



AGENDA

TORRES STRAIT ISLAND REGIONAL COUNCIL

APRIL 2021

Wednesday 21st April 2021, 9:00am – 5:00pm

Thursday 22nd April 2021, 9:00am – 12:30pm

Video Conference

COUNCIL ORDINARY MEETING

Wednesday 21st April 2021

Agenda Items

1. 09:00am – 09:05am Welcome and Opening Remarks
2. 09:05am – 09:10am Apologies
3. 09:10am – 09:20am Declaration of Conflict of Interest (COI) (Prescribed and Declarable)
4. 09:20am – 09:25am Confirmation of Meeting Minutes
 - 17th and 18th March 2021 – adjourned until May Ordinary Meeting
5. 09:25am – 09:30am Outstanding Ordinary Meeting Action Items – adjourned until May Ordinary Meeting
6. 09:30am – 09:30am COUNCIL MOVE INTO CLOSED BUSINESS
7. 09:30am – 10:30am LEGAL – CB – Delegation – Sea Swift dispute

MORNING TEA 10:30am – 10:50am

8. 10:50am – 11:10am FINANCE – CB – Industrial Relations Matter
9. 11:10am – 11:40am MAYOR – CB – Industrial Matter – **Late**
10. 11:40pm – 12:10pm MAYOR – CB – Industrial Matter - **Late**
11. 12:10pm – 12:30pm BSU – CB – Contractual Matter – 11 School Road, Badu

LUNCH 12:30pm – 1:30pm

12. 1:30pm – 1:50pm BSU – CB – Contractual Matter – 24 Main Street, St Pauls
13. 1:50pm – 1:50pm COUNCIL MOVE OUT OF CLOSED BUSINESS
14. 1:50pm – 2:10pm BSU – Interim Remote Capital Program - Variation to Funding Agreement
15. 2:10pm – 2:30pm COMMUNITY SERVICES – Removal of Donga, 95 Egru Village Erub
16. 2:30pm – 2:50pm CORPORATE – Community Grants
17. 2:50pm – 3:10pm CORPORATE – Public Interest Disclosure Policy and Management Program

AFTERNOON TEA 3:10pm – 3:30pm

18. 3:30pm – 2:45pm CORPORATE – Ugar Community Safe Access – Deed of Variation
19. 3:45pm – 4:00pm CORPORATE – Enterprise Risk Management Guidelines Document - **Late**
20. 4:00pm – 4:20pm CORPORATE – Policies Update - **Late**
21. 4:20pm – 4:40pm CORPORATE – National Voice Proposal - **Late**
22. 3:40pm – 4:55pm ENGINEERING – LDMG Membership
23. 4:55pm – 5:00pm Closing Remarks

COUNCIL ORDINARY MEETING
Thursday 22nd April 2021
Agenda Items

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|-----|-------------------------|---|
| 24. | <u>9:00am – 9:05am</u> | <u>Welcome and opening prayer.</u> |
| 25. | <u>9:05am – 9:35am</u> | <u>Deputation 1 – Julia Yorkston – Social Justice
Interagency Services</u> |
| 26. | <u>9:35am – 10:00am</u> | <u>Standing Agenda Item:</u> <ul style="list-style-type: none">• Monthly Financial Report |

MORNING TEA – 10:00am – 10:20am

- | | | |
|-----|--------------------------|---|
| 27. | <u>10:20am – 10:35am</u> | <u>OCEO – Change to May 2021 Ordinary Meeting Dates</u> |
| 28. | <u>10:35am – 10:50am</u> | <u>LEGAL – Complaint Management Policy Review - Late</u> |
| 29. | <u>10:50am – 11:15am</u> | <u>LEGAL – Strait Support, Erub</u> |
| 30. | <u>11:15am – 11:25pm</u> | <u>Business Arising from Information Reports</u> |
| 31. | <u>11:25am – 12:15pm</u> | <u>Strategic Matters</u> |
| 32. | <u>12:15pm – 12:20pm</u> | <u>Next Meeting Date – 17 & 18 May 2021 – Cairns</u> |
| 33. | <u>12:20pm – 12:30pm</u> | <u>Closing Remarks and Prayers</u> |



TORRES STRAIT ISLAND REGIONAL COUNCIL

AGENDA REPORT

ORDINARY MEETING:	April 2021
DATE:	20-21 April
ITEM:	Agenda item for Resolution by Council
SUBJECT:	Interim Remote Capital Program Variation to Funding Agreement
AUTHOR:	Peter Jacques, Head of Building Services

Recommendation

Council resolves to:

1. Build 5/7 plug-ins only, and the 2 excluded are those allocated to Badu, under the \$2.35M Interim capital program.

And

2. Build the 2 plug-ins allocated under the Rural and remote program at Badu.

And

Delegate power to the Chief Executive Officer, pursuant to section 257 of the Local Government Act 2009 to enter into contract, negotiate, finalise and execute any and all matters associated with or in relation to \$2.35M Interim capital program funding agreement, including any further variations to allow for extensions of time or increase in funding.

Executive Summary

This report seeks Council's endorsement to request to amend the Interim Capital Program funding agreement with the State of Queensland. The amendment constitutes a decrease in the number of 2 bedroom plug ins to be built, from seven (7) to five (5) for the \$2,352,941 allocated for the project and delegate power to the Chief Executive Officer, pursuant to section 257 of the Local Government Act 2009 to enter into contract, negotiate, finalise and execute any and all matters associated with or in relation to \$2.35M Interim Capital Program funding agreement, including any further variations to allow for extensions of time or increase in funding. RICD have advised the Rural and Remote program has funding allocated to build 2 plug-ins at Badu. In summary, there is sufficient funding available under two separate programs to deliver a total of 7 plug-ins.

Background

On 8 February 2021, Council met with the Remote Indigenous Capital Delivery (RICD) team from the Department of Communities, Housing & Digital Economy (DCHDE) to advise that as part of the Planning and Preparation Stage of the Interim Capital Works Program. RICD advised that it supported a request to amend the number of outputs and noted that TSIRC would need to submit a formal letter signed by the CEO requesting an amendment to the Funding Agreement due to an identified shortfall of funding. Council were advised that works can continue unchanged on the 5 projects that will still be proceeding through this program. RICD require a progress report by 30 April 2021, as per terms of funding agreement.

An Agenda Report for noting was presented to the February Ordinary meeting, explaining the background and recommended way forward. An Agenda Report for resolution was presented to the March Ordinary Meeting and Council requested further information be presented at SARG. At the April meeting, RICD presented and SARG recommended an Agenda Report for resolution be presented at the April Ordinary Meeting. Since the April SARG, RICD has advised of funding allocated under the former Rural and Remote Program to build 2 X 2 bedroom Plug-ins at Badu.

Considerations

The Interim Capital funding agreement requires Council provide an update to RICD by 30 April 2021, therefore it is advised Council take a decision on the preferred option at the April Ordinary Meeting.

NOTE:

After the April SARG meeting, RICD advised BSU, the Rural and Remote Program (separate from the Interim and Forward Capital programs) has allocated funding to build 2 x 2 Bedroom Plug ins on Badu. BSU is currently preparing costings for RICD.

The funding for two Plug-ins at Badu is new money separate from the \$2.35M and will have no impact on Council Budget.

Finance & Risk

Under the conditions of the Interim capital agreement Council is responsible for any overspend (in excess of the funding). Therefore, if TSIRC does not reduce the number of structures, it will be financially liable for the shortfall.

Reducing the number of Plug Ins from seven (7) to five (5) deliverable under the Interim capital program reduces Council's liability from a possible \$1,007,059 to nil.

The Rural and remote program will fund two (2) plug-ins allocated to Badu.

Consultation

- Remote Indigenous Capital Delivery, DCHDE.
- SARG

Statutory Requirements

Local Government Act 2009

Local Government Regulations 2012

Conclusion

That Council approve the recommendation above.

Endorsed:

Peter Jacques
Head of Building Services



Ilario Sabatino
Acting Chief Executive Officer

Recommended:

Rachel Pierce
Acting Chief Operating Officer

Rachel Pierce



TORRES STRAIT ISLAND REGIONAL COUNCIL

AGENDA REPORT

ORDINARY MEETING:	April 2021
DATE:	20-21 April
ITEM:	Agenda item for Resolution by Council
SUBJECT:	Removal of donga Lot 95 Egriu Village, Erub
AUTHOR:	Dawson Sailor, Acting Head of Building Services

Recommendation

Council resolves to:

- request Department of Communities, Housing & Digital Economy (DCHDE) remove and demolish the donga at Lot 95 Egriu Village, Erub

And

- Delegate power to the Chief Executive Officer, pursuant to section 257 of the Local Government Act 2009 to enter into contract, negotiate, finalise and execute any and all matters associated with or in relation to this matter.

Executive Summary

This report seeks Council's endorsement to request DCHDE arrange demolition and removal the donga at Lot 95 Egriu Village, Erub and delegate power to the Chief Executive Officer, pursuant to section 257 of the Local Government Act 2009 to enter into contract, negotiate, finalise and execute any and all matters associated with or in relation to this project.

Background

In February of 2020 TSIRC requested DCHDE remove Lot 95 Egriu Village, Erub from the social housing portfolio. DCHDE is supportive of removing this property and DCHDE consulted Mr Walter Lui and his family. Mr Lui requested DCHDE demolish and remove the dilapidated donga on the property to avoid any ongoing costs when the 99 year home ownership lease application has been finalised. DCHDE is supportive of funding this demolition and removal to support local decision making.

DCHDE representatives advised TSIRC's former CEO and former Manager, Housing, for the demolition and removal to occur, DCHDE requires a formal, written request from TSIRC, through council resolution. DCHDE requested this be tabled at the next available Council meeting.

Considerations

The property is dilapidated.

Finance & Risk

DCHDE have advised in writing DCHDE will fund the demolition and removal of the donga at no cost to Council.

Consultation

- Aboriginal and Torres Strait Islander Housing Unit, Department of Communities, Housing & Digital Economy

Statutory Requirements

Local Government Act 2009

Local Government Regulations 2012

Conclusion

That Council approve one of three options above and delegate power to request a variation to the Interim capital program funding agreement, to the Chief Executive Officer under the *Local Government Act 2009*.

Dawson Sailor

Acting Head of Community Services



Rachel Pierce

Acting Chief Operating Officer



Ilario Sabatino

Acting Chief Executive Officer



TORRES STRAIT ISLAND REGIONAL COUNCIL

AGENDA REPORT

ORDINARY MEETING:	April 2021
DATE:	20-21/04/21
ITEM:	Agenda Item for Resolution by Council
SUBJECT:	Community Grants Program Allocation – April 2021
AUTHOR:	Kim Kelly, Team Leader – Enterprise Delivery

Recommendation:

Council resolves to allocate Community Grants Program funding to the following applicants in accordance with the Community Grants Policy:

Community Grant Applications:

- Serub Serub Nar Racing Club for the eligible amount of \$1,978.75 exclusive of GST, as per the submitted application.
- Badu United Team for the eligible amount of \$2,500.00 exclusive of GST, as per the submitted application.*
- Masigal Gal Community for the eligible amount of \$9,372.72 exclusive of GST, as per the submitted application.
- Norita Kris for the eligible amount of \$2,500.00 exclusive of GST, as per the submitted application.
- Dhadhin Geai Warriors & Sports for the eligible amount of \$7,094.00 exclusive of GST, as per the submitted application.*
- Sophie Nona for the eligible amount of \$892.50 exclusive of GST (plus in-kind assistance to the value of \$1,043.00 – approval pending), as per the submitted application.*
- Erub Arts for the eligible amount of \$7,985.10 exclusive of GST, as per the submitted application.
- Mui Kuzi Touch Football Team for the eligible amount of \$9,522.00 exclusive of GST, as per the submitted application.
- Melita Hosea for the eligible amount of \$2,500.00 exclusive of GST, as per the submitted application.*
- St Pauls Anglican Church for the eligible amount of \$1,000.00 exclusive of GST, as per the submitted application.

**It is noted that the four (4) applications for Badu Community total \$12,986.50, with available balance of Community funds at \$9,206.46. If all applications are approved, funding amounts will require adjusting accordingly.*

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 March ten (10) community grant applications meeting the eligibility requirements were received.

An assessment based on eligibility criteria was conducted by Council officers in accordance with the Community Grant Policy. An acknowledgement of each application being received and assessed as compliant was issued to the applicants.

The ten (10) applications, which meet eligibility requirements, are:

Applicant	Project	Location
Serub Serub Nar Racing Club	Contribution towards canoe materials for the Coming of the Light	Erub
Badu United Team	Contribution towards uniforms for Island of Origin 2021	Badu
Masigal Gal Community	Contribution towards travel to attend Sibwanan-Omar Ceremony	Yorke
Norita Kris	Contribution towards costs for guardian and student to travel to Qld School Sport Representative in Cairns	St Pauls
Dhadhin Geai Warriors & Sports	Contribution towards accommodation/flights for officials attending Island of Origin	Badu
Sophie Nona	Contribution towards costs associated with attendance at Qld School Sport Representative in Cairns	Badu
Erub Arts	Contribution towards publication of Coming of the Light 150th Anniversary Booklet	Erub
Mui Kuzi Touch Football Team	Contribution towards attendance at Battle of the Islands - flights, accommodation & uniforms	Poruma
Melita Hosea	Contribution towards costs for guardian and student to travel to Qld School Sport Representative in Cairns	Badu
St Pauls Anglican Church	Contribution towards catering for Florence Buchanan Day Memorial Dinner	St Pauls

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

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



Recommended:

Hollie Faithfull
Chief Financial Officer

Approved:

Ilario Sabatino
Acting Chief Executive Officer

Attachment: Fund balances

Attachment: Fund Balances (after payment of March approved applications)

Division	Councillor	Budget	Less approved funding	Closing Balance
Boigu	Cr. Toby	\$25,000.00	\$10,492.50	\$14,507.50
Hammond	Cr. Dorante	\$25,000.00	\$0.00	\$25,000.00
St Pauls	Cr. Levi	\$25,000.00	\$5,151.27	\$19,848.73
Ugar	Cr. Stephen	\$25,000.00	\$0.00	\$25,000.00
Badu	Cr. Nona	\$25,000.00	\$15,793.54	\$9,206.46
Dauan	Cr. Elisala	\$25,000.00	\$1,990.00	\$23,010.00
Erub	Cr. Gela	\$25,000.00	\$0.00	\$25,000.00
Iama	Cr. Lui	\$25,000.00	\$7,998.41	\$17,001.59
Kubin	Cr. Trinkoon	\$25,000.00	\$10,000.00	\$15,000.00
Mabuiag	Cr. Fell	\$25,000.00	\$6,500.00	\$18,500.00
Mer	Cr. Noah	\$25,000.00	\$2,549.82	\$22,450.18
Poruma	Cr. Pearson	\$25,000.00	\$11,999.98	\$13,000.02
Saibai	Cr. Tabuai	\$25,000.00	\$6,500.00	\$18,500.00
Warraber	Cr. Tamu	\$25,000.00	\$6,500.00	\$18,500.00
Yorke	Cr. Mosby	\$25,000.00	\$7,979.14	\$17,020.86
Mayor	Cr. Mosby	\$30,000.00	\$0.00	\$30,000.00
Regional Grant		\$50,000.00	\$2,507.50	\$47,492.50
		\$455,000.00	\$95,962.16	\$359,037.84



TORRES STRAIT ISLAND REGIONAL COUNCIL

AGENDA REPORT

ORDINARY MEETING:	April 2021
DATE:	20-21 April 2021
ITEM:	New Policy - Agenda Item for Resolution by Council
SUBJECT:	Public Interest Disclosure Policy and Management Program
AUTHOR:	Nerida Carr, Manager of Risk and Ethics

Recommendation:

Council resolves to;

adopt the Public Interest Disclosure Policy and Management Program

and

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 Public Interest Disclosure Policy and Management Program for Council.

Background:

As part of Management's responses to the Internal Audit review of Fraud Risk and Ethical Conduct, Fraud Risk Management Policies and procedures are being developed and reviewed in accordance with updated legislation and best practice guidelines. One of the steps in the review is the adoption of a Public Interest Disclosure Policy by Council.

Officer Comment:

Providing information about wrongdoing in the public sector is commonly known as "whistleblowing". The legal term for it is "making a public interest disclosure (PID)".

Corruption, maladministration and misuse of public resources contribute to increased costs of providing public services. These also reduce the quality of services because of unfair, unreasonable or unlawful decisions and actions.

Torres Strait Island Regional Council (TSIRC) is committed to fostering an ethical, accountable and transparent culture. This Policy demonstrates this commitment and ensures that practical and effective procedures are implemented which comply with the requirements of the [Public Interest Disclosure Act 2010](#) (PID Act).

Under legislation, the CEO has overall responsibility for ensuring that TSIRC develops, implements and maintains a PID management program. All Council personnel are responsible for:

- reporting PIDs in accordance with this policy;
- conducting their duties to a high level of professional and ethical standards; and
- acting in the public interest.

The proposed policy has been independently reviewed by The Office of the Queensland Ombudsman, the oversight entity under the PID Act, and confirmed as compliant.

Consultation:

- Internal consultation initially comprised of the Manager Risk and Ethics liaising with relevant Executive Office, Legal Services and People and Wellbeing personnel.
- Internal Audit (Pacifica) also conducted a review of the first policy draft.
- All recommendations were incorporated into the final version sent to the Ombudsman's advisory service for review.
- The final policy was presented to the April SARG Meeting and committee members recommended for Council endorsement.

Links to Strategic Plans:

Our Values:

- Accountability: We are reliable, honest and ethical in all that we do.

Corporate Plan 2020-2025

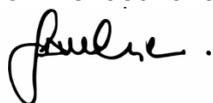
- We manage Council affairs responsibly to the benefit of our communities.

Statutory Requirements:

- [Public Interest Disclosure Act 2010](#)
- [Public Interest Disclosure Standard No. 1/2019](#)
- [Public Interest Disclosure Standard No. 2/2019](#)
- [Public Interest Disclosure Standard No. 3/2019](#)

Conclusion:

The Public Interest Disclosure Policy and Management Program has been drafted in line with the listed documents and legislation, endorsed by the Strategic Advisory Reference Group, and is recommended for adoption.



Endorsed:

Luke Ranga
Head of Corporate Affairs



Recommended:

Hollie Faithful
Chief Financial Officer



Approved:

Ilario Sabatino
Acting Chief Executive Officer

Attachment 1: *Public Interest Disclosure Policy and Management Program*



Public Interest Disclosure Policy and Management Program

Responsible Manager	Chief Executive Officer
Head of power	<i>Public Interest Disclosure Act 2010 Crime and Corruption Act 2001 Local Government Act 2009 Public Sector Ethics Act 1994 Public Records Act 2002</i>
Authorised by	Council adoption
Authorised on	XX April 2021
Implemented from	April 2021
Last reviewed	N/A
Review history	Version One
To be reviewed on	April 2022
Corporate Plan	Accountability: We are honest, reliable and ethical in all that we do.

1. Purpose

Torres Strait Island Regional Council (TSIRC) is committed to fostering an ethical, transparent culture. In pursuit of this, TSIRC values the disclosure of information about suspected wrongdoing in the public sector so that it can be properly assessed and, if necessary, appropriately investigated. TSIRC will provide support to an employee or others who make disclosures about matters in the public interest. This Policy demonstrates this commitment and ensures that practical and effective procedures are implemented which comply with the requirements of the [Public Interest Disclosure Act 2010](#) (PID Act).

TSIRC's Public Interest Disclosure Policy and Management Program is available for public viewing at www.tsirc.qld.gov.au. The Public Interest Disclosure Policy and Management Program will be reviewed annually and updated as required by the Manager Risk and Ethics to ensure it meets the requirements of the PID Act and the standards issued by the Queensland Ombudsman.

2. Application

This policy will be applied at all levels of the organisation and recognised and practiced by all Councillors, employees, contractors, and volunteers including those involved with any affiliated entity, program, or initiative.

By complying with the PID Act, TSIRC will:

- promote the public interest by facilitating public interest disclosures (PIDs) of wrongdoing
- ensure that PIDs are properly assessed and, where appropriate, properly investigated and dealt with
- ensure appropriate consideration is given to the interests of persons who are the subject of a PID
- ensure protection from reprisal is afforded to persons making PIDs
- encourage internal wrongdoing as defined in the PID Act
- ensure the PID process is managed in accordance with the PID Act and appropriate confidentiality is maintained

3. Legislation/Policies

The *Public Interest Disclosure Act 2010* requires the Chief Executive Officer (CEO) to implement procedures to ensure that:

- any public officer who makes a PID is given appropriate support
- PIDs made to TSIRC are properly assessed and, where appropriate, properly investigated and dealt with
- appropriate action is taken in relation to any wrongdoing which is the subject of a PID
- a management program for PIDs made to TSIRC, consistent with the standards issued by the Queensland Ombudsman, is developed and implemented
- public officers who make PIDs are offered protection from reprisal by TSIRC or other public officers of TSIRC.

Other relevant legislation:

- *Crime and Corruption Act 2001*
- *Local Government Act 2009*

- *Public Sector Ethics Act 1994*
- *Public Records Act 2002*

Supporting Information:

- [Public Interest Disclosure Standard No. 1/2019](#)
- [Public Interest Disclosure Standard No. 2/2019](#)
- [Public Interest Disclosure Standard No. 3/2019](#)
- [Disclosure Fact sheet 1: What is a disclosure](#)
- [Disclosure Fact sheet 2: Checklist for making a disclosure](#)
- [Disclosure Fact sheet 3: Discloser information and support](#)

Related TSIRC policies include:

- Fraud and Corruption Prevention Policy
- Complaint Management Policy
- Code of Conduct
- Risk Management Policy
- Complaint against Public Official (CEO) Policy

4. Definitions

What is a Public Interest Disclosure (PID)?

Providing information about wrongdoing in the public sector is commonly known as “whistleblowing”. The legal term for it is “making a public interest disclosure (PID)”.

Under the PID Act, any person can make a disclosure about a:

- substantial and specific danger to the health or safety of a person with a disability
- the commission of an offence, or contravention of a condition imposed under a provision of legislation mentioned in Schedule 2 of the PID Act, if the offence or contravention would be a substantial and specific danger to the environment
- reprisal because of a belief that a person has made or intends to make a disclosure.

In addition, public sector (including Local Government) employees can make a disclosure about the following public interest matters:

- corrupt conduct
- maladministration that adversely affects a person’s interests in a substantial and specific way
- a substantial misuse of public resources
- a substantial and specific danger to public health or safety
- substantial and specific danger to the environment.

A discloser can have either a ‘reasonable belief’ that wrongdoing has occurred or provide evidence which tends to show the wrongdoing has occurred.

A disclosure amounts to a PID and is covered by the PID Act even if the:

- discloser reports the information as part of their duties – such as an auditor reporting a fraud or an occupational health and safety officer reporting a safety breach
- disclosure is made anonymously – the discloser is not required to give their name or any identifying information

- discloser has not identified the material as a PID – it is up to TSIRC to assess information received and decide if it is a PID
- disclosure is unsubstantiated following investigation – the discloser is protected when the information they provide is assessed as a PID, whether or not it is subsequently investigated or found to be substantiated.

Key terms in the Public Interest Disclosure Policy and Management Program are defined here:

Term	Definition
Administrative action	<p>(a) means any action about a matter of administration, including, for example:</p> <ul style="list-style-type: none"> (i) a decision and an act; and (ii) a failure to make a decision or do an act, including a failure to provide a written statement of reasons for a decision; and (iii) the formulation of a proposal or intention; and (iv) the making of a recommendation, including a recommendation made to a Minister; and (v) an action taken because of a recommendation made to a Minister; and <p>(b) does not include an operational action of a police officer or of an officer of the Crime and Corruption Commission.</p>
Confidential information	<p>(a) includes —</p> <ul style="list-style-type: none"> (i) information about the identity, occupation, residential or work address or whereabouts of a person — <ul style="list-style-type: none"> (A) who makes a public interest disclosure; or (B) against whom a public interest disclosure has been made; and (ii) information disclosed by a public interest disclosure; and (iii) information about an individual's personal affairs; and (iv) information that, if disclosed, may cause detriment to a person; and <p>(b) does not include information publicly disclosed in a public interest disclosure made to a court, tribunal or other entity that may receive evidence under oath, unless further disclosure of the information is prohibited by law.</p>
Corrupt conduct	<p>As defined in section 15 of the Crime and Corruption Act 2001</p> <p>(1) Corrupt conduct means conduct of a person,</p>

regardless of whether the person holds or held an appointment, that—

(a) adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of—

(i) a unit of public administration; or

(ii) a person holding an appointment; and

(b) results, or could result, directly or indirectly, in the performance of functions or the exercise of powers mentioned in paragraph (a) in a way that—

(i) is not honest or is not impartial; or

(ii) involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or

(iii) involves a misuse of information or material acquired in or in connection with the performance of functions or the exercise of powers of a person holding an appointment; and

(c) would, if proved, be—

(i) a criminal offence; or

(ii) a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.

