</b>	Agenda Item for Noting by Council
<b>SUBJECT:</b>	Operational Plan 2020/21 Q1 Update
<b>AUTHOR:</b>	Mette Nordling, Manager of Governance and Compliance

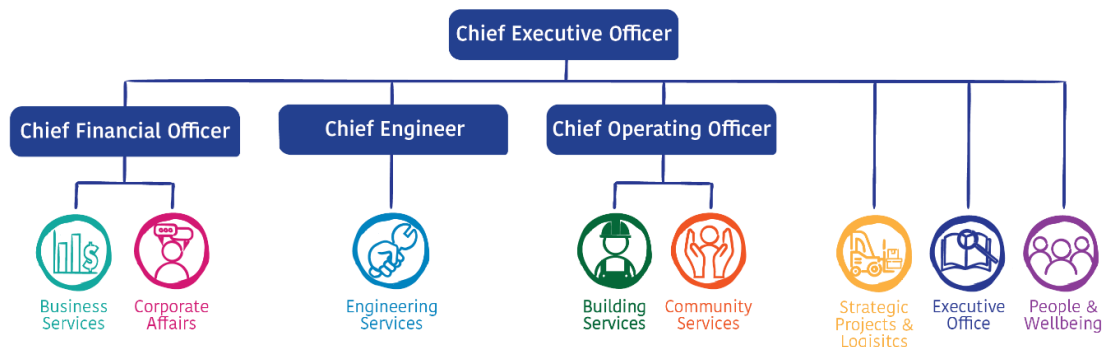
### Resolution:

Council resolves to note the Operational Plan 2020-21 Quarter 1 Update.

### Background:

Pursuant to Section 174 of the *Local Government Regulation 2012*, Council adopted its Operational Plan for the 2020/21 period, during its Ordinary Meeting on 21 July 2020.

The Operational Plan is structured around Council's corporate structure as at 21 July 2020, which was updated and endorsed to that shown below in the same meeting:


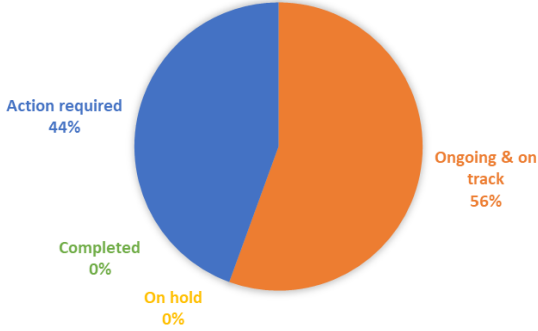

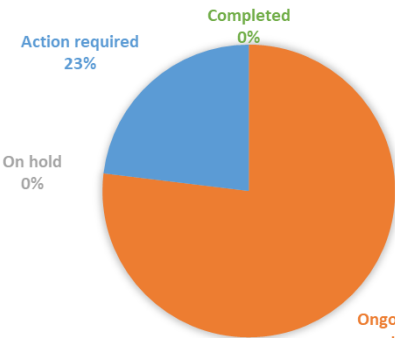

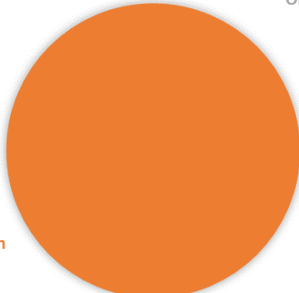

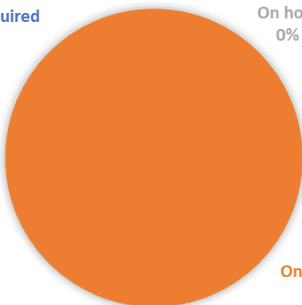

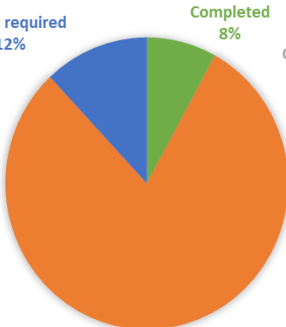



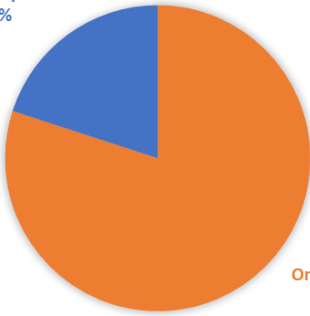

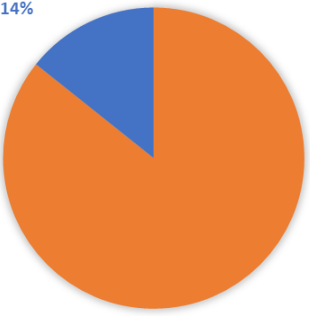

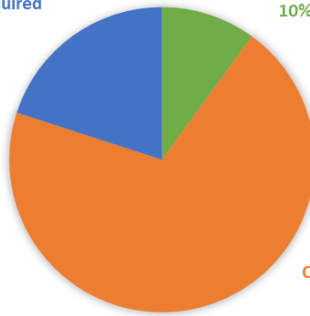
Each of the 86 objectives listed in the Operational Plan, link back to a relevant *Strategic Delivery Pillar* of Council's current Corporate Plan 2020-25; these pillars are as follows:

