

INTRODUCTION

The Port of Townsville Limited ('the Corporation') is a company Government Owned Corporation (GOC) established in its current form on 1 July 2008 under the *Government Owned Corporations Act 1993* (as amended by the *Government Owned Corporations Amendment Act 2007*).

There are a number of statutes with which the Corporation is required to comply with, however the following set the core legislative framework in which the Corporation operates:

- *Government Owned Corporations Act 1993* (Qld) and Regulations;
- *Transport Infrastructure Act 1994* (Qld) and Regulations;
- *Financial Accountability Act 2009* (Qld);
- *Financial and Performance Management Standard 2009* (Qld); and
- *Corporations Act 2001* (Cth).

As a GOC, the Corporation is expected to adhere to similar levels of transparency and accountability as those that apply to public sector agencies.

Fraud and Corruption against the Corporation or other parties will not be tolerated in any form or degree. These guidelines have been developed for use by the Corporation to prevent, detect, control and manage Fraud and Corruption at the Port of Townsville.

DEFINITIONS

Corruption is defined in a practical way by the CMC as *“behaviour that may involve Fraud, theft, the misuse of position or authority or other acts that are unacceptable to an organisation and which may cause loss to the organisation, its clients or the general community”*. It may also include other elements such as breaches of trust and confidentiality.

The behaviour need not necessarily be criminal. The Australian Standard on Fraud and Corruption Control defines Corruption as *“dishonest activity in which a director, executive, manager, employee or contractor of an entity acts contrary to the interests of the entity and abuses his/her position of trust in order to achieve some personal gain or advantage for him or herself or for another person or entity”*.

Fraud is a deliberate, intentional and premeditated dishonest act or omission acted out with the purpose of deceiving to gain advantage from a position of trust and authority. It includes acts such a theft, making false statements/representation, evasion, manipulation of information, criminal deception and abuse of the Authority’s property or time.

The Australian Standard on Fraud and Corruption Control defines Fraud as *“dishonest activity causing actual or potential financial loss to any person or entity including theft of moneys or other property by employees or persons external to the entity and whether or not deception is used at the time, immediately before or immediately following the activity. This also includes the deliberate falsification, concealment, destruction or use of falsified documentation used or intended for use for a normal business purpose or the improper use of information or position”*.

Some of the more common examples of Fraud and Corruption may include:

- theft/stealing
- unauthorised and/or illegal use of assets, information or services for private purposes
- abuse of position and power for personal gain
- manipulation and misuse of account payments
- falsification of records
- manipulation of computer programs for improper purposes

It is noted that the above list is not intended to be exhaustive. Hypothetical examples of Fraud

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			Date	12/01/2010
			Page	1 of 20

are also contained in **Appendix A**.

- Compliance** is meeting obligations under laws, regulations, codes or internal policies.
- Maladministration** is defined in the *Whistleblowers Protection Act 1994* (Qld) as an administrative action that is unlawful, arbitrary, unjust, oppressive, improperly discriminatory or taken for an improper purpose and which substantially and adversely affects someone's interests.
- Official Misconduct** Conduct is defined in the *Crime and Misconduct Act 2001* (Qld) as conduct, or a conspiracy or attempt to engage in conduct, that adversely affects or could adversely affect, the honest and impartial performance of functions. It includes a conspiracy or attempt to engage in conduct that is a breach of trust or involves misuse of information or material, whether the misuse is for the person's benefit or the benefit of someone else.
- Official Misconduct is conduct that could, if proved, be a criminal offence or treated as a disciplinary breach providing reasonable grounds for termination of the person's services.
- Whistleblower** A person being a director, manager, employee or contractor of an entity who, whether anonymously or not, makes, attempts to make or wishes to make a report in connection with reportable conduct and where the Whistleblower wishes to avail themselves of protection against reprisal for having made the report. A Whistleblower may or may not wish to remain anonymous.

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			Date	12/01/2010
			Page	2 of 20

OBJECTIVES AND STRATEGIC OVERVIEW

The Corporation is committed to protecting its revenue, expenditure and property from attempts by employees and external parties to gain financial or other benefits through fraudulent and/or corrupt activity. These Guidelines have been developed to protect the Corporation's property, ensure legislative compliance and also to protect the Corporation's integrity, security and reputation.

In line with the above obligations and the Australian Standard on Fraud and Corruption Control (AS 8001-2003 Corporate Governance – Fraud and Corruption Control), the objectives of these Guidelines are to:

- ensure internal and external instigated Fraud and Corruption against the Corporation is eliminated;
- ensure that instances of Fraud and Corruption against the Corporation are detected in the event that preventative strategies fail;
- ensure all property dishonestly appropriated is recovered or compensation equivalent to any loss suffered as a result of fraudulent or corrupt conduct is received;
- ensure that Fraud and Corruption by the Corporation against any other entities is suppressed;
- ensure that responsibilities for Fraud and Corruption are defined, and that all Directors, Managers, Supervisors, employees and others are aware of their responsibilities in relation to the ethical conduct of themselves and employees that they may be responsible for;
- ensure appropriate mechanisms are in place for training and awareness, reporting, employee protection and investigations, and these are communicated;
- ensure that regular assessments of the risks of Fraud and Corruption are undertaken and Fraud control plans are developed;
- reinforce the requirement for all employees and others to refrain from corrupt conduct, fraudulent activities, and Maladministration and encourage the reporting of any instance of Fraud, Corruption or Maladministration; and
- ensure that appropriate mechanisms are in place for the reporting of complaints of Official Misconduct to the Crime and Misconduct Commission (CMC).