(2) **Corrupt conduct** also means conduct of a person, regardless of whether the person holds or held an appointment, that—

(a) impairs, or could impair, public confidence in public administration; and

(b) involves, or could involve, any of the following—

(i) collusive tendering;

(ii) fraud relating to an application for a licence, permit or other authority under an Act with a purpose or object of any of the following (however described)—

(A) protecting health or safety of persons;

(B) protecting the environment;

(C) protecting or managing the use of the State's natural, cultural, mining or energy resources;

(iii) dishonestly obtaining, or helping someone to dishonestly obtain, a benefit from the payment or application of public funds or the disposition of State assets;

(iv) evading a State tax, levy or duty or otherwise fraudulently causing a loss of State

	<p>revenue;</p> <p>(v) fraudulently obtaining or retaining an appointment; and</p> <p>(c) would, if proved, be—</p> <p>(i) a criminal offence; or</p> <p>(ii) a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.</p>
Detriment	<p>includes –</p> <p>(a) personal injury or prejudice to safety; and</p> <p>(b) property damage or loss; and</p> <p>(c) intimidation or harassment; and</p> <p>(d) adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business; and</p> <p>(e) financial loss; and</p> <p>(f) damage to reputation, including, for example, personal, professional or business reputation.</p>
Disability	<p>As defined in section 11 of the Disability Services Act 2006, for the purposes of this procedure:</p> <p>(1) A disability is a person's condition that—</p> <p>(a) is attributable to—</p> <p>(i) an intellectual, psychiatric, cognitive, neurological, sensory or physical impairment; or</p> <p>(ii) a combination of impairments mentioned in subparagraph (i); and</p> <p>(b) results in—</p> <p>(i) a substantial reduction of the person's capacity for communication, social interaction, learning, mobility or self care or management; and</p> <p>(ii) the person needing support.</p> <p>(2) For subsection (1), the impairment may result from an acquired brain injury.</p> <p>(3) The disability must be permanent or likely to be permanent.</p> <p>(4) The disability may be, but need not be, of a chronic episodic nature.</p>
Discloser	<p>A person who makes a disclosure in accordance with the Public Interest Disclosure Act 2010.</p>
Employee	<p>of an entity, includes a person engaged by the entity under a contract of service.</p>
Investigation	<p>For the purposes of this procedure, investigation includes any enquiry undertaken to establish whether the information provided in a PID can be substantiated, including a review or audit.</p>

Journalist	a person engaged in the occupation of writing or editing material intended for publication in the print or electronic news media.
Maladministration	<p>As defined in schedule 4 of the Public Interest Disclosure Act 2010, maladministration is administrative action that—</p> <p>(a) was taken contrary to law; or</p> <p>(b) was unreasonable, unjust, oppressive, or improperly discriminatory;</p> <p>or</p> <p>(c) was in accordance with a rule of law or a provision of an Act or a practice that is or may be unreasonable, unjust, oppressive, or improperly discriminatory in the particular circumstances; or</p> <p>(d) was taken—</p> <p>(i) for an improper purpose; or</p> <p>(ii) on irrelevant grounds; or</p> <p>(iii) having regard to irrelevant considerations; or</p> <p>(e) was an action for which reasons should have been given, but were not given; or</p> <p>(f) was based wholly or partly on a mistake of law or fact; or</p> <p>(g) was wrong.</p>
Natural justice	<p>Natural justice, also referred to as ‘procedural fairness’ applies to any decision that can affect the rights, interests or expectations of individuals in a direct or immediate way. Natural justice is at law a safeguard applying to an individual whose rights or interests are being affected.</p> <p>The rules of natural justice, which have been developed to ensure that decision-making is fair and reasonable, are:</p> <ul style="list-style-type: none"> • avoid bias; and • give a fair hearing. • act only on the basis of logically probative evidence.
Organisational support	<p>For the purposes of this procedure, organisational support means actions such as, but not limited to:</p> <ul style="list-style-type: none"> • providing moral and emotional support • advising disclosers about agency resources available to handle any concerns they have as a result of making their disclosure • appointing a mentor, confidante or other support officer

	<p>to assist the discloser through the process</p> <ul style="list-style-type: none"> • referring the discloser to the agency's Employee Assistance Program or arranging for other professional counselling • generating support for the discloser in their work unit where appropriate • ensuring that any suspicions of victimisation or harassment are dealt with • maintaining contact with the discloser • negotiating with the discloser and their support officer a formal end to their involvement with the support program when it is agreed that they no longer need assistance.
Proper authority	A person or organisation that is authorised under the Public Interest Disclosure Act 2010 to receive disclosures.
Public officer	A public officer, of a public sector entity, is an employee, member or officer of the entity.
Reasonable belief	A view which is objectively fair or sensible.
Reasonable management action	<p>Action taken by a manager in relation to an employee, includes any of the following taken by the manager—</p> <p>(a) a reasonable appraisal of the employee's work performance;</p> <p>(b) a reasonable requirement that the employee undertake counselling;</p> <p>(c) a reasonable suspension of the employee from the employment workplace;</p> <p>(d) a reasonable disciplinary action;</p> <p>(e) a reasonable action to transfer or deploy the employee;</p> <p>(f) a reasonable action to end the employee's employment by way of redundancy or retrenchment;</p> <p>(g) a reasonable action in relation to an action mentioned in paragraphs (a) to (f);</p> <p>(h) a reasonable action in relation to the employee's failure to obtain a promotion, reclassification, transfer or benefit, or to retain a benefit, in relation to the employee's employment.</p>
Reprisal	<p>The term 'reprisal' is defined under the Public Interest Disclosure Act 2010 as causing, attempting to cause or conspiring to cause detriment to another person in the belief that they or someone else:</p> <ul style="list-style-type: none"> • has made or intends to make a disclosure; or • has been or intends to be involved in a proceeding under the disclosure Act against any person.

	Reprisal under the Public Interest Disclosure Act 2010 is a criminal offence and investigations may be undertaken by the Queensland Police Service.
Subject officer	An officer who is the subject of allegations of wrongdoing made in a disclosure.
Substantial and specific	Substantial means 'of a significant or considerable degree'. It must be more than trivial or minimal and have some weight or importance. Specific means "precise or particular". This refers to conduct or detriment that is able to be identified or particularised as opposed to broad or general concerns or criticisms.

5. Roles and Responsibilities

The CEO has overall responsibility for ensuring that TSIRC develops, implements and maintains a PID management program. The TSIRC PID management program encompasses:

- commitment to encouraging the internal reporting of wrongdoing
- senior management endorsement of the value to TSIRC of PIDs and the proper management of PIDs
- a communication strategy to raise awareness among employees about PIDs and TSIRC's PID procedure
- a training strategy to give employees access to training about how to make a PID, information on the support available to a discloser, and advice on how PIDs will be managed
- specialist training and awareness about PIDs for senior management and other staff who may receive or manage PIDs, disclosers or workplace issues relating to PIDs
- the appointment of specific officers, with a designated alternative officer if needed, to be responsible for issues related to the management of PIDs
- ensuring effective systems and procedures are in place so that issues and outcomes from PIDs inform improvements to service delivery, business processes and internal controls
- ensuring that Council personnel making a PID receive support and protection from reprisal
- all legislative obligations in relation to reporting and investigation are met
- regular review of the Public Interest Disclosure Policy and evaluation of the effectiveness of the PID management program

The Chief Executive Officer has designated the following roles and responsibilities for managing PIDs within TSIRC:

Role:	Responsibilities:	Officer:
PID Coordinator	<ul style="list-style-type: none"> ▪ principal contact for PID issues within TSIRC 	Primary: Manager Legal Services Julia Maurus p: (07) 4034 5763

	<ul style="list-style-type: none"> ▪ document and manage implementation of PID management program ▪ review and update PID policy and management program annually ▪ regularly evaluate and monitor the effectiveness of PID procedures ▪ maintain and update internal records of PIDs received ▪ report data on PIDs to Queensland Ombudsman ▪ assess PIDs received ▪ provide acknowledgment of receipt of PID to discloser ▪ undertake risk assessments in consultation with disclosers and other relevant officers ▪ liaise with other agencies about referral of PIDs ▪ allocate Investigator and Support Officer to PID matter 	<p>m: 0474 951 282 e: julia.maurus@tsirc.qld.gov.au</p> <p>Secondary: Administration Officer Executive Services Cathy David p: (07) 4034 5734 e: cathy.david@tsirc.qld.gov.au</p>
PID Support Officer	<ul style="list-style-type: none"> ▪ provide advice and information to discloser on TSIRC PID and Complaints Management procedures ▪ provide personal support and referral to other sources of advice or support as required ▪ facilitate updates on progress of investigation ▪ inform the discloser of reasonable information throughout PID management process 	<p>Primary: Manager Risk and Ethics Nerida Carr p: (07) 4034 5727 m: 0437 519 533 e: nerida.carr@tsirc.qld.gov.au</p> <p>Secondary: Head of People and Wellbeing p: (07) 4034 5778 m: 0436 930 442 e: peopleandwellbeing@tsirc.qld.gov.au</p>
Investigator	<ul style="list-style-type: none"> ▪ conduct investigation of information in PID in accordance with terms of reference ▪ prepare report for delegated decision-maker 	<p>An appropriate internal or external investigator will be appointed for each PID investigated depending upon the type of disclosure and other relevant considerations.</p>
Delegated decision-maker	<ul style="list-style-type: none"> ▪ review investigation report and determine whether alleged wrongdoing is substantiated 	<p>An appropriate decision-maker will be appointed for each PID investigated.</p>

<p>Executive Management Team, Department Heads and Managers, Coordinators and Supervisors</p>	<ul style="list-style-type: none"> ▪ report to the PID Coordinator any PIDs reported to them ▪ maintain an ethical culture and lead by example ▪ provide clear guidance to Council personnel on how to handle complex issues which may involve corrupt conduct, while maintaining confidentiality and the principles of natural justice or procedural fairness ▪ ensure that Council personnel in their business area are aware of their obligations in relation to the requirements of the PID Act ▪ continually monitor and assess the workforce for signs of reprisals against a Discloser or Subject Officer under the principles of natural justice or procedural fairness and take appropriate actions to protect that person or persons ▪ ensure that, if PID allegations are substantiated, investigation and recommendations are implemented quickly to reduce the risk of reoccurrence ▪ notify the PID Coordinator in situations where any detrimental actions are taken against the Discloser and discuss concerns and options for addressing the situation before it escalates 	<p>All Executive Management Team, Department Heads and Managers, Regional and Divisional Managers, Coordinators and Supervisors</p>
<p>All Council Personnel</p>	<ul style="list-style-type: none"> ▪ report PIDs in accordance with this Policy ▪ conduct their duties to high level of professional and ethical standards and act in the public interest in accordance with the Code of Conduct 	<p>All Council Personnel</p>

	<ul style="list-style-type: none"> ▪ maintain confidentiality protocols established for the management and investigation of PIDs 	
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6. Public Interest Disclosure Management Process

Employees who are prepared to speak up about public sector misconduct, wastage of public funds, suspected unlawful activity or danger to health, safety or the environment can be the most important sources of information to identify and address problems in public sector administration. TSIRC supports the disclosure of information about wrongdoing because:

- implementing systems for reporting and dealing with wrongdoing contributes to the integrity of TSIRC
- the outcomes of PIDs can include improvements to systems that prevent fraud and other economic loss to TSIRC
- the community's trust in public administration is strengthened by having strong processes in place for reporting wrongdoing.

When making a PID the discloser receives the protections provided under the PID Act, including:

- confidentiality – the discloser's name and other identifying information will be protected to the extent possible
- protection against reprisal – the discloser is protected from unfair treatment by TSIRC and employees of TSIRC as a result of making the PID
- immunity from liability – the discloser cannot be prosecuted for disclosing the information but is not exempt from action if they have engaged in wrongdoing
- protection from defamation – the discloser has a defence against an accusation of defamation by any subject officer.

Who can a PID be disclosed too?

A PID must be made to the 'proper authority' to receive disclosures of the type being made.

Disclosers are encouraged to make a disclosure to an appropriate officer of TSIRC first. If the matter is not resolved, or the discloser is concerned about confidentiality, the disclosure may be made to another appropriate agency.

Who to contact within [TSIRC]:	Other agencies that can receive PIDs:
<p>Any person (including employees) can make a disclosure to:</p> <ul style="list-style-type: none"> • any person in a supervisory or management position • the Chief Executive Officer • via an online form under the Contact Us - Complaints Process on TSIRC's website (this may be anonymous) 	<p>Disclosures can be made to an agency that has a responsibility for investigating the information disclosed:</p> <ul style="list-style-type: none"> • Crime and Corruption Commission (CCC) for disclosures about corrupt conduct including reprisal • Queensland Ombudsman for disclosures about maladministration • Queensland Audit Office for disclosures about a substantial misuse of resources

www.tsirc.qld.gov.au/make-complaint

- Department of Child Safety, Youth and Women for disclosures about danger to the health and safety of a child or young person with a disability
- Department of Communities, Disability Services and Seniors for disclosures about danger to the health and safety of a person with a disability
- Office of the Public Guardian for disclosures about danger to the health and safety of a person with a disability
- Department of Environment and Science disclosures about danger to the environment
- A Member of the Legislative Assembly (MP) for any wrongdoing or danger
- The Chief Judicial Officer of a court or tribunal in relation to a disclosure about wrongdoing by a judicial officer.

A disclosure can also be made to a journalist if the following conditions have been met:

- a valid PID was initially made to a proper authority, and
- the proper authority:
 - decided not to investigate or deal with the disclosure, or
 - investigated the disclosure but did not recommend taking any action, or
 - failed to notify the discloser within six months of making the disclosure whether or not the disclosure was to be investigated or otherwise dealt with.

A person who makes a disclosure to a journalist in these circumstances is protected under the PID Act. However, disclosers should be aware that journalists are not bound under the confidentiality provisions of section 65 of the PID Act.

If you are a TSIRC or public sector employee and you inform a journalist of suspected corruption without first reporting it to a proper authority, you are not covered by any legal protection (that is, under the PID Act) from reprisal.

How to make a PID

A discloser can make a PID in any way, including anonymously, either verbally or in writing. To assist in the assessment, and any subsequent investigation of a PID, disclosers are requested to:

- provide contact details (this could be an email address that is created for the purpose of making the disclosure or a telephone number)
- provide as much information as possible about the suspected wrongdoing, including:
 - who was involved
 - what happened
 - when it happened
 - where it happened
 - whether there were any witnesses, and if so who they are
 - any evidence that supports the PID, and where the evidence is located
 - any further information that could help investigate the PID

- provide this information in writing.

Any personal information you consent to give us when you complete our complaint forms (online or paper) is used only for a clear and lawful purpose, as explained on the form. Any correspondence you send us will be kept as a public record and stored according to our legislated obligations.

TSIRC will acknowledge receipt of the complaint or notification within 24 hours.

Anonymous Disclosure

You do not have to give your name, contact details or any other details that will identify who you are or where you work. However, you should be aware that if TSIRC cannot contact you (for example, we need further information), we may be unable to investigate your complaint fully or to let you know what happened.

The likelihood of a successful outcome is greatly increased if, when making either a verbal or written disclosure, the discloser's identity is known. Nonetheless, anonymous disclosures will still be received and where possible, investigated.

If it is decided to disclose anonymously, the Discloser will need to provide sufficient information for the matter to be investigated, as it will not be possible for TSIRC to go back to the Discloser for clarification or additional information to enable proper assessment and investigation of the PID.

Anonymous disclosures exempt themselves from TSIRC's commitment to keeping Disclosers informed on the progress of handling the PID. They cannot be informed of the investigation outcome by reason of their anonymity and as a result, some of the protections afforded by the PID Act may not apply to them.

Information to Disclose

To ensure a comprehensive and successful investigation of perceived wrongdoing, persons making a PID are encouraged to provide all known information that might be relevant, including:

- the circumstances of the incident/matter including dates, times and locations;
- the details of Council personnel or others involved; and
- possible sources of additional information or evidence to support the PID

A person may make a public interest disclosure about:

- events that happened or may have happened, whether before or after the commencement of the PID Act; or
- events that are or may be happening; or
- events that will or may happen.

Deciding whether a matter is a PID

If there is any doubt as to whether a matter is a PID, further information may be obtained to inform the decision. If doubt remains, the matter will be considered and managed as a PID.

Mere disagreements over policy do not meet the threshold for a PID under the PID Act.

It is an offence under the PID Act to intentionally give false or misleading information intending it be acted on as a PID. Employees may be subject to disciplinary action for intentionally giving false or misleading information in a PID, or during an investigation into a PID.

Where a discloser states they are making a PID, but it is assessed that the matter is not a PID TSIRC will advise the discloser:

- that their information has been received but was not assessed as a PID
- the reasons for the decision
- the review rights available if the discloser is dissatisfied with the decision and how to request review
- any action TSIRC proposes to take in relation to the matter
- any other options the discloser has in relation to the matter.

Assessing a PID

The disclosure will be assessed in accordance with the PID Act, the PID standards, TSIRC's Public Interest Disclosure Policy, TSIRC's Complaints Management Procedure, and any other relevant procedure(s).

Once the matter has been assessed as a PID, TSIRC will advise the discloser as early as practicable, but no later than 14 days after the receipt of the notification:

- that their information has been received and assessed as a PID
- the action to be taken by TSIRC in relation to the disclosure, which could include referring the matter to an external agency, or investigating
- the likely timeframe involved
- the name and contact details of the TSIRC support officer they can contact for updates or advice
- of the discloser's obligations regarding confidentiality
- the protections the discloser has under the PID Act
- the commitment of TSIRC to keep appropriate records and maintain confidentiality, except where permitted under the PID Act
- how updates regarding intended actions and outcomes will be provided to the discloser
- contact details for the TSIRC's Employee Assistance Program.

If the PID has been made anonymously and the discloser has not provided any contact details, TSIRC will not be able to acknowledge the PID or provide any updates.

Referring a PID

If TSIRC decides there is another proper authority that is better able to deal with the PID, the PID may be referred to that agency. This may be because:

- the PID concerns wrongdoing by that agency or an employee of that agency
- that agency has the power to investigate or remedy the matter.

Before referring the PID to another agency, TSIRC will conduct a risk assessment, and will not proceed with the referral if there is an unacceptable risk of reprisal.

It may also be necessary to refer the PID to another agency because of a legislative obligation, for example, refer a matter to the Crime and Corruption Commission where there is a reasonable suspicion that the matter involves or may involve corrupt conduct (as required by section 38 of the [Crime and Corruption Act 2001](#)).

The confidentiality obligations of the PID Act permit appropriate officers of TSIRC to communicate with another agency about the referral of a PID. Officers will exercise discretion in their contacts with any other agency.

The discloser will be advised of the action taken by TSIRC.

Risk assessment and protection from reprisal

Disclosers should not suffer any form of detriment because of making a PID. Upon receiving a PID, TSIRC will conduct a risk assessment to assess the likelihood of the discloser (or witnesses or affected third parties) suffering reprisal action because of having made the disclosure. This assessment will take into account the actual and reasonably perceived risk of the discloser (or witnesses or affected third parties) suffering detrimental actions and will include consultation with the discloser.

A risk assessment will be undertaken if the discloser is anonymous based on information available in the PID. The risk assessment will also consider the risk to persons who may be suspected of making the PID.

Consistent with the assessed level of risk, TSIRC will develop and implement a risk management plan and arrange any reasonably necessary support or protection for the discloser (or witnesses or affected third parties).

TSIRC will regularly reassess the risk of reprisal while the PID is being managed, in consultation with the discloser, and review the risk management plan if required.

In the event of reprisal action being alleged or suspected, TSIRC will:

- attend to the safety of the discloser (or witnesses or affected third parties) as a matter of priority
- review its risk assessment, risk management plan and any protective measures needed to mitigate any further risk of reprisal
- manage any allegation of a reprisal as a PID in its own right.

Declining to take action on a PID

Under the PID Act, the TSIRC may decide not to investigate or deal with a PID in various circumstances, including:

- the information disclosed has already been investigated or dealt with by another process
- the information disclosed should be dealt with by another process
- the age of the information makes it impractical to investigate
- the information disclosed is too trivial and dealing with it would substantially and unreasonably divert TSIRC from the performance of its functions
- another agency with jurisdiction to investigate the information has informed TSIRC that an investigation is not warranted.

If a decision is made not to investigate or deal with a PID TSIRC will give the discloser written reasons for that decision.

If the discloser is dissatisfied with the decision, they can request a review by writing to the Chief Executive Officer of TSIRC within 28 days of receiving the written reasons for decision.

Communication with disclosers

Under the PID Act, the TSIRC must give reasonable information to a discloser.

TSIRC will acknowledge receipt of the PID in writing as soon as practicable. The discloser will be provided with information that meets the requirements of the PID Act and the standards issued by the Queensland Ombudsman, including:

- the action that will be taken in response to the PID
- the protections under the PID Act
- confidentiality obligations of the discloser and TSIRC
- support arrangements.

TSIRC will maintain contact with the discloser and provide regular updates during the management of the PID.

In accordance with the PID Act, after finalising action in response to the PID, TSIRC will advise the discloser in writing of the action taken and the results of the action.

Confidentiality

While TSIRC will make every attempt to protect confidentiality, a discloser's identity may need to be disclosed to:

- provide natural justice to subject officers
- respond to a court order, legal directive or court proceedings.

TSIRC will ensure that communication with all parties involved will be arranged discreetly to avoid identifying the discloser wherever possible.

Disclosers should be aware that while TSIRC will make every attempt to keep their details confidential, it cannot guarantee that others will not try to deduce their identity.

Support for Disclosers

TSIRC recognises that providing appropriate support to a discloser is an important feature of effective PID management.

An assessment will be undertaken to identify the support needs of the discloser. Where appropriate, a PID Support Officer will be assigned to the discloser. The PID Support Officer will assist the discloser to access information about PIDs, protections available under the PID Act and the PID management process. The PID Support Officer will proactively contact the discloser to offer support.

Information and support will be provided to the discloser until the matter is finalised.

Making a PID does not prevent reasonable management action. That means that the discloser will be continue to be managed in accordance with normal, fair and reasonable management practices during and after the handling of the PID.

Investigating a PID

If a decision is made to investigate a PID, this will be done with consideration for the:

- principles of natural justice
- obligation under the PID Act to protect confidential information
- obligation under the PID Act to protect officers from reprisal
- interests of subject officers.

Investigations will be carried out under the processes contained in TSIRC's Complaint Management Procedure (SPO9-PR1).

If because of investigation, the information about wrongdoing provided in the PID is substantiated, appropriate action will be taken.

Where the investigation does not substantiate wrongdoing, TSIRC will review systems, policies and procedures to identify whether there are improvements that can be made and consider if staff training is required.

Reporting Responsibilities

The PID Coordinator is responsible for recording and reporting information regarding PIDs received by TSIRC. The PID Coordinator will maintain a record of each PID which includes:

- the name of the person making the PID (if known)
- the subject of the PID
- any action taken on the PID
- any other information needed to comply with the reporting requirements of the Queensland Ombudsman

Conflict of Interest/Material Personal Interest in PID Investigation

Conflict of interest (real or perceived) is required to be declared and shall be governed by Council's Conflict of Interest Policy in the following:

- relationship between Discloser and Investigating Officer
- relationship between Subject Officer and Investigating Officer
- relationship between Discloser and Decision-Maker

Rights of Subject Officers

TSIRC acknowledges that for officers who are the subject of a PID the experience may be stressful. TSIRC will protect their rights by:

- assuring them that the PID will be dealt with impartially, fairly and reasonably in accordance with the principles of natural justice
- confirming that the PID is an allegation only until information or evidence obtained through an investigation substantiates the allegation
- providing them with information about their rights and the progress and outcome of any investigation
- referring them to the Employee Assistance Program for support.

Information and support will be provided to a subject officer until the matter is finalised.

