

Councillor Conduct Tribunal: Summary of Decision and Reasons for Department's website

Local Government Act 2009: Sections 150AS(2)(c)

Note that the Tribunal is prohibited from giving another entity information that is part of a Public Interest Disclosure unless required or permitted under another Act; or including in this summary the name of the person who made the complaint or information that could reasonably be expected to result in identification of the person: S150AS(5)(a) and (b).

1. Application details:

Reference No.	F20/7836
Subject Councillor	Councillor Robert (Bob) Manning (the Councillor)
Council	Cairns Regional Council (the Council)

2. Decision (s150AQ):

Date:	24 March 2023
Report details:	<p>This matter and report relate to 24 allegations of misconduct.</p> <p>23 of the 24 allegations have been sustained.</p> <p>This report will deal with the 23 sustained allegations first and then discuss the non-sustained allegation (Allegation 13).</p> <p>Annexure A attached to the report contains all 24 allegations and particulars in full.</p>

Councillor Conduct Tribunal

GPO Box 15009, City East, Q 4002

<p>Allegation 1</p>	<p>That on 24 April 2013, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the <i>Local Government Act 2009</i>, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of Councillors and local government employees'.</p> <p>The Tribunal has determined, on the balance of probabilities, that the allegation has been sustained.</p>
<p>Allegation 2</p>	<p>That on 15 May 2013, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the <i>Local Government Act 2009</i>, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of Councillors and local government employees'.</p> <p>The Tribunal has determined, on the balance of probabilities, that the allegation has been sustained.</p>
<p>Allegation 3</p>	<p>That on 22 May 2013, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the <i>Local Government Act 2009</i>, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of Councillors and local government employees'.</p> <p>The Tribunal has determined, on the balance of probabilities, that the allegation has been sustained.</p>
<p>Allegation 4</p>	<p>That on 19 June 2013, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the <i>Local Government Act 2009</i>, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of Councillors and local government employees'.</p> <p>The Tribunal has determined, on the balance of probabilities, that the allegation has been sustained.</p>

<p>Allegation 5</p>	<p>That on 19 June 2013, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the <i>Local Government Act 2009</i>, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of Councillors and local government employees'.</p> <p>The Tribunal has determined, on the balance of probabilities, that the allegation that has been sustained.</p>
<p>Allegation 6</p>	<p>That on 26 June 2013, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the <i>Local Government Act 2009</i>, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of Councillors and local government employees'.</p> <p>The Tribunal has determined, on the balance of probabilities, that the allegation has been sustained.</p>
<p>Allegation 7</p>	<p>That on 12 March 2014, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the <i>Local Government Act 2009</i>, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of Councillors and local government employees'.</p> <p>The Tribunal has determined, on the balance of probabilities, that the allegation has been sustained.</p>
<p>Allegation 8</p>	<p>That on 26 March 2014, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the <i>Local Government Act 2009</i>, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of Councillors and local government employees'.</p> <p>The Tribunal has determined, on the balance of probabilities, that the allegation has been sustained.</p>

Allegation 9	<p>That on 9 April 2014, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the <i>Local Government Act 2009</i>, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of Councillors and local government employees'.</p> <p>The Tribunal has determined, on the balance of probabilities, that the allegation has been sustained.</p>
Allegation 10	<p>That on 30 April 2014, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the <i>Local Government Act 2009</i>, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of Councillors and local government employees'.</p> <p>The Tribunal has determined, on the balance of probabilities, that the allegation has been sustained.</p>
Allegation 11	<p>That on 28 May 2014, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the <i>Local Government Act 2009</i>, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of Councillors and local government employees'.</p> <p>The Tribunal has determined, on the balance of probabilities, that the allegation has been sustained.</p>
Allegation 12	<p>That on 27 April 2016, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the <i>Local Government Act 2009</i>, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of Councillors and local government employees'.</p> <p>The Tribunal has determined, on the balance of probabilities, that the allegation has been sustained.</p>
Allegation 13	Discussed below.

<p>Allegation 14</p>	<p>That on 25 June 2014, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the <i>Local Government Act 2009</i>, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of Councillors and local government employees'.</p> <p>The Tribunal has determined, on the balance of probabilities, that the allegation has been sustained.</p>
<p>Allegation 15</p>	<p>That on 15 June 2016, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the <i>Local Government Act 2009</i>, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of Councillors and local government employees'.</p> <p>The Tribunal has determined, on the balance of probabilities, that the allegation has been sustained.</p>
<p>Allegation 16</p>	<p>That on 26 September 2012, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the <i>Local Government Act 2009</i>, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of Councillors and local government employees'.</p> <p>The Tribunal has determined, on the balance of probabilities, that the allegation has been sustained.</p>
<p>Allegation 17</p>	<p>That on 27 February 2013, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the <i>Local Government Act 2009</i>, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of Councillors and local government employees'.</p> <p>The Tribunal has determined, on the balance of probabilities, that the allegation has been sustained.</p>

<p>Allegation 18</p>	<p>That on 10 July 2013, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the <i>Local Government Act 2009</i>, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of Councillors and local government employees'.</p> <p>The Tribunal has determined, on the balance of probabilities, that the allegation has been sustained.</p>
<p>Allegation 19</p>	<p>That on 24 July 2013, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the <i>Local Government Act 2009</i>, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of Councillors and local government employees'.</p> <p>The Tribunal has determined, on the balance of probabilities, that the allegation has been sustained.</p>
<p>Allegation 20</p>	<p>That on 15 June 2016, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the <i>Local Government Act 2009</i>, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of Councillors and local government employees'.</p> <p>The Tribunal has determined, on the balance of probabilities, that the allegation has been sustained.</p>
<p>Allegation 21</p>	<p>That on 20 July 2016, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the <i>Local Government Act 2009</i>, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of Councillors and local government employees'.</p> <p>The Tribunal has determined, on the balance of probabilities, that the allegation has been sustained.</p>

<p>Allegation 22</p>	<p>That on 27 July 2016, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the <i>Local Government Act 2009</i>, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of Councillors and local government employees'.</p> <p>The Tribunal has determined, on the balance of probabilities, that the allegation has been sustained.</p>
<p>Allegation 23</p>	<p>That on 27 June 2012, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the <i>Local Government Act 2009</i>, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of Councillors and local government employees'.</p> <p>The Tribunal has determined, on the balance of probabilities, that the allegation has been sustained.</p>
<p>Allegation 24</p>	<p>That on 22 June 2016, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the <i>Local Government Act 2009</i>, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of Councillors and local government employees'.</p> <p>The Tribunal has determined, on the balance of probabilities, that the allegation has been sustained.</p>
<p>Reasons:</p>	<p>Background</p> <ol style="list-style-type: none"> 1. The Tribunal accepted that Allegations 1-12 and 14-24 had a high degree of similarity and any conflict of interest and/or breach of trust relied upon the same considerations. This was because the facts allege the same or similar course of conduct between the period of 2012 – 2016. 2. The Independent Assessor (the Applicant) alleged breach of trust and misconduct as the Councillor failed to disclose a conflict of interest at both Council and Committees of Council meetings as particularised in the allegations above. 3. There was no dispute that:

	<p>a. For the 2012 election and 2016 election for Council, the Councillor was the leader of a group of candidates known as the Unity Team, which had a common electoral policy platform, solicited and shared campaign resources.</p> <p>b. On 25 September 2012, the Councillor on behalf of the 11-person Unity team, made a public disclosure under the <i>Electoral Act 1992</i> (Qld), the <i>Local Government Electoral Act 2011</i> (Qld) and the Act of all donations, loans, expenditure incurred for an election campaign to the Electoral Commission of Queensland ('ECQ'), including from 'FGF Developments':</p> <p>i. On 27 March 2012 the sum of \$1,000 described as a 'donation'; and</p> <p>ii. On 30 March 2012 the sum of \$400 described as a 'gift in kind'.</p> <p>c. On 1 January 2016 'D & M Moule' made a donation of \$1,000 described as 'donation to the 8-person 2016 Unity Team;</p> <p>d. On 13 July 2016 the Councillor on behalf of the 8-person 2016 Unity Team made a public disclosure under the <i>Electoral Act 1992</i> (Qld), the <i>Local Government Electoral Act 2011</i> (Qld) and the Act of all donations, loans, and expenditure incurred for an election campaign to the ECQ, including from 'D & M Moule' on 11 January 2016, the sum of \$1,000 described as a 'donation'.</p> <p>4. It was further not in dispute that:</p> <p>a. the meetings (including both the council meetings and the Committees of Council meetings) particularised in all allegations occurred;</p> <p>b. the dates of the meetings particularised were correct;</p> <p>c. the Councillor attended and participated in the said meetings;</p> <p>d. the Councillor was a member of all Committees of Council;</p> <p>e. the decision made by the meetings concerning:</p> <p>i. FGF Developments and FGF Bitumen occurred; and</p> <p>f. the Councillor did not inform any meeting of any personal interest in the matter.</p> <p>5. For allegations 1 – 12 and 14 - 24 the Applicant alleged misconduct under section 176(3)(b)(ii) of the Act (as it then was) as a "<i>breach of trust</i>" by virtue of an alleged failure by the Councillor to comply with the local government principles in section 4(2)(a) and (e) of the Act by failing to manage conflicts of interest in accordance with section 173 of the Act.</p> <p>6. The relevant conflict of interest provision in force at the time of the alleged conduct was section 173 of the Act. The Act was amended during the period of the allegations and the Tribunal has</p>
--	---

	<p>applied the dates of the amended legislation to the dates of the allegations.</p> <ol style="list-style-type: none">7. Though the sections were amended, Section 173 of the Act in force at the various dates remained such that a Councillor who holds a real or perceived interest in a matter being considered by Council must deal with that conflict in a way that is transparent and accountable.8. When determining a conflict of interest, the relevant test was whether a reasonable and fair-minded observer might perceive the Councillor, given his position in the Unity Team and recipient of donations from a business that profits from business with the Council, might not bring an impartial mind to any decision around Council employment of the donating business, and therefore might make a decision contrary to the public interest.9. As leader of the Unity Team, the Councillor benefited from donations made by the collective entity. Whilst the donation value was relatively low, it was not insubstantial.10. The Tribunal interprets the term 'public interest' in broad terms. The preferred approach by the Tribunal when assessing the public interest considerations is to have regard and make reference to other relevant principles and sections of the Act that provide meaning to the concept.11. The Tribunal was satisfied on the balance of probabilities that the Councillor had at least a perceived conflict of interest involving Council decisions to award contracts to D & M Moule Holdings Pty Ltd, D & M Moule Investments Pty Ltd, FGF Developments, and FGF Bitumen.12. Having regard to the purpose and the principles contained in section 4 and 12 of the Act, the Tribunal determined that the public interest was in matters being dealt with in an accountable and transparent way.13. The Tribunal accepts that the conflict of interest provisions are fundamental to the transparency of local government decision-making and acknowledged contraventions of this nature do have the potential to undermine public confidence in the integrity of elected representatives.14. The Councillor's conduct was consequently held by the Tribunal to be inconsistent with the local government principles of 'transparent and effective processes, and decision-making in the public interest' and 'ethical and legal behaviour of Councillors and
--	---

	<p>local government employees’ because he failed to declare a real or perceived conflict of interest as required by the Act at that time.</p> <p>15. The Tribunal has taken the view that the concept of ‘trust in a Councillor’ is viewed broadly. Councillors are ‘entrusted’ by electors in the community with the power to make policy and decisions in many areas affecting the life, lifestyle and well-being of the members of the relevant community. There is little day to day monitoring of the conduct of Councillors by anyone in a supervisory role, as may apply to many workers. As elected representatives in responsible positions with significant powers, Councillors have great discretion and are entrusted to use their powers appropriate in the public interest. Any breach of this trust can have a corrosive effect on the community and its confidence in local government.</p> <p>16. The Tribunal held the Councillor’s failure to comply with the local government principles amounted to a breach of trust placed in the Councillor and determined allegations numbered 1 - 12 & 14 – 24 have been sustained.</p>
<p>Allegation 13</p>	<p>That on 10 June 2020, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 150L(1)(b)(i) of the <i>Local Government Act 2009</i>, in that his conduct involved a breach of the trust placed in the councillor, either knowingly or recklessly, in that his conduct was inconsistent with the local government principles in section 4(2)(a) ‘transparent and effective processes, and decision-making in the public interest’ and section 4(2)(e) ‘ethical and legal behaviour of Councillors and local government employees’, in that Councillor Manning did not inform the meeting about his personal interest in the matter as required by section 175E(2).</p> <p>The Tribunal has determined, on the balance of probabilities, that the allegation has <u>not</u> been sustained.</p>
<p>Reasons:</p>	<p>Background</p> <p>1. For allegation 13 (10 June 2020) the Act current 25 May 2020 provided:</p> <p>150L What is <i>misconduct</i> The Conduct of a Councillor is <i>misconduct</i> if the conduct-</p> <p>...</p> <p>(b) is or involves -</p> <p>(i) a breach of the trust placed in the Councillor, either knowingly or recklessly</p> <p>175E Councillor’s conflict of interest at a meeting (1) This section applies if –</p>

- (a) a matter is to be discussed at a meeting of the local government or any of its committees; and
- (b) the matter is not an ordinary business matter; and
- (c) a councillor at the meeting –
 - (i) has a conflict of interest in the matter (a **real conflict of interest**); or
 - (ii) could reasonably be taken to have a conflict of interest in the matter (a **perceived conflict of interest**).

- (2) The councillor must inform the meeting about the councillor's personal interests in the matter, including the following particulars about the interests –
- (a) the nature of the interests;
 - (b) if the councillor's personal interests arise because of the councillor's relationship with, or receipt of a gift from, another person –
 - (i) the name of the other person; and
 - (ii) the nature of the relationship or value and date of receipt of the gift; and
 - (iii) the nature of the other persons interest in the matter.

Maximum penalty – 100 penalty units or 1 year's imprisonment.

175D Meaning of conflict of interest

(2) A **conflict of interest** is a conflict that –

- (a) is between –
 - (i) a Councillor's personal interests; and
 - (ii) the public interest; and
- (b) might lead to a decision that is contrary to the public interest.