To be effective, the guidelines must contain strategies for prevention and detection with action being taken in both categories.

Strategies to prevent Fraud and Corruption include such things as:

- adopting appropriate internal controls in response to Fraud and Corruption risk assessment, including the development of Fraud Control Plans incorporating identified risks and associated control measures.
- ensuring the *Code of Conduct* (HR 219) and the *Fraud and Corruption Control Guidelines* are clearly articulated in relation to the Corporation's attitude towards Fraud and Corruption and disciplinary procedures;
- ensuring disciplinary actions and sanctions that may be imposed because of a breach (i.e. counselling, investigations, termination of employment, forwarding evidence to external enforcement agencies etc) are well established and communicated to act as a deterrent;
- publicising outcomes of investigations where Fraud and Corruption is found to have occurred to act as a deterrent and prevent recurrence;
- communication and education programs to raise and maintain awareness of employees, contractors, consultants, customers and the community of the Corporation's Fraud and Corruption control framework.

Strategies to detect any occurrences of Fraud and Corruption include such things as:

- ensuring reporting and investigation mechanisms are established and clearly communicated;
- providing guarantees to employees of their protection for protected disclosures;
- maintaining a Fraud and Corruption incident register to analyse trends; and
- ensuring effective investigations are carried out, and that the appropriate external agencies are involved for more serious offences.

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			Date	12/01/2010
			Page	3 of 20

RESPONSIBILITIES

Responsibility for developing and implementing the Corporation's *Fraud and Corruption Control Guidelines* rests with the Chief Executive Officer and General Managers of the Corporation.

The roles and responsibilities are detailed below:

FARM Committee

The FARM Committee plays an integral role in monitoring and reviewing the effectiveness of corporate governance mechanisms in the Corporation. As a part of the audit function, the FARM Committee will review the operation and management of risk within the Corporation, including an assessment of the effectiveness of the Fraud and Corruption control framework.

The FARM Committee is also responsible for oversight of internal investigations into suspected acts of Fraud, Corruption, Official Misconduct and Maladministration and providing recommendations on action to be taken to the Board.

Chief Executive Officer

The Chief Executive Officer is responsible and accountable to the Board for the full and effective development and implementation of Fraud and Corruption control policies, plans and procedures for the Corporation. The Chief Executive Officer must ensure that:

- a systematic approach to Fraud and Corruption prevention, detection and control is in place;
- risk assessments relating to Fraud and Corruption are carried out on a regular basis and reported to the Board;
- detailed plans, policies and procedures are developed and implemented for Fraud and Corruption prevention, detection, investigation, management and control which are subject to appropriate levels of audit;
- the system is regularly assessed and reviewed (at least every two years);
- the appropriate management information system is in place to record breaches; and
- the CMC is notified of complaints of actual or suspected Official Misconduct.

The Chief Executive Officer also has ultimate responsibility for establishing and fostering an environment which will ensure that effective Corruption and Fraud prevention is an integral part of all activities and a core management capability, consistent with the *Code of Conduct* and relevant legislation.

Governance & Legal Advisor

The Governance & Legal Advisor has the primary responsibility for:

- coordinating the development and implementation of the Corporation's Fraud and Corruption control policies, plans and procedures;
- coordinating Fraud and Corruption risk assessments;
- monitoring and reviewing the Fraud and Corruption control framework;
- maintenance of a Fraud and Corruption control database including a register of suspected breaches and breaches of the Fraud and Corruption control policy and procedures;
- assisting with the coordination of investigations by the FARM Committee into suspected or reported breaches;
- assisting external agencies with their investigations for more serious activities; and
- coordinating training and awareness programs.

General Managers

General Managers have responsibility for:

- ensuring that Fraud and Corruption control policies, plans and procedures are developed, fully implemented and complied with by all employees;
- ensuring that areas under their control are subject to risk assessment, evaluation and control;
- regularly and systematically assessing the potential within their area of responsibility for breaches, including theft, Corruption and Fraud;
- the effectiveness of the internal control environment including Fraud control and Corruption prevention and detection;
- promoting the Corporation's Fraud and Corruption control framework and the importance of personal and professional ethics to their employees;
- receiving reports of Fraud and Corruption from employees and taking prompt and appropriate action on all disclosures of suspected Fraud and/or Corruption (i.e. initial inquiries etc);

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			Date	12/01/2010
			Page	4 of 20

- ensuring that appropriate management plans and strategies are developed to manage identified risks.

Human Resources Advisor (HRA)

The HRA is responsible for overseeing human resources functions that arise from time to time, including such things as:

- arranging counselling for employees;
- coordinating disciplinary actions; and
- publishing disciplinary outcomes internally.