Record-keeping

In accordance with its obligations under the PID Act and the [Public Records Act 2002](#), TSIRC will ensure that:

- accurate data is collected about the receipt and management of PIDs
- anonymised data is reported to the Office of the Queensland Ombudsman in their role as the oversight agency, through the PID reporting database.

Records about disclosures, investigations, and related decisions will be kept secure and accessible only to appropriately authorised people involved in the management of the PID.

Further Information and Advice

Internal – refer to Section 5, Roles and Responsibilities

External – Queensland Ombudsman Advisory Service

The Queensland Ombudsman has been allocated responsibility for providing advice and guidance to public sector entities and officials to meet their responsibilities created under the *Public Sector Ethics Act 1994* and the *Public Interest Disclosure Act 2010*.

Email pidadmin@ombudsman.qld.gov.au or phone 1800 068 908 for more information about this service.



TORRES STRAIT ISLAND REGIONAL COUNCIL

AGENDA REPORT

ORDINARY MEETING:	April 2021
DATE:	20 th – 21 st April 2021
ITEM:	Agenda Item for Resolution by Council
SUBJECT:	Ugar Community Safe Access – Deed of Variation
AUTHOR:	Melissa Wright, Grant & Bid Development Officer

Recommendation:

Council resolves to:

endorse the proposed amendments to the original Funding Agreement for Ugar Community Safe Access, by the sum of \$180,000.00 excluding GST, and the extended time period within the terms and conditions contained in the Deed.

and

Delegate authority to the Chief Executive Officer in accordance with the *Local Government Act 2009*:

- power to make, amend or discharge the Deed of Variation relating to the Ugar Community Safe Access funding agreement; and
- power to negotiate, finalise and execute any and all matters associated with or in relation to this project and agreement including without limitation any options and/or variations.

Executive Summary:

The Torres Strait Regional Authority (TSRA) and Torres Strait Island Regional Council (TSIRC) entered into an agreement on the 20th July 2018 under which TSRA gave a grant of \$3,000,000.00 to TSIRC for Ugar Community Safe Access (the 'Agreement').

Both Parties have agreed to amend the Agreement with effect from the 1st January 2021 as outlined below.

Background:

The Ugar Community Safe Access Agreement includes an allocated funding provision for the Ugar Helicopter Subsidy. The Ugar Helicopter Subsidy has now been extended by the Torres Strait Island Regional Authority for a period of one year (from the 31st December 2020 to the 31st December 2021), with an increased funding allocation of \$180,000.00. All original Ugar Helicopter Subsidy terms and conditions remain unchanged from the standard funding agreement dated the 20th July 2018.

The Deed of Variation also includes the addition of a new activity titled "Ugar Safe Access" which is the remaining funding available from the original Agreement after the initial change of scope. This new activity is not additional funding but will allow TSIRC to expend the funds remaining from the original Agreement within the funding guidelines. The below table outlines the variation to the Agreement contained in this Deed of Variation.

Item	Old Value	New Value
Activity End Date	31/12/2020	31/12/2021
Activity Description	A. Ugar Infrastructure Cost Assessment B. Ugar Environmental Assessment C. Ugar Fuel Bowser D. Ugar Helicopter Pad Upgrade E. Ugar Helicopter Subsidy F. Geotechnical Assessment G. Ugar Channel Dredging Assessment	A. Ugar Infrastructure Cost Assessment B. Ugar Environmental Assessment C. Ugar Fuel Bowser D. Ugar Helicopter Pad Upgrade E. Ugar Helicopter Subsidy F. Geotechnical Assessment G. Ugar Channel Dredging Assessment H. Ugar Safe Access
Ugar Helicopter Subsidy	\$515,000	\$695,000
Ugar Safe Access		\$969,555

Considerations

Risk Management:

The allocated funds for the Ugar Helicopter Subsidy may run out prior to the activity end date of 31 December 2021. To ensure the funding is maximised throughout the entire activity period, Council are currently completing a program review on the Ugar Helicopter Subsidy. This review will include the evaluation of current expenses/claims, the services provided by GBR, and the needs of the community. The findings of this review will enable Council to effectively manage the subsidy and will assist with ascertaining future solutions for safe access to and from the Ugar Community.

Council Finance:

If the Terms and Conditions of the Agreement are not adhered to, TSRA may only approve partial amounts listed in quarterly progress claims, which will leave Council fiscally responsible for any remaining ineligible expenses incurred. To mitigate this risk, Council will ensure that the stipulations outlined in the Agreement Terms and Conditions are adhered to.

Consultation:

- TSRA Officers
- Community Services Department of Council
- Engineering Department of Council

Links to Strategic Plans:

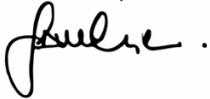
This project strategically aligns to specific delivery objectives under all 3 pillars of Council's Corporate Plan, being *People, Sustainability and Prosperity*.

Statutory Requirements:

- *Local Government Act 2009*
- *Local Government Regulation 2012*

Conclusion:

That Council resolves to Execute the Deed of Variation for the Ugar Community Safe Access project Agreement and delegate authority to the Chief Executive Officer in accordance with the *Local Government Act 2009* to make, amend, or discharge the Deed of Variation, and negotiate, finalise and execute any and all matters associated with or in relation to this project and agreement including without limitation any future options and/or variations.



Endorsed:
Luke Ranga
Head of Corporate Affairs



Approved:
Ilario Sabatino
Acting Chief Executive Officer



Recommended:
Hollie Faithful
Chief Financial Officer



TORRES STRAIT ISLAND REGIONAL COUNCIL

AGENDA REPORT

ORDINARY MEETING:	April 2021
DATE:	20-21 April 2021
ITEM:	New Policy - Agenda Item for Resolution by Council
SUBJECT:	Enterprise Risk Management Guidelines
AUTHOR:	Nerida Carr, Manager of Risk and Ethics

RECOMMENDATION

That Council adopts the Enterprise Risk Management Guidelines

PURPOSE

The purpose of this report is to present for adoption the Enterprise Risk Management Guidelines for Council.

BACKGROUND

In the 2020-2025 Corporate Plan, TSIRC has committed to “continuously develop and evolve our enterprise risk management and business continuity planning”.

Following discussions with the Manager of Risk and Ethics and under the leadership of the Chief Executive Officer and Chief Financial Officer, a commitment was given in June 2020 to commence with the implementation of Enterprise Risk Management (ERM) as an integrated part of TSIRC’s decision-making processes.

The Elected members confirmed this with the adoption of the first Risk Management Policy in July 2020.

OFFICER COMMENT

As part of the action plan approved by the Audit Committee to improve Council’s Risk Management processes, Risk Policies are being developed and reviewed in accordance with updated legislation and best practice guidelines. One of the steps in the review is the adoption of Enterprise Risk Management Guidelines by Council.

Elected members have oversight functions for the organisation’s management of risk, and it is likely that both residents and workers have expectations of appropriate and effective risk management to support the delivery of programs and services within communities. The purpose of the Enterprise Risk Management Guidelines is to give officers guidance in the integration of risk management across TSIRC.

CONSULTATION

Consultation initially comprised of the Manager Risk and Ethics liaising with Local Government Mutual Services' (LGMS) Regional Risk Advisor, Ian Barton. The result was a combination of material saved in the Risk Management software and that provided by LGMS. This was presented to the Executive Management Team in August 2020, then submitted to the Audit Committee, who requested expansion of one item. All recommendations were incorporated into the final version.

LINKS WITH STRATEGIC PLANS

Corporate Plan 2020-2025

- Sustainability: We continuously develop and evolve our enterprise risk management and business continuity planning

Operational Plan 2019-2020

- Implement Risk Management Planning and Compliance program

REFERENCES

Local Government Mutual Services:

- Enterprise Risk Management Guide 2020

STATUTORY REQUIREMENTS

Local Government Regulation 2012

AS ISO 31000:2018 Risk Management – Guidelines

CONCLUSION

The Enterprise Risk Management Guidelines have been drafted in line with the listed documents and legislation, endorsed by the Audit Committee, and are recommended for adoption.



Luke Ranga
Head of Corporate Affairs



Hollie Faithfull
Chief Financial Officer



Mario Sabatino
Acting Chief Executive Officer

ATTACHMENTS:

1. *Enterprise Risk Management Guidelines*

Torres Strait Island Regional Council

**Enterprise Risk Management
Guidelines Document**

Contents

1	Statement of Commitment	3
2	Introduction	3
3	Definitions	4
4	Risk Management Principles.....	4
5	Risk Management Framework	5
6	Basis, Roles and Responsibilities	6
7	Risk Management Process	6
7.1	Communicate and Consult.....	7
7.2	Establish the Context.....	7
7.3	Risk Assessment	8
7.3.1	Risk Identification.....	8
7.3.2	Risk Analysis	8
7.3.3	Risk Evaluation.....	12
7.3.4	Risk Register	13
7.4	Treatment of Risks.....	14
7.5	Monitor and Review	15
8	Recording the Risk Management Process	15
9	Reviewing the Risk Management Framework and Guidelines.....	15
10	Communication	16

Attachments:

Appendix A - Risk Assessment Template

Appendix B - Action Plan Template

1. STATEMENT OF COMMITMENT

The major risk for most organisations is that they fail to achieve their stated strategic business or project objectives or are perceived to have failed by their stakeholders. Torres Strait Island Regional Council (TSIRC) is committed to establishing an environment that is not unduly risk averse, but one that enables risks to be logically and systematically identified, analysed, evaluated, treated, monitored and managed. Risk is inherent in all of Council's activities and a formal and systematic process will be adopted to minimise and where possible eliminate all risks that directly or indirectly impact on the Council's ability to achieve the vision and strategic objectives outlined in the Corporate Plan.

TSIRC is aware that managing risk is not just about avoiding or minimising adverse outcomes, but also has a positive application, in that the proactive analysis of potential risks can also assist the organisation in achieving new and potential opportunities.

This Enterprise Risk Management Guidelines has been developed to demonstrate the Council's commitment, by detailing the integrated Risk Management framework to be employed by all staff members, contractors, committees and volunteers engaged in Council business and defining the responsibilities of individuals and committees involved in managing risk.

In addition, the Guidelines have been developed to:

- Ensure risk management is an integral part of strategic planning, management and day to day activities of the organisation;
- Promote a robust risk management culture within the Council;
- Enable threats and opportunities that face the organisation to be identified and appropriately managed;
- Facilitate continual improvement and enhancement of Council's processes and systems;
- Improve planning processes by enabling the key focus of the organisation to remain on core business and service delivery;
- Encourage ongoing promotion and awareness of the risk management throughout Council.

2. INTRODUCTION

For Council to deliver the strategies and achieve the objectives as outlined in the Corporate Plan, Council needs to identify and manage risks. Risk is an event or action, which has the potential to prevent TSIRC from achieving its corporate objectives. A risk can also be defined as an opportunity that is not being maximised by the Council to meet its objectives.

Enterprise Risk Management (ERM) is the management of risk not only in conventional hazard categories such as health and safety, IT, finance, but in the full spectrum of strategic and operational risk. ERM is the structured approach of aligning strategy, processes, people, technology and knowledge with the purpose of evaluating and managing risk.

Enterprise means the removal of traditional functional, divisional, departmental or cultural barriers. Importantly having a structured approach provides guidance to managing existing and perceived risks that have potential to impact on the organisation's commitment to fulfil its business objectives.

Effective risk management is governed by an organisation's commitment to risk management and this process is outlined in this document which has been developed to align with the Australian Standard AS ISO 31000:2018 Risk management – guidelines.

3. DEFINITIONS

Risk: Risk is defined as *effect of uncertainty on objectives*. A risk to the business is any action or event that has the potential to impact on the achievement of our corporate objectives.

Risk also arises as much from the possibility that opportunities will not be realised as it does from the possibility that threats will materialise or that errors will be made.

Risk Management: Risk management for Council refers to the culture, processes and structures developed to effectively manage potential opportunities and adverse effects for any activity, function or process undertaken by the Council. Managing risk is achieved through the systematic application of policies, procedures and practices to identify, analyse, evaluate, treat, monitor and communicate risk.

Enterprise Risk Management (ERM): Enterprise risk management encompasses all the major risk categories (including financial, environmental, health and safety, fraud, information technology, compliance, security and business continuity) and includes the coordination, integration, consolidation and consistency of reporting by the various Council functions with identified risks.

Risk Register: A list of identified and assessed risks directly related to either a department of Council or to the whole of Council. Risk Registers can be held at either Corporate, Operational, Project or Event level.

Likelihood: The chance of something happening, whether defined, measured or determined objectively or subjectively (probability or frequency).

Consequence: The outcome of an event affecting objectives (impact/magnitude). An event can lead to a range of consequences. A consequence can be certain or uncertain and can have a positive or negative effect on objectives. Consequences can be expressed qualitatively or quantitatively.

Risk Owner: The person with the accountability and authority to manage a risk. The owner may delegate some duties in relation to managing the risks for which they are responsible, however they are ultimately accountable for the risks allocated to them.

Risk Treatment: The process to modify existing risks or create new risks. Some options for treating a risk can include: Retaining, Transferring, Sharing, Avoiding or Controlling.

Risk Treatment Action Plans: The document that outlines the steps to be taken to reduce unacceptable risks to achievable and acceptable levels. This includes details on current controls; required risk treatments; improvement opportunities; resources; timing; reporting and accountabilities. Action Plans must be reviewed on a regular basis to ensure controls are working.

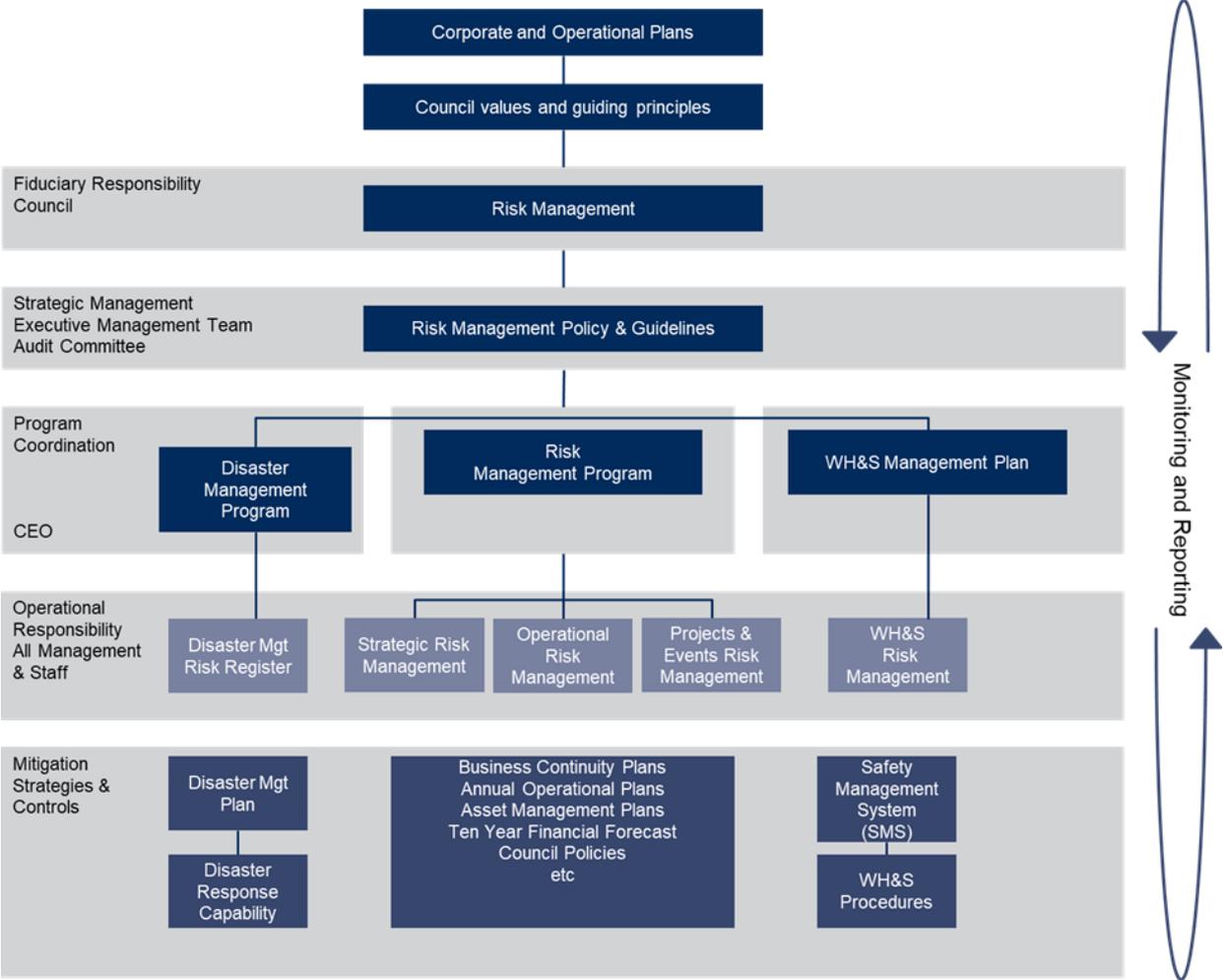
4. RISK MANAGEMENT PRINCIPLES

For risk management to be effective, an organisation should comply with the following principles.

- a) **Integrated** – Risk management is an integral part of all organisational activities
- b) **Structured and comprehensive** – A structured and comprehensive approach to risk management contributes to consistent and comparable results
- c) **Customised** – The risk management framework and process are customised and proportionate to the organisation's external and internal context related to its objectives
- d) **Inclusive** – Appropriate and timely involvement of stakeholders enables their knowledge, views and perceptions to be considered. This results in improved awareness and informed risk management.
- e) **Dynamic** – Risks can emerge, change or disappear as an organisation's external and internal context changes. Risk management anticipates, detects, acknowledges and responds to those changes and events in an appropriate and timely manner.
- f) **Best available information** – The inputs to risk management are based on historical and current information, as well as on future expectations. Risk management explicitly considers any limitations and uncertainties associated with such information and expectations. Information should be timely, clear and available to relevant stakeholders.
- g) **Human and cultural factors** – Human behaviour and culture significantly influence all aspects of risk management at each level and stage.
- h) **Continual improvement** – Risk management is continually improved through learning and experience.

5. RISK MANAGEMENT FRAMEWORK

The Risk Management Framework explains the relationship between the Council's risk management components and other management systems and frameworks.



6. BASIS, ROLES AND RESPONSIBILITIES

Please refer to Council's Risk Management Policy, which describes the roles and responsibilities of the Council, Audit Committee and Employees.

A useful way of describing a risk is to convey an event or situation in terms of what could happen or not happen, or what is present and what it could lead to in terms of consequences regarding the organisation's objectives. This can be applied using the following approach: XXX might occur or not occur, which leads to XXX consequences. This description can also be extended to differentiate between risks, issues and incidents:

	Risk	Issue	Incident
Nature	Variance from desired outcomes	Change in environment, product, system, process or control which means a change in exposures and needs action to prevent incident or loss	An event with impact, whether pre-identified as likely or not
Focus	Future	Present and Future	Present
Effect	Potential loss	Change in risk profile	Actual losses; near misses
Discovery	Deliberate proactive/retrospective identification	Root cause analysis, assurance reviews, self-assessment	Escalation via chain of command
Action Required	Risk Management (assessment, mitigation/controls, monitoring/reporting)	Action planning / Resolution	Immediate response to stop event or minimize losses
Record	Risk Register / Risk Controls	Issue and Action Log	Routine reporting, Incident Log
Reporting	Council, EMT, Department/Functional Managers	EMT, Department/Functional Manager	Employees, Supervisors, Department/Functional Manager

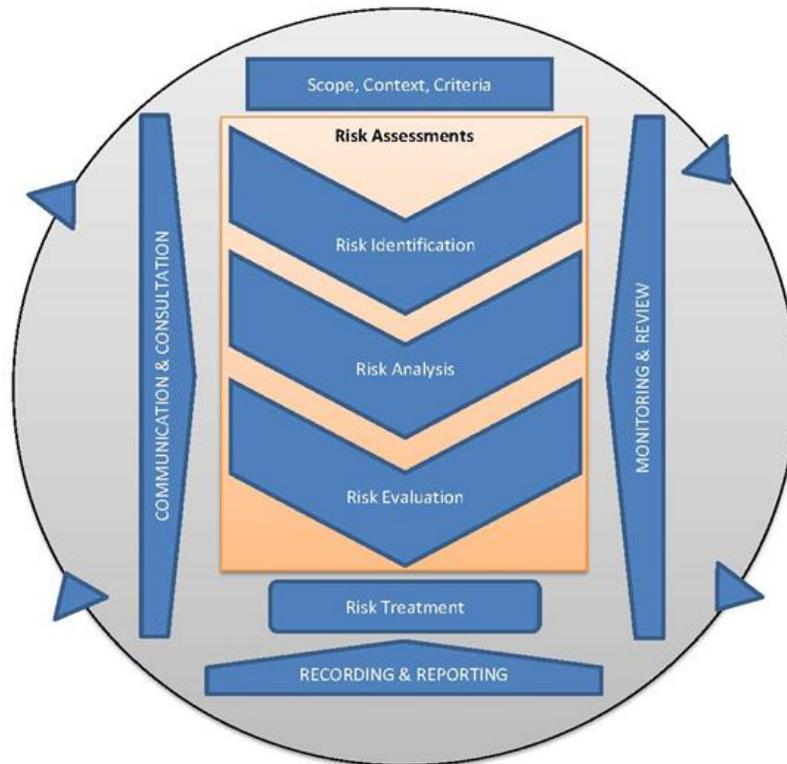
7. RISK MANAGEMENT PROCESS

The process adopted by TSIRC to manage risks is in accordance with *AS ISO 31000:2018 Risk management – Guidelines*. This process is the application of the structured risk management methodology to be used to assess; prioritise; treat and monitor risks identified. The risk management process may capture inherent risk (prior to considering controls in place), residual risk (after taking into account controls in place), or both.

The main elements of an effective Risk Management approach are as follows:

- Communicate and Consult
- Establish the Context
- Risk Assessment
 - Identify Risks
 - Analyse Risks
 - Evaluate Risks
- Treat Risks
- Monitor and Review

The following diagram represents the components of the Risk Management process. Each of these components are explained further below.



Source: Australian Standard ISO 31000:2018 Risk management – Guidelines

COMMUNICATE AND CONSULT

It is an essential part of the risk management process to develop and implement an effective framework to communicate and consult with all relevant stakeholders, internal and external as appropriate, at each stage of the risk management process and concerning the process as a whole. The level of communication and consultation will vary depending on the level of interest and or influence of that particular stakeholder individual or group. Communication and consultation are necessary at every stage of the Risk Management process.

ESTABLISH THE CONTEXT

Stage one of the process establishes the strategic, organisational and risk management context in which the rest of the process will take place. This includes the criteria against which risk will be evaluated, the risk appetite of the organisation and corrective actions for the different rating achieved in the assessment of the risks.

In considering context, it is necessary to consider the broader external environment in which the organisation operates and not just internal matters.

A written statement of context is to be documented and communicated at the appropriate levels within the organisation.

In establishing the context for these Risk Management Guidelines, existing risk management processes were reviewed, interviews and workshops were held with key personnel and a Risk Management Policy was developed. (Refer to Council's Risk Management Policy).

RISK ASSESSMENT

Risk Identification

At this stage, the organisation identifies what, why and how things can arise, that may affect the organisation, as the basis for further analysis. This is carried out at both strategic and operational levels of the organisation.

Categories of risk for the organisation at a strategic and operational level may include, but are not limited to:

Risk Categories (Exposure Types)	Code
Infrastructure and Assets Covers infrastructure asset capacity and management (including IT network and hardware), project delivery, inventory and sourcing.	IA
Business Continuity and Business Systems Covers business continuity issues (including IT issues), including those attributable to natural and manmade disasters.	BC
Legal Compliance and Liability Covers legal compliance and liabilities attributable to non-compliance with statutory obligations, including class actions, public liability claims, product liability, professional indemnity and public health and safety.	LL
Reputation Covers Council's reputation with the community, customer service and capability as a regulator.	RE
Political Covers the external political environment in which Council operates, including inter-governmental relations, state and national policies and relations with special interest groups.	PO
Environmental Covers environmental performance of Council's operations including adverse outcomes relating to air, fauna, flora, water, waste, noise & vibration, land, sustainability, hazardous materials and heritage	EN
Finance and Economic Financial and Economic covers financial capacity, availability of capital, the current economic environment, financial management and reporting, knowledge management, efficiency of systems, processes and organisational structure.	FE
Staff Includes human resource, industrial relations and organisational culture particularly relating to staff values, standards of integrity and public accountability.	ST
Workplace Health and Safety Covers Workplace Health and Safety issues.	WHS
Climate Change – rising sea level Covers impacts on Council's assets or infrastructure, erosion or inundation due to sea level rise	CC

Risk Analysis

This stage determines the inherent risks and then calculates any residual risks taking into consideration any existing controls in place (existing processes and procedures). Risks are analysed in terms of consequence and likelihood in the context of those controls. The analysis will consider the range of potential risk exposure consequences and how likely those

consequences are to occur. The Consequence and Likelihood are then combined to produce an estimated level of risk known as the Overall Risk Rating.