Section 175D (2) outlined exemptions to the conflict of interest provisions and stated:

- (2) However, a councillor does not have a conflict of interest in a matter –
- (a) merely because of –
 - (i) an engagement with a community group, sporting club or similar organisation undertaken by the councillor in the councillor's capacity as a councillor; or
 - (ii) membership of a political party; or
 - (iii) membership of a community group, sporting club or similar organisation if the councillor is not an office holder for the group, club or organisation; or

	<ul style="list-style-type: none">(iv) the councillor's religious beliefs; or(v) the councillor having been a student of a particular school or the councillor's involvement with a school as a parent of a student at the school; or <p>(b) if the councillor has no greater personal interest in the matter than that of other persons in the local government area.</p> <ol style="list-style-type: none">2. The Applicant submitted a breach of trust by the Councillor by not declaring a conflict of interest when considering Item 1 of the Closed Session, where the Council considered whether to approve Project Launch and Infrastructure Agreements.3. It was not in contest that the recommended contractor to deliver the project under consideration by Council was FGF Developments and that the Councillor did not inform the meeting of any personal interest in the matter.4. The evidence was that FGF Developments was not referred to in the draft motion or the agenda. Nonetheless the Applicant's position was the Councillor acted with reckless indifference, as it was said to be clearly identified in the attachment report that the successful tenderer was FGF Developments.5. The Tribunal observed that at the time of Allegation 13, the Councillor had received conflicting correspondence from the CMC (2012) and the Integrity Commissioner (2018) as to his potential conflict of interest arising from Unity Team donations.6. The Tribunal understands that Councillors are required to engage in high volume, high frequency and high value decision-making.7. The Tribunal determined in the absence of contrary evidence that FGF Developments was erroneously left off the list of potential conflicts by an officer of the council.8. The Tribunal therefore accepted this was an accidental omission of a conflict declaration due to the Councillor not being aware that FGF Developments was mentioned in any of the documents.9. That the Councillor identified his omission at the next Council meeting, and self-referred his conduct, assisted the Tribunal to determine that the Councillor had made a genuine mistake and his conduct was not done knowingly or recklessly.
--	--

3. Orders and/or recommendations (s150AR - disciplinary action):

Date of orders:	24 March 2023
Orders:	<p>Having found that the Councillor engaged in misconduct, pursuant to section 150AR(1) of the Act, the Tribunal orders that:</p> <ol style="list-style-type: none"> 1. Within 60 days of the date of this Order Cr Robert (Bob) Manning make an admission that he engaged in misconduct (for allegations 1-12 and 14-24) during a General Meeting of Council at a time when the meeting is open to members of the public;¹ and 2. Cr Robert (Bob) Manning pay to the local government an amount of \$250.00, to be paid within 60 days of the date of this Order.²
Reasons:	<ol style="list-style-type: none"> 1. The Tribunal recognises that a finding of misconduct alone can be a significant sanction and lead to reputational damage. Notwithstanding, the Councillor’s conduct was deemed serious by the Tribunal. A failure to effectively manage interests which touch upon Council decisions has the potential to cast a pall of impropriety and bias over those same decisions. 2. The Tribunal considered that allegations 1-12 and 14-24 formed part of what might otherwise be called a ‘consistent course of conduct’ over numerous years. Each allegation, although made out on its facts, also formed part of a single failure to disclose electoral donations in Council meetings from the related entities FGF Developments and FGF Bitumen. On that basis, the Tribunal considered that a combined sanction was appropriate. 3. An important objective of the Tribunal is that these proceedings serve to maintain high standards of conduct by Councillors, which in turn, ensures public confidence in the system of local government. 4. The maintenance of public confidence in the system of local government requires the Tribunal to set clear expectations for Councillors and to ensure Councillors are held to account when their conduct falls below established standards and results in a breach of the public’s trust.

¹ Being an order “substantially the same” as an order under section 180(5)(b) of the former Act to “make an admission of error or an apology”.

² Being an order “substantially the same” as an order under section 180(5)(f) of the former Act to “reimburse the local government”.

	<ol style="list-style-type: none"><li data-bbox="539 282 1370 472">5. Consequently, the Tribunal considered it important for the integrity of the local government system that the Councillor make a public admission regarding his conduct, by which the Councillor's situation should be instructive to other Councillors who might be placed in a similar position in the future.<li data-bbox="539 510 1370 658">6. The Tribunal also considered it appropriate, given the length of the course of misconduct, that a small monetary sanction also be imposed.
--	---

Annexure A – Allegations and Particulars

Allegation 1

It is alleged that on 24 April 2013, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the *Local Government Act 2009*, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of councillors and local government employees'.

Particulars:

- a. On 24 April 2013, at an ordinary council meeting, the Cairns Regional Council considered whether to adopt the reports and recommendations of the Water and Waste Committee held on 17 April 2013. The Water and Waste Committee report recommended the award of Contract Number 75370 to FGF Developments Pty Ltd for the lump sum of \$695,290 (excluding GST).
- b. The matter was not an ordinary business matter.
- c. Councillor Manning attended the ordinary council meeting.
- d. Councillor Manning had a personal interest in the matter in that he was a member of Unity Team 2012, a group of candidates which:
 - i. on 27 March 2012, received a financial donation of \$1000 from FGF Developments Pty Ltd; and
 - ii. on 30 March 2012, received an in-kind donation valued at \$400 from FGF Developments Pty Ltd.
- e. Councillor Manning's conflict of interest in the matter did not arise merely because of the circumstances specified in section 173(3) of the Act.
- f. Councillor Manning did not inform the meeting of his personal interest in the matter and in so doing failed to deal with the real conflict of interest or perceived conflict of interest in a transparent and accountable way as required by section 173(4) of the Act.
- g. Councillor Manning's interest in the matter could be deemed as being a real conflict of interest or a perceived conflict of interest because he was a member of Unity Team 2012, which received electoral donations to the value of \$1400 from FGF Developments Pty Ltd, the successful tenderer in the matter.

Allegation 2

It is alleged that on 15 May 2013, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the *Local Government Act 2009*, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of councillors and local government employees'.

Particulars:

- a. On 15 May 2013, at a Water and Waste Committee meeting, the Committee considered whether to recommend that Council award Contract Number 75356 to FGF Developments Pty Ltd for the lump sum of \$781,042 (excluding GST).
- b. The matter was not an ordinary business matter.
- c. Councillor Manning attended the committee meeting.
- d. Councillor Manning had a personal interest in the matter in that he was a member of Unity Team 2012, a group of candidates which:
 - i. on 27 March 2012, received a financial donation of \$1000 from FGF Developments Pty Ltd; and
 - ii. on 30 March 2012, received an in-kind donation valued at \$400 from FGF Developments Pty Ltd.
- e. Councillor Manning's conflict of interest in the matter did not arise merely because of the circumstances specified in section 173(3) of the Act.

- f. Councillor Manning did not inform the meeting of his personal interest in the matter and in so doing failed to deal with the real conflict of interest or perceived conflict of interest in a transparent and accountable way as required by section 173(4) of the Act.
- g. Councillor Manning's interest in the matter could be deemed as being a real conflict of interest or a perceived conflict of interest because he was a member of Unity Team 2012, which received electoral donations to the value of \$1400 from FGF Developments Pty Ltd and subsequently considered whether to recommend that Council award a contract to FGF Developments Pty Ltd.