	People	<p>Outcome 1: We preserve cultural heritage, history and place.</p> <p>Outcome 2: Our communities are safe, healthy and active.</p> <p>Outcome 3: We ensure accessibility to community support services.</p> <p>Outcome 4: We are a transparent, open and engaging council.</p>
	Sustainability	<p>Outcome 5: We plan effectively for the future of our individual communities and region.</p> <p>Outcome 6: Our communities remain resilient to the effects of climate change and natural disasters.</p> <p>Outcome 7: Our communities are consulted around liveable places, aligned to lifestyle and environmental suitability.</p> <p>Outcome 8: We manage council affairs responsibly to the benefit of our communities.</p> <p>Outcome 9: We actively reduce our environmental footprint and manage our resources sustainably.</p>
	Prosperity	<p>Outcome 10: We advocate and foster regional prosperity through enterprise development.</p> <p>Outcome 11: We invest in the retention of key skills within our region.</p> <p>Outcome 12: We bring opportunity to our region and put our culture on the world stage.</p>

## Operational Plan Progress:

Council's Operational Plan 2019-20 Q3 Dashboard is as follows:

Department:	Total Objectives:	Progress
 Business Services	9	 <p>Ongoing &amp; on track 56%</p> <p>Action required 44%</p> <p>Completed 0%</p> <p>On hold 0%</p>
 Corporate Affairs	13	 <p>Ongoing &amp; on track 77%</p> <p>Action required 23%</p> <p>Completed 0%</p> <p>On hold 0%</p>
 Engineering Services	11	 <p>Ongoing &amp; on track 100%</p> <p>Action required 0%</p> <p>Completed 0%</p> <p>On hold 0%</p>
 Building Services	6	 <p>Ongoing &amp; on track 100%</p> <p>Action required 0%</p> <p>Completed 0%</p> <p>On hold 0%</p>
 Community Services	25	 <p>Ongoing &amp; on track 80%</p> <p>Action required 12%</p> <p>Completed 8%</p> <p>On hold 0%</p>

 <p>Strategic Projects &amp; Logistics</p>	5	 <p>Action required 20%</p> <p>On hold 0%</p> <p>Completed 0%</p> <p>Ongoing &amp; on track 80%</p>
 <p>Executive Office</p>	7	 <p>Action required 14%</p> <p>On hold 0%</p> <p>Completed 0%</p> <p>Ongoing &amp; on track 86%</p>
 <p>People &amp; Wellbeing</p>	10	 <p>Action required 20%</p> <p>On hold 0%</p> <p>Completed 10%</p> <p>Ongoing &amp; on track 70%</p>

**Statutory Requirements:**

*Local Government Act 2009 (Qld)*

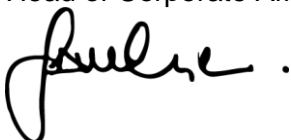
*Local Government Regulation 2012 (Qld)*

**Conclusion:**

That Council notes the Operational Plan 2020-21 Quarter 1 Update.

**Endorsed:**

Luke Ranga  
Head of Corporate Affairs



**Recommended:**

Nicola Daniels  
A/Chief Financial Officer

**Attachments:**

- Operational Plan 2020/21





# Torres Strait Island Regional Council Operational Plan 2020/21





# Acknowledgement

The Torres Strait Island Regional Council (TSIRC) acknowledges our Native Title Holders, our Elders past and present, and all members of the Communities we serve within the 5 clusters of Zenadth Kes; the Gudaw Maluligal Nation of the Top Western Islands, Maluligal Nation of the Western Islands, Kemer Kemer Meriam Nation of the Eastern Islands, Kulkalgal Nation of the Central Islands, and the Kaiwalagal Kaurareg Aboriginal Nation of the Inner Islands.

We recognise their continuing connection to land and sea, and the strength of a cultural heritage and belief system that spans past, present and future generations.





# message from the CEO



Firstly, I would like to acknowledge the true custodians of the lands we serve across the length and breadth of Zenadth Kes. I acknowledge and pay my respects to Elders past, present and emerging.

As Queensland navigates its road to recovery from the global pandemic and enacts mitigation measures to prevent further outbreaks, the many downstream economic and social impacts will still be felt throughout the 2020-2021 period. So now, more than ever we remain steadfast on driving a corporate culture of operational efficiency and innovation, and a key focus for this period on the reignition of strategic programs of work and regional infrastructure delivery, as aligned to our Corporate Plan (2020-2025) aspirations.

Council's operating model (as shown on page 5) aligns to our strategic delivery areas and ensures our diverse and extraordinary team is well placed to face the unprecedented environment we operate in today, and ultimately continue on our mission of improving our communities' livability in all we do.

A stylized, handwritten signature in black ink, appearing to read 'Bruce Ranga'.

Bruce Ranga  
Chief Executive Officer  
June 2020

## Values



### RESPECT

We have respect for each other and the communities we serve.



### COURAGE

We are courageous leaders, who think innovatively.



### ACCOUNTABILITY

We are accountable and responsive to our communities.



### RESILIENCE

We are builders of a sustainable and resilient region.



### ONE

We are one team who achieves together.

