

COUNCILLOR CONDUCT TRIBUNAL

CITATION: *Independent Assessor v Eden* [2026] CCT 4

PARTIES: **INDEPENDENT ASSESSOR**
(applicant)
V
AMY EDEN
(respondent)

FILE NO/S: F26/490

DELIVERED ON: 7 July 2026

HEARING DATE: 8 May 2026

HEARD AT: Brisbane

DECISION OF: President Russell Hood

ORDERS: **IT IS THE DECISION OF THE TRIBUNAL THAT:**

- 1. Pursuant to s 150L(1)(b)(i) of the *Local Government Act 2009* (Qld), the conduct the subject of the allegation in the application constitutes misconduct.**
- 2. Pursuant to s 150AR(1)(b)(i) of the *Local Government Act 2009* (Qld), the respondent make a public admission to the conduct at a general meeting of Council open to the public within 60 days of the publication of this decision.**
- 3. Pursuant to s 150AR(1)(b)(iii) of the *Local Government Act 2009* (Qld), the respondent attend training to address the respondent's conduct.**

CATCHWORDS: LOCAL GOVERNMENT — COUNCILLOR CONDUCT — MISCONDUCT — breach of trust – declarable conflict of interest – conflict between personal interests of related party and public interest – close personal relationship with related party – where respondent failed to declare conflict of interest – where respondent participated in a decision about a matter involving a related party – where respondent admits breach of trust – where parties agreed as to facts and evidence – where respondent cooperated with proceedings – consideration of appropriate sanction – whether a pecuniary penalty order is appropriate sanction

Local Government Act 2009 (Qld) s 150AA, s 150L(1)(b)(i), s 150AQ(1) & (2), s 150AR(1)(b)(i), (iii) & (iv)
Local Government Regulation 2012 (Qld) s 298

Hili v R (2010) 242 CLR 520

Independent Assessor v Councillor Baines, 3 April 2019

Independent Assessor v Councillor Campbell, 30 October 2023

Independent Assessor v Councillor Heath, 5 August 2019
Independent Assessor v Councillor Kremastos, 3 April 2019
Independent Assessor v Councillor Taylor, 23 April 2019
Smith v New South Wales Bar Association (1992) 176 CLR 256
R v Pham (2015) 256 CLR 550

APPEARANCES &
REPRESENTATION

This matter was heard and determined on the papers pursuant to s 298 of the *Local Government Regulation 2012* (Qld)

REASONS FOR DECISION

- [1] This proceeding is brought by the Independent Assessor ('applicant') against Amy Eden ('respondent'). At all material times the respondent was a councillor of Cairns Regional Council ('council'). The respondent was first elected to council at the 2020 local government elections and was subsequently elected as Mayor of council at the 2024 elections. The applicant alleges that:

... on 25 October 2023, Councillor Amy Eden, a councillor of Cairns Regional Council, engaged in misconduct as defined in section 150L(1)(b)(i) of the Local Government Act 2009 (Qld), in that her conduct involved a breach of the trust placed in her as a councillor, either knowingly or recklessly.

- [2] The allegation made by the applicant is admitted by the respondent, therefore the only issue that remains to be determined by the Tribunal is the question of disciplinary action. Following are the reasons underpinning the Tribunal's findings and orders made on 8 May 2026.

Background

- [3] The respondent and another person ('KBN') established a business ('FRZ') in 2013, and the business was active to varying degrees until 2023. The respondent and KBN had been acquainted since 2008 and were publicly associated with the activities of FRZ during the period it operated, including on social media. KBN became a part owner and operator of another business ('STC') in 2019. The respondent has no financial interest in STC, however the respondent engaged STC (and thus KBN) to provide website development and social media services to the respondent's 2020 election campaign. The respondent was also part of the Unity Team 2020 election campaign and recommended STC's services to the other Team Unity candidates, highlighting KBN's marketing and media skills.
- [4] Following the 2020 elections the respondent and KBN publicly associated together at several council events, including KBN attending two council functions as the respondent's guest. On two other occasions the respondent volunteered to assist KBN operate a stall at council's annual 'Trash to Treasure' event, for which STC received a minor sum of money from council. In the lead up to the 2024 elections the respondent again engaged STC to provide website development services to her campaign for mayor.
- [5] On 19 June 2020 and 11 August 2020 the respondent signed a Register of Interests ('ROI') in which KBN was listed as a related party under the description '*Friend*'. On six occasions during the respondent's first term as councillor FRZ was listed in the respondent's ROI under the heading '*Partnerships or Joint Ventures*'. Neither KBN nor FRZ were listed in the respondent's ROI dated 27 June 2023, which was the most recent ROI submitted by the respondent prior to 25 October 2023.

