

PENINSULA ART EDUCATOR'S ASSOCIATION 2026-30 RESOURCE AND PERFORMANCE AGREEMENT

L&C | 79/5/7-01 | #7852695

RECOMMENDATION:

That Council:

1. Approves a four-year Resource and Performance Agreement with the Peninsula Art Educator's Association for the provision of in-kind assistance to support the annual ENERGY exhibition at Tanks Arts Centre; and
2. Delegates authority to the Chief Executive Officer in accordance with the *Local Government Act 2009* to finalise any and all matters relating to the above agreement.

INTERESTED PARTIES:Peninsula Art Educators Association Committee:

President: *Vacant*
Treasurer: Leanne Sachse
Secretary: Hannah Murray
Executive Member: Bek Larkin
Communications: David Marsden

Note: The identification of interested parties is provided on a best endeavours basis by Council Officers and may not be exhaustive.

EXECUTIVE SUMMARY:

The 2022–26 Resource and Performance Agreement between Council and the Peninsula Art Educator's Association (PAEA) is due to expire on 30 June 2026.

The Agreement supports the delivery of the annual ENERGY exhibition at Tanks Arts Centre, which showcases high-quality visual artworks by senior secondary school students from across Far North Queensland.

The ENERGY exhibition has been running for over 25 years and continues to provide valuable exposure and development opportunities for local emerging young artists, while also offering a pathway to the prestigious *Creative Generation Excellence Awards in Visual Art and Exhibition* held annually at the Queensland Art Gallery | Gallery of Modern Art (QAGOMA) in Brisbane.

The proposed Resource and Performance Agreement outlined in this report specifies the level of in-kind support to be provided by Council for the four-year period from 2026 to 2030.

BACKGROUND:

PAEA is a not-for-profit, volunteer-run professional body of visual arts teachers from across the Far North Queensland region. Based in Cairns, the association is comprised of dedicated educators who collaborate with arts organisations, practicing artists and the wider arts industry to create opportunities for talented young artists to exhibit their work and further develop their skills as emerging practitioners.

PAEA is supported through a combination of grant funding, sponsorship from community-minded businesses, and modest annual membership fees. These contributions enable PAEA to deliver projects that benefit visual artists in the Cairns region, including subsidised workshops and professional development opportunities for both students and teachers. The group has been working collaboratively for over 20 years to support educator development and provide extension opportunities for secondary students.

The ENERGY exhibition is a free annual event that showcases the region's most outstanding emerging young artists. Senior visual arts students from across Far North Queensland are given the opportunity to present their work to the community in a professional exhibition setting during a three-to-five-week exhibition period at the Tank 4 Gallery. The exhibition is consistently well attended and is a much-valued cultural event, providing significant exposure and recognition for participating students.

Awards recognising the talent and achievement of a broad cross-section of student artists include the *Tanks Curator's Award* which provides mentorship to develop and present a solo exhibition at the Tank 4 Gallery, while the *Creative Generation Excellence Award* recipients progress to exhibit at the Gallery of Modern Art in Brisbane.

Previous In-kind funding 2022-26 Resource and Performance Agreement

Financial Year	Event	Item	In-Kind Assistance (excl GST)
2022/2023	ENERGY Exhibition 2023	Contribution towards hire of Tank 4 Gallery, equipment & personnel charges	\$5,000
2023/2024	ENERGY Exhibition 2024	Contribution towards hire of Tank 4 Gallery, equipment & personnel charges	\$5,000
2024/2025	ENERGY Exhibition 2025	Contribution towards hire of Tank 4 Gallery, equipment & personnel charges	\$5,000
2025/2026	ENERGY Exhibition 2026	Contribution towards hire of Tank 4 Gallery, equipment & personnel charges	\$5,000
Total			\$20,000

Proposed In-kind funding 2026-2030 Resource and Performance Agreement

Financial Year	Event	Item	In-Kind Assistance (excl GST)
2026/2027	ENERGY Exhibition 2023	Contribution towards hire of Tank 4 Gallery, equipment & personnel charges	\$5,000
2027/2028	ENERGY Exhibition 2024	Contribution towards hire of Tank 4 Gallery, equipment & personnel charges	Year 1 + F&C indexation
2028/2029	ENERGY Exhibition 2025	Contribution towards hire of Tank 4 Gallery, equipment & personnel charges	Year 2 + F&C indexation
2029/2030	ENERGY Exhibition 2026	Contribution towards hire of Tank 4 Gallery, equipment & personnel charges	Year 3 + F&C indexation
Total			\$20,000

The above schedule outlines the contributions over the term of the agreement with the base in-kind funding of \$5,000 in the first year, indexed annually by any increases in Fees and Charges.