## Vision

*"For our communities and council to be Autonomous, Prosperous and Sustainable"*

### Autonomous:

We achieve autonomy when we empower our people and community through rigorous engagement, consultation and participation. An autonomous Council fuels both local and regional self-sufficiency.

### Prosperous:

We are prosperous when we are flourishing, thriving, or have success; This can be in our faith, culture, traditions, happiness, fortune or health and wellbeing.

### Sustainable:

We are sustainable when we deliver social, economic or environmental solutions that enhance current community needs and long term aspirations.

## Mission

*"To improve our communities' livability in all we do"*

### Liveability:

Liveability is the sum of the factors that add up to a community's quality of life - including the built and natural environments, economic prosperity, social stability and equity, educational opportunity, and cultural, entertainment and recreational possibilities.

# strategic Planning

Council develops strategic plans to set priorities for core business operations and guide our budgetary management.

Our Operational Plan (2020-2021) sets out Council's key annual objectives in alignment with the annual budget and the three strategic delivery pillars of our Corporate Plan (2020-2025):



People

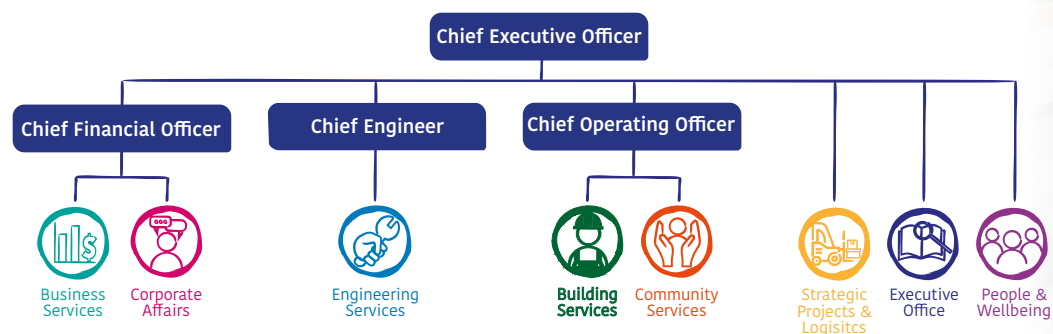


Sustainability



Prosperity

Delivery objectives and outcomes within this Plan are aligned to the following operating model:



For more information on Council's strategic planning process, please visit: <http://www.tsirc.qld.gov.au/your-council/publications/plans>







# Business Services

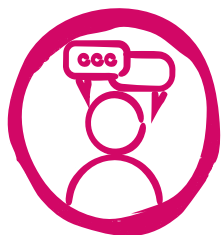
No.	Objective	Corp. Plan	Function	Q1	Q2	Q3	Q4	Delivery/Target
1.	Continue to evolve Council's long-term financial planning and quantify regional program delivery, service levels and associated costs.		Financial Accounting & Assets	●	●	●	●	<ul style="list-style-type: none"> <li>Successful delivery of framework &amp; modelling.</li> </ul>
2.	Develop stronger link between Asset Management Plans and Councils budget development.		Financial Accounting & Assets	●	●	●	●	<ul style="list-style-type: none"> <li>Framework delivered.</li> </ul>
3.	Evolve & deliver Council's Asset Revaluation program.		Financial Accounting & Assets				●	<ul style="list-style-type: none"> <li>100% program completion.</li> </ul>
4.	Collaborate with key Council operational functions to deliver effective debt management program(s).		Financial Accounting & Assets	●	●	●	●	<ul style="list-style-type: none"> <li>Framework identified.</li> <li>&gt;50% program delivery.</li> </ul>
5.	Deliver Corporate Overhead Analysis program, through effective cost allocation modelling.		Management Accounting	●	●	●	●	<ul style="list-style-type: none"> <li>Program modelling developed &amp; delivered.</li> </ul>








## Business Services

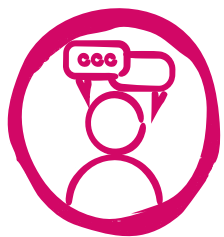
No.	Objective	Corp. Plan	Function	Q1	Q2	Q3	Q4	Delivery/Target
6.	Implementation of statistical dash boards and metric reporting to enable real time data capability.		Financial Accounting & Assets	●	●	●	●	<ul style="list-style-type: none"> <li>Successful implementation of agreed dashboard scope.</li> </ul>
7.	Deliver IT Transformation Strategy & identified program deliverables.		Financial Accounting & Assets		●	●	●	<ul style="list-style-type: none"> <li>Strategy complete &amp; roadmap identified.</li> </ul>
8.	Evolve Community Services frontline IT capability.		Financial Accounting & Assets	●	●	●	●	<ul style="list-style-type: none"> <li>Gap analysis conducted for all communities.</li> <li>Recommendation paper delivered.</li> </ul>
9.	Further develop Council's disaster management & business continuity technology capabilities.		Financial Accounting & Assets	●	●	●	●	<ul style="list-style-type: none"> <li>Pilot program completed across two sites.</li> <li>Roadmap identified.</li> </ul>