Agreed Facts

[6] At an ordinary meeting of council on 25 October 2023 ('the meeting') the agenda included an item regarding the establishment of a register of pre-qualified suppliers ('ROPS') for the provision of events, marketing, advertising and media services to council ('the agenda item'). The agenda item included consideration of a report that recommended the appointment of forty-six suppliers to the ROPS for a period of three years, with two options for an extension of up to two years at council's discretion. STC was one of the suppliers recommended for inclusion on the ROPS.

[7] At the commencement of the meeting there was a routine call for declarations of conflicts of interest, which resulted in the following exchange between the respondent and another councillor:

Councillor: Councillor Eden the ... I'm not quite sure which clause it is, it's the one with the ROPS, there's a um company there called STC ... is that KBN?

Respondent: That is KBN.

Councillor: You're not declaring an interest on that one as a personal friend?

Respondent: Ah, no. She's not a registered party on my conflict register

Councillor: Ok, thank you.

[8] Following consideration of the agenda item by council, a motion was moved in terms of the recommendation contained in the report; following a brief discussion, the motion was put to a vote and was carried unanimously. The respondent did not declare a conflict of interest in the matter and participated in the decision by voting to accept the report's recommendations. The respondent now acknowledges that KBN was a related party by virtue of their close personal relationship. It is not alleged that the respondent intentionally sought to conceal the relationship with KBN; rather, the respondent quite properly accepts that she should reasonably have been aware that her close personal relationship with KBN ought to have been declared. The respondent also accepts that when questioned about her relationship with KBN during the meeting, the respondent ought to have realised that whether KBN was listed in the respondent's ROI was not determinative of the question of whether the respondent had a close personal relationship with KBN.

Statutory Framework

[9] Amongst other things, the conduct of a councillor is misconduct if the conduct is or involves a breach of the trust placed in the councillor, either knowingly or recklessly.¹ The applicant has particularised the respondent's breach of trust as follows:

Councillor Eden breached the trust placed in her as a councillor knowingly or recklessly because:

- (a) She was, or ought reasonably to have been, aware of the facts set out at particular (k), namely, "... Councillor Eden failed to disclose a close personal relationship with KBN and implied that there was no relationship requiring declaration".*
- (b) She had received training on her legislative obligations and was, or ought reasonably to have been, aware that conflicts of interest could arise from connections to people that were not on her register of interest; and*
- (c) She had made a declaration of office requiring her to abide by the local government principles.*

¹ *Local Government Act 2009* (Qld) s 150L(1(b)(i)) ('LG Act').

[10] The particulars provided by the applicant do not detail the statutory basis for the respondent's obligation to disclose a conflict of interest in these circumstances. However, it appears as if the applicant's use of the term 'close personal relationship' is referring to section 150EP of the Act (Who is a related party of a councillor) for the purposes of section 150EN of the Act (What is a declarable conflict of interest). Section 150EN provides as follows:

- (1) *Subject to section 150EO, a councillor has a **declarable conflict of interest** in a matter if—*
 - (a) *the councillor has, or could reasonably be presumed to have, a conflict between the councillor's personal interests, or the personal interests of a related party of the councillor, and the public interest; and*
 - (b) *because of the conflict, the councillor's participation in a decision about the matter might lead to a decision that is contrary to the public interest.*

[11] Regarding the question of who a related party is, section 150EP provides that:

- (1) *A person is a related party of a councillor if the person is any of the following in relation to the councillor—*
 - (a) *an entity in which the councillor, or a person mentioned in paragraph (b), (c) or (d), has an interest;*
 - (b) *a close associate of the councillor, other than an entity mentioned in section 150EJ(1)(f);*
 - (c) *a parent, child or sibling of the councillor's spouse;*
 - (d) *a person who has a close personal relationship with the councillor.*
- (2) *However, a parent, child or sibling of the councillor's spouse, or a person who has a close personal relationship with the councillor, is a related party of the councillor in relation to a matter only if the councillor knows, or ought reasonably to know, about the parent's, child's, sibling's or person's involvement in the matter.*

[12] I note that the term 'close personal relationship' is not defined by the Act; however, it can be accepted that the meaning of that term includes relationships such as longstanding personal friendships and/or business relationships. Closeness is determined by the nature and intensity of a relationship and includes considerations such as the duration of the relationship and frequency of contact. Insofar as the parties have agreed to the facts in this matter, I am satisfied that the respondent:

- (a) was a related party of KDB, due to their close personal relationship;
- (b) had a conflict between the personal interests of KDN and the public interest;
- (c) participated in the decision about the agenda item, which might have led to a decision contrary to the public interest;
- (d) had a declarable conflict of interest in the agenda item, which the respondent failed to declare;
- (e) recklessly breached the trust placed in her as a councillor.

