

SCHEDULE 2

FUTURE COUNCIL WORKS AND ACTIVITIES

1. OPERATION OF SCHEDULE

This Schedule explains how a Future Act may become an Approved Future Act for the purposes of this Deed.

2. PROPOSED ACTIVITY NOTICE

Before constructing or carrying out Works or Activities (other than Minor Works or Activities) Council will give a Proposed Activity Notice to the Native Title Parties.

3. CONTENT OF A PROPOSED ACTIVITY NOTICE

A Proposed Activity Notice given under paragraph 2 of this Schedule must contain:-

- (a) wording that identifies it as a Proposed Activity Notice;
- (b) if the Work or Activity is the construction of Council Infrastructure:-
 - i) a plan showing the proposed location of the Council Infrastructure;
 - ii) a description of the nature and scope of the Council Infrastructure;
 - iii) an estimate of the time required to complete the construction of the Council Infrastructure;
 - iv) a plan showing the proposed access route to Construct the Council Infrastructure;
 - v) a statement explaining why the Council requires the Council Infrastructure;
 - vi) a copy of a search of the Cultural Heritage Database and Cultural Heritage Register obtained from the Department of Natural Resources and Water for the area covered by the Proposed Activity Notice.
- (c) if the Work or Activity is the grant of an Occupancy Interest:-
 - i) a plan showing the proposed location over which the Occupancy Interest will be granted (including a survey plan if one has been prepared by Council);
 - ii) a copy of the proposed terms of the Occupancy Interest;
 - iii) a statement explaining the reasons for the grant of the Occupancy Interest.

4. MULTIPLE ACTS IN ONE NOTICE

Council may include notice of more than one Future Act within a single Proposed Activity Notice.

5. SENDING PROPOSED ACTIVITY NOTICE

- (a) The Council must send a Proposed Activity Notice to the Native Title Parties by registered mail to:-
 - i) the person or persons appointed by the Native Title Parties as their representative under clause 16 of this Deed; and
 - ii) any Representative Body for the area in relation to which the Proposed Activity Notice relates.
- (b) The Native Title Parties will be deemed to have received the Proposed Activity Notice on the fifth (5th) Business Day after the Proposed Activity Notice is sent by registered mail to the Native Title Parties and (if the Native Title Parties' nominated recipient for service of notices on the Native Title Parties is not the Representative Aboriginal/Torres Strait Islander Body), the Representative Aboriginal/Torres Strait Islander Body.

6. NATIVE TITLE PARTY RESPONSE

Within thirty (20) Business Days after giving the Proposed Activity Notice, the Native Title Parties may:-

- (a) give a Concurrence Notice to the Council; or
- (b) give a Refusal Notice to the Council.

7. NO CONCURRENCE FOR PART ONLY OF A PROPOSED ACTIVITY NOTICE

A Concurrence Notice relates to every Future Act included in the Proposed Activity Notice for which the Concurrence Notice is given or taken to be given.

8. CONTENT OF A CONCURRENCE NOTICE

A Concurrence Notice must include a statement that the Native Title Parties consent to the Work or Activity described in the Proposed Activity Notice.

9. CONTENT OF A REFUSAL NOTICE

A Refusal Notice must include the Native Title Parties' reasons for refusal to give consent to the Work or Activity described in the Proposed Activity Notice.

10. DEEMED CONSENT

- (a) If the Native Title Parties neither give a Concurrence Notice or a Refusal Notice within the time specified in paragraph 6 of this Schedule, the Council may provide a further notice ("Reminder Notice") requesting that the Native Title Parties respond within ten (10) Business Days.
- (b) If the Native Title Parties neither give a Concurrence Notice or a Refusal Notice within ten (10) Business Days the Native Title Parties are deemed to have given consent to the Work or Activity described in the Proposed Activity Notice on the eleventh (11th) Business Day after the Reminder Notice is sent.

11. MEETING FOLLOWING REFUSAL NOTICE

If the Native Title Parties give a Refusal Notice, the Native Title Parties and Council may agree to meet, within fifteen (15) Business Days from the date of Council's request or other period as agreed by the Parties, to discuss:-

- (a) the Native Title Parties' reasons for refusal; and
- (b) what modifications to the Work or Activity described in the Proposed Activity Notice would be reasonably required by the Native Title Parties to give their consent to the Work or Activity.

12. REVISED ACTIVITY NOTICE

Within fifteen (15) Business Days after a meeting under paragraph 10 of this Schedule or other period as agreed by the Parties, the Council may give the Native Title Parties a Revised Proposed Activity Notice ("Revised Activity Notice").

13. EFFECT OF REVISED ACTIVITY NOTICE

This Schedule applies to a Revised Activity Notice:-

- (a) subject to paragraphs (b), (c) (e) and (f) as if it were a Proposed Activity Notice; and
- (b) as if the time period specified in paragraph 6 was ten (10) Business Days; and
- (c) as if paragraph 9 was deleted; and
- (d) as if paragraph 10(a) was deleted; and
- (e) as if "Reminder Notice" was replaced with "Revised Activity Notice" in paragraph 10(b); and
- (f) as if paragraph 10(b) provided for the deemed issue of a Refusal Notice rather than a Concurrence Notice.

14. WITHDRAWAL OF PROPOSED ACTIVITY NOTICE OR REVISED ACTIVITY NOTICE

The Council may withdraw a Proposed Activity Notice or Revised Activity Notice by giving notice to the Native Title Parties.

15. NO CONDITIONS

The Native Title Parties must not impose conditions on its consent to a Work or Activity in a Concurrence Notice.

16. COUNCIL MAY PAY THE NATIVE TITLE PARTIES' REASONABLE EXPENSES

The Council may, when reasonably requested by the Native Title Parties, pay the reasonable costs incurred by the Native Title Parties in assessing and responding to a proposed Activity Notice provided the Native Title Parties have given the Council prior notice of the likely extent of the costs and expenses and received Council's prior written approval to incur the costs and expenses to a specified amount and invoices or receipts in relation to the costs and expenses are provided to Council.