Risk Committee

The Risk Committee is responsible for the identification, risk assessment and management of Fraud and Corruption risks. The Committee also assists the Governance and Legal Advisor in the development and implementation of controls to prevent and/or reduce the occurrence of Fraud and Corruption. This Committee meets monthly and consists of representatives from each business division of the Corporation.

All Directors and Employees

As stated in the *Code of Conduct*, all Directors and employees have the responsibility to report suspected corrupt and/or fraudulent activity. This should be reported to the persons' Supervisor or Manager or those responsible for investigations (as considered appropriate). It is noted that reasonable grounds to suspect must exist.

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			Date	12/01/2010
			Page	5 of 20

INVESTIGATIONS

The Investigation of Misconduct

Initial investigation of misconduct will be conducted in accordance with the employee's industrial instruments and these Guidelines.

The Chief Executive Officer will determine who will conduct the investigation. The person appointed by the Chief Executive Officer is required to report the results of the investigation directly to the Chief Executive Officer. Where it is not appropriate or possible for the Chief Executive Officer to be involved in the investigation (for example, where that person is suspected of fraudulent or corrupt behaviour) the Chairperson will initiate the investigation.

The investigation will be conducted by an appropriately skilled and experienced person who is independent of the Corporation and licensed pursuant to the *Fair Trading Act 1989* (Qld).

Natural Justice and the Protection of the Rights of the Person

The person who is required to investigate the matter should:

- (a) Ensure to the best of their ability that any statements made are true or fair.
- (b) Act fairly and in good faith without bias, malice, ill will or with improper motives.
- (c) Maintain strict confidentiality. Persons who investigate a matter may need to inform persons who have a duty to know about the issues of concern. All documentation must be stored and transmitted in a secure and confidential manner.

The person of interest has the right to:

- (a) Consistent and fair decision-making.
- (b) Equality in the treatment of individuals.
- (c) The opportunity to respond to claims.
- (d) The right to be fully informed on all aspects of the investigation, the direction of any action taken under these guidelines as well as any possible future consequences.
- (e) The right to representation. The person of interest has the right to appoint a legal representative, a union representative, family member or friend to represent them or to accompany them to any interview.

Although the person of interest has a right to the aforementioned, the timing of when to disclose information to the person of interest and when to afford him/her an opportunity to respond will vary with each investigation. The person of interest should not initially be advised of any inquiries where this may prejudice future investigations. The FARM Committee will have to make a decision on the timing of such disclosures based on the facts of the investigation. At an appropriate point during the process the person of interest will be advised of the complaint and will be afforded the opportunity to respond.

Initial Inquiry and Preliminary Investigation Process

Relevant points to note are:

- (a) Complaints can be written or verbal. If verbal complaints are made, then the person receiving the complaint shall create a written record of the complaint.
- (b) Confidentiality in respect to information and personnel shall be maintained at all stages.
- (c) The person receiving the complaint shall contact HRA for preliminary advice and guidance before initiating any preliminary inquiry.
- (d) If, in the opinion of the complainant, the complainant's immediate supervisor or manager cannot resolve the matter, the complainant should deal directly with the HRO.
- (e) The HRO will notify the Chief Executive Officer of the complaint so that a preliminary investigation can be conducted.
- (f) During any preliminary investigation the HRA is responsible for employee relations' advice and action. The investigating officer will ensure that the HRA is kept informed of the progress of any investigations into alleged misconduct and will take into account advice regarding employee relations' while conducting any preliminary investigation.
- (g) The investigator will submit a report to the Chief Executive Officer / Chairperson (as appropriate) outlining the findings of the investigation and any recommendations.
- (h) The Governance & Legal Advisor will be informed of the incident only for the purpose of updating the Corporation's Fraud and Corruption Incident Register and to conduct an internal review of the relevant controls associated with the Fraud or Corruption to determine where the system failed and if further remedial action is required.

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			Date	12/01/2010
			Page	6 of 20

- (i) The Fraud or Corruption incident is to be reported by the Chief Executive Officer / Chairperson to the FARM Committee.

Investigation File Management

The person investigating suspected acts of criminal misconduct should maintain an investigation file during the course of the investigation in line with legal, best practice and privacy management guidelines.

Contained within the investigations file should be:

- (a) Original Informant Documentation
- (b) A Running Sheet
- (c) File Notes
- (d) Witness Statements
- (e) Letters
- (f) Seized Documents
- (g) Respondent Statements
- (h) An Evidence Log
- (i) Photographs/Sketches

This list is not exhaustive as other items may be contained within the investigations file. This will depend on the nature of the allegation or complaint made.

Security & Confidentiality

Files created in relation to the incident must be kept secure. Any information received from a Whistleblower must be held in the strictest confidence and must only be disclosed to a person not connected with the investigation of the matters raised:

- if the Whistleblower has been consulted and consents in writing to the disclosure; or
- if the Corporation or its Directors, officers or employees are compelled by law to do so.