Allegation 3

It is alleged that on 22 May 2013, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the *Local Government Act 2009*, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of councillors and local government employees'.

Particulars:

- a. On 22 May 2013 at an ordinary council meeting, the Cairns Regional Council considered whether to adopt the reports and recommendations of the Water and Waste Committee held on 15 May 2013. The Water and Waste Committee report recommended the award of Contract Number 75356 to FGF Developments Pty Ltd for the lump sum of \$781,042 (excluding GST).
- b. The matter was not an ordinary business matter.
- c. Councillor Manning attended the ordinary council meeting.
- d. Councillor Manning had a personal interest in the matter in that he was a member of Unity Team 2012, a group of candidates which:
 - i. on 27 March 2012, received a financial donation of \$1000 from FGF Developments Pty Ltd; and
 - ii. on 30 March 2012, received an in-kind donation valued at \$400 from FGF Developments Pty Ltd.
- e. Councillor Manning's conflict of interest in the matter did not arise merely because of the circumstances specified in section 173(3) of the Act.
- f. Councillor Manning did not inform the meeting of his personal interest in the matter and in so doing failed to deal with the real conflict of interest or perceived conflict of interest in a transparent and accountable way as required by section 173(4) of the Act.
- g. Councillor Manning's interest in the matter could be deemed as being a real conflict of interest or a perceived conflict of interest because he was a member of Unity Team 2012, which received electoral donations to the value of \$1400 from FGF Developments Pty Ltd, the successful tenderer in the matter.

Allegation 4

It is alleged that on 19 June 2013, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the *Local Government Act 2009*, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of councillors and local government employees'.

Particulars:

- a. On 19 June 2013, at a Water and Waste Committee meeting, the Committee considered whether to recommend that Council award Contract Number 75318 to FGF Developments Pty Ltd for the lump sum of \$4,949,395 (excluding GST).
- b. The matter was not an ordinary business matter.
- c. Councillor Manning attended the committee meeting.

- d. Councillor Manning had a personal interest in the matter in that he was a member of Unity Team 2012, a group of candidates which:
 - i. on 27 March 2012, received a financial donation of \$1000 from FGF Developments Pty Ltd; and
 - ii. on 30 March 2012, received an in-kind donation valued at \$400 from FGF Developments Pty Ltd.
- e. Councillor Manning's conflict of interest in the matter did not arise merely because of the circumstances specified in section 173(3) of the Act.
- f. Councillor Manning did not inform the meeting of his personal interest in the matter and in so doing failed to deal with the real conflict of interest or perceived conflict of interest in a transparent and accountable way as required by section 173(4) of the Act.
- g. Councillor Manning's interest in the matter could be deemed as being a real conflict of interest or a perceived conflict of interest because he was a member of Unity Team 2012, Unity Team 2012 received electoral donations to the value of \$1400 from FGF Developments Pty Ltd and subsequently considered whether to recommend that Council award a contract to FGF Developments Pty Ltd.

Allegation 5

It is alleged that on 19 June 2013, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the *Local Government Act 2009*, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of councillors and local government employees'.

Particulars:

- a. On 19 June 2013, at a Water and Waste Committee meeting, the Committee considered whether to recommend that Council award Contract Number 75379 to FGF Developments Pty Ltd for the lump sum of \$521,929 (excluding GST).
- b. The matter was not an ordinary business matter.
- c. Councillor Manning attended the committee meeting.
- d. Councillor Manning had a personal interest in the matter in that he was a member of Unity Team 2012, a group of candidates which:
 - i. on 27 March 2012, received a financial donation of \$1000 from FGF Developments Pty Ltd; and
 - ii. on 30 March 2012, received an in-kind donation valued at \$400 from FGF Developments Pty Ltd.
- e. Councillor Manning's conflict of interest in the matter did not arise merely because of the circumstances specified in section 173(3) of the Act.
- f. Councillor Manning did not inform the meeting of his personal interest in the matter and in so doing failed to deal with the real conflict of interest or perceived conflict of interest in a transparent and accountable way as required by section 173(4) of the Act.
- g. Councillor Manning's interest in the matter could be deemed as being a real conflict of interest or a perceived conflict of interest because he was a member of Unity Team 2012, which received electoral donations to the value of \$1400 from FGF Developments Pty Ltd and subsequently considered whether to recommend the award of a contract to FGF Developments Pty Ltd.

Allegation 6

It is alleged that on 26 June 2013, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the *Local Government Act 2009*, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of councillors and local government employees'.

Particulars:

- a. On 26 June 2013, at an ordinary council meeting, the Cairns Regional Council considered whether to adopt the reports and recommendations of the Water and Waste Committee held on 19 June 2013.
- b. The Water and Waste Committee report recommended the award of Contract Number 75318 to FGF Developments Pty Ltd for the lump sum of \$4,949,395 (excluding GST) and Contract Number 75379 to FGF Developments Pty Ltd for the lump sum of \$521,929 (excluding GST).
- c. The matter was not an ordinary business matter.
- d. Councillor Manning attended the ordinary council meeting.
- e. Councillor Manning had a personal interest in the matter in that he was a member of Unity Team 2012, a group of candidates which:
 - i. on 27 March 2012, received a financial donation of \$1000 from FGF Developments Pty Ltd; and
 - ii. on 30 March 2012, received an in-kind donation valued at \$400 from FGF Developments Pty Ltd.
- f. Councillor Manning did not inform the meeting of his personal interest in the matter and in so doing failed to deal with the real conflict of interest or perceived conflict of interest in a transparent and accountable way as required by section 173(4) of the Act.
- g. Councillor Manning's conflict of interest in the matter did not arise merely because of the circumstances specified in section 173(3) of the Act.
- h. Councillor Manning's interest in the matter could be deemed as being a real conflict of interest or a perceived conflict of interest because he was a member of Unity Team 2012, which received electoral donations to the value of \$1400 from FGF Developments Pty Ltd, which was awarded Contract Number 75318 and Contract Number 75379.

Allegation 7

It is alleged that on 12 March 2014, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the *Local Government Act 2009*, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of councillors and local government employees'.

Particulars:

- a. On 12 March 2014, at a Water and Waste Committee meeting, the Committee considered whether to recommend that Council award of Contract Number 75392 to FGF Developments Pty Ltd for the lump sum of \$2,564,289 (excluding GST).
- b. The matter was not an ordinary business matter.
- c. Councillor Manning attended the committee meeting.
- d. Councillor Manning had a personal interest in the matter in that he was a member of Unity Team 2012, a group of candidates which:
 - i. on 27 March 2012, received a financial donation of \$1000 from FGF Developments Pty Ltd; and
 - ii. on 30 March 2012, received an in-kind donation valued at \$400 from FGF Developments Pty Ltd.
- e. Councillor Manning's conflict of interest in the matter did not arise merely because of the circumstances specified in section 173(3) of the Act.
- f. Councillor Manning did not inform the meeting of his personal interest in the matter and in so doing failed to deal with the real conflict of interest or perceived conflict of interest in a transparent and accountable way as required by section 173(4) of the Act.
- g. Councillor Manning's interest in the matter could be deemed as being a real conflict of interest or a perceived conflict of interest because he was a member of Unity Team 2012, which received electoral donations to the value of \$1400

from FGF Developments Pty Ltd and subsequently considered whether to recommend that Council award a contract to FGF Developments Pty Ltd.