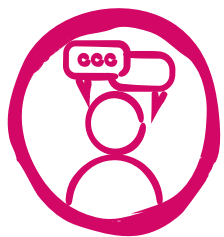
# corporate Affairs

No.	Objective	Corp. Plan	Function	Q1	Q2	Q3	Q4	Delivery/Target
10.	Continue Council's core brand refresh across all digital mediums & community channels.		Governance & Compliance	●	●	●		<ul style="list-style-type: none"> <li>Web &amp; intranet sites implemented.</li> <li>Brand guidelines delivered.</li> </ul>
11.	Grow the Youmpla Voice program & community specific engagement models.		Governance & Compliance	●	●	●	●	<ul style="list-style-type: none"> <li>1 campaign per community.</li> </ul>
12.	Evolve employee engagement tools for Council's vision, mission, values & service delivery excellence.		Governance & Compliance	●	●	●	●	<ul style="list-style-type: none"> <li>Engagement program delivered to all sites.</li> </ul>
13.	Further develop Council's strategic planning tools, embracing digitisation & automation.		Governance & Compliance	●	●	●	●	<ul style="list-style-type: none"> <li>Implementation of integrated planning automation &amp; dashboards.</li> </ul>
14.	Evolve Council's ethical procurement standards & policies.		Governance & Compliance	●	●	●	●	<ul style="list-style-type: none"> <li>Policy published.</li> <li>Training delivered across all stakeholder groups.</li> </ul>






# Corporate Affairs

No.	Objective	Corp. Plan	Function	Q1	Q2	Q3	Q4	Delivery/Target
15.	Further develop a good governance culture and compliance framework across Council.		Governance & Compliance	●	●	●	●	<ul style="list-style-type: none"> <li>Framework implemented.</li> <li>Engagement tools developed.</li> </ul>
16.	Delivery of group insurance evaluation and cost efficiency program.		Governance & Compliance				●	<ul style="list-style-type: none"> <li>Program delivered.</li> </ul>
17.	Evolve Business Continuity Planning Processes (BCP) & exercises.		Governance & Compliance		●	●	●	<ul style="list-style-type: none"> <li>Gap analysis completed.</li> <li>Program framework identified.</li> </ul>
18.	Implementation of customer contact centre & automation tools.		Enterprise Development & Delivery	●	●	●		<ul style="list-style-type: none"> <li>IVR technology implemented.</li> <li>Data capability delivered.</li> </ul>
19.	Development of Council's Visitor Management Strategy, tools & implementation roadmap.		Enterprise Development & Delivery		●	●	●	<ul style="list-style-type: none"> <li>Strategy published.</li> <li>Implementation roadmap identified.</li> </ul>



# corporate Affairs

No.	Objective	Corp. Plan	Function	Q1	Q2	Q3	Q4	Delivery/Target
20.	Delivery of Council's Enterprise Development Strategy, identifying key sector opportunities.		Enterprise Development & Delivery	●	●	●		<ul style="list-style-type: none"> <li>Strategy published.</li> </ul>
21.	Refresh of Council's community grant program.		Enterprise Development & Delivery	●	●			<ul style="list-style-type: none"> <li>Successful program delivery to all communities.</li> </ul>
22.	Grow strategic domestic & international knowledge alliances.		Enterprise Development & Delivery		●	●	●	<ul style="list-style-type: none"> <li>Framework developed &amp; 2 agreements in place.</li> </ul>





# Engineering Services

No.	Objective	Corp. Plan	Function	Q1	Q2	Q3	Q4	Delivery/Target
23.	Seawall program design works for Boigu, Poruma, Iama, Warraber & Masig Communities.		Major Infrastructure	●	●	●	●	• Design works complete.
24.	Seawall program stage two construction.		Major Infrastructure	●	●	●	●	• Works complete.
25.	Deliver the Torres Strait Tide Gauge Project.		Major Infrastructure	●	●	●	●	• Project delivered.
26.	Complete water lagoon cover repairs/replacements for Saibai, Erub, Mer & Ugar Communities.		Water Management	●	●			• Works complete.
27.	Deliver Water & Wastewater project - Critical infrastructure/legislative compliance upgrades. (ICCIP – MULTIPLE PROJECTS).		Water Management/ Waste Water Services	●	●	●	●	• Multiple projects completed, some into future years.



# Engineering Services

No.	Objective	Corp. Plan	Function	Q1	Q2	Q3	Q4	Delivery/Target
28.	Deliver regional Smart Water Meter project.		Water Management/ Waste Water Services	●	●	●	●	• Project completed.
29.	Construct Saibai sewerage treatment plant effluent outfall pipe.		Waste Water Services	●	●	●	●	• Works complete.
30.	Quantify & deliver Metal Waste & Clean Up project.		Waste Water Services	●	●	●	●	• Planning finalised, works underway.
31.	Complete Erub Airport Road upgrade works.		Transport Management	●	●	●	●	• Works completed
32.	Badu Aerodrome fence and safety improvements Saibai Aerodrome apron upgrade (Helipad) Dauan access road to Helipad.		Transport Management	●	●	●	●	• Works complete.
33.	Water & Wastewater Projects (W4Q – COVID).		Waste Water Services	●	●	●	●	• Works complete.