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			Date	12/01/2010
			Page	7 of 20

DISCIPLINARY ACTION, PENALTIES AND PROSECUTION

All Directors and employees are bound by and obliged to comply with these Guidelines, the Corporation's *Code of Conduct* and applicable legislation which set out acceptable standards of behaviour and provide guidance for difficult ethical scenarios.

Copies of these Guidelines, related plans and procedures and the Code of Conduct are readily accessible from Qudos.

Failure to comply with the Corporation's policies, plans and procedures relating to ethics, Fraud and Corruption control may increase the Corporation's exposure to Fraud and Corruption or result in a Fraud or corrupt act against the Corporation.

All employees are accountable to the Chief Executive Officer for the fulfilment of their responsibilities under these policies, plans and procedures. The Chief Executive Officer is accountable to the Board. Non-Compliance will be taken as a serious matter and may result in disciplinary action being taken against the employee. Disciplinary action will be dealt with in accordance with the disciplinary procedures outlined in the Corporation's *Code of Conduct*.

The Board is accountable to shareholding Ministers. The Chairperson and all other Directors will determine the appropriate action to be taken in the event of non-Compliance by a Director and a recommendation made to shareholding Ministers.

In the case of more serious offences and criminal activity by a Director or employee, in addition to reporting the matter to the CMC, the Corporation will provide the necessary information and evidence to the appropriate external agencies. Prosecution and/or penalties may result in these circumstances. The Corporation will pursue those who have committed fraudulent or corrupt acts to recover any assets lost, and seek criminal or civil restitution whenever possible.

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			Date	12/01/2010
			Page	8 of 20

REPORTING

The mechanisms for reporting Fraud and Corruption are detailed below:

- Internal reporting – structure to facilitate reporting of Fraud and Corruption within the Corporation by either internal or external parties.
- External reporting – structure to facilitate reporting by employees and the Corporation to the CMC and appropriate external government departments and agencies, including provision of evidence of illegal acts, suspected fraudulent activity, Corruption or Maladministration as required by law and as a preventative measure.
- Publication of investigation outcomes – to act as a deterrent where inquiries and investigations find Fraud and/or Corruption has occurred.

Internal Reporting Structure

Suspected acts of Fraud, Corruption and Maladministration can be reported to the appropriate officers within the Corporation for investigation. Reports can be made by an internal or external party, provided that reasonable grounds exist to support the suspicion.

Internal Parties – all employees have a responsibility to report suspected Fraud and/or Corruption directly to the Chief Executive Officer. It is essential that reasonable grounds for the suspicion are provided.

Reports of suspected Fraud and/or Corruption should be made using the *Report of Suspected Fraud/Corruption* form which is available in Qudos and at the Corporation's main reception.

External Parties – external customers, suppliers and members of the public may also report suspected acts of Fraud, Corruption or Maladministration by a Director or employee of the Corporation to the Chief Executive Officer. Where it is not appropriate or possible to make a report to the Chief Executive Officer (for example, where that person is suspected of fraudulent or corrupt behaviour) a report is to be addressed directly to the Chairperson.

Reports of suspected Fraud and/or Corruption should be made using the *Report of Suspected Fraud/Corruption* form located on the Corporation's website and at the Corporation's main reception.

The Chief Executive Officer when receiving a report has a duty to address the issue raised promptly. A person's suspicions may be the result of misinformation, misunderstanding or error which may be resolved through explanation or clarification. In other instances, inappropriate conduct or administrative breakdowns can be revealed as the result of an employee's initiative. This provides an opportunity for corrective or clarifying measures to be taken by the Chief Executive Officer or Managers.

Confidentiality is critical in an inquiry or investigation both to protect the employee making the report and to protect the reputation of innocent people. Confidentiality cannot be completely guaranteed in every circumstance. Principles of natural justice and procedural fairness may require disclosure of the original report. In some situations, the Corporation has obligations to inform other agencies.

External Report Structure

Direct reporting by employees and external parties – any internal person or external party (customers, suppliers and members of the public) can make reports directly to the appropriate external agencies to investigate more serious criminal and unethical activities. It is important to be mindful that the reporting of a suspicion does not mean that Fraud, Corruption or Maladministration has in fact occurred. Also in most cases, anonymous reports will carry less weight since it is more difficult to obtain further details about the suspicion to support the need for a review, inquiry or investigation. Advice on what matters should be reported, the process for making reports and so forth can be obtained directly from the appropriate external agency (for example, Queensland Police Service).

Report following internal review – The Chief Executive Officer is obliged to notify the CMC if the Chief Executive Officer suspects that a complaint, information or matter involves, or may involve, Official Misconduct. The Referral of Possible Official Misconduct to the Crime and Misconduct Commission form

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Only electronic copy on server is controlled. To ensure paper copy is current, check revision number against entry in Qudos – Master Document List			Revision	7
			Date	12/01/2010
			Page	9 of 20

(POT 622) is to be used for reporting these matters to the CMC. The CMC will assess each complaint and take appropriate action.