Allegation 8

It is alleged that on 26 March 2014, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the *Local Government Act 2009*, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of councillors and local government employees'.

Particulars:

- a. On 26 March 2014, at an ordinary council meeting, the Cairns Regional Council considered whether to adopt the reports and recommendations of the Water and Waste Committee held on 12 March 2014. The Water and Waste Committee report recommended the award of Contract Number 75392 to FGF Developments Pty Ltd for the lump sum of \$2,564,289 (excluding GST).
- b. The matter was not an ordinary business matter.
- c. Councillor Manning attended the ordinary council meeting.
- d. Councillor Manning had a personal interest in the matter in that he was a member of Unity Team 2012, a group of candidates which:
 - i. on 27 March 2012, received a financial donation of \$1000 from FGF Developments Pty Ltd; and
 - ii. on 30 March 2012, received an in-kind donation valued at \$400 from FGF Developments Pty Ltd.
- e. Councillor Manning's conflict of interest in the matter did not arise merely because of the circumstances specified in section 173(3) of the Act.
- f. Councillor Manning did not inform the meeting of his personal interest in the matter and in so doing failed to deal with the real conflict of interest or perceived conflict of interest in a transparent and accountable way as required by section 173(4) of the Act.
- g. Councillor Manning's interest in the matter could be deemed as being a real conflict of interest or a perceived conflict of interest because he was a member of Unity Team 2012, which received electoral donations to the value of \$1400 from FGF Developments Pty Ltd, the successful tenderer in the matter.

Allegation 9

It is alleged that on 9 April 2014, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the *Local Government Act 2009*, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of councillors and local government employees'.

Particulars:

- a. On 9 April 2014, at a Water and Waste Committee meeting, the Committee considered whether to recommend that Council award Contract Number 75393 to FGF Developments Pty Ltd for the lump sum of \$2,663,331 (excluding GST).
- b. The matter was not an ordinary business matter.
- c. Councillor Manning attended the committee meeting.
- d. Councillor Manning had a personal interest in the matter in that he was a member of Unity Team 2012, a group of candidates which:
 - i. on 27 March 2012, received a financial donation of \$1000 from FGF Developments Pty Ltd; and
 - ii. on 30 March 2012, received an in-kind donation valued at \$400 from FGF Developments Pty Ltd.
- e. Councillor Manning's conflict of interest in the matter did not arise merely because of the circumstances specified in

section 173(3) of the Act.

- f. Councillor Manning did not inform the meeting of his personal interest in the matter and in so doing failed to deal with the real conflict of interest or perceived conflict of interest in a transparent and accountable way as required by section 173(4) of the Act.
- g. Councillor Manning's interest in the matter could be deemed as being a real conflict of interest or a perceived conflict of interest because he was a member of Unity Team 2012, which received electoral donations to the value of \$1400 from FGF Developments Pty Ltd and subsequently considered whether to recommend that Council award a contract to FGF Developments Pty Ltd.

Allegation 10

It is alleged that on 30 April 2014, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the *Local Government Act 2009*, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of councillors and local government employees'.

Particulars:

- a. On 30 April 2014, at an ordinary council meeting, the Cairns Regional Council considered whether to adopt the reports and recommendations of the Water and Waste Committee held on 9 April 2014. The Water and Waste Committee minutes recommended the award of contract number 75393 to FGF Developments Pty Ltd for the lump sum of \$2,663,331 (excluding GST).
- b. The matter was not an ordinary business matter.
- c. Councillor Manning attended the ordinary council meeting.
- d. Councillor Manning had a personal interest in the matter in that he was a member of Unity Team 2012, a group of candidates which:
 - i. on 27 March 2012, received a financial donation of \$1000 from FGF Developments Pty Ltd; and
 - ii. on 30 March 2012, received an in-kind donation valued at \$400 from FGF Developments Pty Ltd.
- e. Councillor Manning's conflict of interest in the matter did not arise merely because of the circumstances specified in section 173(3) of the Act.
- f. Councillor Manning did not inform the meeting of his personal interest in the matter and in so doing failed to deal with the real conflict of interest or perceived conflict of interest in a transparent and accountable way as required by section 173(4) of the Act.
- g. Councillor Manning's interest in the matter could be deemed as being a real conflict of interest or a perceived conflict of interest because he was a member of Unity Team 2012, which received electoral donations to the value of \$1400 from FGF Developments Pty Ltd, the successful tenderer in the matter.

Allegation 11

It is alleged that on 28 May 2014, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the *Local Government Act 2009*, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of councillors and local government employees'.

Particulars:

- a. On 28 May 2014, at an ordinary council meeting, the Cairns Regional Council considered whether to adopt the reports and recommendations of the Water and Waste Committee held on 14 May 2014. The Water and Waste Committee report recommended the award of contract number 75387 to FGF Developments Pty Ltd for the lump sum of \$1,837,752 (excluding GST).
- b. The matter was not an ordinary business matter.

- c. Councillor Manning attended the ordinary council meeting.
- d. Councillor Manning had a personal interest in the matter in that he was a member of Unity Team 2012, a group of candidates which:
 - i. on 27 March 2012, received a financial donation of \$1000 from FGF Developments Pty Ltd; and
 - ii. on 30 March 2012, received an in-kind donation valued at \$400 from FGF Developments Pty Ltd.
- e. Councillor Manning's conflict of interest in the matter did not arise merely because of the circumstances specified in section 173(3) of the Act.
- f. Councillor Manning did not inform the meeting of his personal interest in the matter and in so doing failed to deal with the real conflict of interest or perceived conflict of interest in a transparent and accountable way as required by section 173(4) of the Act.
- g. Councillor Manning's interest in the matter could be deemed as being a real conflict of interest or a perceived conflict of interest because he was a member of Unity Team 2012, which received electoral donations to the value of \$1400 from FGF Developments Pty Ltd, the successful tenderer in the matter.

Allegation 12

It is alleged that on 27 April 2016, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the *Local Government Act 2009*, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of councillors and local government employees'.

Particulars:

- a. On 27 April 2016, at an ordinary council meeting, under Item 8 Closed Session, the Cairns Regional Council considered whether to award a Contract Number 75427-2 to FGF Developments Pty Ltd for the lump sum of \$2,450,842.24 (excluding GST).
- b. The matter was not an ordinary business matter.
- c. Councillor Manning attended the ordinary council meeting.
- d. Councillor Manning had a personal interest in the matter in that he was:
 - i. a member of Unity Team 2012, which on 27 March 2012, received a financial donation of \$1000 from FGF Developments Pty Ltd, and on 30 March 2012, received an in-kind donation valued at \$400 from FGF Developments Pty Ltd; and
 - ii. a member of Unity Team 2016, which on 11 January 2016, received an electoral donation of \$1000 from Murray Moule - the Director of FGF Developments Pty Ltd.
- e. Councillor Manning's conflict of interest in the matter did not arise merely because of the circumstances specified in section 173(3) of the Act.
- f. Councillor Manning did not inform the meeting of his personal interest in the matter and in so doing failed to deal with the real conflict of interest or perceived conflict of interest in a transparent and accountable way as required by section 173(4) of the Act.
- g. Councillor Manning's interest in the matter could be deemed as being a real conflict of interest or a perceived conflict of interest because he was a member of Unity Team 2012, which received electoral donations to the value of \$1400 from FGF Developments Pty Ltd, and Unity Team 2016, which received a \$1000 electoral donation from Murray Moule, the Director of FGF Developments Pty Ltd, in circumstances where FGF Developments Pty Ltd was the successful tenderer in the matter.