Determining Likelihood

In determining the **likelihood** of each risk, the following ratings and definitions have been applied. In making your assessment you have to remember that some events happen once in a lifetime, other can happen almost every day. Judgement is required to determine the possibility and frequency that the specific risk is likely to occur.

Likelihood Table

Short Description	Long Description	Definition - Likelihood of Occurrence/Frequency
Rare	Evidence: Nobody has ever heard of it happening. History: Has not happened previously in our industry, but is a conceivable occurrence. Experience & expectation: Almost sure this won't happen.	Once every 100 years
Unlikely	Evidence: Never heard of it, but it sounds like something that I know has happened elsewhere before. History: Happened previously in our industry. Experience & expectation: I will be surprised if this happened.	Once every 50 years
Possible	Evidence: Similar event occurred, not sure when/where/more than one occasion. History: Logged at least once within our organisation/previous employer(s). Experience & expectation: 50/50 chance that this will happen.	Once every 10 years
Likely	Evidence: Similar event occurred several times over the years. History: Logged several times in our organisation or my previous employer(s). Experience & expectation: I will not be surprised if this happened.	Once every 5 years
Almost Certain	Evidence: People are strongly aware of the risk occurring on several occasions. History: Logged regularly in this area and others on site, a known industry issue. Experience & expectation: Almost sure it will happen.	Once every 2 years

Determining Consequence

In determining the consequence of each risk, the following ratings and definitions have been applied. There are five levels used to determine consequence and when considering how risks may impact on the organisation it is also important to think about the non-financial elements as well.

Consequence Table

Description	Qualitative Definition - Consequence
Insignificant	An event, where the impact can be absorbed; no injuries; low financial loss
Minor	An event, the consequences of which can be absorbed but management effort is required to minimise the impact; first aid treatment; low-medium financial loss
Moderate	A significant event, which can be managed under normal circumstances; medical treatment; medium financial loss
Major	A critical event, which with proper management can be continued; extensive injuries; loss of production capability; major financial loss
Catastrophic	A disaster, which could lead to the collapse of the organisation; death; huge financial loss

Quantitative parameters have been developed (Refer Consequence Matrix) to enable the organisation to consistently assign consequence ratings to potential risks. These quantitative measures assign the organisation's risk tolerance parameters applicable to each of the five consequence levels. This approach ensures that all staff can rate the consequence of a risk occurring against the organisation's established parameters, instead of their own personal choice.

Consequence Matrix

Consequence	Rating	Finance and Economic	Human Resources	Infrastructure & Assets	Legal Compliance, Regulatory & Liability (Inc. Environment)	Reputation/Political	Service Delivery	Management Effort/Climate Change Impact
Catastrophic	5	Huge financial loss (e.g. > \$1M of revenue or budget)	Fatality or significant irreversible disability. Staff issues cause continuing failure to deliver essential services.	Widespread, long term reduction in service capacity of substantial key assets and infrastructure. Threat to viability of services or operation.	Extensive breach involving multiple individuals. Extensive fines and litigation with possible class action. DLG review or Administrator appointed.	Loss of State Government support with scathing criticism and removal of the council. National media exposure. Loss of power and influence restricting decision making and capabilities.	The continuing failure of Council to deliver essential services. Substantial loss of operating capacity > 1 week. The removal of key revenue generation.	A critical event or disaster that could lead to the collapse of the business
Major	4	Major financial loss (e.g. \$250,001 to \$1M of revenue or budget)	Extensive injuries. Lost time of more than 14 working days. Staff issues cause widespread failure to deliver several major strategic objectives and long-term failure of day to day service delivery.	Widespread, medium to long term reduction in service capacity of key assets and infrastructure. Loss or event may require replacement of key property or infrastructure.	Major breach with possible fines or litigation. DLG or Administrator may be involved. Critical failure of internal controls, may have significant and major financial impact.	State media and public concern/ exposure with adverse attention and long-term loss of support from shire residents. Adverse impact and intervention by State Government.	Widespread failure to deliver several major strategic objectives and service plans. Long-term failure of Council causing lengthy service interruption up to 1 week.	A critical event that with appropriate management can be overcome
Moderate	3	High financial loss (e.g. \$50,001 to \$250,000 of revenue or budget)	Medical treatment. Lost time of up to 14 working days. Staff issues cause failure to deliver minor strategic objectives and temporary and recoverable failure of day to day service delivery.	Short to medium term reduction in service capacity of key assets and infrastructure. Loss with temporary disruption of key facility and services.	Serious breach involving statutory authorities or investigation. Prosecution possible with significant financial impact. Possible DLG involvement. Moderate impact of legislation/regulations	Significant state-wide concern/ exposure and short to mid-term loss of support from shire residents. Adverse impact and intervention by another local government & LGAQ.	Failure to deliver minor strategic objectives and service plans. Temporary & recoverable failure of Council causing intermittent service interruption for a week.	A significant event which can be managed under normal circumstances
Minor	2	Minor financial loss (e.g. \$10,001 to \$50,000 of revenue or budget)	First aid treatment. No lost time. Staff issues cause several days interruption of day to day service delivery.	Minor loss/damage with limited downtime. Repairs required through normal operations.	Minor breach with no fine or litigation. Contained non-compliance or breach with short term significance with minor impact. Some impact on normal operations.	Minor local community concern manageable through good public relations. Adverse impact by another local government.	Temporary and recoverable failure of Council causing intermittent service interruption up to 24 hrs.	An event, the impact of which can be absorbed, but management effort is needed
Insignificant	1	Low financial loss (e.g. < \$10,000 of revenue or budget)	No injury. Staff issues cause negligible impact of day to day service delivery.	Isolated or minimal damage where repairs are required however facility or infrastructure is still operational.	Isolated non-compliance or breach. Minimal failure managed by normal operations. Insignificant impact of legislation/regulations.	Transient matter, e.g. Customer complaint, resolved in day-to-day management. Negligible impact from another local government.	Negligible impact of Council, brief service interruption for several hours to a day.	An event, the impact of which can be absorbed through normal activity

Determining the overall Risk Rating

After the **consequence** and **likelihood** ratings have been determined they are combined in a matrix to determine the overall risk rating for each risk. The extent of the consequences and the extent of the likelihood risks will be assessed using a scale containing **Low, Moderate, High and Extreme**.

The table below illustrates how the combination of the consequence and likelihood generates the overall risk rating.

Risk Assessment Matrix

Likelihood	Rating	Consequence				
		1	2	3	4	5
		Insignificant	Minor	Moderate	Major	Catastrophic
Almost certain	5	M	M	H	H	E
Likely	4	L	M	M	H	E
Possible	3	L	M	M	H	H
Unlikely	2	L	L	M	M	H
Rare	1	L	L	L	M	M

Evaluate Risks

Risks need to be evaluated and prioritised to ensure that management effort is directed towards resolution of the most significant organisational risks first. The initial step in this Risk Evaluation stage is to determine the effectiveness, and or existence of, controls in place to address the identified risks.

This can lead to a decision to: -do nothing further; -consider risk treatment options; -undertake further analysis to better understand the risk; -maintain existing controls; -reconsider objectives.

The following table will assist to determine the effectiveness, and or existence of, controls in place to address the identified risks.

Control Assessment	Description
Excellent	<ul style="list-style-type: none"> Effective treatments implemented, communicated and monitored on a regular basis to determine the level of effectiveness.
Adequate	<ul style="list-style-type: none"> Controls are well documented and implemented The controls address the identified risk and there is little scope for improvement There is no convincing cost/benefit justification to change the approach.
Fair	<ul style="list-style-type: none"> Controls have been determined, but not well implemented, documented or monitored to determine their level of relevance.

Control Assessment	Description
Opportunities for Improvement	<ul style="list-style-type: none"> Information is inconsistent, not well communicated, implemented in an ad hoc manner The controls contain some inadequacies and scope for improvement can be identified There is some cost/benefit justification to change the approach.
Inadequate/Poor	<ul style="list-style-type: none"> The controls do not appropriately address the identified risk and there is an immediate need for improvement actions. There is a significant cost/benefit justification to change the approach.

Following the process of identification, analysis and evaluation of risks and controls, the outcomes are to be communicated with all relevant stakeholders and agreements reached with the various Risk Owners prior to being documented in the Risk Register.

Risk Register

A Risk Register is developed to record and assess each risk identified as part of the risk identification stage.

The application of the stages of the risk assessment process noted above ensure there is consistency in the determination of the current risk severity level, taking into account the existing controls and their level of effectiveness in mitigating or addressing the risk. Refer to Appendix B for a Risk Register Template.

Risk Profile diagram

At the completion of the assessment process, a risk profile diagram will be developed to highlight each of the risks identified and their overall risk rating.

The risk profile diagram (example below) will highlight to the CEO and senior executive the key risk exposures and number of risks within each rating range across the organisation. The risks will be categorised as **Extreme, High, Medium and Low** to assist management to target those risks that have the greatest potential impact on the organisation.

	Insignificant	Minor	Moderate	Major	Catastrophic
Almost certain			1	1	
Likely			1	2	
Possible		3	1		1
Unlikely	2	6	14		2
Rare		3			

TREATMENT OF RISKS

After evaluating each risk and appropriate controls, it is the responsibility of the manager to implement the suitable treatment. Treatment needs to be appropriate to the significance and priority of the residual risk. As a general guide the following risk treatment options are available:

- **Avoid the risk** - decide not to proceed with the policy, program or activity or choose an alternative means of action
- **Retain the risk** – by informed decision. Where the risk cannot be avoided, reduced or transferred. In such cases, usually the likelihood and consequence are low. These risks should be monitored, and it should be determined how losses, if they occur, will be funded.
- **Transfer or share the risk** – involves shifting all or part of the responsibility to another party who is best able to control it (such as an insurer who bears the consequence of losses e.g. Motor vehicle insurance for Council vehicles).
- **Remove** the risk source
- **Control the risk** – by either reducing the likelihood of occurrence and/or the consequences (e.g. implement procedures for specified tasks)
- **Take or pursue the risk** – where a risk presents an opportunity a decision may be taken to enhance, accept, work with or pursue the risk.

Determine the most effective treatment options by considering the:

- Cost/benefit of each option including the cost of implementation (do not consider financial considerations only; organisational, political, social and environmental factors should also be considered)
- Use of proven risk controls
- Anticipated level of risk remaining after implementation of risk treatment. The final acceptance of this risk will be a matter for the appropriate Director or CEO to decide.

Once treatment options for individual risks have been selected, they should be assembled into action plans, risk treatment plans or strategies. The outcome of an effective risk treatment plan is knowledge of the risks Council can tolerate and a system that minimises those risks that it cannot tolerate.

The decision to accept a risk will be determined by the agreed table indicating proposed corrective action and the risk appetite criteria established by the Council. For TSIRC a Low risk is accepted and only requires monitoring should circumstances change. For other risks, a specific management plan may be required to be developed and implemented which may include consideration of funding. Risk treatment strategies need to also be considered to ensure that no new risks are introduced.

Escalation Plan

We will introduce procedures for notifying the appropriate persons according to the risk rating, in particular where a risk may escalate due to changed or unforeseen circumstances.

Reports on risk ratings and associated escalation plans will be provided throughout the organisation to assist all staff in managing risk.

The approach for treatment of risks is:

Risk Level	Action Required
Extreme	Immediate action required and must be managed by senior management with a detailed plan
High	Senior management attention needed and management responsibility specified
Medium	Management responsibility must be specified and response procedures monitored

Risk Level	Action Required
Low	Manage by routine procedures at local management level

MONITOR AND REVIEW

This stage establishes a process to monitor and review the performance of the risk management system implemented and changes that might affect the performance or give rise to new risks that will require assessment.

Both monitoring and reviewing should be a planned part of the risk management process and tailored to the needs of the organisation and the significance of the risks identified. It should be undertaken on at least an annual basis.

The continual process of monitoring and reviewing is required to ensure ongoing effective risk treatments and the continual improvement of the risk management standards.

- **Monitoring** – assess whether current risk management objectives are being achieved. Council can use inspections, incident reports, self-assessments and audits to monitor its risk management plan.
- **Review** – assess whether the current risk management plan still matches TSIRC’s risk profile. The risk management plan may be reviewed by studying incident patterns, legislative changes and organisational activities.

Possible methods for review:

- Internal check program/audit or independent external audit;
- External scrutiny (appeal tribunal, courts, commission of inquiry);
- Physical inspection;
- Program evaluation; and
- Reviews of organisational policies, strategies and processes.

When completing the review process, it is important the context in which the original risk was developed is reassessed. The review should also be informed by reports and recent events and include consideration of:

- Completeness of the register;
- Continued existence of controls;
- Adequacy of controls;
- Risk ratings;
- Treatment strategies;
- Risk owner; and
- Risk review date.

8. RECORDING AND REPORTING THE RISK MANAGEMENT PROCESS

The accurate and timely reporting and recording of risks is essential to the effectiveness of the risk management framework. Each stage of the Risk Management process must be recorded appropriately. All Risk Assessments and Risk Treatment Action Plans must be documented, retained and easily accessible for future reference. Even if a risk is assessed to be Low and a decision is taken to do nothing, the reasoning that led to the decision must be recorded.

9. REVIEWING THE RISK MANAGEMENT FRAMEWORK AND GUIDELINES

To ensure that the risk management process is effective and continues to support the organisation’s performance, all aspects of the risk management process will be periodically reviewed.

The Risk Management Framework and Guidelines, Risk Management Policy and Risk Registers will be reviewed to ensure that they are still appropriate and continue to reflect the organisation's risk activities and tolerances.

Based on the results of monitoring and reviews, decisions will be made on how the Risk Management Framework can be improved. These improvements should lead to improvements in the management of risk and the risk management culture.

10. REPORTING AND COMMUNICATION

A positive risk culture is one where staff at every level appropriately manage risk as an intrinsic part of their day-to-day work. It is important to ensure that all staff understand, in a way appropriate to their role, what the organisation's risk strategy is, what the risk priorities are and how their responsibilities in the organisation fit into the risk management framework.

Risk reporting is a key method of communicating risk across the organisation. Regular reports will be provided to the elected Council, Audit Committee, Senior Executive Management Team (EMT) and Departmental/Functional area management. The frequency of reports should be integrated within the ordinary internal reporting cycle, but the significance of the risk must also be considered.

Operational Risks, issues and incidents relevant to a functional area are addressed in the normal team meeting and reporting cycle. Functional managers will be responsible for recording any incidents logged. In circumstances where a change in environment has been identified as needing action to forestall an incident or loss, a report to Executive Management may be required on a more frequent basis until the residual level of risk is acceptable.

The Risk Management Framework and Guidelines, Risk Management Policy, Risk Registers and associated documents and procedures will be held in a secure central repository and will be accessible to stakeholders according to their authority levels. The existence, nature and location of records will be shared with staff at all levels to encourage their awareness of how the organisation is managing its risks.

Reviews of risks, issues and incidents, including any procedural changes will be communicated to the relevant Risk Owners, Risk Action Officers and other stakeholders to ensure that the Enterprise Risk Management process remains dynamic and relevant.

APPENDIX B

Risk Management Action Plan Template

Risk ID No	Description	Risk Event <i>What might happen?</i>	Source of Risk <i>How might the risk arise?</i>	Risk Treatment <i>What can be done to avoid the risk, control, transfer or finance the risk?</i>	Resources Required <i>What physical, human or financial resources required</i>	Performance Measure <i>How will you know the risk treatment is working?</i>	Timeline	Responsibility <i>Name and position</i>

Reviewing Officer: _____ Date: _____

Comments: _____



TORRES STRAIT ISLAND REGIONAL COUNCIL

COUNCIL REPORT

ORDINARY MEETING:	April 2021
DATE:	21/04/2021
ITEM:	Agenda Item for Council
SUBJECT:	Council Policies
AUTHOR:	Mette Nordling, Manager, Governance and Compliance

Recommendation

Council resolves to:

1. endorse the following Torres Strait Island Regional Council policies:
 - Advertising Spending Policy
 - Conflict of Interest Policy
 - Audit Policy

and

2. delegate authority to the Chief Executive Officer in accordance with the *Local Government Act 2009* to exercise the functions and powers assigned to the Chief Executive Officer under the endorsed policies, including the power to make any further minor administrative amendments to the policies as they arise.

Executive Summary:

The policies contained in this report were required to be redrafted and updated due to either having expired or changes to legislation. To ensure compliance with legislation and already existing policies, these have been updated to reflect legislative changes or changes internally at Council.

The policies were presented to the Audit Committee on 15 April 2021 and noted. The table below show the policies and procedures contained in this report:

Policy	Changes
Advertising Spending Policy	Updated to reflect internal changes
Conflict of Interest Policy	Updated to reflect legislative changes
Audit Policy	Updated based on recommendations from members of the Audit Committee

Background:

Council has a statutory requirement to have certain policies. There is also a requirement from a governance and audit perspective to have policies in place to ensure Councillors and Council officers are aware of their obligations and responsibilities. It is necessary to ensure these policies are current and in line with legislative requirements.

Consultation:

- Audit Committee
- Governance and Compliance
- Legal Services

Links to Strategic Plans:

These policies strategically align to specific delivery objectives under all 3 pillars of Council's recently adopted Corporate Plan, being *People, Sustainability and Prosperity*.

Risk:

There is a risk to Council's reputation and compliance if policies are not updated and endorsed as required.

By having these policies updated and endorsed reflecting legislative changes, Council will be able to update the associated procedures and thereby mitigating these risks.

Statutory Requirements:

Local Government Act 2009 (Qld)

Local Government Regulation 2012 (Qld)

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.



Luke Ranga
Head of Corporate Affairs



Ilario Sabatino
Acting Chief Executive Officer



Hollie Faithfull
Chief Financial Officer

Advertising Spending Policy

Responsible Manager	Head of Corporate Affairs
Head of power	<i>Local Government Act 2009 Local Government Regulation 2012</i>
Authorised by	Council
Authorised on	
Implemented from	April 2021
Last reviewed	April 2021
Review history	
To be reviewed on	April 2023
Corporate Plan	People, Sustainability and Prosperity

1. Purpose

Council is strongly committed to ensuring that the local government principles are reflected in any advertising proposed by Council. Council recognises that part of its role is to promote Council activity at local, national and international levels to further the economic, social and cultural development of the Torres Strait

2. Application

The policy applies to any paid advertisement or notice in any media to promote goods or services (including facilities) provided by the Council.

The policy does not apply to advertising for:

- recruitment of staff; or
- acquisition or disposal of property plant and equipment; or
- tenders or expression of interests as part of Council's procurement activities.

3. Legislation/Policies

This policy is established with reference to obligations specified in the *Local Government Regulation 2012*.

4. Definitions

Advertising: Advertising is defined as "promoting to the public an idea, goods or services by using a medium commonly used for promoting ideas, goods or services and for which a fee is paid. Examples of mediums commonly used for promoting ideas, goods or services—magazine, newspaper, radio, television" For the purposes of this policy, the following advertising definitions apply:

- A "classified" advertisement is any advertisement appearing in the public notices section of the Local Government area's largest circulating daily newspaper;
- A display advertisement is one appearing in the early general news section of a newspaper, periodical or magazine;
- Electronic media is any means of communication characterised by the use of technology, radio, computers, etc. This is generally related to sounds or images that can be presented live on radio and television or in video, film and slide productions

5. Provisions

Advertising should be used where the purposes of the Council or the benefit of the community is advanced. It should not be used to promote the particular achievements or plans of particular Councillors or groups of Councillors. In particular advertising that is paid for by the Council should not be used to influence the voters in an election.

In promoting the Torres Strait Island Regional Council or the region, it may be necessary for Council and its Officers to utilise paid advertisements in magazines, newspapers, radio and television. The following types of promotion are considered appropriate for Council where information or education that is in the public interest is being disseminated:

- To advise the public of a new or continuing service or facility provided by the Council;
- To advise the public about changes or updates to an existing service or facility provided by the Council;
- To increase the use of a service or facility provided by the Council;

- To change the behaviour of people in the Council's area for the benefit of all or some of the community or to achieve the objectives of the Council – link with Corporate Planning Outcomes;
- To advise on Council sponsored events relating to Community activities including cultural events and sport and recreation activities;
- To advise the community on Enterprise and Economic Development initiatives;
- To advise the public of the time, place and content of scheduled meetings of the Council;
- To advise the public of the decisions made by the Council at its meetings;
- To request comment on proposed policies or activities of the Council;
- To advertise matters required by legislation to be advertised; and
- To advise the public of significant Regional Governance expenditure.

Expenditure on advertising and promotion is disallowed when:

- The expenditure is to occur during the three (3) months period immediately before an election for the local government unless; the expenditure relates to items or events already adopted by Council minute.

All advertising must be approved by either the:

- Chief Executive Officer; or
- Head of Corporate Affairs.

The Head of Corporate Affairs will monitor expenditure and effectiveness of advertising undertaken. The Head of Corporate Affairs will keep records which demonstrate that:

1. Advertising expenditure is in accordance with this Policy;
2. There is an appropriate cost benefit relationship between the advertising and final result; and
3. The expenditure has been budgeted for.

Audit Policy

Responsible Manager	Chief Executive Officer
Head of power	<i>Local Government Act 2009</i> <i>Local Government Regulation 2012</i>
Authorised by	Council
Authorised on	
Implemented from	May 2021
Last reviewed	April 2021
Review history	2013, 2017
To be reviewed on	June 2022
Corporate Plan	People, Sustainability and Prosperity

1. Purpose

Torres Strait Island Regional Council (Council) is strongly committed to ensuring that the local government principles are reflected in its response to audit responsibilities.

Council is committed to ensuring the following with respect to its audit duties:

- Assisting the Council to deliver its strategic and governance responsibilities;
- Supporting management to discharge its financial management and operational responsibilities.

This will be achieved primarily through the establishment of an Audit Committee and Internal Audit function to deliver their key role in Council's strategic corporate governance objectives. The Audit Committee and Internal Audit do not replace the responsibilities of management, but act as an independent source of advice to Council and to management.

2. Application

This policy applies to all employees of Torres Strait Island Regional Council.

3. Legislation/Policies

This policy is established with reference to obligations specified in the *Local Government Act 2009* and the *Local Government Regulation 2012* as well as Council's Code of Conduct.

4. Procedure

The following procedures will assist Council in ensuring audit responsibilities are achieved.

- Audit Committee Procedure
- Internal Audit Procedure

Conflict of Interest Policy

Responsible Manager	Head of Corporate Affairs
Head of power	<i>Local Government Act 2009 Local Government Regulation 2012 Torres Strait Island Regional Council Code of Conduct</i>
Authorised by	
Authorised on	
Implemented from	May 2021
Last reviewed	April 2021
Review history	2019
To be reviewed on	June 2023
Corporate Plan	People, Sustainability and Prosperity

1. Purpose

Council is strongly committed to ensuring that the local government principles are reflected in all Council decision making.

All Council employees have a duty to make decisions free of conflicts and carry out their public duties to high ethical standards. Council is committed to ensure that all Council employees make confident, transparent and fair decisions as part of their regular work routine.

Council is committed to developing and maintaining the highest levels of integrity and public trust and serving the public interest. Council is committed to preventing adverse consequences that can arise from conflicts of interest through encouraging and supporting the identification, disclosure, and appropriate management and monitoring of employee conflicts of interest.

Employees must regularly consider the relationship between their personal interests and their official duties in order to honestly and transparently identify disclose and manage any conflicts in the public interest.

The purpose of this policy is to clearly define the obligations, roles and responsibilities that concern actual, potential or perceived employee conflicts of interest, to ensure decision-making and actions are fair, unbiased and carried out in the public interest.

2. Application

This policy applies to all employees of Torres Strait Island Regional Council.

Conflicts of Interest relating to the role of Councillors have not been provided for in this policy due to the specific legislative requirements under the *Local Government Act 2009* and *Local Government Regulation 2012*, and the Councillor Code of Conduct.