Where the Corporation's internal reporting mechanisms have been followed, and the evidence is assessed as giving a reasonable belief that a serious criminal offence or Maladministration has occurred, the Chief Executive Officer, FARM Committee or Board (as appropriate) may make a decision that the matter be reported to appropriate additional external agencies for investigation and/or prosecution. This will include providing the necessary information and evidence obtained during the internal inquiry/investigation process. The appropriate external agency that the report will be made to will depend on the nature and seriousness of the suspected activity. These additional external agencies may include:

- Crime and Misconduct Commission;
- Queensland Police Service; and
- the Auditor-General.

Where dismissal or other serious disciplinary action is taken and restitution is assessed as appropriate, the Chief Executive Officer will, following consultation with the Chairperson or Board (as appropriate), authorise commencement of legal proceedings for recovery.

Protected Disclosures (Whistleblowers)

The Corporation is committed to complying with applicable laws and practices and will ensure that any person that reports or makes disclosure of fraudulent or corrupt activity, Official Misconduct or Maladministration pursuant to these Guidelines are afforded protection and confidentiality. This includes guaranteeing employees that they will not be personally disadvantaged by having made the report by:

- dismissal;
- demotion;
- any form of harassment;
- discrimination; or
- current or future bias.

The Whistleblower must ensure that the disclosure is made in good faith and on reasonable grounds. Protection will not be afforded for disclosures which:

- are made frivolously or vexatiously;
- wilfully make a false or misleading statement;
- are made solely or substantially with the motive of avoiding dismissal or other disciplinary action.

If the person making the report is an employee, the Corporation will ensure that the person is kept informed of the outcomes of the investigation of his/her report subject to privacy and confidentiality considerations. If the person making the report is not an employee, the Corporation will keep that person informed throughout the investigation into the incident providing that the person has agreed in writing to maintain confidentiality in relation to the information provided to him/her.

Information coming into the possession of a person from a Whistleblower must not be released without authority to any person who is not involved in the investigation or resolution of the matter. A breach of this requirement will be regarded by the Corporation as a serious disciplinary matter and will be dealt with accordingly.

Depending on the circumstances, the Whistleblower may request positive action by the Corporation to protect them during the investigation (e.g. leave of absence during the investigation where it will not be possible to maintain the anonymity of the Whistleblower). Any request for action will be considered by the Chief Executive Officer or Chairman with the advice of the person appointed to conduct the investigation.

Publication of Investigation Outcomes

As part of the Corporation's commitment to preventing Fraud and Corruption, the Corporation will publish the outcome of investigations where Fraud and Corruption is found to have occurred. Reporting will most commonly take place through the Annual Report, taking into consideration legal circumstances, both criminal and civil, surrounding each case and both the Corporation's and any affected individual's civil rights, obligations and/or expectations.

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			Date	12/01/2010
			Page	10 of 20

The report will detail the Corporation's response to identified Fraud and Corruption situations and the outcome, including amendments to internal controls to improve Fraud control and Corruption prevention measures.

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			Date	12/01/2010
			Page	11 of 20

AWARENESS AND TRAINING

Internal

All Directors and employees are to attend a Fraud and Corruption awareness session which will be undertaken on a regular basis (at least annually).

New employees will be notified of the Fraud and Corruption Control Policy and Guidelines during the induction process.

All employees will be kept informed of Fraud and Corruption initiatives through email, notice boards and/or the employee newsletter. All employee inductions will include a component about these Fraud and Corruption Control Guidelines.

Additional procedures and guides may be developed in the future. All initiatives will be posted on the Intranet site and/or be communicated to employees by other means (i.e. email, notice boards etc).

Following risk assessments, Fraud and Corruption prevention action plans will be developed which will specify required training and education programs that best suit identified areas of risk exposure.

Where appropriate, contractors will have received the benefit of an induction program appropriate to the work they are to perform at the Port, and relevant sections or terms of the *Code of Conduct* will be incorporated into the terms of their contract.

General Managers/Investigating Officers

All General Managers are to attend a Fraud and Corruption awareness session which as more specific components in relation to dealing with reports of Fraud and Corruption, and the investigation process and disciplinary actions. The sessions will discuss the following Fraud and Corruption issues:

- the incidence and risk of Fraud and Corruption within the Corporation generally;
- the types of Fraud and Corruption common within the industry sector in which the Corporation operates and the losses typically associated with conduct of this type;
- the robustness of the Corporation's internal control environment in terms of its ability to prevent and detect the types of Fraud and Corruption likely to occur;
- a knowledge of the types of Fraud and Corruption that have been detected in the entity in the last five (5) years and how those matters were dealt with in terms of disciplinary action and the internal control enhancement;
- the entity's own Fraud and Corruption prevention and control strategy;
- knowledge of new technology tools for detecting and preventing fraudulent activity;
- investigation methods and procedures to ensure that they are adequately informed to carry out investigations into reports of fraudulent and corrupt activity; and
- reporting to external agencies for more serious offences and disciplinary actions.

Training and awareness sessions will be undertaken on a regular basis (at least annually).

External

The Corporation's Directors and employees are expected to demonstrate honesty in all dealings and at all times conduct themselves in a professional and ethical manner when providing services to our customers or dealing with suppliers or the general public.