Allegation 13

It is alleged that on 10 June 2020, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 150L(1)(b)(i) of the *Local Government Act 2009*, in that his conduct involved a breach of the trust placed in the councillor, either knowingly or recklessly, in that his conduct was inconsistent with the local

government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of councillors and local government employees', in that Councillor Manning did not inform the meeting about his personal interest in the matter as required by section 175E(2).

Particulars:

- a. On 10 June 2020, at an ordinary council meeting, under Item 1 Closed Session, the Cairns Regional Council considered whether to approve Project Launch and Infrastructure Agreement – Redlynch Trunk Drainage Infrastructure – Division 6 and the recommended contractor to deliver the project, FGF Developments Pty Ltd for the lump sum of \$1,049,178.
- b. The matter was not an ordinary business matter.
- c. Councillor Manning attended the ordinary council meeting.
- d. Councillor Manning had a personal interest in the matter in that he was:
 - i. a member of Unity Team 2012, which on 27 March 2012, received a financial donation of \$1000 from FGF Developments Pty Ltd, and on 30 March 2012, received an in-kind donation valued at \$400 from FGF Developments Pty Ltd; and
 - ii. a member of Unity Team 2016, which on 11 January 2016, received an electoral donation of \$1000 from Murray Moule - the Director of FGF Developments Pty Ltd.
- e. Councillor Manning's conflict of interest in the matter did not arise merely because of the circumstances specified in section 175D(2)-(3) of the Act.
- f. Councillor Manning's interest in the matter could be deemed as being a real conflict of interest or a perceived conflict of interest because he was a member of Unity Team 2012, which received electoral donations to the value of \$1400 from FGF Developments Pty Ltd, and Unity Team 2016, which received a \$1000 electoral donation from Murray Moule, the Director of FGF Developments Pty Ltd in circumstances where FGF Developments Pty Ltd was the recommended contractor in the matter.

Allegation 14

It is alleged that on 25 June 2014, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the *Local Government Act 2009*, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of councillors and local government employees'.

Particulars:

- a. On 25 June 2014, at an ordinary council meeting, the Cairns Regional Council considered whether to adopt the reports and recommendations of the Infrastructure Services Committee held on 11 June 2014. The Infrastructure Services Committee report recommended FGF Bitumen Pty Ltd as first preference for Preferred Supplier Arrangement PSA 2463 C170 & C320 Bitumen Works.
- b. The matter was not an ordinary business matter.
- c. Councillor Manning attended the ordinary council meeting.
- d. Councillor Manning had a personal interest in the matter in that he was a member of Unity Team 2012, a group of candidates which:
 - i. on 27 March 2012, received a financial donation of \$1000 from FGF Developments Pty Ltd; and
 - ii. on 30 March 2012, received an in-kind donation valued at \$400 from FGF Developments Pty Ltd.
- e. Councillor Manning's conflict of interest in the matter did not arise merely because of the circumstances specified in section 173(3) of the Act.
- f. Councillor Manning did not inform the meeting of his personal interest in the matter and in so doing failed to deal with the real conflict of interest or perceived conflict of interest in a transparent and accountable way as required by section 173(4) of the Act.

- g. Councillor Manning's interest in the matter could be deemed as being a real conflict of interest or a perceived conflict of interest because he was a member of Unity Team 2012, which received electoral donations to the value of \$1400 from FGF Developments Pty Ltd. Mr Murray Moule is the Director of both FGF Developments Pty Ltd and FGF Bitumen Pty Ltd, the successful tenderer in the matter.

Allegation 15

It is alleged that on 15 June 2016, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the *Local Government Act 2009*, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of councillors and local government employees'.

Particulars:

- a. On 15 June 2016, at an Infrastructure Services Committee meeting, the Committee considered whether to recommend that Council award Preferred Supplier Arrangement PSA 2556 C170 & C320 Bitumen Works to FGF Bitumen Pty Ltd as first preference.
- b. The matter was not an ordinary business matter.
- c. Councillor Manning attended the committee meeting.
- d. Councillor Manning had a personal interest in the matter in that he was:
- i. a member of Unity Team 2012, which on 27 March 2012, received a financial donation of \$1000 from FGF Developments Pty Ltd, and on 30 March 2012, received an in-kind donation valued at \$400 from FGF Developments Pty Ltd; and
 - ii. a member of Unity Team 2016, which on 11 January 2016, received an electoral donation of \$1000 from Murray Moule - the Director of FGF Bitumen Pty Ltd.
- e. Councillor Manning's conflict of interest in the matter did not arise merely because of the circumstances specified in section 173(3) of the Act.
- f. Councillor Manning did not inform the meeting of his personal interest in the matter and in so doing failed to deal with the real conflict of interest or perceived conflict of interest in a transparent and accountable way as required by section 173(4) of the Act.
- g. Councillor Manning's interest in the matter could be deemed as being a real conflict of interest or a perceived conflict of interest because he was a member of Unity Team 2012, which received electoral donations to the value of \$1400 from FGF Developments Pty Ltd, and Unity Team 2016, which received a \$1000 electoral donation from Murray Moule, the Director of FGF Developments Pty Ltd and FGF Bitumen Pty Ltd, and subsequently considered whether to recommend that Council award a Preferred Supplier Arrangement to FGF Bitumen Pty Ltd as first preference.

Allegation 16

It is alleged that on 26 September 2012, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the *Local Government Act 2009*, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of councillors and local government employees'.

Particulars:

- a. On 26 September 2012, at an ordinary council meeting, the Cairns Regional Council considered whether to note a progress report on Contract 75333 (Closed Item 6 of the agenda and minutes). FGF Developments Pty Ltd was the contractor on this project, having been awarded the contract for the lump sum of \$7,448,504 (excluding GST) on 24 August 2011.
- b. Councillor Manning attended the ordinary council meeting.

- c. Councillor Manning had a personal interest in the matter in that he was a member of Unity Team 2012, a group of candidates which:
 - i. on 27 March 2012, received a financial donation of \$1000 from FGF Developments Pty Ltd; and
 - ii. on 30 March 2012, received an in-kind donation valued at \$400 from FGF Developments Pty Ltd.
- d. Councillor Manning did not inform the meeting of his personal interests in the matter and how he intended to deal with the real or perceived conflict of interest, in doing so he failed to deal with the real conflict of interest or perceived conflict of interest as required by section 173(3) of the Act, as it was then.
- e. Councillor Manning did not have personal interest merely because of the circumstances specified in section 173(8) of the Act, as it was then.
- f. Councillor Manning's interest in the matter could be deemed as being a real conflict of interest or a perceived conflict of interest because he was a member of Unity Team 2012, which received a total electoral donation valued at \$1400 from FGF Developments Pty Ltd, the contractor which was the subject of the progress report.

Allegation 17

It is alleged that on 27 February 2013, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the *Local Government Act 2009*, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of councillors and local government employees'.