3. Legislation/Policies

This policy is established with reference to obligations specified in the *Local Government Act 2009*, the *Local Government Regulation 2012*, and the *Public Sector Ethics Act 1994*, as well as Council's Code of Conduct, and Procurement and Ethical Sourcing Policy.

4. Definitions

Associate – Includes a spouse, parent, child, parent-in-law, or other relative, friend, co-worker, an entity which an associate has an interest in, whether direct, or indirect, or a legal or beneficial interest, including companies and directorships related to associates.

Conflict of interest - a “conflict of interest” means any matter that arises when a person’s private interest conflict with their duty to serve the public interest. A conflict of interest exists when a reasonable person might think that a Council employee’s personal interest interferes or appears to interfere, or where an employee’s personal interest may influence, or be seen to influence, their decisions or actions in the performance of their official duties.

Perceived conflict of interest – The public or a third party could form the view that personal interests could improperly influence an employee’s decision or action, now or in the future. Whilst it may or may not eventuate as a real conflict, it is important to disclose a perceived conflict of interest, for transparency purposes.

Potential conflict of interest - Personal interests that could conflict with a Council employee’s official duty. This refers to circumstances where it is foreseeable, that a conflict may arise in the future and steps should be taken now to mitigate that future

risk.

Real conflict of interest – situation where there is an actual conflict between the Council employee's official duties and their personal interests.

Employee/s – Any person employed directly by Torres Strait Island Regional Council, regardless of their employment status (full time, part time, casual, volunteer) and contractors, undertaking duties on behalf of Council.

Official Duties – Means the performance of an employee's role at Council, including their public duty to act with the highest ethical standards and integrity when making decisions, and when exercising any power or authority which has been entrusted by Council.

Personal interests – Personal interests include private, professional or business interests, as well as the interests of individuals that you associate with, such as family, dependants and friends. This includes any monetary interests, which reasonably may result in an actual or potential financial gain or loss for an employee or an associate. A personal interest may also include non-monetary interests that do not have a financial component, but may arise where an opportunity to advantage or disadvantage an employee or any associate of the employee, occurs due to involvement in any sporting, social or cultural activities with the employee or associate. Examples of personal interests include:

- ownership in a family business which tenders for Council contracts;
- family members or associates who own businesses that are contracted by Council;
- an employee with secondary employment in a business that contracts with Council;
- property interests that may be positively or negatively affected by activities of Council;
- associates applying for jobs with Council;
- employees or associates involved in local sporting groups who lodge funding applications with Council; or
- employees or associates board membership of a local community group applying for funding or grants from Council.

Public interest – Acting in the public interest means carrying out duties for the benefit of the public, in a fair and unbiased way, and making decisions that are not affected by personal interests, private associations or the likelihood of personal gain or loss for employees or associates.

5. Conflict of Interest

Employees must perform their duties in a fair and unbiased way and in the public interest, ensuring that decisions and actions are not impacted by their personal interests or the likelihood of gain or loss for them or others that they may wish to benefit or disadvantage.

A conflict of interest occurs when personal interests interfere, or appear to interfere, with the performance of official duties.

A conflict of interest can occur when a person:

- has a friend or family member who will potentially benefit from a purchase or contract either through employment or as an owner or shareholder of the business;
- has feelings of ill-will towards, or prejudice against, a person, particular product or service which could unfairly bias the selection process;
- has a second job with a supplier who is interested in, or is already, doing business with Council;
- has property interests that will be positively or negatively affected by the activities of Council;
- has an interest in a sporting or cultural organisation, which could influence their decision-making.

5.1 Employee obligations

Employees must regularly consider the relationship between their personal interests and official duties in order to honestly and transparently identify, disclose and manage any conflicts in the public interest.

Decisions and actions by employees must not be affected by personal interests, which may result in personal gain or any loss (monetary or non-monetary) to employees or their associates.

Council employees must disclose and manage any actual, perceived or potential conflict of interest to ensure that they do not allow their personal interests to discredit, or conflict in any way, with their obligation to Council, or provide an opportunity for employees or their associates to gain any benefit, or be disadvantaged.

A Conflict of Interest Declaration Form must be completed as soon as an employee becomes aware of a potential, perceived or real conflict of interest.

It is important to understand that conflicts of interest occur, and inevitably Council employees will have occasions when their personal interests come into conflict, with carrying out their official duties. However, when conflicts of interest are not identified, disclosed and managed appropriately, adverse consequences such as serious misconduct or corruption may arise.

The *Public Sector Ethics Act 1994* and the *Local Government Act 2009* provide guiding principles for employees regarding conflicts of interest including:

- Ensuring decision making is carried out in the public interest;
- Good governance of and by the local government; and
- Integrity and impartiality.

Council will ensure adverse consequences that arise from employee conflicts of interest are prevented by:

- educating staff on the identification, disclosure and management of conflicts of interest;
- proactively identifying and monitoring business processes that are prone to high risk of conflicts; and
- maintaining supporting structures, systems, clear processes and procedures for the disclosure, management and monitoring of conflicts of interest.

5.2 Areas within Council that pose a higher risk with regard to conflicts of interest

Some business functions and processes of Council may be more prone to conflicts of interest and include, but are not limited to:

- recruitment and selection processes, managing of staff;
- procurement, entering into contracts and contract management;
- allocating donations, grants, sponsorships and financial incentives;
- collecting, retaining, accessing or using confidential information;
- regulatory roles including:
 - inspecting, testing, regulating or monitoring standards, business, equipment or premises;
 - issuing, or reviewing the issue of, fines or other sanctions;
 - issuing permits, qualifications or licences;
- where concurrent or other employment occurs (for example board positions, part-time, casual employment and voluntary positions);
- complaints management; and
- the exercise of discretionary power in decision making, such as planning decisions.

Extra care should be taken when engaging in these processes.

6. Roles and Responsibilities

The Mayor and Councillors are responsible for demonstrating leadership and good governance of the Council and decision-making that is made in the public interest.

The Chief Executive Officer, Executive Officers, Head of Departments and Managers are required to provide leadership with regard to disclosing, managing and monitoring conflicts of interest; and ensure policies, procedures and other work instructions requiring reference to this policy and any supporting procedure or processes are in place, in particular, for higher risk areas of Council.

All employees are responsible for:

- regularly considering the relationship between their personal interests and official duties in order to proactively identify any actual, perceived or potential conflicts of interest that may influence any actions or decisions made while carrying out official Council duties;
- being honest, open and transparent in their disclosure of conflict of interest; and
- following internal procedures relating to the identification, disclosure, self-management and monitoring of their conflicts of interest.

All employees who also have supervisory responsibilities must:

- ensure employees who they manage, disclose and manage any conflicts of interest and take appropriate action, where an employee has not done so; and
- monitor any management approach that is required to be taken by their direct reports for any conflicts of interest that may exist.

The Governance Branch is responsible for:

- ensuring clear policy and procedures are in place for Council employees to follow, to identify, disclose and manage conflicts of interest;
- maintaining a confidential centralised system for the disclosure, management and monitoring of conflicts of interest for Council employees;
- proactively educating all staff on their responsibilities with regard to conflicts of interest, and focussing on areas within Council that pose a higher risk with regard to conflicts of interest; and
- the confidential management of employee conflicts of interest. Conflicts of interest records may be the subject of applications under the *Right to Information Act 2009* and/or the *Information Privacy Act 2009*, where a decision may be made on whether it is in the public interest to release information relating to employee conflicts of interest.



TORRES STRAIT ISLAND REGIONAL COUNCIL

AGENDA REPORT

ORDINARY MEETING:	APRIL 2021
DATE:	Tuesday 6 th April 2021
ITEM:	Agenda Item for Resolution by Council
SUBJECT:	Local Disaster Management Group Membership
AUTHOR:	Mathew Brodbeck – Manager, Engineering Operations David Baldwin – Chief Engineer

Resolution:

Council Resolves to:

Subject to the commencement of engagement by TSIRC Mayor and CEO with TSC in relation to the proposed disestablishment to the TSLDMG, as per resolution made at the May 2020 Ordinary Meeting.

- Engage with identified stakeholders to seek the formation of membership and advisors of the proposed TSIRC LDMG as outlined in this report.
- Delegate the CEO to undertake engagement with proposed members and advisors to the proposed TSIRC LDMG, and undertake other administrative matters relating to the formation of a stand-alone TSIRC LDMG.

Purpose:

To provide Council with a membership structure for consideration for the establishment of a standalone TSIRC Local Disaster Management Group.

Background:

In early 2013 the then District Disaster Coordinator advised TSIRC and TSC that, subject to Ministerial approval, the formation of one LDMG was approved. The formation occurred shortly thereafter in April 2013 upon approval by the then Minister for Police and Community Safety.

At the May 2020 Ordinary Meeting it was resolved to Committee conversations led by Mayor, Deputy Mayor and Chief Executive Officer, with reciprocal representatives of the Torres Shire Council, specifically in regard to separation of the combined Disaster Management arrangements.

It was also endorsed for TSIRC Mayor, Deputy Mayor and Chief Executive Officer to approach State Government stakeholders regarding the proposal separation.

An Information Report was presented at the January 2021 Ordinary Meeting which outlined the main steps and considerations that are required to be considered and addressed for the establishment of a standalone Local Disaster Management Group (LDMG). These steps and considerations were broadly categorised as being:

- Membership and Stakeholders
- Administration and Plans
- Legislative Requirements

- Local Disaster Coordination Centre

The report noted that to address the above items, the following main tasks are required:

- Engagement (with key stakeholders)
- Administration (revision of plans, reporting, governance arrangements)
- Infrastructure (equipment, technology, control centre, etc)

A report was issued at the March 2021 Ordinary Meeting which provided further detail in the form of a project timeline and project plan/task listing.

This information report specifically addresses the recommended Membership and Stakeholders of the proposed TSIRC LDMG.

Comment:

The membership of a Local Disaster Management group is set out in Division 3, Subdivision 3 of the ***Disaster Management Act 2003*** (the Act) and under Part 2 Disaster Management Groups – Membership and other matters of the ***Disaster Management Regulation 2014*** (the Regulation).

The Mayor, or another councillor of the local government, is appointed as the Chairperson of the LDMG. Membership of the LDMG is outlined in the Regulation and generally comprises of:

- Chairperson must be a councillor.
- Deputy Chairperson
- Local Disaster Coordinator (LDC)
- person nominated by the Commissioner, QFES
- other persons, which should include:
 - council representatives
 - local emergency services – Queensland Police Service (QPS), Queensland Ambulance Service, QFES
 - Representatives of functional lead agencies
 - NGOs such as welfare organisations or community groups
 - a Local Recovery Coordinator (LRC) also may be appointed.

Appointments under the Act can be made to a person or by position (as per s. 24A of the Acts Interpretation Act 1954). It is strongly recommended that appointments be made by position as this eliminates the need for a new appointment when a change in personnel occurs. However, where an appointment changes, a new appointment will be required, and the new incumbent will need to undertake training under the Queensland Disaster Management Training Framework.

LDMG members should have the necessary expertise or experience and delegated authority to assist with a comprehensive, all hazards, all agencies approach to disaster management.

Where a person or position undertakes a dual function as an LDMG and a DDMG member, appointing a deputy to both positions is recommended.

In addition to the legislated members of the group, LDMGs may appoint members or advisors to ensure adequate capability and capacity for specialist functions of disaster management.

It is proposed that the membership of the standalone TSIRC Local Disaster Management Group is as below.

Core Membership

- Chairperson – Mayor
- Deputy Chairperson – elected Member
- Local Disaster Coordinator – normally Chief Executive Officer or delegated officer
- Emergency Management Coordinator – QFES
- Chief Engineer
- Chief Operating Officer
- Manager, Engineering Operations
- Head of Community Services
- Head of Corporate Affairs and Engagement
- TSIRC Local Community Disaster Coordinator
- Inspector Torres Patrol Group – QPS
- Executive General Manager North – Torres & Cape Hospital and Health Service

Advisory Membership

- Queensland Fire & Emergency Services (Rural Fire Service)
- Maritime Safety Queensland (MSQ)
- Australian Maritime Safety Authority (AMSA)
- Volunteer Marine Rescue (VMR)
- State Emergency Service
- DATSIP
- Torres Strait Regional Authority
- Tagai
- GBK
- Seaswift
- CEQ
- Ergon Energy
- Telstra
- Department of Communities, Housing and Digital Economy. (DCHDE)
- Department of Agriculture, Water and the Environment (DAWE)
- Department of Foreign Affairs and Trades (DFAT)
- Australian Border Force (ABF)
- Australian Fisheries Management Authority (AMFA)
- Australian Federal Police (AFP)
- Queensland Department of Main Roads and Transport (TMR)
- Department of Local Government, Racing and Multicultural Affairs. (DLGRMA)

Considerations

Reputational

One of Council's values is accountability, which is achieved by being transparent, honest, and ethical to the benefit of the community. A reputational risk exists should Council not deliver on what is expected of both the department and community. By ensuring inclusiveness through consultation that will maintain trust amongst stakeholders and the community.

Consultation:

- Chief Engineer
- Emergency Management Coordinator - Queensland Fire & Emergency Services

Links to Strategic Plans:

- Outcome 6: Our Communities remain resilient to the effects of climate change and natural disasters

Statutory Requirements:

- *Disaster Management Act 2003 (QLD)*
- *Disaster Management Regulation 2014 (QLD)*
- Torres Strait Local Disaster Management Plan

Conclusion:

That the Strategic Advisory Reference Group (SARG) resolves that this report goes to the full Council as an Agenda Report

Author



Mathew Brodbeck
Manager, Engineering Operations



Recommended:
David Baldwin
Chief Engineer



Approved:
Ilario Sabatino
Chief Executive Officer

TORRES STRAIT ISLAND REGIONAL COUNCIL

AGENDA REPORT

ORDINARY MEETING: April 2021
DATE 20-21 April 2021
ITEM: April Agenda Report
SUBJECT: March Financial Dashboard
ECM: ECM_301369
AUTHOR: Nicola Daniels – Head of Financial Services

Officers recommendation:

That Council receive and endorse the monthly financial statements attached to the officer's report for the 2020-21 year to date, for the period ended 31 March 2021, as required under Section 204 *Local Government Regulation 2012*.

Purpose:

This report seeks Council endorse the monthly financial statements for the 2020-21 year to date, for the period ended 31 March 2021.

Background:

The percentage of year passed (pro-rata rate) as at 31 March 2021 is 75%.

The 2020-21 budget review was adopted on 8 December 2020 and has taken into consideration the current COVID-19 pandemic and the expected impacts on the year ahead.

The financial report must state the progress that has been made in relation to the local government's budget for the period of the financial year up to a day as near as practicable to the end of the month before the meeting is held.

Each month, year to date financial statements are prepared to monitor actual performance against budget. Below is a summary of the financial performance for the period ended 31 March 2021. Actual amounts are compared against year-to-date Budget Review 2020/21 figures. (See Appendix 1 for Summary Financial Statements by Department and Appendix 2 Detailed Capital Report).

Resource implications:

Council is forecasting an operating deficit of \$5.7 million for the 2020/21 financial year. The actual operating result for March 2021 YTD is a \$7.4 million deficit compared to a forecasted operating deficit of \$6.6M (\$823K or 12% below budget).

Capital delivery currently represents 19% of YTD budget including accrued expenditure for works in progress. The delivery of key capital projects continues to be a focus for Council.

FINANCIAL PERFORMANCE AT A GLANCE – MARCH 2021

Key financial results	Annual budget review	YTD budget review	YTD actual	YTD variance \$	YTD variance %	Status
Recurrent revenue	53,285,964	36,894,989	37,030,342	135,353	0.4%	●
Other income	5,963,102	4,475,179	4,370,845	(104,334)	(2.3%)	●
Recurrent expenditure (excl. depreciation)	(64,996,594)	(47,962,144)	(48,816,411)	(854,267)	(1.8%)	●
Operating result (excl. depreciation)	(5,747,527)	(6,591,976)	(7,415,224)	(823,248)	(12.5%)	●
Capital revenue	63,686,473	30,645,348	17,914,988	(12,730,361)	(41.5%)	●
Capital expenses	(3,500,000)	(2,450,000)	(3,621,458)	(1,171,458)	47.8%	●
Net result (excl. depreciation)	54,438,946	21,603,372	6,878,306	(14,725,066)	(68.2%)	●
Depreciation expense	(46,507,984)	(34,880,988)	(34,840,722)	40,266	0.1%	●
Net result	7,930,962	(13,277,616)	(27,962,416)	(14,684,800)	(110.6%)	●

Key:	
Act Vs Bud Var % is <= -10%	●
Act Vs Bud Var % is > -10% and <= -5%	●
Act Vs Bud Var % is > -5%	●

Operating Result

The YTD (\$823K) operating result variance can be attributed to:

- Increased salary and wages;
 - o Payment to Stream A employees transitioning to a 36.25 hour working week per the Award. Payment per Council resolution.
 - o Allocation of salary and wages to capital projects; due to delay in processing and difference in predicted allocation between operating and capital works
- Recoverable works revenue and expenses overstated as part will be reallocated to capital grants income and capital assets in line with AASB 1058 Income of Not-for-profit Entities (no effect to the net result of Council)

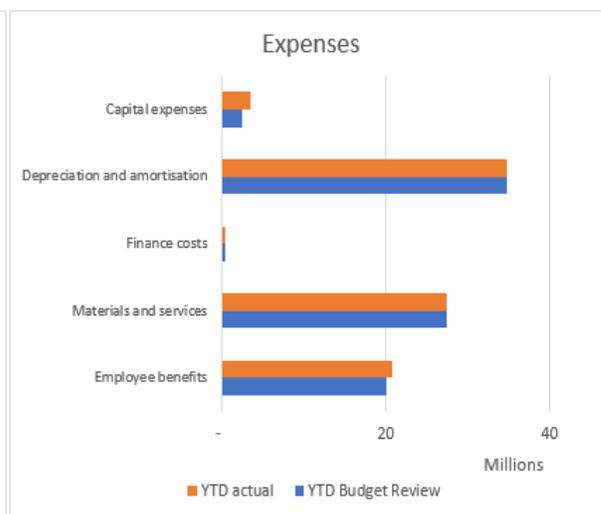
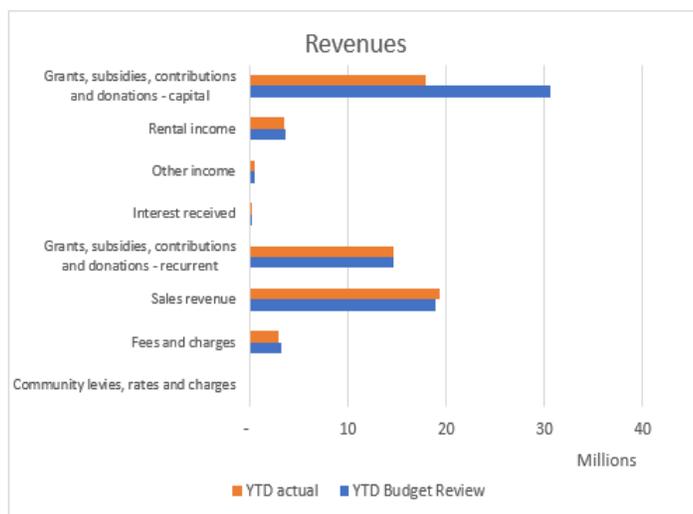
Net Result

The YTD (\$14.7M) net result variance can be attributed to:

- ICCIP funding not received due to delay in timing of works – approved extension date to 30 June 2022
- Capital grants income and capital assets understated as allocation from recoverable works in line with new accounting standards (no effect to the net result of Council)
- Cost of asset disposal \$1.2M higher than year to date budget of \$2.5M – disposal of residential housing transferred per Katter Lease/Home Ownership Program

STATEMENT OF FINANCIAL PERFORMANCE

	Annual Budget Review	YTD Budget Review	YTD actual	YTD variance \$	YTD variance %
Income					
Recurrent revenue					
Community levies, rates and charges	1,534,078	19,344	62,665	43,321	69%
Fees and charges	4,055,497	3,229,017	2,994,140	(234,877)	-8%
Sales revenue	23,950,753	18,981,376	19,314,399	333,023	2%
Grants, subsidies, contributions and donations	23,745,636	14,665,251	14,659,138	(6,113)	0%
	53,285,964	36,894,989	37,030,342	135,353	0%
Capital revenue					
Grants, subsidies, contributions and donations	63,686,473	30,645,348	17,914,988	(12,730,361)	-71%
	63,686,473	30,645,348	17,914,988	(12,730,361)	-71%
Interest received	379,151	284,017	282,080	(1,937)	-1%
Other income	739,888	578,083	545,720	(32,363)	-6%
Rental income	4,844,063	3,613,079	3,543,046	(70,033)	-2%
Total income	122,935,539	72,015,516	59,316,175	(12,699,341)	-21%
Expenses					
Recurrent expenses					
Employee benefits	27,083,224	20,044,291	20,804,548	760,258	4%
Materials and services	37,248,310	27,393,340	27,522,475	129,135	0%
Finance costs	665,059	524,514	489,388	(35,126)	-7%
Depreciation and amortisation	46,507,984	34,880,988	34,840,722	(40,266)	0%
	111,504,577	82,843,132	83,657,133	814,001	1%
Capital expenses	3,500,000	2,450,000	3,621,458	1,171,458	32%
Total expenses	115,004,577	85,293,132	87,278,591	1,985,459	2%
Net result	7,930,962	(13,277,616)	(27,962,416)	(14,684,800)	53%



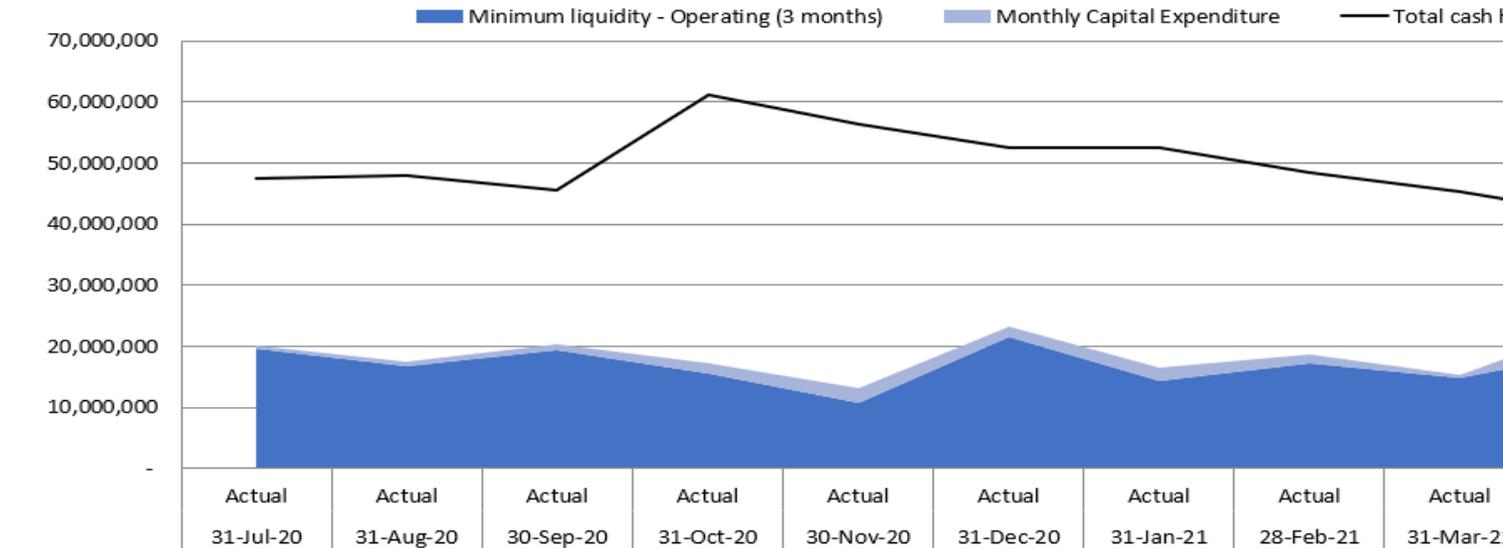
STATEMENT OF FINANCIAL POSITION

	YTD March 2021	YTD Feb 2021	YTD variance \$	YTD variance %
Current assets				
Cash and cash equivalents	46,311,312	48,803,898	(2,492,586)	-5%
Short term deposits	65,374	65,374	0	0%
Trade and other receivables	7,622,065	8,465,940	(843,875)	-10%
Inventories	249,515	249,515	0	0%
Contract assets	1,193,003	1,193,003	0	0%
Lease receivables	-	-	0	
Total current assets	55,441,269	58,777,730	(3,336,461)	-6%
Non-current assets				
Lease receivables	14,715,268	14,715,268	0	0%
Property, plant and equipment	863,987,171	864,595,136	(607,965)	0%
Right of use assets	1,330,000	1,330,000	0	0%
Intangible assets	-	-	0	
Total non-current assets	880,032,439	880,640,404	(607,965)	0%
Total assets	935,473,708	939,418,134	(3,944,426)	0%
Current liabilities				
Trade and other payables	5,375,442	5,656,706	281,264	5%
Borrowings	17,741	35,893	18,152	51%
Provisions	3,364,020	3,373,964	9,944	0%
Contract liabilities	17,844,335	17,844,335	0	0%
Lease liabilities	651,775	651,775	0	0%
Total current liabilities	27,253,313	27,562,673	309,360	1%
Non-current liabilities				
Borrowings	36,100	36,100	0	0%
Provisions	3,677,491	3,703,612	26,121	1%
Lease liabilities	688,927	688,927	0	0%
Total current liabilities	4,402,519	4,428,640	26,121	1%
Net community assets	903,817,876	907,426,821	(3,608,945)	0%

Cash Forecasting

The Queensland Treasury Corporation (QTC) recommends that Council maintain a minimum liquidity of three months operating monthly cashflow projections for the future months on the 20/21 Budget Review projections. Grant revenue has been forecasted as per funding agreements and Council's adopted Capital Budget has been evenly distributed over the financial year. July to March balances.