Details of the Corporation's Fraud and Corruption control framework will be communicated to our customers, suppliers and the general public through such mechanisms as the external website, the Annual Report, information bulletins and relevant publications.

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Only electronic copy on server is controlled. To ensure paper copy is current, check revision number against entry in Qudos – Master Document List			Revision	7
			Date	12/01/2010
			Page	12 of 20

IDENTIFYING, ASSESSING AND MANAGING RISKS

Risk Identification and Assessment

The most effective means of minimising Fraud and Corruption is to implement control mechanisms aimed at minimising opportunities for improper conduct, illegal, corrupt or fraudulent behaviour. This can be achieved by identifying actual and potential threats to functions and processes, evaluating them in light of internal controls and measuring the potential effects of risks from a probability and consequence perspective. Risks can then be prioritised for action to mitigate/manage them to an acceptable level, or to eliminate threats entirely where management is not a practicable option.

Typical areas that should be included in risk assessments include:

- manipulation of freight manifests;
- invoicing;
- information technology and information security;
- electronic commerce, electronic service delivery and the Internet;
- grants and other payments or benefits programs;
- tendering processes, purchasing and contract management;
- services provided to the community;
- revenue collection;
- use of credit cards;
- payroll, travel allowance and other common allowances;
- property and other physical assets including physical security.

The Risk Committee will be responsible for the identification and management of Fraud and Corruption risks. The Risk Committee will meet monthly to continually track the implementation of controls for identified risk factors and assess the need for further controls to be developed in light of any incidents. Quarterly Fraud Control Plans will identify each risk factor, risk levels, existing controls and the actions taken by the Risk Committee in implementing further controls necessary. The Fraud Control Plans will be maintained by the Governance & Legal Advisor and submitted quarterly to the FARM Committee.

The Corporation will engage an independent Fraud risk assessor every three (3) years to undertake a comprehensive review of Fraud and Corruption risks within the Corporation. The Fraud risk assessment process that is to be used is detailed in the Corporation's Risk Management Guidelines which is consistent with the Risk Management Standard (AS/NZS 4360:2004).

Managing Risks

The Board and Chief Executive Officer are ultimately responsible for the establishment of a cost-effective internal control structure for the Port of Townsville (Financial Management Standard 1997). Financial, administrative and information systems are all essential requirements for Corruption and Fraud prevention.

General Managers are responsible for daily operations and for maintaining cost-effective internal control structure within their areas of responsibility. The operation of internal controls is subject to annual internal audit reviews and the independent Fraud risk assessment conducted every three (3) years.

Once a risk identification and assessment has been carried out, Fraud Control Plans are to be established which detail what action will be taken against each risk based on its priority and consequences. The Fraud Control Plans will detail the person responsible for each action item, and detail timeframes to implement the risk mitigation strategy. The Governance & Legal Advisor will be responsible for overseeing the implementation of the risk mitigation strategy.

The results from the annual internal audit reviews and the independent Fraud risk assessment will be used to establish, update and maintain the quarterly Fraud Control Plans.

All General Managers should establish and maintain adequate internal controls that provide for the security and accountability of the Authority's resources and prevent/reduce the opportunity for such activities. A listing of some internal control mechanisms that may assist in the control, prevention and/or reduction of Fraud and Corruption are included in **Appendix C** and **Appendix D**.

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			Date	12/01/2010
			Page	13 of 20

FRAUD AND CORRUPTION DETECTION

Fraud and Corruption detection may be achieved through –

- (a) vigilance on the part of management, who must be aware of their responsibility to identify early and report any Fraud or Corruption or suspected fraudulent or corrupt activity;
- (b) strategic use of the internal audit function;
- (c) the development of specific detection strategies for action by management; and
- (d) periodic management reviews instigated by the entity's management team.

A list of possible indicators of Fraud is contained in **Appendix B**.

The Governance & Legal Advisor will be responsible for developing systems aimed at investigating and detecting Fraud and Corruption when the results of internal audit and the triennial assessment indicate the need for such systems to be developed. Such systems may include:

- a program for post-transaction review;
- a program for developing strategic computer analysis;
- a program for the strategic analysis of management accounts to identify trends that may be indicative of fraudulent or corrupt conduct; and
- ongoing assessment of internal risk factors (for example, personal, cultural, structural and business risks).

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			Date	12/01/2010
			Page	14 of 20

REVIEW OF FRAUD & CORRUPTION CONTROL STRATEGIES

In addition to carrying out an independent Fraud risk assessment every three (3) years, at least every twelve (12) months, the Governance & Legal Advisor will ensure that controls implemented for each Fraud or Corruption risk is reviewed by the Risk Committee for effectiveness and amended where necessary.

The Governance & Legal Advisor will be responsible for co-ordinating annual review in addition to the independent Fraud risk assessment which is to occur every three (3) years.

The Corporation's Fraud and Corruption Policy and these Guidelines will be reviewed at least every two (2) years. Other Fraud and Corruption control continuous improvement activities will include:

- keeping abreast of best practices, both locally and overseas;
- employing people who have experience and commitment to the continuous improvement of Fraud and Corruption control; and
- encouraging innovation in Fraud and Corruption control development, procedures and processes.