The schedule is consistent with the previous agreement and will continue to be funded from the Arts and Cultural Venue Hire and Resources grant stream.

COMMENT:

The ENERGY exhibition is an annual programming highlight at the Tanks Arts Centre. Held shortly after the Cairns Festival, it continues to showcase exceptional student art, from large-scale sculptures and installations to canvases and digital works. Secondary school students from Thursday Island to Tully are eligible to participate.

ENERGY is the Far North Queensland region partner exhibition for Education Queensland's *Creative Generation Awards for Excellence in Visual Arts*, and the largest regional exhibition of its kind in Queensland.

Over the life of the current R&P period (2022–2026), 557 senior secondary visual arts students from approximately 25 schools have been able to exhibit their artworks in a professional gallery setting, including 91 (16%) First Nations students.

The 2025 exhibition set a new record, producing eight *Creative Generation Excellence Award* winners and with almost 7,000 attendees through the doors of the Tank 4 Gallery.

Each year, the exhibition launch event includes live music, featuring up to seven solo and group performances by school students - often their first ever appearance in a major public venue.

Through the ENERGY exhibition, Council's curatorial staff are also introduced to pre-emerging artists who often go on to participate in the FLAME Visual arts mentorship program, aimed at developing young creatives after they graduate from secondary

school. In 2025, the *Tanks Arts Centre Curator's Award* winner went on to hold a solo exhibition in the Tank 4 Gallery in February 2026.

OPTIONS:

Option 1 (recommended):

That Council:

1. Approves a four-year Resource and Performance Agreement with the Peninsula Art Educator's Association for the provision of in-kind assistance to support the annual ENERGY exhibition at the Tanks Arts Centre; and
2. Delegates authority to the Chief Executive Officer in accordance with the *Local Government Act 2009* to finalise any and all matters relating to the above agreement.

Option 2:

Council does not approve the proposed agreement and recommends an alternative course of action.

CONSIDERATIONS:

Risk Management:

The terms and conditions of the four-year agreement clearly outline agreed operating arrangements and the responsibilities of both parties.

Council Finance and the Local Economy:

PAEA has consistently met all R&P funding terms and conditions and fulfilled the intended purpose of the funding. In accordance with the Agreement, the Association is required to provide annual financial acquittals for the event to Council.

Additional exhibition costs which are not part of the R&P funding, including catalogue production and catering, are supported through PAEA membership funds, sponsorships, and school donations.

Community and Cultural Heritage:

The proposed four-year funding agreement aligns with Council's Strategy for Culture and the Arts 2022 by supporting youth pathways, ethical First Nations engagement, access to professional cultural infrastructure, and regional community vibrancy.

In particular:

Priority One - Infrastructure, resources and skills that support and stimulate the cultural and creative life of our community. A key outcome under this priority is an "*increased focus on young people and programs that deliver pathways for further education and employment in the arts.*"

Corporate and Operational Plans:

The recommendation aligns with Council's Corporate Plan 2025-2030:

Focus One: Robust Economy

- Optimise visitation and tourism opportunities

Focus Four: Community & Culture

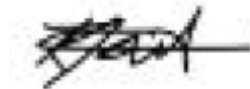
- Position Cairns as the leading arts and cultural hub of North Australia
- Support diverse sport, cultural and community groups
- Turn up the support for live music and major events
- Provide spaces and programs for the benefit of the community.

CONSULTATION:

Council officers have consulted with representatives of PAEA regarding all matters concerning the agreement and will continue this communication throughout the duration of the agreement.

ATTACHMENTS:

Attachment 1: #7860890 Draft 2026-30 Resource and Performance Agreement



Karen Le Roy
Executive Manager Creative Life



Andrew Moore
Acting Director Lifestyle & Community



Resource and Performance Agreement

Cairns Regional Council

("Council")

And

Peninsula Art Educators Association

("Recipient")

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Parties

Cairns Regional Council ABN 24 310 025 910	("Council")
Peninsula Art Educators Association ABN 66 539 148 590	("Recipient")

Background

- A. The Recipient intends to deliver the Recipient's Obligations and requires the Funding from Council to do so.
- B. Council has agreed to provide Funding to the Recipient in consideration for the Recipient delivering the Recipient's Obligations, and the Recipient has agreed to accept and acquit the Funding on the terms and conditions set out in this Agreement.