Cash Balance Composition



Cashflow Comments

YTD March 2021

- Council's cash and cash equivalents as at 31 March 2021 was \$46.3 million
- Although cash holdings remain above QTC recommendations, a majority of this is constrained funding

EOY Forecast Expectations

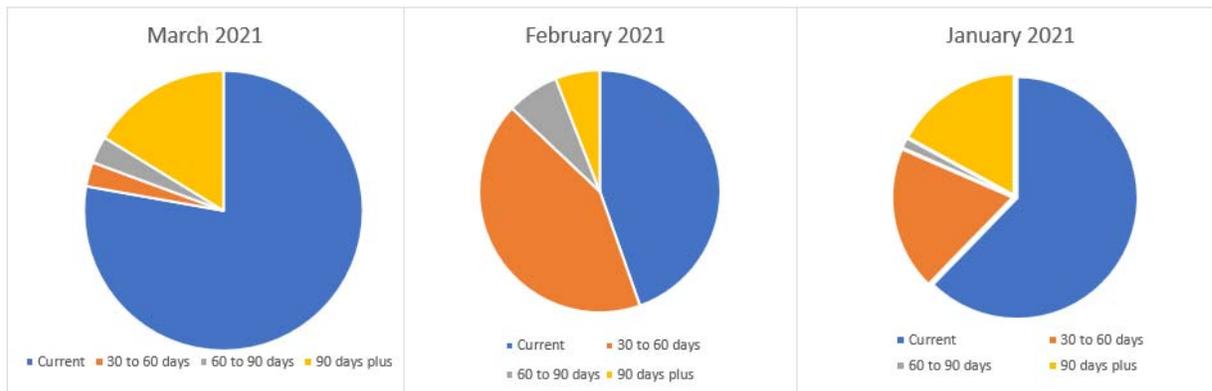
- Sharp decrease in the average funds held by Council expected due to the ICCIP capital spend forecast to ramp up in the financial year
- Cash injection from Financial Assistance Grant paid in June (50%)
- Although cash holdings remain above QTC recommendations, a majority of this is constrained funding

Debtor Analysis

Days outstanding	As at 31 March 2021		As at 28 February 2021		As at 31 January 2021	
	\$	%	\$	%	\$	%
Current	2,915,222	78%	1,549,100	45%	1,984,590	62%
30 to 60 days	105,933	3%	1,473,183	42%	612,732	19%
60 to 90 days	117,174	3%	243,151	7%	43,897	1%
90 days plus	609,159	16%	207,057	6%	544,264	17%
Total aged debtors	3,747,488	100%	3,472,491	100%	3,185,483	100%
Unapplied Credits	- 975,905		- 782,090		- 139,650	
Housing debtors (Note 1)	13,265,247		13,103,196		13,107,567	
Provision	- 14,114,978		- 14,088,067		- 14,061,160	
Net debtors	1,921,851		1,705,530		2,092,241	

Notes to table:

- Analysis of housing debtors and collection rates contained in monthly Housing Information Report
- Provision for doubtful debt to be recalculated in April 2021 prior to interim audit
- Unapplied credits balance relates to unallocated grant funding receipts to be processed.

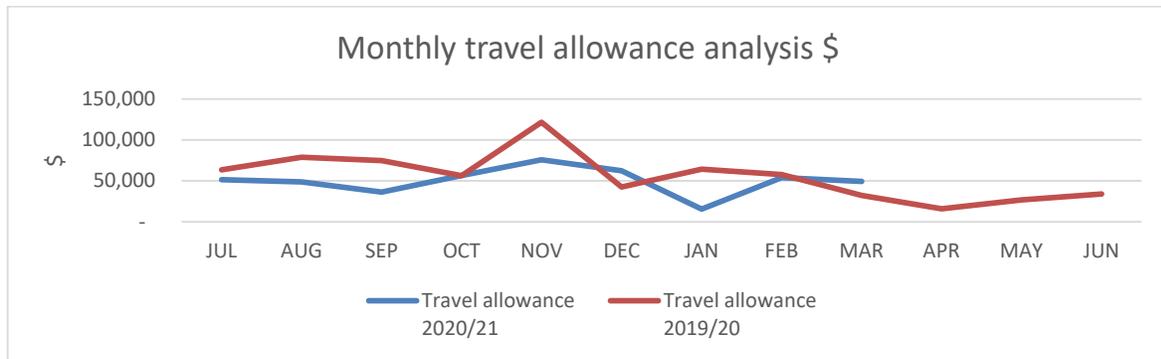
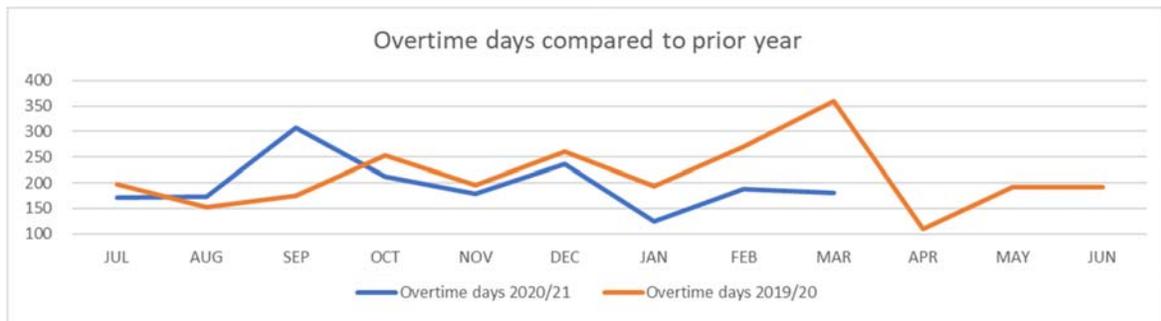
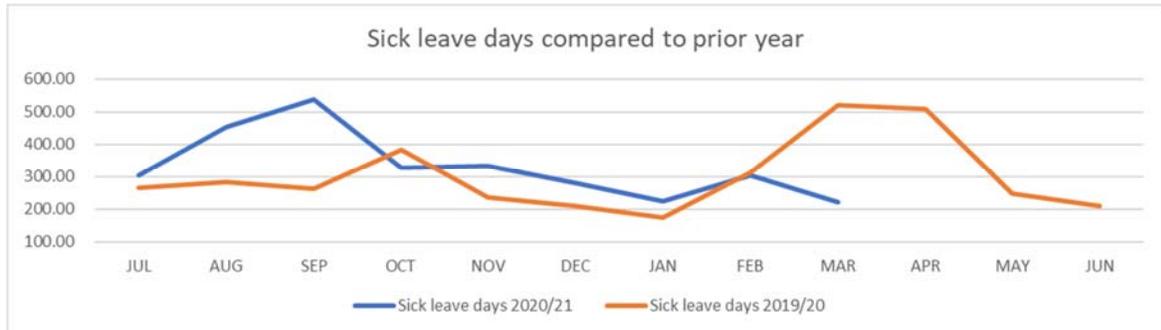
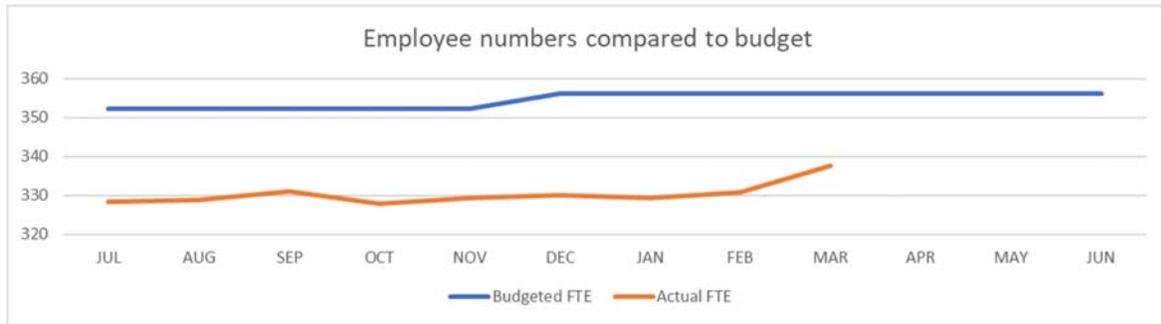


Analysis on graphs:

Analysis of top five debtors in excess of 90 Days:

Debtor name	Amount outstanding in excess of 90 days	Commentary
BIF Badu Island Foundtion	120,239.66	Rates and Debt Recovery Officer is following up with Debtor to establish an equitable resolution for payment.
Tagai State College	92,457.86	Debtor has disputed/questioned the content/property details of invoices - An investigation is being undertaken to investigate the property details relating to the Debtor's concerns to determine action to be taken.
Ged Erub Trading Homeland Enterprise (TSI) Corporation Tavern	85,931.29	Rates and Debt Recovery Officer is following up with Debtor to establish an equitable resolution for payment.
Badhulgaw Kuthinaw Mudh TSI Corporation Badu Art Centre	85,615.67	Debtor has requested an exemption and has subsequently been requested to submit an official request which will be sent to management for review
Somerset Building Company	77,638.00	Debtor has been referred to Legal Department for advice on debt collection referral.

Payroll Analysis



Grant Analysis:

Funder	Amount	Time frame	Purpose
No new agreements entered in current month			

Corporate Plan Linkage:

Outcome: We manage council affairs responsibly to the benefit of our communities: evolve Council's cost management and analysis reporting.

Consultation and communication:

Senior Executive Team

Department Heads / Managers

Finance Department

Risk Management Implications:

Risk Management emerges from Council's intent to effectively and efficiently manage risks that may have an impact on the achievement of strategic priorities, operational goals and project objectives as defined in the Corporate and Operational Plans.

Significant Risks

Risk	Likelihood	Consequence	Treatment	Financial Impact
Increase in prices & delay in receiving products	High	Delay in works and increased costs of building	Consider alternative solutions and value for Council	Negative impact to net profits
Poor weather conditions	Medium	Delay in works, and service delivery, increase in costs	Consider works schedule	Negative impact to net profits and service delivery

Areas of Concern for Noting

Risk	Comment
Covid-19 outbreak impact	While risk in Australia is minimal there will be an on-flow affect from international outbreaks and can already be seen in the shortage of the goods and labour markets. It is expected that government funding will become more restricted. Roll-out of the vaccine is expected to help the recovery process however there has been a very faltering start with the rollout well behind target timeframe.

Final Considerations:

Risk Management

In terms of financial performance and risk, the approach taken sees the Finance Team working with the various business departments to understand and report on financial outcomes whilst also considering what those outcomes indicate for the future, particularly the requirement to deliver within budget. It is expected this forward-looking approach will allow the management team to implement timely rectification actions to emerging trends.

Council continues to be impacted by the lingering effects of COVID-19 which has affected overall operations however business is starting to return to normal. Roll-out of the vaccine should see further improvements in the economy. Management will continue to progressively adapt, monitor, and plan into the future as the COVID-19 situation and its impact evolves over the coming months. With continuing uncertainty in the economic climate and the possibility of a 'second wave' of infection, it makes future forecasting quite challenging.



Nicola Daniels
Head of Financial Services



Recommended: Hollie Faithfull
CFO



Approved: Ilario Sabatino
A/CEO

Appendix A

Executive financial performance at a glance

Key Financial Results	Annual Budget Review	YTD Budget Review	YTD Actual	YTD Variance \$	YTD Variance %	Status
Recurrent revenue	606,801	627,009	580,392	(46,617)	(7.4%)	●
Other income	0	0	0	0	0.0%	●
Recurrent expenditure (excl. depreciation)	(3,668,630)	(2,785,400)	(2,685,087)	100,313	3.6%	●
Operating result (exc. Depreciation)	(3,061,829)	(2,158,391)	(2,104,695)	53,696	2.5%	●
Capital revenue	0	0	0	0	0.0%	●
Capital expenses	0	0	0	0	0.0%	●
Net result (excl. depreciation)	(3,061,829)	(2,158,391)	(2,104,695)	53,696	2.5%	●
Depreciation Expense	0	0	0	0	0.0%	●
Net result	(3,061,829)	(2,158,391)	(2,104,695)	53,696	2.5%	●

Comments:

Currently tracking within budget, however expenditure is being managed to minimise budget overspend without compromising service delivery.

People and Wellbeing financial performance at a glance

Key Financial Results	Annual Budget Review	YTD Budget Review	YTD Actual	YTD Variance \$	YTD Variance %	Status
Recurrent revenue	34,000	23,800	126,390	102,590	431.1%	●
Other income	0	0	0	0	0.0%	●
Recurrent expenditure (excl. depreciation)	(1,594,944)	(1,157,415)	(1,060,977)	96,438	8.3%	●
Operating result (exc. Depreciation)	(1,560,944)	(1,133,615)	(934,587)	199,028	17.6%	●
Capital revenue	0	0	0	0	0.0%	●
Capital expenses	0	0	0	0	0.0%	●
Net result (excl. depreciation)	(1,560,944)	(1,133,615)	(934,587)	199,028	17.6%	●
Depreciation Expense	0	0	0	0	0.0%	●
Net result	(1,560,944)	(1,133,615)	(934,587)	199,028	17.6%	●

Comments:

Expected to stay within budget for the financial year

Due to planned travel to all Divisions by the WHS Officer to carry out safety inspections and audits, the majority of travel budget will be expended
Engaging consultant to guide the development and implementation of the Safety Management System

Appendix A

Health and Community Services financial performance at a glance

Key Financial Results	Annual Budget Review	YTD Budget Review	YTD Actual	YTD Variance \$	YTD Variance %	Status
Recurrent revenue	9,271,901	7,075,106	6,752,142	(322,964)	(4.6%)	●
Other income	0	0	0	0	0.0%	●
Recurrent expenditure (excl. depreciation)	(12,574,166)	(9,189,122)	(9,178,251)	10,871	0.1%	●
Operating result (exc. Depreciation)	(3,302,265)	(2,114,016)	(2,426,109)	(312,093)	(14.8%)	●
Capital revenue	364,735	364,735	19,735	(345,000)	(94.6%)	●
Capital expenses	0	0	0	0	0.0%	●
Net result (excl. depreciation)	(2,937,530)	(1,749,281)	(2,406,374)	(657,093)	(37.6%)	●
Depreciation Expense	(4,421,009)	(3,315,757)	(3,495,790)	(180,033)	(5.4%)	●
Net result	(7,358,540)	(5,065,038)	(5,902,164)	(837,126)	(16.5%)	●

Comments:

Tracking under budget due to payment to stream A employees and lower commercial property rental income
 Divisional Admin activities are minimal but managed effectively, with greater focus on revenue.

Business Services financial performance at a glance

Key Financial Results	Annual Budget Review	YTD Budget Review	YTD Actual	YTD Variance \$	YTD Variance %	Status
Recurrent revenue	19,100,156	11,529,587	11,467,382	(62,205)	(0.5%)	●
Other income	0	0	0	0	0.0%	●
Recurrent expenditure (excl. depreciation)	(7,011,157)	(5,208,165)	(5,031,950)	176,215	3.4%	●
Operating result (exc. Depreciation)	12,088,999	6,321,422	6,435,432	114,010	1.8%	●
Capital revenue	6,926,811	164,491	509,491	345,000	209.7%	●
Capital expenses	(3,500,000)	(2,450,000)	(3,622,867)	(1,172,867)	(47.9%)	●
Net result (excl. depreciation)	15,515,810	4,035,913	3,322,056	(713,857)	(17.7%)	●
Depreciation Expense	(1,040,048)	(780,036)	(844,301)	(64,265)	(8.2%)	●
Net result	14,475,762	3,255,877	2,477,755	(778,122)	(23.9%)	●

Comments:

Net result over budget; expenditure is being managed to minimise budget overspend without compromising service delivery.
 Operating expenditure expected to remain within budget for the financial year
 Capital expenses above year budget due to the disposal of social housing for the home ownership program

Appendix A

Engineering Services financial performance at a glance

Key Financial Results	Annual Budget Review	YTD Budget Review	YTD Actual	YTD Variance \$	YTD Variance %	Status
Recurrent revenue	3,939,522	1,358,075	1,526,488	168,413	12.4%	●
Other income	0	0	0	0	0.0%	●
Recurrent expenditure (excl. depreciation)	(14,245,401)	(10,529,524)	(10,331,313)	198,211	1.9%	●
Operating result (exc. Depreciation)	(10,305,879)	(9,171,449)	(8,804,825)	366,624	4.0%	●
Capital revenue	47,309,038	25,969,843	16,972,311	(8,997,532)	(34.6%)	●
Capital expenses	0	0	0	0	0.0%	●
Net result (excl. depreciation)	37,003,159	16,798,394	8,167,486	(8,630,908)	(51.4%)	●
Depreciation Expense	(21,772,716)	(16,329,537)	(16,484,849)	(155,312)	(1.0%)	●
Net result	15,230,443	468,857	(8,317,363)	(8,786,220)	1874.0%	●

Comments:

Favourable variances for recurrent revenue and expenditure are predominately due to timing differences to budget.

Capital revenue is down due to the delay in receipt of funding for ICCIP which has been extended to 30 June 2022

Building Services financial performance at a glance

Key Financial Results	Annual Budget Review	YTD Budget Review	YTD Actual	YTD Variance \$	YTD Variance %	Status
Recurrent revenue	21,282,675	17,013,360	17,320,389	307,029	1.8%	●
Other income	0	0	0	0	0.0%	●
Recurrent expenditure (excl. depreciation)	(17,884,838)	(13,156,137)	(14,738,748)	(1,582,611)	(12.0%)	●
Operating result (exc. Depreciation)	3,397,837	3,857,223	2,581,641	(1,275,582)	(33.1%)	●
Capital revenue	1,735,124	1,214,587	0	(1,214,587)	(100.0%)	●
Capital expenses	0	0	0	0	0.0%	●
Net result (excl. depreciation)	5,132,961	5,071,810	2,581,641	(2,490,169)	(49.1%)	●
Depreciation Expense	0	0	0	0	0.0%	●
Net result	5,132,961	5,071,810	2,581,641	(2,490,169)	(49.1%)	●

Comments:

BSU tracking behind budget as a result of further delays in the Warraber duplex and unbudgeted backpays to Stream A employees. Expenditure is being managed, although focus is placed on increasing revenues, by recovering all costs where possible and improved invoicing procedures. Allocation between recurrent revenue and capital revenue yet to be processed by Finance (new accounting standard requirements).

Management believes at this stage the net result will not reach budget expectations by the end of financial year due to the difference in timing of works as opposed to phasing applied to the budget. A net profit of \$3.8m, with a YTD variance of (\$1.2m) is currently forecast. This variance reflects the budgeted revenues still to be received for the Warraber duplex.

Appendix A

Housing & Tenancy Services financial performance at a glance

Key Financial Results	Annual Budget Review	YTD Budget Review	YTD Actual	YTD Variance \$	YTD Variance %	Status
Recurrent revenue	4,844,063	3,613,079	3,543,964	(69,115)	(1.9%)	●
Other income	0	0	0	0	0.0%	●
Recurrent expenditure (excl. depreciation)	(4,507,349)	(3,386,000)	(3,414,956)	(28,956)	(0.9%)	●
Operating result (exc. Depreciation)	336,714	227,079	129,008	(98,071)	(43.2%)	●
Capital revenue	6,937,314	2,518,242	0	(2,518,242)	(100.0%)	●
Capital expenses	0	0	0	0	0.0%	●
Net result (excl. depreciation)	7,274,028	2,745,321	129,008	(2,616,313)	(95.3%)	●
Depreciation Expense	(19,274,210)	(14,455,658)	(13,960,674)	494,984	3.4%	●
Net result	(12,000,182)	(11,710,337)	(13,831,666)	(2,121,329)	(18.1%)	●

Comments:

Tracking below budget due to payment to stream A employees

Capital revenue under budget due to timing of capitalisation of housing projects in line with new accounting standards (AASB 1058)

Where to from here: The team focus is to improve collection of housing rents to ensure limited/reduced bad debts in the future. In addition, we will also be working with suppliers to improve relationships to initiate cost savings (possible reduced fees). This initiative is expected to have a positive effect on the bottom line of Housing and Tenancy finances.

Corporate Affairs and Engagement financial performance at a glance

Key Financial Results	Annual Budget Review	YTD Budget Review	YTD Actual	YTD Variance \$	YTD Variance %	Status
Recurrent revenue	65,160	55,160	46,161	(8,999)	(16.3%)	●
Other income	0	0	0	0	0.0%	●
Recurrent expenditure (excl. depreciation)	(1,630,475)	(1,169,782)	(989,684)	180,098	15.4%	●
Operating result (exc. Depreciation)	(1,565,315)	(1,114,622)	(943,523)	171,099	15.4%	●
Capital revenue	0	0	0	0	0.0%	●
Capita expenses	0	0	0	0	0.0%	●
Net result (excl. depreciation)	(1,565,315)	(1,114,622)	(943,523)	171,099	15.4%	●
Depreciation Expense	0	0	0	0	0.0%	●
Net result	(1,565,315)	(1,114,622)	(943,523)	171,099	15.4%	●

Comments:

Currently tracking under budget due to FTE and travel savings.

Department is currently focused on intranet & website delivery. Scope changes will have an effect on budget and time. The budget will be offset by savings above and projects will still be delivered within this financial year.

Department will continue to track within budget for the remainder of the financial year.

Appendix A

Strategic Projects & Logistics financial performance at a glance

Key Financial Results	Annual Budget Review	YTD Budget Review	YTD Actual	YTD Variance \$	YTD Variance %	Status
Recurrent revenue	104,789	74,993	37,878	(37,115)	(49.5%)	●
Other income	0	0	0	0	0.0%	●
Recurrent expenditure (excl. depreciation)	(1,879,633)	(1,380,736)	(1,385,445)	(4,709)	(0.3%)	●
Operating result (exc. Depreciation)	(1,774,844)	(1,305,743)	(1,347,567)	(41,824)	(3.2%)	●
Capital revenue	413,450	413,450	413,450	0	0.0%	●
Capital expenses	0	0	1,364	1,364	0.0%	●
Net result (excl. depreciation)	(1,361,394)	(892,293)	(932,753)	(40,460)	(4.5%)	●
Depreciation Expense	0	0	(55,107)	(55,107)	0.0%	●
Net result	(1,361,394)	(892,293)	(987,860)	(95,567)	(10.7%)	●

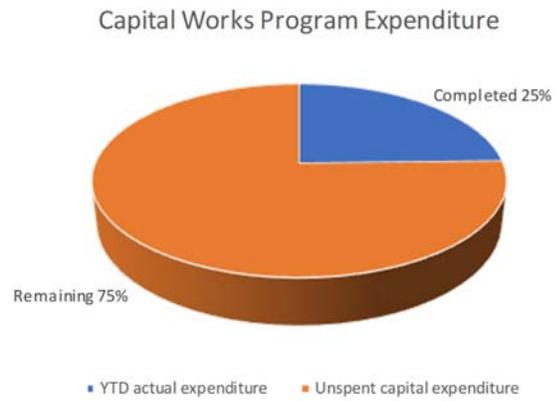
Comments:

Logistics business operation start date delayed due to continuing financial analysis of strategic direction

Fleet costs currently over budget; an assessment of all Council's fleet is currently being conducted which will assist in devising a strategy to minimise costs and maximising revenue where possible.