## Building Services

No.	Objective	Corp. Plan	Function	Q1	Q2	Q3	Q4	Delivery/Target
34.	Implementation of desired operating model in alignment and consultation with key stakeholder delivery groups.		All Functions	●	●	●	●	<ul style="list-style-type: none"> <li>Operating model implemented.</li> </ul>
35.	Delivery of fuel bowser upgrade program.		Construction		●	●	●	<ul style="list-style-type: none"> <li>Implementation roadmap identified.</li> <li>Program delivery of &gt;60%.</li> </ul>
36.	Evolve core project management capability and efficiencies through software implementations.		Construction	●	●	●	●	<ul style="list-style-type: none"> <li>Gap analysis completed.</li> <li>Identified software implemented.</li> </ul>
37.	Refresh council asset and capital works program.		Repairs & Maintenance	●	●	●	●	<ul style="list-style-type: none"> <li>Program framework &amp; roadmap published.</li> </ul>
38.	Develop and grow local engagement modelling.		All Functions			●	●	<ul style="list-style-type: none"> <li>Development of framework with key stakeholders.</li> </ul>
39.	Work with key partners to develop sustainable and increased durability housing concepts.		Construction	●	●	●	●	<ul style="list-style-type: none"> <li>Host workshop with key partners.</li> <li>Recommendation paper delivered.</li> </ul>



# community services

No.	Objective	Corp. Plan	Function	Q1	Q2	Q3	Q4	Delivery/Target
40.	Delivery of Food Safety program: - Community education & awareness. - Licensing Program Stage 1 - Commercial premises. - Licensing Program Stage 2 - Community licences.		Environmental Health	●	●	●	●	<ul style="list-style-type: none"> <li>1 campaign per community.</li> <li>All applicable commercial/other premises compliant.</li> </ul>
41.	Delivery of education & awareness programs on water sanitation, waste management & sewerage.		Environmental Health	●	●	●	●	<ul style="list-style-type: none"> <li>1 campaign community.</li> </ul>
42.	Deliver illegal dumping hotspot program.		Environmental Health		●	●	●	<ul style="list-style-type: none"> <li>Program fully implemented within two communities.</li> </ul>
43.	Delivery of Mosquito Management program: - Inspection, Albopictus survey. - Education, awareness, control activities. - Assist the Dengue Action Response Team (DART). - Implement Mosquito management plan.		Environmental Health	●	●	●	●	<ul style="list-style-type: none"> <li>Program &amp; applicable plan(s) implemented.</li> </ul>
44.	Complete Environmental Health Worker development & certification program(s).		Environmental Health		●	●		<ul style="list-style-type: none"> <li>Annual Professional development workshop delivered.</li> </ul>








# community services

No.	Objective	Corp. Plan	Function	Q1	Q2	Q3	Q4	Delivery/Target
45.	Delivery of Animal Management program: - Domestic animal compliance. - Veterinary services. - Compliance & enforcement program.		Environmental Health	●	●	●	●	<ul style="list-style-type: none"> <li>• Bi-annual vet visits.</li> <li>• Compliance education program delivered to each community.</li> </ul>
46.	Develop local law & disturbance awareness program in collaboration with regional compliance and enforcement partners.		Environmental Health	●	●			<ul style="list-style-type: none"> <li>• Program &amp; framework delivered.</li> </ul>
47.	Delivery of Biosecurity Act compliance program.		Environmental Health	●	●	●	●	<ul style="list-style-type: none"> <li>• 100% of EWH workforce compliant.</li> </ul>
48.	Delivery of healthy lifestyle tools & awareness program(s) in conjunction with community identified areas of need.		Community Health & Wellbeing	●	●	●	●	<ul style="list-style-type: none"> <li>• Community need/gap analysis completed.</li> <li>• Program framework delivered.</li> </ul>
49.	Development & delivery of the Community Volunteer program.		Community Health & Wellbeing			●	●	<ul style="list-style-type: none"> <li>• Develop &amp; implement framework.</li> </ul>








# community services

No.	Objective	Corp. Plan	Function	Q1	Q2	Q3	Q4	Delivery/Target
50.	Complete Healthy Lifestyle Officer Development & Certification Program(s).		Community Health & Wellbeing		●	●		<ul style="list-style-type: none"> <li>Annual Professional development workshop delivered.</li> </ul>
51.	Conduct IKC program gap analysis & in collaboration with State Library develop community driven KPIs for regional footprint.		Indigenous Knowledge Centres	●	●			<ul style="list-style-type: none"> <li>Community need/gap analysis &amp; full program completed.</li> <li>Program KPI framework delivered.</li> </ul>
52.	Delivery of core IKC programs: - First 5 Forever Program. - Public/Community Library Program. - Roll out of Fresh Start to all IKC. - Finalise Masig footprint utilising Idea's Box components.		Indigenous Knowledge Centres	●	●	●	●	<ul style="list-style-type: none"> <li>100% program delivery to existing IKC footprint.</li> <li>Successful establishment of Masig IKC.</li> </ul>
53.	Review, evolve & deliver home care support services to aged care program participants in accordance with state and federal standards.		Aged Care	●	●	●	●	<ul style="list-style-type: none"> <li>Delivery of review paper &amp; associated recommendations.</li> </ul>
54.	Review, evolve & deliver Aragon Child Care Centre (Badu) & Hammond After School Care, embedding Torres Strait Islander and Aboriginal cultural perspectives.		Child Care	●	●	●	●	<ul style="list-style-type: none"> <li>Delivery of review paper &amp; associated recommendations.</li> </ul>