Particulars:

- a. On 27 February 2013 at an ordinary council meeting, the Cairns Regional Council considered whether to approve Preferred Supplier Arrangement Number PSA 2397 Insitu Stabilised Pavements, which included a Register of Pre-qualified Suppliers (Closed Clause 5 of the agenda and minutes). FGF Developments Pty Ltd were one of five contractors recommended for inclusion on the Register of Pre-qualified Suppliers for Full Service Insitu Stabilised Pavements.
- b. The matter was not an ordinary business matter.
- c. Councillor Manning attended the ordinary council meeting.
- d. Councillor Manning had a personal interest in the matter in that he was a member of Unity Team 2012, a group of candidates which:
 - i. on 27 March 2012, received a financial donation of \$1000 from FGF Developments Pty Ltd; and
 - ii. on 30 March 2012, received an in-kind donation valued at \$400 from FGF Developments Pty Ltd.
- e. Councillor Manning's conflict of interest in the matter did not arise merely because of the circumstances specified in section 173(3) of the Act.
- f. Councillor Manning did not inform the meeting of his personal interest in the matter and in so doing failed to deal with the real conflict of interest or perceived conflict of interest in a transparent and accountable way as required by section 173(4) of the Act.
- g. Councillor Manning's interest in the matter could be deemed as being a real conflict of interest or a perceived conflict of interest because he was a member of Unity Team 2012 and Unity Team 2012 received a total electoral donation valued at \$1400 from FGF Developments Pty Ltd, which was included on the Register of Pre-qualified Suppliers.

Allegation 18

It is alleged that on 10 July 2013, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the *Local Government Act 2009*, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of councillors and local government employees'.

Particulars:

- a. On 10 July 2013, at an Infrastructure Services Committee meeting, the Committee considered whether to recommend that Council adopt a Register of Pre-qualified Suppliers (Closed Clause 1 of the agenda and minutes). FGF Bitumen Pty Ltd were one of six contractors recommended for inclusion on the Register of Pre-qualified Suppliers.
- b. The matter was not an ordinary business matter.
- c. Councillor Manning attended the committee meeting.
- d. Councillor Manning had a personal interest in the matter in that he was a member of Unity Team 2012, a group of candidates which:
 - i. on 27 March 2012, received a financial donation of \$1000 from FGF Developments Pty Ltd; and
 - ii. on 30 March 2012, received an in-kind donation valued at \$400 from FGF Developments Pty Ltd.
- e. Councillor Manning's conflict of interest in the matter did not arise merely because of the circumstances specified in section 173(3) of the Act.
- f. Councillor Manning did not inform the meeting of his personal interest in the matter and in so doing failed to deal with the real conflict of interest or perceived conflict of interest in a transparent and accountable way as required by section 173(4) of the Act.
- g. Councillor Manning's interest in the matter could be deemed as being a real conflict of interest or a perceived conflict of interest because he was a member of the Unity Team 2012, which received a total electoral donation valued at \$1400 from FGF Developments Pty Ltd. Mr Murray Moule is the Director of both FGF Developments Pty Ltd and FGF Bitumen Pty Ltd, one of the tenderers recommended for inclusion on the Register of Pre-qualified Suppliers.

Allegation 19

It is alleged that on 24 July 2013, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the *Local Government Act 2009*, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of councillors and local government employees'.

Particulars:

- a. On 24 July 2013, at an ordinary council meeting, the Cairns Regional Council considered whether to adopt the reports and recommendations of the Infrastructure Services Committee held on 10 July 2013. The Infrastructure Services Committee report recommended FGF Bitumen Pty Ltd to be included on a Register of the Pre-qualified Suppliers.
- b. Councillor Manning attended the ordinary council meeting.
- c. Councillor Manning had a personal interest in the matter in that he was a member of Unity Team 2012, a group of candidates which:
 - i. on 27 March 2012, received a financial donation of \$1000 from FGF Developments Pty Ltd; and
 - ii. on 30 March 2012, received an in-kind donation valued at \$400 from FGF Developments Pty Ltd.
- d. Councillor Manning's conflict of interest in the matter did not arise merely because of the circumstances specified in section 173(3) of the Act.
- e. Councillor Manning did not inform the meeting of his personal interest in the matter and in so doing failed to deal with the real conflict of interest or perceived conflict of interest in a transparent and accountable way as required by section 173(4) of the Act.
- f. Councillor Manning's interest in the matter could be deemed as being a real conflict of interest or a perceived conflict of interest because he was a member of Unity team 2012 and Unity Team 2012 received a total electoral donation valued at \$1400 from FGF Developments Pty Ltd. Mr Murray Moule is the Director of both FGF Developments Pty Ltd and FGF Bitumen Pty Ltd, which was included on the Register of Pre-qualified Suppliers.

Allegation 20

It is alleged that on 15 June 2016, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the *Local Government Act 2009*, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of councillors and local government employees'.

Particulars:

- a. On 15 June 2016, at an Infrastructure Services Committee meeting, the Committee considered whether to recommend that Council adopt a Register of Pre-qualified Suppliers (Closed Clause 1 of the agenda and minutes). FGF Bitumen Pty Ltd was one of eight contractors recommended for inclusion on the Register of Pre-qualified Suppliers.
- b. The matter was not an ordinary business matter.
- c. Councillor Manning attended the committee meeting.
- d. Councillor Manning had a personal interest in the matter in that he was:
 - i. member of Unity Team 2012, which on 27 March 2012, received a financial donation of \$1000 from FGF Developments Pty Ltd, and on 30 March 2012, received an in-kind donation valued at \$400 from FGF Developments Pty Ltd; and
 - ii. member of Unity Team 2016, which on 11 January 2016, received an electoral donation of \$1000 from Murray Moule - the Director of FGF Bitumen Pty Ltd.
- e. Councillor Manning's conflict of interest in the matter did not arise merely because of the circumstances specified in section 173(3) of the Act.
- f. Councillor Manning did not inform the meeting of his personal interest in the matter and in so doing failed to deal with the real conflict of interest or perceived conflict of interest in a transparent and accountable way as required by section 173(4) of the Act.
- g. Councillor Manning's interest in the matter could be deemed as being a real conflict of interest or a perceived conflict of interest because he was a member of Unity Team 2012, which received electoral donations to the value of \$1400 from FGF Developments Pty Ltd, and Unity Team 2016, which received a \$1000 electoral donation from Murray Moule, the Director of FGF Developments Pty Ltd and FGF Bitumen Pty Ltd, in circumstances where FGF Bitumen Pty Ltd was one of the tenderers recommended for inclusion on the Register of Pre-qualified suppliers.

Allegation 21

It is alleged that on 20 July 2016, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the *Local Government Act 2009*, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of councillors and local government employees'.