CAPITAL WORKS PROGRAM

YTD actual expenditure	\$21,110,681
Unspent capital expenditure	\$ 64,670,505
Full year budget capital expenditure	\$ 79,657,948



Council's capital works program is below budget. Works are expected to increase in the following months especially ICCP capital works.

Not expected to reach budgeted expectations by EOFY

TORRES STRAIT ISLAND REGIONAL COUNCIL

Agenda Report

ORDINARY MEETING

DATE: April 2021
SUBJECT ITEM: Change to May Ordinary Meeting dates
AUTHOR: Office of the CEO

RECOMMENDATION

That Council change the dates for Council's May Ordinary Meeting to Monday 24th and Tuesday 25th May 2021, and confirm Cairns as the location for the meeting.

PURPOSE

The purpose of this report is to allow Council to consider changing the dates for the May 2021 Ordinary Meeting, due to date changes in the May Workshop. The workshop dates are Monday 17th May 2021 until Friday 28th May 2021

BACKGROUND

Council must meet at least once in each month (if Council wanted to meet less frequently, this would have to be approved by Ministerial variation). (LGR s 257)

Council is required to publish, at least one in each year, a notice 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.

(LGR s 254B)

The notice must be displayed at Council's public offices and published on Council's website. **If meeting days and times are changed, Council must as soon as practicable notify of the change in the same way. (LGR s 254B)**

All Council meetings are to be held at one of Council's public offices, though Council can resolve to fix another venue for a particular Council meeting. (LGR s 257) Therefore, Council can by resolution decide to hold an ordinary meeting or committee meeting virtually. There is no requirement that the hour at which a meeting is held fall within the Council's ordinary business hours.

There are particular regulatory provisions that apply during the COVID-19 pandemic, until 30 June 2021: for virtual meetings, Council must ensure the meeting is available for real-time viewing or listening by the public at one of Council's public offices or on Council's website.

The relevant regulatory provisions are included below, for reference:

Local Government Regulation 2012 (Qld)

Section 254B

Public notice of meetings

(1)A local government must, at least once in each year, publish a notice 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.

(2)The notice mentioned in subsection (1) must be published on the local government's website, and in other ways the local government considers appropriate.

(3)A local government must display in a conspicuous place in its public office a notice of the days and times when—

(a)its meetings will be held; and

(b)meetings of its committees will be held.

(4)A local government must, as soon as practicable, notify any change to the days and times mentioned in subsection (1) or (3) in the same way as the days and times were previously notified.

Section 257

Frequency and place of meetings

(1)A local government must meet at least once in each month.

(2)However, the Minister may, after written application by a local government, vary the requirement under subsection (1) for the local government.

(3)All meetings of a local government are to be held—

(a)at 1 of the local government's public offices; or

(b)for a particular meeting—at another place fixed by the local government, by resolution, for the meeting.

Section 254K

Participating in meetings by audio link or audio visual link

(1)A local government may allow a person to take part in a meeting of the local

government by audio link or audio visual link.

(2)A committee of a local government may allow a person to take part in a meeting of the committee by audio link or audio visual link.

(3)A councillor or committee member who takes part in a local government meeting under subsection (1) or (2) is taken to be present at the meeting if the councillor or member was simultaneously in audio contact with each other person at the meeting.

The follow regulations relating to audio link and audio visual link meetings apply during the COVID-19 pandemic, until 30 June 2021:

Division 4

Additional provisions for local government and committee meetings

Section 277A

What this division is about

This division provides additional provisions for local government meetings to minimise serious risks to the health and safety of persons caused by the public health emergency involving COVID–19.

Section 277B

Meetings held by audio link or audio visual link

(1)A local government or a committee of a local government may hold a meeting of the local government or committee by audio link or audio visual link.

(2)A councillor taking part in a meeting under subsection (1) is taken to be present at the meeting.

(3)This section applies despite section 257(3).

Section 277C

Participating in meeting by audio link or audio visual link

(1)The chairperson of a local government meeting may allow a person to take part in the meeting by audio link or audio visual link.

(2)A councillor taking part in a meeting under subsection (1) is taken to be present at the meeting.

(3)This section does not affect, and is not affected by, the operation of section 254K.

Section 277D

Public availability of meetings held or participated in by audio link or audio visual link

(1) This section applies if—

(a) a local government meeting is held by audio link or audio visual link; or

(b) a person takes part in a local government meeting by audio link or audio visual link.

(2) The local government must ensure the meeting is available for real-time viewing or listening by the public at 1 of the local government's public offices or on the local government's website.

(3) This section does not apply if the meeting is to be closed under section 254J or 277E.

Section 277E

Public access to particular meetings

(1) This section applies if the chairperson of a local government meeting is satisfied it is not practicable for the public to attend the meeting because of health and safety reasons associated with the public health emergency involving COVID-19.

(2) The chairperson of the meeting may decide, by notice published on the local government's website, that the meeting be closed to the public.

(3) This section applies despite sections 254I and 254J.

Section 277F

Expiry

This division expires on 30 June 2021.

OFFICER COMMENT

In the current fiscal period 2021/2022, Council will hold six (6) face to face meetings. Council's budget for this period is for six face to face and six video conferences.

CONSULTATION

- SEA
- Mayor
- CEO
- MLS

LINKS WITH STRATEGIC PLANS

Corporate Plan

STATUTORY REQUIREMENTS

Local Government Act 2009 (Qld)

Local Government Regulation 2012 (Qld)

FINANCE AND RISK

2020/2021 and 2021/2022 Budget

CONCLUSION

As presented.



Ilario Sabatino
A/CEO

TORRES STRAIT ISLAND REGIONAL COUNCIL

AGENDA REPORT

ORDINARY MEETING

DATE: April 2021
SUBJECT ITEM: Policy review: Complaint Management Policy
AUTHOR: Julia Maurus, Manager Legal Services
PRESENTER: Peter Krebs, Senior Legal Counsel

RECOMMENDATION

That Council endorse the updated SP09 Complaint Management Policy, as presented.

PURPOSE

The purpose of this report is to present to Council, for endorsement, the reviewed Complaint Management Policy.

BACKGROUND

Council's Complaint Management Policy was last updated by Council resolution in June 2019 (**Attachment 1**). The Policy requires review and re-endorsement by Council.

A separate Complaint (Public Official) Policy was adopted by Council on 20 May 2019, to deal with complaints about the public official (CEO). This Policy is not due for review until 30 June 2021.

OFFICER COMMENT

The proposed reviewed Complaint Management Policy is included as **Attachment 2** with changes marked up. MacDonnells Law has recently assisted Council with several complaint investigations and has provided advice on recommended changes to the Policy.

The proposed changes to the Complaint Management Policy are as follows:

1. Policy Statement updated to refer to the Office of the Independent Assessor, as Council is required to refer complaints about Councillor conduct to the Office of the Independent Assessor.
2. The scope of the Policy (paragraph 2(a)) has been updated to clarify that the Policy covers all external complaints, including anonymous complaints, and all internal complaints dealing with matters other than personal work-related grievances. 'Grievances' are dealt with under Council's Grievance and Investigation Management Procedure (PO2-PR21).
3. The scope of the Policy has been updated (new paragraph 2(b)) to cross-reference the stand-alone Public Interest Disclosure Policy and Management Program, which is being presented to Council at this meeting for endorsement.
4. Schedule 1 (investigation policy for complaints about the inappropriate conduct of councillors) has been deleted because this was adopted as a stand-alone Investigations Policy by Council resolution on 21 April 2020. Cross-references have been updated accordingly.
5. The next proposed review date for the Policy is 30 June 2022.
6. Redrafting to reflect the introduction of the *Human Rights Act 2019* and best-practice guides provided by the Queensland Ombudsman.

CONSULTATION

- Legal Services Division
- CEO
- MacDonnells Law

LINKS WITH STRATEGIC PLANS

Corporate Plan

STATUTORY REQUIREMENTS

Local Government Act 2009 (Qld)
Local Government Regulation 2012 (Qld)
Public Interest Disclosure Act 2010 (Qld)
Public Sector Ethics Act 1994 (Qld)
Crime and Corruption Act 2001 (Qld)

FINANCE AND RISK

Capital Cost

NIL

Operating Cost

NIL

Risk Assessment

- *Policies should be regularly reviewed to ensure statutory compliance and risk management.*

SUSTAINABILITY

Policies should be regularly reviewed to reflect Council's current operating model, any legislative changes and best practice.

CONCLUSION

As presented.



Ilario Sabatino

A/CEO

Julia Maurus

Manager Legal Services

ATTACHMENTS:

- 1. Existing SP09 Complaint Management Policy**
- 2. Proposed updated SP09 Complaint Management Policy**



COMPLAINT MANAGEMENT POLICY

SPO 9

Responsible Manager:	Chief Executive Officer
Head of Power:	<i>Local Government Act 2009 (Qld)</i> <i>Local Government Regulation 2012 (Qld)</i> <i>Public Service Act 2008 (Qld)</i> <i>Industrial Relations Act 1999 (Qld)</i> <i>Anti-Discrimination Act 1991 (Qld)</i> <i>Sex Discrimination Act 1984 (Cth)</i> <i>Racial Discrimination Act 1975 (Cth)</i> <i>Disability Discrimination Act 1992 (Cth)</i> <i>Human Rights and Equal Opportunity Act 1986 (Cth)</i> <u><i>Human Rights Act 2019 (Qld)</i></u> <i>Public Sector Ethics Act 1994 (Qld)</i> <i>Crime and Corruption Act 2001 (Qld)</i> <i>Queensland Competition Authority Act 1997 (Qld)</i>
Authorised by:	Council
Authorised on:	25 June 2019 INSERT DATE
Implemented from:	28 March 2017
Last Reviewed:	June 2019
Review History:	2018, 2019
Review Date:	30 June 2020 <u>30 June 2022</u>
Corporate Plan:	Art, Culture, People

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1. POLICY STATEMENT

- (a) Council acknowledges that people have a right to make complaints about its actions.
- (b) Council shall maintain open and transparent internal and external complaints management processes enabling continuous review of the conduct of Council, its employees, Councillors, contractors and agents.
- (c) Council is committed to encouraging the internal reporting of wrongdoing.
- (d) Council shall ensure that people are given help to make their complaint.
- (e) Council shall ensure that people are not disadvantaged or treated unfairly after they make a complaint, and that Council provides appropriate protection and support to people who make public interest disclosures, and others related to a complaint.
- (f) Council shall respond quickly and efficiently to complaints in a fair and objective way, and deal with each complaint in accordance with the principles of natural justice.
- (g) Council, local government employees, Councillors, contractors and agents of Council shall conduct itself/ themselves strictly in accordance with the *Local Government Principles* set out in section 4(2) of the *Local Government Act 2009* (Qld) and the *Ethics Principles* set out in section 4(2) of the *Public Sector Ethics Act 1994* (Qld), namely: -
 - i. transparent and effective processes, and decision-making in the public interest; and
 - ii. sustainable development and management of assets and infrastructure, and delivery of effective services; and
 - iii. democratic representation, social inclusion and meaningful community engagement; and
 - iv. good governance of, and by, local government; and
 - v. ethical and legal behaviour of Councillors and local government employees; and
 - vi. integrity and impartiality;
 - vii. promoting the public good;
 - viii. commitment to the system of government; and
 - ix. accountability and transparency.
- (h) A failure of a local government employee, Councillor, contractor or agent to conduct oneself strictly in accordance with the *Local Government Principles* and *Ethics Principles* shall be thoroughly investigated by Council and if proven, met with appropriate

disciplinary action as available under Council Policy, Procedure and/or Regulation, including but not limited to mandatory reporting to regulatory bodies (e.g. the Queensland Crime and Corruption Commission, the Office of the Independent Assessor or the Chief Executive Officer of the Department of Local Government, Community Recovery and Resilience). A person who provides false or misleading information or makes false or misleading allegations may face disciplinary action.

2. SCOPE

(a) This Complaint Management Policy and Council's Complaint Management Procedure (SPO 9 PR 1) apply to:

- i. all external complaints (from contractors, members of public, etc.) received by Council, including anonymous complaints; and
- ii. all internal complaints dealing with matters other than personal work-related grievances (being grievances personal to the complainant about matters arising in the work environment) received by Council.

~~(a) This Complaint Management Policy and Council's Complaint Management Procedure (SPO 9 PR 1) do not apply to internal 'grievances', being any type of problem, concern, or complaint relating to an employee's work or the work environment. Grievances are dealt with under Council's Grievance and Investigation Management Procedure (PO2-PR21), complaints received by Council, except for performance management complaints regarding Council employees, which shall be dealt with under the Human Resources Policy, Human Resources Handbook, Code of Conduct, Fraud and Corruption Policy and Fraud and Corruption Control Procedure, as applicable.~~

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(b) Council will apply Council's Public Interest Disclosure Policy and Management Program to:

- i. assess whether a complaint is a public interest disclosure under the *Public Interest Disclosure Act 2010* (Qld); and
- ~~(b)ii. manage any complaint that Council considers to be a public interest disclosure. Part 7 (Public Interest Disclosures) of Council's Complaint Management Procedure (SPO 9 PR 1) shall apply to all public interest disclosures received by Council, regardless of whether the disclosure otherwise falls under the Complaint Management Policy and Procedure.~~

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(c) The Complaint Management Policy and Procedure apply for the purpose of:

i. section 268 of the *Local Government Act 2009* (Qld) and section 306 of the *Local Government Regulation 2012* (Qld) (administrative action complaints);

and

ii. section 48 of the *Local Government Act 2009* (Qld) and sections 44 and 45 of the *Local Government Regulation 2012* (Qld) (competitive neutrality complaints); ~~and~~

~~section 150AE of the *Local Government Act 2009* (Qld) (investigation policy for suspected inappropriate conduct by a Councillor);~~

~~(g)~~(e) This Policy applies to all local government employees, Councillors, contractors and agents of Council.

AUTHORISATION

This document was duly authorised by Council as the Torres Strait Island Regional Council Complaint Management Policy (SPO 9) on ~~25 June 2019~~ **INSERT DATE**, and shall hereby supersede any previous policies of the same intent.

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Date:

Bruce Ranga

Chief Executive Officer

~~SCHEDULE 1 — INVESTIGATION POLICY FOR COMPLAINTS ABOUT THE
INAPPROPRIATE CONDUCT OF COUNCILLORS~~

Julia Maurus

From: Melinda Foley <MFoley@macdonnells.com.au>
Sent: Tuesday, 6 April 2021 11:25 AM
To: Julia Maurus
Cc: Hollie Faithfull; Cathy David
Subject: Complaints Policy & Procedure Review

Importance: High

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Hi Julia,

As requested, we have set out below our comments regarding the Complaints Policy/Procedure documents. We are happy to further discuss or review any draft policy as required. We have not included any comments regarding compliance with the Human Rights Act as we understand you are attending to this aspect.

Complaint Management Policy

We make the following comments/suggestions with respect to this document:

1. Clause 2 Scope – the policy is expressed as applying to all complaints except for performance management complaints regarding Council employees.
 - a. There is no definition of 'performance management complaints' within the policy;
 - b. Council's '*Grievance and Investigation Management Procedure*' contains a definition of 'grievance' (being any type of problem, concern, or complaint relation to an employee's work or the work environment). This appears wider than the usual definition of 'performance management'.
 - c. In our experience in dealing with the complaints, it would be beneficial to more specifically identify the types of complaints that are excluded from the Complaints policy – for example we would recommend that Council specifically address whether this policy excludes only complaints dealing with the employee's own performance or does it cover all complaints relating to the work environment (similarly to the 'grievance' definition).
 - d. When considering this issue, we note that the Complaints process will need to cover all 'Administrative Action' complaints as per s268 of the Local Government Act and s306 of the Regulations.
 - e. In our view 'Administrative Action' complaints properly refer to administrative decisions made by Council and its employees in the course of performing Council functions and do not extend to employment related decisions.
 - f. We would recommend that the formal complaints process be utilised to deal with external complaints (from contractors, members of public etc) and internal complaints, dealing with matters other than personal work related grievances (being grievances personal to the complainant about matters arising in the work environment). Employee complaints about concerns that have a wider Council impact and involve issues other than the employee's own work environment, should be dealt with under this policy. All 'personal work related grievances' should be dealt with under the Grievance procedure.
2. Schedule 1 – Investigation Policy for Councillor Complaints

- a. We note that in paragraph 14 there is a reference to provisions for internal and external review of decisions in ss150CO to 150CS of the Act.
- b. We would recommend removing reference to any right of internal/external review.
- c. The sections referred to related to review of decisions by an assessor to 'seize' items under s150CC and do not appear to have any relevance to Council decisions on referred allegations of inappropriate conduct.

Complaint Management Procedure

We make the following comments/suggestions with respect to this document:

1. Clause 2 Scope – this procedure should be amended in the same manner as outlined above, to make clear the scope of coverage, particularly with respect to employee complaints.
2. Clause 5:
 - a. Sub-paragraph (g) – We query whether this sub-paragraph is necessary, particularly having regard to sub-paragraphs (i) and (j). We would delete this paragraph.
3. Clause 6:
 - a. (b)(ii) – *assessment of whether the affected person has a sufficient direct interest in the subject matter complaint about.*
 - i. We understand this requirement is derived from s268 of the Act and the definition of 'Administrative Action Complaint'.
 - ii. It is unclear however, how this requirement is applied. Will the complaint be rejected if there is insufficient interest or is this a matter of discretion?
 - iii. We would recommend that the policy include a statement to the effect that unless good reason otherwise exists, a complaint will be rejected where the complainant has insufficient direct interest in the subject matter;
 - iv. Wording of this nature will allow you to retain a discretion to accept complaints where there is not direct interest, in cases where serious issues are raised and for anonymous complaints, where it will be uncertain if the complainant has any interest.
 - b. (d) & e) – we would recommend time lines generally be inserted as 'soon as reasonably practicable' rather than defined time lines.
 - c. (e) – Appeal rights: should you choose to amend the rights of appeal (as outlined below), a consequential amendment to (e)(vi) is likely to be required.
4. Clause 7:
 - a. (c), (h) & (i)– we would recommend including a right for the CEO to delegate to a Senior Manager, his role as Complaints Officer or Decision Maker, under the policy, in cases of conflict;
 - b. (c), (d) & (k) – we would recommend including a right for the Mayor to delegate to another Councillor, his role as Complaints Officer, under the policy, in cases of conflict.
5. Clause 8: We would recommend amending this clause to:
 - a. expressly note that the information provided to the complainant, will be subject to compliance with any privacy laws; and
 - b. make any consequential amendments to the appeal rights (should the substantive appeal rights be amended as recommended below).

6. Clause 10 – Appeals

- a. We do not consider it necessary for the procedure to include a right of appeal, other than if required by any specific statute (for example Right to Information Act).
- b. On our review of the requirements of the complaints procedure for Administrative Action Complaints (s306 of the Regulations), Councillor Conduct Investigations (s150AE of the Act) and Competitive Neutrality Complaints (s44 & 45 of the Regulations), there is no requirement for these types of complaints when made to Council to have any specific appeal rights.
- c. We consider that the process set out in the procedure relating to assessment of complaints, investigation process, review by the Complaints Officer and final review by the CEO, provides a robust process to ensure fairness for all parties and proper investigation of the complaints. The right of further internal and external appeal rights is unnecessary.
- d. The process (without any appeal right) ensures the complainant has a fair right to be heard whilst appropriately balancing the right of the respondent for finalisation of the issue within a reasonable time and managing costs of the complaint process.
- e. The process, without an appeal, is reasonably costly and time consuming. The rights of appeal and the requirement to effectively 'do over' the process will significantly increase costs and time frames. We do not consider such costs and time are justified given that the process is already considered robust and fair to all parties.
- f. We would not recommend inclusion of any right to appeal or review, unless specifically required by statute and would remove these rights from the procedure.

7. Part 5 – Clause 12

- a. 12b) – the procedure provides that the CEO must not delegate 'corrupt conduct' complaints to another Complaint Officer
 - i. Under s44 of the Crime and Corruption, the CEO (as the Public Official) must deal with complaints involving corrupt conduct.
 - ii. We would recommend that Council include in this policy an ability of the CEO to delegate this power (under the CEO's delegation power under s259 of the Act) to another Senior Manager where the CEO has any conflict. The 'Complaint (Public Official) Policy' deals with the situation where the complaint is about the CEO (as required by s48A of the Crime and Corruption Act) but not where the CEO has a conflict in dealing with the matter and this appears to be a gap presently.
- b. 12(d) provides that if the complaint is against the CEO, the Mayor must undertake the investigations, with the assistance of investigators.
 - i. We would recommend a link be included in this policy to the related '*Complaint (Public Official) Policy*' (discussed below) to note that the 'Nominated Person' as per that policy be responsible for the complaint.

8. Part 5 – Competitive Neutrality Complaints

- a. We recommend this section be reviewed to more explicitly comply with the requirements of ss44 & 45 of the Regulations.
- b. Section 44 requires the procedure to include a process for resolving a matter before complaint and the process for a person to raise concerns and clarifying the matter.
- c. Clause 13b) details the process if a person does raise a concern, but does not set out how the person should raise a concern. We would recommend a more explicit process satisfying the requirements of s44 of the Regulation be included.

- d. Regulation 44 also requires recording of all complaints, decisions and recommendations. For this reason, clause 13a) should also include reference to Phase 5 reporting, as having application to these types of complaints.
 - e. We would also recommend that the procedure address the requirements of a formal complaint as set out in s45 of the Regulations and include these requirements as part of the formal complaint process for Competitive Neutrality complaints.
9. Part 6 Privacy Complaints – please note that we have not specifically reviewed this section against any legislative requirements but otherwise do not identify any specific issues. Should you wish us to consider any applicable legislative requirements, please advise. We note that the relevant Act may include review rights (for example the Right to Information Act) and hence should you choose to amend the appeal/review section (as set out above), you may need to include a general reference to rights of review being as per applicable legislation, with respect to these types of complaints. Should you wish us to consider this issue, please advise.
10. Part 8 - Procedure
- a. Clause 16 – we query whether this clause is necessary and unduly onerous.
 - i. Clause a) – this is previously dealt with in phase 2 of the procedure and hence is unnecessary to include again;
 - ii. Clause b) – we consider this is adequately dealt with in clause 1 (policy statement), particularly 1(a), (d), (e) and (f). If considered important, then appropriate wording could be added into section 1;
 - iii. Clause c) – we consider this is unduly onerous, particularly where the complaint is unsubstantiated. The process allows the complainant a fair hearing and then a determination on the facts identified. The process allows the complaints officer to consider remedies for the complainant where the complaint is substantiated (clause 7(f)). In our view, the process, without this additional obligation, strikes a fair balance between the rights of the complainant and the respondent and also the requirement to complete complaints in a timely and efficient manner.
 - b. Clause 17(e) – we would avoid committing to specific time frames and insert instead, '*as soon as reasonably practicable*'.

11. Templates

- a. Complaint Response Notice – We would delete the sentence on page 28 of the template, '*Please note that Council can only consider written evidence during the investigation*', given the obligation in the policy to speak to the Complainant and confirm all issues are identified and understood. We consider information taken during this interview can be recorded by the investigator and used during the investigation.

Complaint (Public Official) Policy

We make the following comments/suggestions with respect to this document:

1. This policy is made pursuant to s48A of the Crime and Corruption Act, that requires a Public Official (being the CEO) in consultation with the Chairperson, to prepare a policy about how the Council will deal with a complaint that involves or may involve corruption of the Public Official.
2. Section 48A says that the policy may nominate a person other than the public official to notify the Commission of a corrupt conduct complaint and to deal with the complaint on behalf of the Public Official.
3. Presently, this policy nominates the Mayor as the 'nominated person' under s48A.
4. We recommend this policy be amended to:
 - a. nominate the Mayor as the 'nominated person', unless the Mayor has a conflict of interest;
 - b. where the Mayor has a conflict of interest, the Mayor must delegate his obligations as 'nominated person' to another Councillor.
5. We otherwise, recommend the policy should not include specific contact details for the Mayor as these may change during the term of operation of the policy.

We are happy to discuss any of the above recommendations or review any draft of any updated policies, as required.

