

GPC - PCCC ILUA Funding Approval Guidelines

1 Purpose

Gladstone Ports Corporation (**GPC**) and the Port Curtis Coral Coast People (**PCCC**) are parties to an Indigenous Land Use Agreement (**ILUA**) and Ancillary Agreement, which provides consents for grants of tenure and approvals for port development, in return for benefit payments. The benefits are distributed through three “buckets”.

The parties to the ILUA have had various workshops to discuss matters of corporate governance. Issues discussed include the lack of clarity around how each “bucket” is to be distributed, and how to handle conflicts of interest when considering applications for funding.

The Ancillary Agreement sets out the process for determining applications for funding. However, the parties agree that some further guidance would assist them in determining what is eligible.

These Guidelines are directed at providing such further guidance, and are intended to cover the outputs of the meeting of the parties on 3 February 2017.

The ILUA Implementation Committee (**Committee**) will conduct its assessments of applications for funding from each bucket in accordance with these Guidelines.

This is an ILUA between GPC and PCCC Traditional Owner people, made up of the Byellee, Gooreng Gooreng, Gurang and Taribelang Bunda Traditional Owner groups, and provides compensation to these people for the impacts by or on behalf of GPC on their native title traditional owner country.

2 Direct payments

35% paid directly to a PCCC account. The Committee is not involved in relation to this bucket. Funds are distributed under the process and protocols of PCCC Limited (a charitable trust) (**PCCC Trust**), mainly for socio programs and funds have also been invested for the sustainability and support of future generations. Direct Payment funds have been committed as per the approved PCCC Corporate / Strategic Plan and are therefore not available for funding assistance.

3 Other Program Payments

30% paid to and then disbursed from a PCCC Trust account to approved programs or initiatives. The Ancillary Agreement sets out the following qualifying criteria for funding of a program or initiative from the Other Program Payments bucket, which in summary require:

- the delivery of sound environmental, social, cultural and/or economic (including employment) benefits for the PCCC claim group; and
- that such benefits must **be shared across the PCCC claim group**,

recognising that these benefits arise by virtue of the Project impacts on the PCCC claim group's Native Title.

The process for considering applications under this bucket is as follows

- PCCC members of the Committee will seek pre-endorsement from PCCC Trust (who holds the funds under this bucket, pursuant to quarterly payments from GPC), to ensure an application is consistent with PCCC Trust's constitution. Note this pre-endorsement does not constitute a direction to any of the Committee members to approve an application, and this is still subject to the Committee's consideration of qualifying criteria and merits in subsequent steps.

- The Committee will consider whether an application satisfies the qualifying criteria, and is accompanied with sufficient supporting documentation (such as business plans, quotations and key performance indicators) to meet appropriate corporate governance requirements.
- The PCCC members of the Committee vote on the application. An application with 75% of PCCC Committee member support is approved.
- The Committee secretariat will communicate the approval to the applicant and to PCCC Trust, which will then disburse the funds to the applicant.

The requirement that the program or initiative must “pose benefits across the claim group” means that applications to fund commercial enterprises directed at making a profit for individuals will not be eligible. Business plans must be provided with applications and these need to reflect that individuals involved are only drawing a reasonable fee for service.

Examples of projects and initiatives and whether they could qualify are as follows:

	Projects or initiatives that could qualify		Projects or initiatives that would NOT qualify
	A program that protects and improves land and sea country (this is a benefit shared by all of the claim group).		Provision of a loan to a small business operated by a PCCC person (no - as it does not pose benefits across the PCCC claim group).
	A program which protects or improves cultural heritage (this is a program for the benefit of all of the PCCC claim group).		A private company that requires funds to set up a security business (no – this may benefit some PCCC people with profits and wages but would not pose benefits across the PCCC claim group).
	A program to promote PCCC artists and/or musicians (this poses opportunities for benefits across the PCCC claim group, and is limited to PCCC people only).		An individual seeking funding to set up an indigenous music festival or indigenous art show (no – because this is not for the benefit of PCCC persons only).

When considering current applications, it is open to the committee to consider adequate provision is retained for future applications. It is a matter for PCCC People to determine a policy on the extent and length of funding for single applications that is acceptable.

4 GPC Program Payments

35% paid into and then disbursed from a GPC account to approved projects or initiatives. The Ancillary Agreement sets out the following qualifying criteria for funding of a project or initiative from the GPC Program Payments bucket:

- The funding must be spent on PCCC programs and initiatives delivered as part of GPC’s core operations and established capabilities.
- GPC’s Reconciliation Action Plan (RAP) is wholly funded by GPC and separate from any distributions under the ILUA. The program or initiative must be consistent with GPC’s lawful obligations, reasonable corporate policies and intents (from time to time) and the maintenance of GPC’s reputation (including corporate and social reputation), and be capable of delivery within GPC’s usual and core business.