The Parties Agree:

INTRODUCTORY PROVISIONS

1. APPLICATION DATA

ITEM NO.	DATA	DETAILS
Item 1	Recipient:	Peninsula Art Educators Association
	ABN:	66 539 148 590
	Address for Service:	<u>Address for Hand Delivery:</u> 156-194 Sheridan Street CAIRNS NORTH QLD 4870 <u>Postal Address:</u> PO Box 5643 CAIRNS QLD 4870 <u>Email Address:</u> info@cairnsshs.eq.edu.au
	Contact Name:	David Marsden
	Email:	dmars34@eq.edu.au

	Telephone:	4050 3083
Item 2	Commencement Date:	01/07/2026
	Expiry Date:	30/06/2030
Item 3	Funding	<p>Total four-year contribution as outlined below.</p> <p>2026-27 Financial Year \$5,000 (excl GST)</p> <p>2027-28 Financial Year Year 1 + F&C indexation</p> <p>2028-29 Financial Year Year 2 + F&C indexation</p> <p>2029-30 Financial Year Year 3 + F&C indexation</p> <p>Refer to Schedule 1 for full details including funding milestones.</p>
Item 4	Council's Address for Service:	<p><u>Address for Hand Delivery:</u> Attn: Chief Executive Officer, 119 – 145 Spence Street, Cairns Qld 4870</p> <p><u>Postal Address:</u> PO Box 359, Cairns Qld 4870</p> <p><u>Email Address:</u> council@cairns.qld.gov.au</p>
Item 5	Council Contact:	<p><u>Council Contact Name:</u> Karen Le Roy, Executive Manager Creative Life</p> <p><u>Email Address:</u> Karen.Leroy@cairns.qld.gov.au</p> <p><u>Telephone Number:</u> 07 4032 6624</p>

2. DEFINITIONS AND INTERPRETATION

2.1 In this Agreement unless inconsistent with the context or subject matter:

Address for Service means the address of each party appearing in this Agreement or any other address nominated in writing by a party to the other party as its new address for notices or service.

Agreement means this Resource and Performance Agreement.

Application Data means the table in Clause 1 of this Agreement.

Authority means any federal, state or local government or regulator which is required to approve all or any aspect of the Recipient's Obligations.

Business Day means a day (other than a Saturday, Sunday or public holiday) on which banks are open for business in Cairns.

Commencement Date means the date this Agreement will start, as specified in Item 2.

Confidential Information means documents and information provided or made available by Council or obtained by the Recipient in connection with the delivery of the Recipient's Obligations which are of their nature confidential or which Council has identified to the Recipient as being confidential but does not include documents and information which are in the public domain other than through a breach of this clause.

Expiry Date means the date the Agreement will end, as specified in Item 2.

Funding means the payment and/or other consideration to be provided by Council to the Recipient under this Agreement, as specified in Item 3, and which shall be paid and/or provided in accordance with the terms of this Agreement.

GST, Supply, Supplier and Tax Invoice have the same meaning as given to these terms in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Intellectual Property Rights means copyright, patents and all rights in relation to inventions, registered and unregistered trademarks (including service marks), registered designs, drawings, circuit layouts and all other rights resulting from intellectual activity in the construction, management of the Recipient's Obligations, industrial, scientific, literary or artistic fields.

In-Kind Support means Council resources, materials and/or services that are provided to the Recipient in accordance with this Agreement. Services that are outsourced by Council are not considered in-kind.

Insolvency Event occurs if the Recipient becomes the subject of bankruptcy proceedings, winding up proceedings, is declared bankrupt, has a winding up order made against it, has a receiver and/or manager or administrator appointed or enters into a scheme of arrangement with creditors.

Item means the item number in the Application Data.

Laws means any statute, regulation or ordinance made by any Authority and where appropriate, includes the applicable common law.

Option means any option or options to renew this Agreement for a further term, as specified in Item 2.

Personal Information has the meaning given to that term by the *Information Privacy Act 2009*.

Public Health Directions means directions given by the Chief Health Officer under section 362B of the *Public Health Act 2005* and, if applicable, the *Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) (Emergency Requirements for Remote Communities) Determination 2020* (Cth), or any other legislation pursuant to which a local, State or Commonwealth Government can give directions for public health purposes.

Recipient's Obligations means those obligations that the Recipient is required to carry out in consideration for the Recipient receiving the Funding, which are particularised in Schedule 1. Reference to the Recipient's Obligations throughout this Agreement is to be construed to include all or any part of them.

Schedule means a schedule to this Agreement.

Term means the period commencing on the Commencement Date and ending on the Expiry Date, and including any Option if exercised in accordance with this Agreement.

Unexpended Funds means any part of the Funding which has been paid to the Recipient but which has not been spent or committed by the Recipient in connection with the delivery of the Recipient's Obligations.

2.2 This Agreement is to be construed as follows unless the context requires otherwise:

- a) Reference to one gender includes all genders;
- b) Reference to the singular includes the plural and vice versa;
- c) Reference to a person includes a corporation or other entity and vice versa;
- d) Reference to a schedule means a schedule to this Agreement;
- e) Reference to money is to Australian dollars;
- f) Where the Recipient is more than one party, the obligations under this Agreement bind the Recipient jointly and severally;
- g) Reference to the Recipient includes its personnel or authorised subcontractors.