Kind Regards,

Melinda Foley Director
MACDONNELLS LAW
Tel: +61 7 4030 0530 Mobile: 0409 487 605



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**TORRES STRAIT ISLAND REGIONAL COUNCIL
AGENDA REPORT**

ORDINARY MEETING

DATE: 20-21 April 2021
SUBJECT ITEM: Strait Support Pty Ltd - Erub
AUTHOR: Peter Krebs, Senior Legal Counsel

RECOMMENDATION

That Council resolve to:

- *A waiver of commercial licensing arrangement (at adopted General storage use rates) with Strait Support at Lot 91 Builders Shed, Erub totalling \$12,972.00 for six months occupancy between 1 July to 31 December 2019 is approved / not approved.*

BACKGROUND

Construction of the Multi-Purpose facility was completed in June 2019 and TSRA Erubam Rangers commenced occupation of the new facility. They had officially vacated Council's facilities at Lot 91 Builders Shed storage shed space of 69m².

An expression of interest was made in 2019 by Shane Lui, Strait Support Pty Ltd seeking permission to occupy the vacant storage shed space. Recent emails with Strait Support Pty Ltd, licence agreement and floor plan of the Builders Shed, are included as **Attachment 1**.

At its 9 – 10 December 2019 Ordinary Meeting Council made the following resolution, namely:

enter into commercial licensing arrangement (at adopted General

storage use rates) with Strait Support at Lot 91 Builders Shed, Erub.

OFFICER COMMENT

The licence fee for FY2019/20 would normally be at General Storage use space at \$376.00 m² x 69m² = \$25,944.00 + GST, commencing occupation on 1 July 2019. Divisional staff confirm Strait Support had already 'unofficially' taken occupancy of that space since July 2019 despite no approvals yet being made then by Council.

Strait Support Pty Ltd stated on 4 August 2019 their intention is to occupy the shed and wishes to request a discounted rate to assist with associated costs of a local business being based on Darnley, that has a very clear motive to create employment opportunities in the eastern cluster region.

In January 2020 after Council informed Strait Support Pty Ltd of the approved commercial licence agreement, they have since responded if we would consider starting the agreement fees from this year in 2020. Basically, they are seeking a waiver of licencing rates between 1 July to 31 December 2019.

Council is to now determine if a discounted rate or waiver of rates should be applied over that six months period.

CONSULTATION

Cr Jimmy Gela

LINK WITH STRATEGIC PLAN

Corporate Plan

- Ngalpin Idid – Art, Culture, People 1(1) Generations of society understand and appreciate Torres Strait Islander traditions, arts and cultural heritage. (.4) Collaborative relationships with key stakeholders.
- Economic Participation - (2) Growth in the local economy through economic change.

RISK AND SUSTAINIBILITY

- Licence fee revenue
- Debt recovery
- Opportunity for economic development

STATUTORY REQUIREMENTS

Local Government Act 2009 (Qld)

CONCLUSION

As presented.



Ilario Sabatino
A/CEO



Peter Krebs
Senior Legal Counsel

Attachments

1. Emails with Strait Support Pty Ltd and Licence agreement with floor plan.

Peter Krebs

From: Stacey Lui <stacey.lui@straitsupport.com>
Sent: Wednesday, 15 April 2020 2:52 PM
To: Cathy David; Peter Krebs
Subject: Fwd: Strait Support - Erub - Licence Agreement 2019/2020

Hi Cathy and Peter

I am following up on the emails below regarding the lease agreement for the shed on Erub. Can you please advise regarding Shane's below request on whether we can amend the start date to allow for a 12 month lease?

Thank you

Stacey Lui
Boss Lady

☐ 0403 577 495
☐ stacey.lui@straitsupport.com
☐ www.straitsupport.com

☐ ☐
QBCC 15128137

☐ ☐

Begin forwarded message:

From: Shane Lui <shane.lui@straitsupport.com>
Subject: Re: Strait Support - Erub - Licence Agreement 2019/2020
Date: 13 January 2020 at 3:28:26 pm AEST
To: Cathy David <Cathy.David@tsirc.qld.gov.au>
Cc: Peter Krebs <Peter.Krebs@tsirc.qld.gov.au>

Thank you for sending this through Cathy.

After reading through the agreement I wondered if Council would consider starting the agreement from this year in 2020, to allow a full 12 month lease?

Thanks

Shane Lui
CI Captain

☐ 0477 377 183
☐ shane.lui@straitsupport.com
☐ www.straitsupport.com

☐ ☐
QBCC 15128137

☐ ☐

On 9 Jan 2020, at 3:49 pm, Cathy David <Cathy.David@tsirc.qld.gov.au> wrote:

Good afternoon Shane,

Please find attached for your consideration our licence agreement that formalises Councils resolution in December 2019 and we look forward to receiving your signature in due course.

Kind Regards,

Cathy David | Administration Officer

Torres Strait Island Regional Council



Phone: 07 4034 5734
Fax: 07 4034 5750
Address: TSIRC, PO Box 7336, Cairns, QLD 4870
Website: www.tsirc.qld.gov.au
Email: cathy.david@tsirc.qld.gov.au

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[<a65ebe56-e726-4b32-8a8f-24cea0bcb3b6.png>](#) [<LinkedIn 7df42ab8-fde0-4619-89d5-8cdf1648239f.png>](#) [<vimeo 3d73b339-db4e-4467-bfa8-b9eddaa827c5.png>](#)

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From: Cathy David <Cathy.David@tsirc.qld.gov.au>
Sent: Wednesday, 18 December 2019 12:07 PM
To: 'shane.lui@straitsupport.com' <shane.lui@straitsupport.com>
Cc: Peter Krebs <Peter.Krebs@tsirc.qld.gov.au>
Subject: CEO notification of resolution - Strait Support - Erub

Good afternoon Shane,

Please find attached correspondence from Mr Bruce Ranga – Chief Executive Officer.

Regards,

Cathy David | Administration Officer

Torres Strait Island Regional Council



Phone: 07 4034 5734
Fax: 07 4034 5750
Address: TSIRC, PO Box 7336, Cairns, Queensland 4870
Website: www.tsirc.qld.gov.au
Email: cathy.david@tsirc.qld.gov.au



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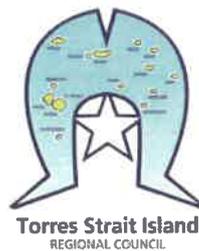
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<Licence Agreement - Strait Support 2019-2020.pdf>

TORRES STRAIT ISLAND REGIONAL COUNCIL



LICENCE AGREEMENT

**TORRES STRAIT ISLAND REGIONAL COUNCIL
(Licensor)**

and

**STRAIT SUPPORT PTY LTD ABN 70 619 662 252
(Licensee)**

THIS AGREEMENT is made on the day of 2020

BETWEEN: TORRES STRAIT ISLAND REGIONAL COUNCIL ("*Licensor*")

AND: The Person named in the Schedule, as Licensee (*the "Licensee"*)

WHEREAS:

- A. The Licensor is the owner of the Premises and/or the land.
- B. The Licensor has agreed to licence the Premises and/or the Land to the Licensee on the terms of this Agreement.

OPERATIVE PROVISIONS

In consideration of the mutual covenants in this Deed, the Parties agree the following as set out in this Agreement:

<i>Licensee:</i>	Strait Support Pty Ltd
<i>Premises:</i>	Lot 91 Erub Council Builders Shed – secured storage space 69m2 at \$376.00 per m2 per annum
<i>Land:</i>	Lot 91 on SP270873
<i>Commencement Date:</i>	1 July 2019
<i>Licence Fee:</i>	\$25,944.00 per annum, on demand (GST Inclusive)
<i>Term:</i>	Twelve months from the commencement date
<i>Option Term:</i>	Nil
<i>Days and Times:</i>	Unrestricted
<i>Use:</i>	Licensee business equipment is stored in the Premises at the Licensee's risk. Licensee's equipment must not be left in a way that obstructs use of the Premises by others and compliantly operated to OH&S standards.

1 DEFINITIONS AND INTERPRETATION

1.1 **Definitions:** Unless a contrary intention appears in this Agreement, the following expressions shall have the following meanings:-

"Agreement" means this Agreement as amended or supplemented in writing.

"Building" in which the Premises are located, or on the Land specified on Schedule 1.

"Business Days" means each day except Saturdays, Sundays and public holidays in Queensland.

"Claim" means an action, claim, proceeding, expense, demand or damages.

"Commencement Date" means 1 July 2019.

"Common Area" for Council's buildings means the areas on the Premises or Land designed or allowed by the Licensor for common use, for example the foyers, walkways, passageways, staircases, escalators, lifts, toilets, car parking and garden areas (if any).

"Days and Times" means 8.30am to 5.00pm on Business Days.

"Fit and Proper Condition" has the meaning given in clause 4.9 of this Licence Agreement.

"Land" means the Land specified in Schedule 1.

"Laws" means the common law, a statute, regulation, rule, by-law, ordinance, proclamation, enactment, statutory instrument or delegated or subordinated legislation (whether federal, state, municipal or of any authority) and codes.

"Licence Fee" means the amount specified in Schedule 1 calculated based on \$872.73 m² (GST excl) for Premises or Land where the Permitted Use is for office space and \$341.82 m² (GST excl) where the Permitted Use is for general storage.

"Licensee" means Strait Support Pty Ltd, and its successors assigns, employees and contractors.

"Licensee's Improvements" means all personal property of the Licensee, including equipment and fittings installed to the Premises or the Land by the Licensee during the Term.

"Licensor" means the Torres Strait Island Regional Council.

Major Maintenance means any maintenance required to be undertaken to the Premises or fixtures contained therein as a result of fair wear and tear.

Minor Maintenance means any minor works to be undertaken such as replacement of light bulbs and air-conditioning filters, but does not include rectification of any damage to the Premises inflicted by the Licensor's acts or omissions.

"Outgoings" means electricity, water, waste disposal, telephone charges, internet charges, etc, incurred directly by the licensee. Outgoings are payable by the licensee to those providing the service.

"Party" means a Party to this Licence and, where the context permits includes a Party's employees, agents and contractors.

"Premises" means Council buildings listed in the Schedule 1.

"Term" means the period commencing on the Commencement Date and ending one (1) year later on the Terminating Date.

"Terminating Date" means 30 June 2020.

1.2 Interpretation: Unless a contrary intention appears in this Agreement, a reference to:-

- (a) a clause or schedule is to a clause or schedule in this Agreement;
- (b) the singular includes the plural and vice versa;
- (c) any gender includes all other genders; and
- (d) a person includes a corporation and an association whether incorporated or not and vice versa.

1.3 Headings: The clause headings appearing in this Agreement are inserted for convenience of reference and shall not affect the construction of this Agreement.

1.4 Governing Law:

1.4.1 Notwithstanding the residence or domicile of any party to this Agreement, this Agreement shall be governed by and construed in all respects in accordance with the laws of Queensland.

1.4.2 Nothing in this Agreement is to be construed as binding the Licensee to comply with Laws which do not apply to it of their own force.

2 GRANT OF LICENCE:

2.1 Grant of Licence: The Licensor grants a Licence to the Licensee and the Licensee takes a Licence of the Premises or Land for the Term.

2.2 Rights with respect to Licence: The Licensee pursuant to this Agreement:

- (a) shall have a right to use and/or occupy (on a non exclusive basis) the Premises or Land, for the Term during the Days and Times; and

- (b) shall have a right to use and/or occupy (on a non exclusive basis) the Premises or Land, at other times during the Term, for official work related purposes or to discharge the Licensee's obligations under this agreement; and
- (c) shall not, without the Licensor's prior consent (which consent cannot be unreasonably withheld), allow access to the premises outside of the Days and Times, to any person(s) other than for official work related purposes or to discharge the Licensee's obligations under this agreement.

2.3 **Common Area:** The Licensee may reasonably use the Common Area for its intended purpose.

2.4 **No Tenancy:** Other than the rights granted under this Agreement, the grant of this Licence does not create nor confer upon the Licensee any tenancy or other estate or interest in the Premises or Land.

2.5 **Native Title:**

2.5.1 The Licensee warrants that in relation to Land under this agreement:

- (i) it has made all reasonable enquiries to obtain consent to the Licensee's proposed use of the Land from the Native Title Prescribed Body Corporate ("**RNTBC**") for the island; and
- (ii) it has not received any objection or refusal from the RNTBC to the Licensee's use of the Land under this Licence Agreement.

2.5.2 Where the Licensee wishes to continue occupancy of the Land subsequent to expiry of the Licence Term, the Licensee further warrants that it has entered into formal negotiations with the Licensor and the RNTBC, with respect to entry into a Trustee Lease and Indigenous Land Use Agreement ("**ILUA**") in accordance with the *Torres Strait Islander Land Act 1991* (Qld) and the *Native Title Act 1993* (Cth), commencing from the date of expiry of this temporary Licence Agreement.

3 **LICENCE FEE:**

The Licensee shall pay to the Licensor on or before the Commencement Date.

4 **OBLIGATIONS OF LICENSEE:**

4.1 **Use of Premises:** The Licensee shall not use the Premises or the Land for any purpose other than as an office.

4.2 **Maintenance:**

- (i) The Licensee will carry out **Minor Maintenance** of that part of the Premises used by the Licensee as and when required and otherwise within seven (7) days of receipt of notice from the Licensor.
- (ii) Where the licensed premises is a stand-alone facility (that is, not a facility shared by the Licensee with other occupants), the Licensee shall be responsible for maintenance of any existing gardens and lawns.

4.3 **Nuisance and Directions:**

4.3.1 The Licensee shall not:-

- (i) cause any unauthorised obstruction danger nuisance or annoyance to other users or occupiers of the Premises; or
- (ii) fail to comply with any reasonable written direction of the Licensor or the Licensor's employees in relation to the use of the Premises which has previously been communicated to the Licensee.

4.3.2 For the purpose of clause 4.3.1(ii), a reasonable written direction of the Licensor is one that is not:

- (i) inconsistent with the terms of this Licence; and
- (ii) inconsistent with the rights of the Licensee under this Licence.

4.4 **Licensee to Clean Premises:** The Licensee shall keep the Premises clean and clear of all rubbish and deliver up the Premises in a clean and tidy condition, at the expiration of the Term. Where the Licensee occupies a Council building which is not occupied by Council staff, the Licensee will, along with the other building occupants where applicable, be responsible for and organise for the cleaning of common areas.

4.5 **Removal of any Property of the Licensee:** At the expiration, surrender or earlier determination of this Agreement, the Licensee shall remove the Licensee's property on the Land and if the Licensee does not do so within one (1) month of the expiration, surrender or earlier determination of this Agreement, then the Licensor shall be entitled to remove that property, and deal with it in a manner as the Licensor in its absolute discretion deems fit at the risk and at the cost of the Licensee.

4.6 **Obtain All Approvals:** The Licensee will obtain all approvals, consents and licences and permits, which are necessary to use the Premises or the Land, to the extent that the Licensee is bound to obtain any approval, consent, licence or permit.

4.7 **Assignment:** This Licence is personal to the Licensee and is not assignable nor transferable.

4.8 **Work Health and Safety:** The Licensee shall be solely responsible, at its own cost, for compliance with Work Health and Safety requirements with respect to its use of the Premises, Building or Land.

4.9 **Fit and proper condition:** The Licensee:

In relation to Premises –

- (i) acknowledges that the Premises are in fit and proper condition at the commencement of this Agreement, with regard to the Permitted Use; and
- (ii) shall maintain the Premises in the same condition subject to fair wear and tear; and
- (iii) shall repair the Premises where damage is caused to the Premises by the Licensee's negligence or deliberate act.

Despite any Clause in this Agreement, the Licensee is not obliged to make structural alterations, additions or repairs to the Premises or install or replace capital items unless they are required because of the Licensee's negligence or deliberate act.

In relation to Land - acknowledges that the Land is fit for its purpose under this Agreement.

4.10 **Communication Services:**

4.10.1 Prior to the Commencement Date, after giving reasonable notice to the Licensor, the Licensee may, at its own cost, carry out all works necessary to install and connect data and telephone services to the Premises and to install the Licensee's Improvements to the Premises. All costs associated with these works shall be paid by the Licensee. The Licensee indemnifies the Licensor against all loss and damage to the Premises and the Building relating to work under this clause 4.10.

4.10.1 At the express election of the Licensee, the Licensee shall be at liberty to utilise the Communication Services of the Licensor in exchange for payment of the prescribed fee identified in the Licensor's Register of Fees and Charges. Otherwise, All telephone, data/internet and facsimile lines required by the Licensee shall be registered in the Licensee's name and used at the Licensee's cost.

4.11 **Installation of Improvements:** The Licensee may install the Licensee's Improvements and run wire and/or cables necessary in order to use the Licensee's Improvements.

5 LICENSORS OBLIGATIONS

5.1 **Fit and proper condition:** Subject to clauses 4.2, 4.4 and 4.9, the Licensor must maintain the Premises in a good, clean and safe condition and state of repair. In

relation to Land, the Licensor shall ensure that the Land is in fit and proper condition at the commencement of the Licence, with regard to the Permitted Use.

- 5.2 **Quiet enjoyment:** The Licensor shall provide the Licensee with quiet enjoyment of the Premises for the Term of this Licence.
- 5.3 **Insurance:** The Licensor shall for the Term, take out and maintain the following insurances:-
- (i) insurance for the Building:
 - (A) for its full reinstatement or replacement value (including architects, surveyors and other professional fees, the cost of debris removal, demolition, site clearance, any works that may be required by a law and incidental expenses) at the time of loss or damage; and
 - (B) against loss or damage from fire, lightning, flood, storm and tempest, earthquake, water damage (including sprinkler leakage and rain water), explosion or concussion from explosion, impact by vehicles or aircraft or articles dropped from aircraft, radiation, riots, strikes, civil commotion, malicious damage; and
 - (ii) insurance cover for all Claims for injury, loss or damage to any person or property however sustained arising out of the use of the Building or the Building for not less than the amount of \$20 million or for a greater reasonable amount which the Licensor or the Licensee may require from time to time.
- 5.4 **Services:** Subject Clause 4.10, the Licensor must supply to the Licensee the services to or of the Building provided by the Licensor or by any authority (including water, gas and electricity supply, air-conditioning, elevators and toilets) available as at the Commencement Date, for use in the Premises.
- 5.5 **Disposal of Land:** If during the Term the Licensor disposes of its interest in the Premises or Land any part of the Land, it must, before that disposal, obtain from the person to whom it intends to make that disposal a covenant stating that that person will be bound by the Licensor's obligations in this Agreement, including any options for renewal as if that person were the Licensor under this Agreement.
- 5.6 **Entry to the Premises:** Despite any provision in this Agreement, the Licensor may enter, or allow anyone other than the Licensee or the Licensee's invitee to enter, the Premises during the Term if and only if:
- (i) reasonable notice has been given to the Licensee (except in an emergency, if it is impracticable to do so); and
 - (ii) the purpose of the entry is to:

- (A) inspect the Premises to ensure the Licensee is complying with its obligations under this Agreement; or
- (B) do repairs or building works that are:
 - (1) required by law; or
 - (2) necessary to ensure that the Building or the Premises are safe or the services to the Building or the Premises continue to operate; or
- (C) show them:
 - (1) at any time during the Term to potential purchasers of the Building; or
 - (2) during the last three (3) months of the Term, to potential lessees or licensees.

6 RELEASES AND INDEMNITIES

- 6.1 **Indemnity Breach:** The Licensee shall indemnify the Licensor in respect of any Claim suffered by the Licensor to the extent caused by any failure of the Licensee to perform the obligations on the part of the Licensee expressed in this Agreement.
- 6.2 **Assumption of Risk:** Subject to the terms of this Agreement, the Licensee agrees to occupy and use the Premises or Land at its risk unless any loss or damage is the result of the Licensor's negligence or deliberate act.
- 6.3 **Indemnity:** The Licensee indemnifies the Licensor for Claims suffered by the Licensor in respect of:
- (i) personal injury to, or death of, any person; or
 - (ii) damage to the Premises and/or Building or Land; or
 - (iii) damage and/or loss to the Licensor's improvements or property within the Building or to the Land,
- to the extent caused by the negligent act or omission of the Licensee in relation to its use of the Premises and/or the Common Area.
- 6.4 The liability of the Licensee to indemnify the Licensor will be reduced proportionately to the extent that the Licensor caused the Claim to arise.
- 6.5 The Licensee's indemnity under this clause 6 is limited to \$20,000,000.00 in the

aggregate and will expire on the expiry or earlier termination of this Licence.

- 6.6 Immediately upon becoming aware of any event, circumstance or Claim which may give rise to the Licensor relying on the indemnity in this clause 6, the Licensor shall:
- (i) notify the Licensee in writing of the event, circumstance or Claim and provide reasonable details; and
 - (ii) use its best endeavours to mitigate any loss, damage or expenses arising out of or in connection with the event, circumstance or Claim.

6.7 **Assumption of Risk:**

- 6.7.1 Except in circumstances of the Licensor's, its employees, contractors, agents, or invitees negligence or default of this Licence, the Licensee agrees to occupy and use the Premises or Land for the Permitted Use only at the risk of the Licensee.
- 6.7.2 The Licensee releases the Licensor to the full extent permitted by law from all claims and demands resulting in accident, death or injury to any person or damage to property arising out of or in connection with the Licensee's Use or occupation of the Premises, except for any claims or demands caused or contributed by the negligence, default or unlawful act of the Licensor or its agents, employees, contractors or invitees.

7 **GOODS AND SERVICES TAX**

- 7.1 **Definitions:** In clauses 7.2 to 7.4 –

"GST", "taxable supply" and "tax invoice" have the same meaning as in the GST Act. "GST Act" means the *A New Tax System (Goods and Services) Act 1999* (Cth).

- 7.2 **Licence Fee and other payments are exclusive of GST:** The consideration payable under a clause of this Agreement (except under clause 7.3) for a taxable supply is exclusive of any amount attributable to GST (the GST-exclusive consideration).

7.3.1 **Licensee's Obligation to pay Licensor:**

- 7.3.2 A party (Supplier) shall, in respect of any taxable supply made by the other party (Recipient) under this Agreement, pay to the Recipient, in addition to the GST-exclusive consideration and subject to clause 7.4 at the same time this Agreement requires, the GST-exclusive consideration to be paid, an amount which, under the GST Act, is equal to the GST payable on the supply in question.
- 7.3.3 No party may claim or retain from the other party an amount in relation to a supply made under this Licence for which the first party can obtain an input tax credit or decreasing adjustment.

7.4 **Tax Invoice:** The Supplier shall deliver to the Recipient a tax invoice for a taxable supply made by the Supplier to the Recipient.

8 GENERAL

8.1 **Costs:** The Licensee shall pay to the Licensor on or before the Commencement Date, in addition to the Licence Fee, the Licensor's prescribed legal charge for care and consideration as contained in the Licensor's Register of Fees and Charges then applying.

8.2 **Notices:** Any notice or other document or writing served or given under this Agreement must be in writing and is given for all purposes by delivery in person, by prepaid post or by facsimile addressed to the receiving party. In the case of posting, notice will be deemed to have been given two (2) business days after the date of posting and in the case of a facsimile on the date of transmission (providing the sending party receives a verification report indicating that the notice has been transmitted).

8.3 **Waiver:** No right under this Agreement shall be deemed to be waived except by notice in writing signed by either party and any forbearance to delay or indulgence granted by either party to the other shall not be construed as a waiver of its rights under this Agreement.

8.4 **Severability:** If any term or condition in this Agreement shall become invalid or unenforceable, the remaining terms and conditions shall not be affected and shall be valid and enforceable to the full extent permitted by law.

8.5 **Entire Agreement:** This Agreement constitutes the entire Agreement between the parties with respect to the Premises or Land.

8.6 **Termination:** Should the Licensor or Licensee, at any time and for whatever reason during the initial term or any extension of the initial term wish to terminate this Agreement, the Licensee shall be required to vacate the Premises or Land upon at least three (3) calendar months notice in writing. No compensation shall be claimed by either party from the other as a result of a party exercising rights under this clause 8.6, other than as required under clause 8.7 of this Agreement.

8.7 **Refund:** In the event of either party exercising rights under clause 8.6 of this Agreement, the Licensor shall repay to the Licensee within 14 days of receipt of notice under clause 8.6, proportionate unused Licence Fee of remaining Term.

8.8 **Counterparts:** This Agreement may be signed in Counterparts.

8.9 **Variation:** This Agreement may be varied by approval of both Parties to this agreement in writing and annexed hereto.

SCHEDULE 1 – THE PREMISES AND LAND

Lot 91 Erub Builders shed Not to scale