The Governance & Legal Advisor in consultation with General Managers will also conduct an annual assessment of the Corporation's ethical culture for comparison between the various business units and for comparison of the entity's performance over time. This will involve the distribution of a structured questionnaire to all employees and collating and analysing the results. This assessment should be incorporated into the annual internal audit program. Remedial action based on the deficiencies noted should be undertaken.

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			Date	12/01/2010
			Page	15 of 20

APPENDIX A – HYPOTHETICAL EXAMPLES OF FRAUD

The following items are presented to illustrate some hypothetical examples of fraudulent and corrupt conduct. They are presented to assist the Corporation's employees in maintaining awareness of potential circumstances where such behaviour may occur. As with the indicators of Fraud (**Appendix B**), the list is neither definitive nor exhaustive.

- An employee responsible for arranging advertising, awards, graphic design contracts to a company he and his wife own or have a substantive interest in or awards contracts to acquaintances (or corporations associated with acquaintances) without the procedures of dues process having being applied.
- Several laptops are delivered to the IT department and the laptops 'disappear'. The signature on the delivery docket, verifying that the goods were delivered, is illegible.
- An employee obtains employment under false pretences by falsely claiming to have the required qualifications.
- An employee uses without permission, Authority equipment and material after hours for his or her own business.

Judgement should be exercised in considering potential fraudulent and corrupt conduct. In some circumstances, a one-off instance may constitute fraudulent and corrupt conduct. In other circumstances, on-off instances of some behaviour may not be considered fraudulent and corrupt conduct, however, ongoing recurrences of that behaviour that become material or serious in nature will be regarded as potentially fraudulent and corrupt behaviour.

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Only electronic copy on server is controlled. To ensure paper copy is current, check revision number against entry in Qudos – Master Document List			Revision	7
			Date	12/01/2010
			Page	16 of 20

APPENDIX B – POSSIBLE INDICATORS OF FRAUD

The following list contains some of the possible indicators of Fraud. They are presented to heighten employee awareness of potential control lapses that make an environment more conducive to fraudulent and corrupt behaviour. These indicators can be viewed in isolation or in total combination, although the latter will generally indicate that circumstances of fraudulent or corrupt behaviour are a distinct possibility.

Employees need to proceed with caution, as the presence of one or more of the following indicators of Fraud or Corruption does not mean that such behaviour is occurring. Such lapses in control may be the result of other factors. As a consequence, these indicators should be viewed from a wider context. The scope of these guidelines must alone be given appropriate consideration when analysing these factors to determine potentially fraudulent or corrupt conduct. Further, these indicators should not be taken to be exhaustive or definitive as they are only a guide.

Work Practices

- Missing expenditure vouchers and unavailable official records
- Crisis management coupled with a pressured business environment
- Excessive variations to budgets or contracts
- Bank reconciliations are not maintained or cannot be balanced
- Excessive movements of cash funds
- Unauthorised changes to systems or work practices
- Lowest tenders or quotes passed over with minimal explanation recorded
- Lost assets
- Absence of controls and audits trails
- Lack of clear financial delegation

Employee Behaviour

- Refusal, evasion or excessive delays in producing files, minutes or other records
- Unexplained employee absences
- Gambling while at work
- Borrowing money from fellow employees while at work
- Placing undated or post dated cheques in petty cash
- Personal creditors appearing at the workplace
- Covering up inefficiencies
- Excessive staff turnover in any specific position
- Employees with outside business interests or other jobs that conflict with their duties, other than those approved in connection with the Disclosure of Interest Policy
- Signs of excessive drinking or drug abuse
- Managers bypassing subordinates, subordinates bypassing managers
- Secretiveness
- Marked character changes
- Excessive or apparent total lack of ambition
- Excessive control of records by one officer
- Refusal to comply with normal rules and practices

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Only electronic copy on server is controlled. To ensure paper copy is current, check revision number against entry in Qudos – Master Document List			Revision	7
			Date	12/01/2010
			Page	17 of 20

APPENDIX C – EXAMPLES OF FRAUD/CORRUPTION INTERNAL CONTROLS

Some internal control mechanisms that may assist General Managers in preventing and reducing the likelihood of Fraud and Corruption within their areas of responsibility include:

- ensuring suitable recruitment procedures are in place (eg verifying transcripts, conducting pre-employment criminal background checks, contacting referees etc.)
- ensuring segregation of incompatible duties (eg issuing invoices and receiving payments)
- maintaining appropriate levels of security (physical and information systems)
- ensuring appropriate levels of supervision and internal checks (more frequent and/or closer scrutiny)
- ensuring appropriate levels of delegations of powers and authorities
- conducting reconciliations
- ensuring appropriate monitoring and control of budgets under their control
- conducting regular reviews of management reports
- ensuring clear reporting lines are specified and followed
- requiring an authorisation check
- conducting regular reviews of processes
- regularly reviewing accounting and administrative controls
- properly documenting procedures
- conducting regular audits and Compliance programs (including ensuring a strong audit presence)
- including structured training and other education programs
- project management with comparison against plans
- quality assurance, management and standards
- rotating employees and shifts where feasible and economical
- ensuring continued awareness of the Fraud and Corruption control framework, and disciplinary actions for breaches
- ensuring employees in high risk areas take regular leave and are subject to higher levels of scrutiny
- reviewing suppliers and external consultants (eg conducting background checks, reviewing credit reports etc.)