Procedural History

[13] On 13 November 2023 the applicant notified the respondent of the allegation and advised that the matter could be dealt with by way of an expedited hearing before the Tribunal, or, if the allegation was disputed (in whole or in part) further investigations would be undertaken. The respondent was also invited to make an early submission in response to the allegation.

- [14] On 18 January 2024 the respondent provided a submission contesting the allegation. On 9 April 2024 the respondent was informed that all investigations had been finalised, and a natural justice process would be undertaken. On 25 September 2024 the respondent was provided with a formal notice and opportunity to respond.² On 9 October 2024 the respondent informed the applicant that the allegation was no longer contested, subject to agreement being reached regarding the alleged facts.
- [15] On 11 March 2026 the parties executed an *Agreement for Expedited Misconduct Application* pursuant to paragraphs 9(a) and (b) of the *Councillor Conduct Tribunal Practice Direction No. 1 of 2023* which provides for a signed and dated agreement formed between the parties confirming that the allegations, facts and evidence are not in dispute. The applicant filed a misconduct application against the respondent with the Tribunal the next day, and the Tribunal issued directions to the parties on 24 March 2026, inviting submissions on the issue of sanction and listing the matter for a hearing on the papers on 8 May 2026.

Disciplinary Action

- [16] Where it has been established that a councillor has engaged in misconduct, the Tribunal must decide what action it will take under s 150AR of the Act to discipline the councillor.³ In deciding what action to take, the Tribunal may consider any previous misconduct of the councillor and any allegation made in the hearing that was admitted or not challenged.⁴ The Tribunal is required to consider the whole of the councillor's conduct, and what order or combination of orders would best serve the objectives of the councillor conduct framework. The Tribunal's power to sanction misconduct is intended to be protective of the public and the local government sector, rather than punitive towards the councillor being disciplined. The Tribunal's protective function includes deterring a repeat of the impugned conduct, and deterring others who might be tempted to behave in a similar way.
- [17] The respondent had not been the subject of any previous findings of misconduct as of 25 October 2023, and had received the following training as a councillor:
- "So You Want To Be A Councillor?" completed 25 November 2019;
 - Councillor Induction Training, completed 18 May 2020;
 - Councillor Integrity Training, completed 16 September 2020; and
 - "So You Want To Be A Councillor?" completed 9 September 2023.
- [18] The applicants' submissions on sanction refer to the previous decisions of the Tribunal in *Kremastos*,⁵ *Baines*,⁶ *Heath*,⁷ and *Taylor*,⁸ which were all decided on the same factual basis. In each case the Tribunal held that a breach of trust had occurred because of the councillor's failure to declare a conflict of interest about a matter, namely, the awarding of a contract to a company in circumstances where a principal of the company had donated \$200 to the election campaign of each councillor. In *Baines*, *Heath* and *Taylor* the Tribunal ordered that a public admission of misconduct be made and imposed a

² LG Act s 150AA.

³ Ibid s 150AQ(1).

⁴ Ibid s 150AQ(2).

⁵ *Independent Assessor v Councillor Kremastos*, 3 April 2019.

⁶ *Independent Assessor v Councillor Baines*, 3 April 2019.

⁷ *Independent Assessor v Councillor Heath*, 5 August 2019.

⁸ *Independent Assessor v Councillor Taylor*, 23 April 2019.

pecuniary penalty of \$100. In *Kremastos* the order was for a public admission the misconduct only to reflect the highly mitigating feature that it was the councillor who identified the failure to declare the conflict of interest and promptly notified the council's chief executive officer.