# community services

No.	Objective	Corp. Plan	Function	Q1	Q2	Q3	Q4	Delivery/Target
55.	Research current & future models of child care service delivery and develop business case aligned to community specific requirements.		Child Care			●	●	<ul style="list-style-type: none"> <li>Delivery of regional childcare business case &amp; recommendation paper.</li> </ul>
56.	Increase rental collections rate(s).		Housing Services	●	●	●	●	<ul style="list-style-type: none"> <li>Regional collection rate of &gt;80%.</li> </ul>
57.	Drive an active reduction in current debt levels.		Housing Services	●	●	●	●	<ul style="list-style-type: none"> <li>Development of debt management strategy.</li> </ul>
58.	Undertake tenants survey & develop strategic recommendations report.		Housing Services	●	●			<ul style="list-style-type: none"> <li>Annual survey completed.</li> <li>Recommendation report delivered.</li> </ul>
59.	Successfully complete full registration under QRSCH.		Housing Services	●	●			<ul style="list-style-type: none"> <li>Full registration completed.</li> </ul>








# community services

No.	Objective	Corp. Plan	Function	Q1	Q2	Q3	Q4	Delivery/Target
60.	Provide advice on development and lead implementation of a standardised approach to visitor management, including visitor entry and exit, accommodation and travel.		Divisional Offices	●	●	●	●	<ul style="list-style-type: none"> <li>Provide strategic advice &amp; recommendations for Visitor Management Strategy.</li> <li>Deliver on strategy roadmap milestones.</li> </ul>
61.	Strengthen financial governance through online training and professional development.		Divisional Offices	●	●	●	●	<ul style="list-style-type: none"> <li>Annual Professional development workshop delivered.</li> </ul>
62.	Evolve local disaster preparedness, response and recovery in accordance with state legislation and guidelines.		Divisional Offices	●	●	●	●	<ul style="list-style-type: none"> <li>Develop template &amp; procedure per community.</li> </ul>
63.	Establish standardised operating procedures of Divisional Offices, improving timeliness and quality of customer service.		Divisional Offices	●	●	●		<ul style="list-style-type: none"> <li>Develop &amp; implement standard operating procedure for divisional office management.</li> </ul>
64.	Drive and deliver effective community engagement events through local Divisional Offices.		Divisional Offices	●	●	●	●	<ul style="list-style-type: none"> <li>4 events delivered per community.</li> </ul>





# strategic Projects and Logistics

No.	Objective	Corp. Plan	Function	Q1	Q2	Q3	Q4	Delivery/Target
65.	Implement project allocation and delivery framework.		Logistics	●	●	●		<ul style="list-style-type: none"> <li>Framework identified &amp; implemented.</li> </ul>
66.	Mobilisation of Cairns operational footprint.		Strategic Projects	●	●	●		<ul style="list-style-type: none"> <li>Cairns site 100% operational.</li> </ul>
67.	Implement community freight support service.		Logistics	●	●	●	●	<ul style="list-style-type: none"> <li>Model &amp; roadmap identified for implementation.</li> </ul>
68.	Finalise fuel & Gas best practise fulfilment model.		Logistics	●	●	●	●	<ul style="list-style-type: none"> <li>Gap analysis conducted.</li> <li>Model developed &amp; successfully delivered to all communities.</li> </ul>
69.	Develop fleet service fulfilment model, incorporating community & regional partnerships.		Logistics		●	●	●	<ul style="list-style-type: none"> <li>Gap analysis conducted.</li> <li>Model developed &amp; successfully delivered to all communities.</li> </ul>





# Executive Office

No.	Objective	Corp. Plan	Function	Q1	Q2	Q3	Q4	Delivery/Target
70.	Poruma Land, Saibai Land Transfer & Ugar Land Transfer: Facilitate the progression of transfer of Deeds of Grant in Trust from Council to community-based entity that has been fully endorsed by the community to be the trustee.		Legal Services			●	●	<ul style="list-style-type: none"> <li>Process completed.</li> </ul>
71.	Evolve Council's Enterprise Divestment Strategy (aligned to Enterprise Development Strategy).		Legal Services	●	●	●	●	<ul style="list-style-type: none"> <li>Develop framework in alignment with Enterprise Development Strategy.</li> </ul>
72.	Landing Holding Act (LHA) Katter Lease Resolution: To advocate for the grant of pending LHA entitlements in all Divisions.		Legal Services	●	●	●	●	<ul style="list-style-type: none"> <li>Process completed.</li> </ul>
73.	Template execution for (Regional) Infrastructure & Housing ILUA: To develop an ILUA for each division of the electorate to cover all frequently used Future Acts under the Native Title Act 1993 (Cth) maximise expediency in Native Title validation.		Legal Services	●	●			<ul style="list-style-type: none"> <li>Remaining communities completed.</li> </ul>
74.	Support the development of regional governance via One Boat and regional planning.		Legal Services	●	●	●	●	<ul style="list-style-type: none"> <li>Assist regional leadership in consultation process.</li> <li>Support model identified.</li> </ul>