Particulars:

- a. On 20 July 2016, at a Water and Waste Committee meeting, the Committee considered whether to recommend that Council approve the Contractors listed in Appendix 1 for Contract 75439 – Register of Pre-qualified Suppliers. FGF Development Pty Ltd was one of eighteen contractors recommended for inclusion on the Register of Pre-qualified Suppliers.
- b. The matter was not an ordinary business matter.
- c. Councillor Manning attended the committee meeting.
- d. Councillor Manning had a personal interest in the matter in that he was:
 - i. a member of Unity Team 2012, which on 27 March 2012, received a financial donation of \$1000 from FGF Developments Pty Ltd, and on 30 March 2012, received an in-kind donation valued at \$400 from FGF Developments Pty Ltd; and

- ii. member of Unity Team 2016, which on 11 January 2016, received an electoral donation of \$1000 from Murray Moule - the Director of FGF Bitumen Pty Ltd.
- e. Councillor Manning's conflict of interest in the matter did not arise merely because of the circumstances specified in section 173(3) of the Act.
- f. Councillor Manning did not inform the meeting of his personal interest in the matter and in so doing failed to deal with the real conflict of interest or perceived conflict of interest in a transparent and accountable way as required by section 173(4) of the Act.
- g. Councillor Manning's interest in the matter could be deemed as being a real conflict of interest or a perceived conflict of interest because he was a member of Unity Team 2012, which received electoral donations to the value of \$1400 from FGF Developments Pty Ltd, and Unity Team 2016, which received a \$1000 electoral donation from Murray Moule, the Director of FGF Developments Pty Ltd, in circumstances where FGF Developments Pty Ltd was one of the tenderers recommended for inclusion on the Register of Pre-qualified suppliers.

Allegation 22

It is alleged that on 27 July 2016, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the *Local Government Act 2009*, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of councillors and local government employees'.

Particulars:

- a. On 27 July 2016 at an ordinary council meeting, the Cairns Regional Council considered whether to adopt the reports and recommendations of the Water and Waste Committee held on 20 July 2016. The Water and Waste Committee report recommended that Council approve the Contractors listed in Appendix 1 for Contract 75439 – Register of Pre-qualified Suppliers, which included FGF Development Pty Ltd.
- b. The matter was not an ordinary business matter.
- c. Councillor Manning attended the ordinary council meeting.
- d. Councillor Manning had a personal interest in the matter in that he was:
 - i. a member of Unity Team 2012, which on 27 March 2012, received a financial donation of \$1000 from FGF Developments Pty Ltd, and on 30 March 2012, received an in-kind donation valued at \$400 from FGF Developments Pty Ltd; and
 - ii. a member of Unity Team 2016, which on 11 January 2016, received an electoral donation of \$1000 from Murray Moule - the Director of FGF Developments Pty Ltd.
- e. Councillor Manning's conflict of interest in the matter did not arise merely because of the circumstances specified in section 173(3) of the Act.
- f. Councillor Manning did not inform the meeting of his personal interest in the matter and in so doing failed to deal with the real conflict of interest or perceived conflict of interest in a transparent and accountable way as required by section 173(4) of the Act.
- g. Councillor Manning's interest in the matter could be deemed as being a real conflict of interest or a perceived conflict of interest because he was a member of Unity Team 2012, which received electoral donations to the value of \$1400 from FGF Developments Pty Ltd, and Unity Team 2016, which received a \$1000 electoral donation from Murray Moule, the Director of FGF Developments Pty, in circumstances where FGF Developments Pty Ltd was included on the Register of Pre-qualified Suppliers.

Allegation 23

It is alleged that on 27 June 2012, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the *Local Government Act 2009*, in that his conduct involved a breach of

the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of councillors and local government employees'.

Particulars:

- a. On 27 June 2012 at an ordinary council meeting, the Cairns Regional Council considered whether to adopt the reports and recommendations of the Infrastructure Services Committee held on 20 June 2012.
- b. The Infrastructure Services Committee report recommended:
 - i. that Preferred Supplier Arrangement PSA 2373 C170 & C320 Bitumen Works be awarded to FGF Bitumen Pty Ltd as first preference; and
 - ii. the Register of Pre-Qualified Suppliers for Contract Number 2355 to be implemented.
- c. Councillor Manning attended the ordinary council meeting.
- d. Councillor Manning had a personal interest in the matter in that he was a member of Unity Team 2012, a group of candidates which:
 - i. on 27 March 2012, received a financial donation of \$1000 from FGF Developments Pty Ltd; and
 - ii. on 30 March 2012, received an in-kind donation valued at \$400 from FGF Developments Pty Ltd.
- e. Councillor Manning did not inform the meeting of his personal interest in the matter and in so doing failed to deal with the real conflict of interest or perceived conflict of interest as required by section 173(4)) of the Act, as it was then.
- f. Councillor Manning's conflict of interest in the matter did not arise merely because of the circumstances specified in section 173(3) of the Act.
- g. Councillor Manning's interest in the matter could be deemed as being a real conflict of interest or a perceived conflict of interest because he was a member of Unity Team 2012, which received electoral donations to the value of \$1400 from FGF Developments Pty Ltd. FGF Developments Pty Ltd was included on the Register of Pre-Qualified Suppliers and FGF Bitumen was awarded first preference on the Preferred Supplier Arrangement in circumstances where Mr Murray Moule is the Director of both FGF Developments Pty Ltd and FGF Bitumen Pty Ltd.

Allegation 24

It is alleged that on 22 June 2016, Councillor Bob Manning, the Mayor and a councillor of Cairns Regional Council, engaged in misconduct pursuant to section 176(3)(b)(ii) of the *Local Government Act 2009*, in that his conduct involved a breach of the trust placed in the councillor in that his conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of councillors and local government employees'.

Particulars:

- a. On 22 June 2016 at an ordinary council meeting, the Cairns Regional Council considered whether to adopt the reports and recommendations of the Infrastructure Services Committee held on 15 June 2016.
- b. The Infrastructure Services Committee report recommended that:
 - i. Council adopt a Register of Pre-qualified Suppliers which included FGF Bitumen Pty Ltd; and
 - ii. Preferred Supplier Arrangement PSA 2556 C170 & C320 Bitumen Works be awarded to FGF Bitumen Pty Ltd as first preference.
- c. The matter was not an ordinary business matter.
- d. Councillor Manning attended the ordinary council meeting.
- e. Councillor Manning had a personal interest in the matter in that he was a member of Unity Team 2012, a group of candidates which:
 - i. a member of Unity Team 2012, which on 27 March 2012, received a financial donation of \$1000 from FGF Developments Pty Ltd, and on 30 March 2012, received an in-kind donation valued at \$400 from FGF Developments Pty Ltd; and

- ii. a member of Unity Team 2016, which on 11 January 2016, received an electoral donation of \$1000 from Murray Moule - the Director of FGF Bitumen Pty Ltd.
- f. Councillor Manning's conflict of interest in the matter did not arise merely because of the circumstances specified in section 173(3) of the Act.
- g. Councillor Manning did not inform the meeting of his personal interest in the matter and in so doing failed to deal with the real conflict of interest or perceived conflict of interest in a transparent and accountable way as required by section 173(4) of the Act.
- h. Councillor Manning's interest in the matter could be deemed as being a real conflict of interest or a perceived conflict of interest because he was a member of Unity Team 2012, which received electoral donations to the value of \$1400 from FGF Developments Pty Ltd, and Unity Team 2016, which received a \$1000 electoral donation from Murray Moule, the Director of FGF Developments Pty Ltd and FGF Bitumen Pty Ltd, in circumstances where FGF Bitumen Pty Ltd was included on the Register of Pre-qualified Suppliers and was the successful tenderer for Preferred Supplier Arrangement PSA 2556 C170 & C320 Bitumen Works.