- [19] The applicant also referred to the decision of *Campbell*,⁹ which involved a councillor's failure to declare a conflict of interest at a special meeting to decide a tender process. The councillor participated in the meeting as chair but failed to declare business dealings with the successful tenderer as a conflict of interest. The councillor's failure to disclose that interest and participation in the decision about the tender was held to constitute a breach of trust amounting to misconduct and was ordered to make a public admission of misconduct, undertake training at his own expense and pay a monetary penalty of \$500.
- [20] The respondent submits that the nature of the interests involved in the decisions referred to by the applicant are different to the interest which should have been declared by the respondent. While the decisions cited by the applicant all involve a breach of trust, in each case the conflict of interest was between the councillor's personal interests and the public interest. By contrast, the conflict of interest in this matter has been particularised as a conflict between the personal interests of a related party and the public interest. In other words, it is not alleged that the respondent had a personal interest in the agenda item to be decided; rather, it was the personal interests of KBN that conflicted with the public interest, by virtue of KBN's financial and other interests in STC.
- [21] Reference to comparable cases has two purposes. First, it '*can and should provide guidance as to the identification and application of relevant sentencing principles*'.¹⁰ Second, it '*may yield discernible sentencing patterns and possibly a range of sentences against which to examine a proposed ... sentence*';¹¹ that is, examination of comparable cases may provide a '*yardstick*'.¹² However sentences are not binding precedents, and do not necessarily disclose the correct range or otherwise determine the upper and lower limits of sentencing discretion.¹³ The cases referred to by the applicant provide some general assistance as '*yardsticks*' for matters involving a breach of trust. However, as the respondent correctly submits, the nature of the personal interests involved in those decisions are readily distinguishable from the related party interest in this matter and are therefore of limited assistance in determining the appropriate sanction to be imposed on the respondent.
- [22] The parties agree as to the following mitigating features, namely, that the respondent:
- had no prior disciplinary history at the relevant time;
 - was in her first term as a councillor; and
 - accepted the allegation of misconduct at an early stage, thereby avoiding the need for a costly and time-consuming contested hearing.
- [23] The applicant submits that the orders to be imposed should strike a balance between denunciation of the misconduct to maintain public confidence in the integrity of the local government sector, and recognition of the respondent's cooperation and other mitigating factors. To that end, the applicant proposed that the following orders be made, namely, that the respondent:

⁹ *Independent Assessor v Councillor Gregory Campbell*, 30 October 2023.

¹⁰ *R v Pham* (2015) 256 CLR 550 (*Pham*), [27].

¹¹ *Ibid.*

¹² *Hili v R* (2010) 242 CLR 520, [54]; *Pham*, [29].

¹³ *Pham*, [27].

- (a) make a public admission that the respondent has engaged in misconduct;
- (b) attend training or counselling to address the respondent's conduct; and
- (c) pay to council an amount capped at 5 penalty units.

[24] The respondent submits that a public admission of the misconduct and additional training would appropriately address the need for deterrence while giving appropriate weight to the agreed mitigating features. Regarding the proposed pecuniary penalty order, the respondent submits that the following circumstances are relevant to consideration of whether such an order is necessary or appropriate, namely, that the respondent:

- did not deliberately seek to conceal her relationship with KBN;
- had disclosed the relationship with KBN on numerous prior occasions;
- did not regard KBN as close personal friend (and therefore a related party) for the purposes of the disclosure provisions of the Act (although now accepts that view was incorrect and mistaken); and
- now accepts and acknowledges that her relationship with KBN does constitute a sufficiently close and personal relationship for the purposes of the disclosure regime in the Act, which she ought to have known and disclosed at the relevant time.

[25] While ultimately a matter for the Tribunal to determine, the parties are largely agreed as to the appropriate orders to be made, with the main point of difference being whether the orders should include a pecuniary penalty. In addition to the mitigation features already discussed, I note that having taken the opportunity to obtain advice about the meaning of the term 'close personal relationship' as used in the Act, the respondent now quite properly admits that the long-term friendship and business relationship that existed between KBN and the respondent would readily be viewed as a close personal relationship by any reasonable, fair-minded member of the public.

[26] A finding of misconduct by breach of trust is a serious matter, and councillors who fail to acknowledge and manage their interests in an appropriate and timely manner can expect to run afoul of the protections embedded in the Act to ensure transparent and accountable decision-making. However, having weighed all the relevant facts and circumstances, the Tribunal considers that the imposition of a pecuniary penalty order would not be appropriate having regard to the mitigating factors present in this matter, namely, that the respondent was a first time councillor who did not have a disciplinary history at the time of misconduct, and that the respondent has demonstrated appropriate insight and remorse by admitting the allegations at an early stage and co-operating with the disciplinary process.

Orders

[27] The Tribunal makes the following orders:

1. Pursuant to ss 150L(1)(b)(i) of the Act, the respondent has behaved in a way that constitutes misconduct.
2. Pursuant to s 150AR(1)(b)(i) of the Act, the respondent make a public admission to the conduct at a general meeting of Council open to the public within 60 days of the publication of this decision.

3. Pursuant to s 150AR(1)(b)(iii) of the Act, the respondent attend training to address the respondent's conduct.