# Executive Office

No.	Objective	Corp. Plan	Function	Q1	Q2	Q3	Q4	Delivery/Target
75.	Provide a regional legal framework which addresses both State and Traditional Lore requirements.		Legal Services			●	●	<ul style="list-style-type: none"> <li>Framework developed for consultation.</li> </ul>
76.	Effective management of DOGIT Land as a Trustee.		Legal Services	●	●	●	●	<ul style="list-style-type: none"> <li>Trustee requirements delivered accordingly.</li> </ul>



## People and Wellbeing

No.	Objective	Corp. Plan	Function	Q1	Q2	Q3	Q4	Delivery/Target
77.	Complete negotiations of new certified agreement with workforce.		Employee Relations	●	●	●	●	<ul style="list-style-type: none"> <li>Negotiations complete.</li> <li>Agreement developed.</li> </ul>
78.	Develop Council's Diversity & Inclusion policy.		Employee Relations			●	●	<ul style="list-style-type: none"> <li>Policy delivered.</li> </ul>
79.	Implementation of learning & development strategy.		Learning & Development		●	●	●	<ul style="list-style-type: none"> <li>Strategy developed &amp; implemented.</li> </ul>
80.	Grow Council's existing apprenticeship & traineeship program.		Learning & Development	●	●	●	●	<ul style="list-style-type: none"> <li>Fulfilment of traineeship placements.</li> </ul>
81.	Refresh Council's Transitional Action Plan (TAP).		Recruitment Services		●	●	●	<ul style="list-style-type: none"> <li>Plan delivered.</li> </ul>



## People and Wellbeing

No.	Objective	Corp. Plan	Function	Q1	Q2	Q3	Q4	Delivery/Target
82.	Evolve Council's recruitment process & systems, focusing on regional accessibility.		Recruitment Services		●	●		<ul style="list-style-type: none"> <li>Software implemented.</li> <li>Local applicant feedback captured.</li> </ul>
83.	Develop employee benefit & wellbeing programs.		Safety & Wellbeing		●	●		<ul style="list-style-type: none"> <li>Program parameters identified.</li> </ul>
84.	Evolve WHS policies & procedures.		Safety & Wellbeing	●	●	●		<ul style="list-style-type: none"> <li>Applicable policies implemented.</li> </ul>
85.	Implement WHS systems.		Safety & Wellbeing	●	●	●		<ul style="list-style-type: none"> <li>System implementations complete.</li> </ul>
86.	Increase WHS support & representative footprint within region.		Safety & Wellbeing	●	●	●	●	<ul style="list-style-type: none"> <li>Candidates identified &amp; appointed.</li> </ul>

# How we manage our Operational Risk

The Local Government Regulation 2012 requires the management of risk to be included in Council's Annual Operational Plan. Annual operational plan contents s 175 (1) - the annual operational plan for a local government must – (b) state how the local government will – (ii) manage operational risks.

The Council's risk management vision is 'creating excellence in risk, work health and safety and business continuity management'. The objectives are managing risk exposure, consistently and systematically to maximise community outcomes. This effectively leverages the benefit of opportunities, manages uncertainty, builds organisational resilience and minimises the impact of adverse events to ensure sustainability.

Risk management for Council's local government area is governed by the Enterprise Risk Management Framework which is integral to the overarching Corporate Governance Framework. This approach is aligned with AS/NZS ISO 31000: 2018 Risk Management and is tailored to the specific business and the organisational context of Council at an operational, tactical and strategic level.

The framework provides procedures, systems, policies and strategies that focus on effective risk management leadership through engagement and consultation.

In addition to ongoing risk reviews at corporate, operational and local level, the Executive Leadership Team participates in an annual workshops to review the corporate risk profiles and ensure risks are managed effectively to a level as low as is reasonably practicable taking into consideration emerging issues, global trends, threats and opportunities. Risks are also reviewed regularly through engagement of the Risk Managers, the Work Health and Safety Advisory Committee and the Audit Committee. These Committees support good governance through consultation and engagement with Council Executive Leadership, Managers and Officers.

By identifying and actively managing risks and with the implementation of numerous risk treatment strategies, business continuity plans, incident management protocols, inspections and audits, security plans and work health and safety initiatives, the Council is equipped to ensure that risks are managed to a level as low as is reasonably practicable whilst optimising restricted opportunities available.



**Torres Strait Island**  
REGIONAL COUNCIL

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# TORRES STRAIT ISLAND REGIONAL COUNCIL

## AGENDA REPORT

<b>ORDINARY MEETING:</b>	November 2020
<b>DATE:</b>	16 November 2020
<b>ITEM:</b>	Agenda Item for Resolution by Council
<b>SUBJECT:</b>	Policy Matter – New Policy
<b>AUTHOR:</b>	Terri Jacklin, Head of People & Wellbeing

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### Resolution:

Council resolves to:

1. Adopt the new Child and Youth Risk Management Policy to align with current legislative and industry standard practice.  
  
and
2. Delegate authority to the Chief Executive Officer in accordance with the *Local Government Act 2009* to make further minor administrative amendments as they arise.

### Purpose:

The purpose of this report is to present for adoption the Child and Youth Risk Management Policy for Council for a one-year period until October 2021 when it must be reviewed in accordance with legislation.