Some internal control mechanisms that may assist General Managers in minimising the consequence of Fraud and Corruption within their areas of responsibility include:

- ensuring that appropriate contingency plans and disaster recovery plans are developed, implemented and regularly reviewed
- ensuring appropriate insurances are in place (i.e. annual Fidelity Guarantee Insurance)
- reviewing and updating contractual conditions and arrangements
- separate or relocate the activity and/or resource
- pricing policy and controls

Some examples of poor internal control practices that increase exposure to fraudulent and/or corrupt behaviour include:

- managers and supervisors not communicating adequately
- exercising authority and delegations without checking documentation
- not undertaking regular audits
- signing blank forms in advance of use
- signing off documents without checking for accuracy and reasonableness

The following are suggested measures to ensure the effectiveness of the above internal control mechanisms:

- internal controls are appropriately documented;
- a process of continuous improvement – internal controls should be reviewed and amended regularly;
- internal controls should be developed after Fraud risk assessments and should be aimed at mitigating identified risks;
- internal controls should be communicated effectively to all employees appropriate to their level of responsibility and position description;
- internal controls should be accessible to employees;
- a strong internal control culture in which all employees understand the importance of adhering to internal controls; and
- an internal audit program that incorporates a review of adherence to internal control.

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Only electronic copy on server is controlled. To ensure paper copy is current, check revision number against entry in Qudos – Master Document List			Revision	7
			Date	12/01/2010
			Page	18 of 20

APPENDIX D – FRAUD AND CORRUPTION PREVENTION STRATEGIES

General

The following Fraud and Corruption prevention strategies are presented to assist management with the creation of an environment that minimises fraudulent and corrupt behaviour within the Corporation. The strategies fall into three (3) categories:

- (a) Environment and Culture;
- (b) Policy Development; and
- (c) Staff Recruiting.

Environment and Culture

A key strategy in managing the risk of Fraud and Corruption within an entity is the development and maintenance of a sound ethical culture. Fraud and Corruption prevention strategies should be integrated into the Corporation's planning processes and into supplier contracts. Managers at all levels must create an environment in which employees believe that dishonest acts will be detected and investigated. To this end, management have a responsibility to ensure:

- (a) Participation in management training that deals with the implementation of the policy.
- (b) Proper monitoring supervision of employees.
- (c) Employees understand that controls are designed and intended to prevent or detect fraudulent and corrupt behaviour.
- (d) Encourage employees to report suspected fraudulent and corrupt behaviour directly to the appropriate manager without fear of disclosure or retribution.
- (e) Require suppliers and contractors to agree in writing, as part of the contracting process, to abide by Authority policies and procedures.
- (f) That known conflicts of interest are avoided by:
 - Not entering into contracts with parties known to have a conflict of interest without the express permission of the Chief Executive Officer; and
 - Encouraging suppliers and contractors to disclose potential conflicts of interest.

Measures to prevent fraudulent and corrupt behaviour should be subject to the Corporation's continuous improvement cycle of plan, check, do and act. Process improvement as part of the continuous improvement cycle is particularly relevant as new systems, programs, processes and arrangements are introduced or modified.

Policy Development

Fraud and Corruption prevention and detection controls are embedded in various policies of the Corporation.

Staff Recruiting

Recruitment policy and practice underpins Fraud and Corruption prevention. Management at all levels must support recruitment strategies aimed at Fraud and Corruption prevention. These strategies include:

- (a) Pre-employment and on-promotion screening;
- (b) Contacting previous employers and referees; and
- (c) Verifying transcripts, qualifications, publications and other certificates or documentation.

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Only electronic copy on server is controlled. To ensure paper copy is current, check revision number against entry in Qudos – Master Document List			Revision	7
			Date	12/01/2010
			Page	19 of 20

COMPLIANCE AND COMPETENCE REQUIREMENTS

Standard	
Australian Standard 8001-2008 Corporate Governance – Fraud and Corruption Control	
Legislation	
<i>Government Owned Corporations Act 1993</i> <i>Financial Accountability Act 2009</i> <i>Financial and Performance Management Standard 1997</i> <i>Queensland Criminal Code Act 1899</i> <i>Integrity Act 2009</i>	
State Government Policies	
Corporate Governance Guidelines for Government Owned Corporations	
Competence	
Competency is a person's demonstrated ability to apply the necessary knowledge and skills to perform and assigned task satisfactorily.	
Competence Requirement	How is the necessary knowledge and skills assessed to ensure assigned task is performed satisfactorily
Knowledge and understanding of Fraud and Corruption control requirements.	Assessed through audits (internal and external).

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Only electronic copy on server is controlled. To ensure paper copy is current, check revision number against entry in Qudos – Master Document List			Revision	7
			Date	12/01/2010
			Page	20 of 20