The process for considering applications under this bucket is as followed:

- PCCC members of the Committee will seek pre-endorsement from PCCC Trust (in accordance with PCCC policy). Note this pre-endorsement does not constitute a direction to any of the Committee members to approve an application, and this is still subject to the Committee’s consideration of qualifying criteria and merits in subsequent steps.
- The Committee will consider whether an application satisfies the qualifying criteria.
- The PCCC members of the Committee vote on the application. An application with 75% of PCCC Committee member support is approved.
- The Committee secretariat will communicate the approval to the applicant and to GPC, which will then disburse the funds.

There is no single GPC policy that applies to these matters. Guidance on programs and initiatives that would be consistent with GPC’s policies and which are capable of delivery within GPC’s usual and core business can be obtained from GPC Mission Statement, which is to ***responsibly manage, develop and operate port facilities and services for the sustainable economic growth and social prosperity of our region, Queensland and Australia.***

Further guidance can also be obtained from GPC’s Statement of Corporate Intent, which is the document that sets out GPC’s key functions as agreed with the State Government. This document provides that GPC’s core business is:

- Management of port infrastructure at the Port of Gladstone, Port of Rockhampton and Port of Bundaberg.
- Manage cargo handling operations for coal and other bulk products.
- Develop, manage and lease strategic port land.
- Manage services and functions that support the core business.

GPC’s corporate and operational objectives are directed at delivering positive outcomes for commercial stakeholders and the State Government, customers and port users, the environment, community and the State of Queensland and GPC’s employees. The full current version of the Statement of Corporate Intent can be accessed at:

[GPC Statement of Corporate Intent 2015-16](#)

Examples of programs and initiatives and whether they would qualify are as follows:

	Projects or initiatives that could qualify		Projects or initiatives that would NOT qualify
	A program engaging PCCC land and sea rangers to conduct a weed control program on Facing Island.		Funding for members of the PCCC claim group to attend a conference (no, as it is not something that would be delivered as part of GPC’s core operations and established capabilities or capable of delivery within GPC’s usual and core business).
	Providing assistance (by GPC personnel and/or funding for external consultants) to PCCC claim group members and PCCC organisations with business planning and to develop tender documentation for		Funding for NAIDOC week celebrations (no, as it is not something that would be delivered as part of GPC’s core operations and established capabilities or capable of delivery within GPC’s usual and core business).

	businesses that could tender to provide services within GPC's area of operations and core business.		
✓	The full-time employment of PCCC claim group members in a cross industry operations traineeship, for 18 months with a focus on pathways to permanent employment, with appropriate mentoring. The number of PCCC members funded will be over and above the number of such trainees already committed to by GPC as business as usual.	✗	Funding for equipment for a group housing cooperative (no, as it is not something that would be delivered as part of GPC's core operations and established capabilities or capable of delivery within GPC's usual and core business).
✓	A joint venture between GPC and a PCCC entity whereby GPC divests surplus land and is reimbursed its value, and the joint venture constructs a warehouse on the land and PCCC people are employed to conduct a storage operation for GPC.	✗	Funding for a PCCC claim group creative arts exhibition (no, as it is not something that would be delivered as part of GPC's core operations and established capabilities or capable of delivery within GPC's usual and core business).
✓	Funding for the employment of a PCCC person who is an experienced administrator, by PCCC Trust, to assist with the preparation of applications for funding under the ILUA.	✗	Start-up funding for a business venture (no, as it is not something that would be delivered as part of GPC's core operations and established capabilities or capable of delivery within GPC's usual and core business).

5 Conflict of Interest Policy

It is acknowledged the inter-relationships that apply in any native title claim group membership will pose widespread potential conflicts of interest. A common sense approach must be taken in the circumstances. However a conflicts of interest policy is still important for the reputation of the members of the Committee and to ensure decisions can be justified on objective measures. The Committee has adopted a Conflicts of Interest policy, and the procedure (as discussed at the meeting of the parties on 3 February 2017) is as follows:

- Disclosure of a potential conflict of interest arising from an application for funding, by the applicable member of the Committee.
- Depending upon the seriousness and extent of the conflict, one of the following options will be decided by the Committee for the process going forward at that particular meeting:
 - If the Committee decides the conflict is not material (applying common sense), a member can continue to participate and vote on the application – no proxy will be required for this application.



- If the Committee decides the conflict is material enough to preclude the member from voting but is not sufficient to preclude the conflicted member from participating in discussions on the application, the conflicted member may remain and participate in the discussion alongside his or her proxy, but only the proxy shall exercise that member's vote.
- If the Committee decides the conflict is an obvious and serious matter, the conflicted member is neither allowed to participate in discussion or vote, and would need to leave the meeting room for that particular matter. The member's proxy will participate in the discussions and vote on the application.

A proxy must be from the same tribal group as the conflicted member. The proxy should be properly briefed on the relevant application (in the same way a member of the Committee would be). The proxy may attend the meeting but may also telephone or skype into the meeting if that is more convenient in the circumstances.