

## Schedule 5 Planning scheme policies

### SC5.1 Planning scheme policy index

The table below lists all the planning scheme policies applicable to the planning scheme area.

**Table SC5.1.1—Planning scheme policy index**

Schedule	Planning scheme policy title
SC5.2	Cultural Heritage Planning Scheme Policy
SC5.3	Having a Say Planning Scheme Policy

## SC5.2 Cultural Heritage Planning Scheme Policy

### All Applications to Address Matters of Cultural Heritage

For all proposed development, discussion with the relevant Prescribed Body Corporate (PBC) and Traditional Owners will be necessary to understand possible impacts on cultural heritage given that:

- (1) Traditional Owners:
  - (a) are the primary source of information on the value of their cultural heritage and how this is best conserved;
  - (b) must have an active role in any heritage planning process;
  - (c) own intellectual property and other information relating to their culture and heritage;
  - (d) are the key stakeholders in land use planning through the relationship with land and sea management and resources; and
  - (e) are to be engaged with under Duty of Care obligations in order to manage and protect unique areas of cultural significance.
- (2) Prescribed Body Corporates:
  - (a) will be able to assist applicants to identify local areas and objects of significance.


All proposed developments must include:

- (1) a written agreement possibly in the form of a Cultural Heritage Management Plan; and
- (2) the results of a site inventory including a search of State Government and PBR cultural heritage records.

A written agreement, possibly in the form of a Cultural Heritage Management Plan, must address:

- (1) genuine consultation with the community to determine how they wish to safeguard and manage their cultural heritage;
- (2) how the development will protect the item or place of cultural heritage significance;
- (3) the requirement for a cultural heritage survey prior to approval of the development;
- (4) the role of the PBC and Traditional Owners as observers during construction to monitor the impact on cultural heritage;
- (5) methods to be used, such as temporary markers, that identify a buffer zone around the item or place of cultural heritage significance that must be removed after construction is completed;
- (6) a remediation plan which details how and when an item or place of cultural heritage significance will be reinstated, if removed or damaged during construction; and
- (7) the details of a 'sign-off process' after construction is completed to ensure all parties are satisfied with the condition of the cultural heritage place or item after construction is completed.

The community and the PBC is to identify, record and manage places and items of cultural heritage significance, particularly those affected by natural hazards, and determine if information will be made available to the general public.

 **Editor's Note** – Places shown as sacred sites and significant trees on the maps in schedule 2.4 are potential locations of cultural heritage value. Other locations of cultural heritage value will exist that are not shown on the maps and in some cases, locations are not recorded due to reasons of confidentiality.

It is important that all land users are aware of their obligations under the *Torres Strait Islander Cultural Heritage Act 2003*. The Act recognises that Torres Strait Islander people are the guardians, keepers and knowledge holders of their cultural heritage. Importantly, the Act recognises that significant areas do not necessarily have markings or other physical evidence indicating occupation or denoting its significance. For example, geographical places of importance may such as places that are part of myths or legends (commonly referred to as 'storyplaces') are significant under the Act.

The most important part of the Act is the Duty of Care provisions that require those conducting activities in areas of significance to take all reasonable and practical measures to avoid harming cultural heritage.

## SC5.3 Having a Say Planning Scheme Policy

### The Purpose of this Planning Scheme Policy

This policy outlines a process that the Torres Strait Island Regional Council (TSIRC) may choose to follow to seek additional advice or comment from community members and Traditional Owners about development applications.

This process can be used by Council to provide an additional opportunity for Traditional Owners, Prescribed Body Corporates, native title claimants, elders, rangers and other people to have a say on a range of different matters, including whether a development application may harm important features and places, including those of value for cultural heritage and ailan kastom reasons.

TSIRC may choose to use or not use the information provided by Traditional Owners, Prescribed Body Corporates, native title claimants, elders, rangers and other people. Instead, the comments will be used to help Council make informed decisions about development applications.

### When TSIRC May Seek Additional Advice or Comment

The Torres Strait Island Regional Council may ask any person or organisation for advice or comment under Section 34 of the *Development Assessment Rules 2017*. This can occur at any stage in the IDAS process (i.e. after the application is received and before a decision notice is issued) and there is no particular way that advice and comment must be asked for and received. The request may occur during public notification of the development application.


### Information that TSIRC May Request

There is a lot of good work and detailed local knowledge held by individuals, Prescribed Body Corporates, elders, rangers and others in each TSIRC community. It is important that this knowledge is incorporated into decisions about development applications so that important features and places can be protected and development happens in a way that is consistent with the Torres Strait way of life.

Examples of information that may be requested by TSIRC include information about cultural heritage, ailan kastom, management of land and sea country, pests and weeds, natural resource management and places of environmental value.

### Timeframes for Providing Advice to TSIRC

So that advice and comments received under Section 34 are provided before Council assesses the application, Council may ask that advice and comment is provided within a specified timeframe.

 **Editor's Note** – In addition to the above, the community may also have an opportunity to comment on a development application during the formal public notification period, if the development application is made impact assessable under section 5.4 of the planning scheme.