### Background:

Changes to the blue card system which commenced on 31 August 2020 affect organisations regulated under the blue card system. The changes include; the No Card, No Start law and a new rule for expiring cards.

Council is regulated by the blue card system and due to these changes must ensure adherence with our obligations under the *Working with Children (Risk Management and Screening) Act 2000*.

These obligations are to reduce the risks children may face and ensure safe environments for Queensland's children.

All children in Queensland have a right to be safe from harm. The blue card system regulates activities which are essential to children's lives. These include child-care, education, sport, cultural activities and foster care. Blue Card check and monitor people who work in these industries and help organisations to create safe environments for children. To work with children in Queensland workers need to have a blue card.

Council operates child-care services on Badu Island and Hammond Island, therefore is required to have a child and youth risk management strategy in place to make sure these child-care centres are safe places for children. Council will meet this obligation by implementing the Child and Youth Risk Management Policy and by developing and implementing a Child and Youth Risk Management Procedure.



The Policy needs to address the eight (8) mandatory requirements and aim to help create a safe and supportive environment for children.

The blue card system helps organisations to understand their obligations and also undertake targeted compliance initiatives when organisations do not fulfil their obligations. For organisations there are a range of penalties for not complying with the blue card system.

As an employer, TSIRC must not employ or continue to employ someone if we know that their blue card is not valid for any reason (cancelled, negative notice, disqualified person, etc.). For example, Council must not employ a person in regulated employment if they have a negative notice, notice cancelled, disqualifying offence, etc. The maximum penalty is \$26,690.00 or 2 years imprisonment.

**Officer Comment:**

This is a mandatory policy document required for council to meet their legislative requirements under the *Commission for Children and Young People Act 2000*; *Commission for Children and Young People and Child Guardian Amendment Bill 2004*; *The Child Protection Act 1999*; and *Working with Children Risk Management and Screening Act 2000*

**Links to Plans:**

Corporate Plan 2020-2025

- People, Sustainability and Prosperity

Operational Plan 2020-2021

- Evolve Council's recruitment process and systems, focusing on regional accessibility.

**Statutory:**

*Commission for Children and Young People Act 2000*

*Commission for Children and Young People and Child Guardian Amendment Bill 2004*

*The Child Protection Act 1999*

*Working with Children Risk Management and Screening Act 2000*

**Recommendation:**

The Policy has been prepared in line with the aforementioned legislation and is recommended for adoption.

Endorsed

Hollie Faithfull

**Acting Chief Executive Officer**

**ATTACHMENTS:**

Child and Youth Risk Management Policy

# Child and Youth Risk Management Policy

<b>Responsible Manager</b>	Terri Jacklin
<b>Head of power</b>	<i>Commission for Children and Young People Act 2000 Commission for Children and Young People and Child Guardian Amendment Bill 2004 The Child Protection Act 1999 Working with Children Risk Management and Screening Act 2000</i>
<b>Authorised by</b>	Council
<b>Authorised on</b>	TBC
<b>Implemented from</b>	TBC
<b>Last reviewed</b>	July 2020
<b>Review history</b>	2020
<b>To be reviewed on</b>	October 2021
<b>Corporate Plan</b>	People, Sustainability and Prosperity

## **1. Purpose**

The Child and Youth Risk Management Policy provides guidelines that ensure that TSIRC has appropriate procedures in place to maintain the safety and wellbeing for children and young people by complying with our legislative requirements under the blue card system, ensuring that our policy and procedure remains current and effective in identifying and minimising risks of harm to children and young people.

## **2. Application**

This policy applies to all Councillors, employees, volunteers, contractors and third-party providers acting on behalf of TSIRC.

## **3. Legislation/Policies**

This policy is established with reference to obligations specified in the *Working with Children (Risk Management and Screening) Act 2000* and the *Working with Children (Risk Management and Screening) Regulation 2011*.

## **4. Provisions or other relevant heading**

The Working with Children (Risk Management and Screening) Act 2000 (the Act) and the Working with Children (Risk Management and Screening regulation 2011 require regulated organisations to develop and implement a Child and Youth Risk Management Strategy which aims to keep children and young people safe.

TSIRC will comply with the eight minimum requirements outlined in the legislative framework as follows:

### **Commitment**

1. TSIRC is committed to maintaining the safety and wellbeing of children and the protection of children and young persons who use our services from harm so has developed a Child and Youth Risk Management Procedure to ensure appropriate procedures are in place; and
2. A code of conduct for interacting with children is included in the Child and Youth Risk Management Procedure which sets out the actions, behaviours and conduct expected of all TSIRC Councillors, employees, volunteers, contractors, consultants and third party providers acting on behalf of TSIRC.

### **Capability**

3. TSIRC has policies and procedure in place for the recruitment, selection, training and managing staff and volunteers.

### **Concerns**

4. Procedures for handling disclosures or suspicions of harm, including reporting guidelines are included in the Child and Youth Risk Management Procedure;
5. A plan is in place for managing breaches of our risk management strategy; and
6. Risk management plans must be conducted for high risk activities and special events as outlined in the Child and Youth Risk Management Procedure.

### **Consistency**

7. A written procedure is in place which provides clear guidelines for managing compliance with the blue care system; and
8. Strategies have been developed to ensure the organisation has effective communication and support processes in place. (Communication Guidelines)