FUNDING AND IN-KIND SUPPORT

3. FUNDING AND IN-KIND SUPPORT

3.1 Council will provide the In-Kind Support to the Recipient, and in consideration, the Recipient will comply with the terms and conditions set out under this Agreement. Council is not obliged to provide any In-Kind Support to the Recipient unless the Recipient has complied with each of its obligations under the Agreement at the time at which event reconciliation is sought.

3.2 The Recipient must only use the In-Kind Support towards the delivery of the Recipient's Obligations and in the manner otherwise required by this Agreement. Council will provide the In-Kind Support to the Recipient in accordance with the provisions outlined in Schedule 1, subject to the following:

- a) The Recipient has shown to Council's satisfaction that it has satisfied the requirements set out in this Agreement, including in Schedule 1;
- b) Council is reasonably satisfied that the Recipient is not otherwise in breach of this Agreement.

3.3 No Further Funding or In-Kind Support

- a) The Recipient acknowledges that Council has no obligation to provide the Recipient with funding or assistance of any kind:
 - i) in excess of the Funding or In-Kind Support; or
 - ii) beyond the Term.
- b) For the avoidance of doubt, the Recipient is responsible for acquiring and/or providing any additional funds, materials or equipment in excess of the In-Kind Support required to carry out or complete the Recipient's Obligation.

Document Number: 7860890

Version: 1

Document Name: DRAFT Peninsula Art Educators Association (PAEA)
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Document Author: NCARLON
Resource and Performance Agreement
860890

3.4 In-Kind Support

- a) This clause applies to In-Kind Support provided by Council pursuant to this Agreement, but only to the extent expressly specified in Schedule 1.
- b) Council's obligation to deliver In-Kind Support shall be limited to circumstances where:
 - i) The nature of the In-Kind Support requested is fully particularised, is directly connected to the delivery of the Recipient's Obligations, and is compliant with the terms of this Agreement (including but not limited to in relation to any funding threshold for the In-Kind Support);
 - ii) Council, acting reasonably, considers that it can provide the In-Kind Support, having regard to its resources and other commitments and statutory obligations.
- c) The provision of In-Kind Support will not in any way give rise to any responsibility on the part of Council to carry out any role or discharge any responsibility with respect to the overall management or delivery of the Recipient's Obligations, irrespective of the nature of the In-Kind Support provided.
- d) Unused in-kind funds cannot be transferred to cash, refunded, or carried forward for other activities.

RECIPIENT'S OBLIGATIONS

4. RECIPIENT'S OBLIGATIONS

- 4.1 In exchange for the provision of the In-Kind Support, the Recipient shall comply with the requirements set out in Schedule 1.
- 4.2 In delivering the Recipient's Obligations, the Recipient must:
 - a) Ensure the Recipient's Obligations are fully delivered by the Expiry Date;
 - b) Engage and/or retain personnel who are able to competently deliver and perform the Recipient's Obligations;
 - c) Ensure that all personnel or authorised subcontractors engaged in the delivery of the Recipient's Obligations have all the skills and qualifications necessary to deliver the Recipient's Obligations, including but not limited to ensuring any personnel or authorised subcontractors hold all competencies, licenses, accreditations and qualifications which may be required;
 - d) Consult regularly during the Term with Council;
 - e) Comply with any applicable Laws, requirements from Authorities or industry standards relating to the Recipient's Obligations;
 - f) Adhere to and comply with any reasonable direction issued by Council in relation to the performance of the Recipient's Obligations.

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- 4.3 The in-kind funding will be reconciled against standard costs associated with hosting the exhibition at Tanks Arts Centre, including venue hire, standard venue staffing and basic operational services ordinarily provided by Council.
- 4.4 Subject to availability, Council may make available certain audio-visual equipment from its existing inventory, including televisions, monitors, digital display screens and data projectors.
- 4.5 The Recipient acknowledges and agrees that:
- a) Council is under no obligation to provide any equipment beyond that which is ordinarily available at Tanks Arts Centre;
 - b) The availability of any equipment referred to in clause 4.4 is not guaranteed and will be determined by Council at its absolute discretion;
 - c) The Recipient is solely responsible for the supply, hire, delivery, installation, operation and removal of any additional or specialised equipment required for the exhibition or any associated event, including but not limited to audio-visual, production or technical equipment;
 - d) Council will not provide musical instruments or band equipment, including but not limited to amplifiers, drum kits, keyboards or backline equipment, regardless of whether such items are owned or otherwise accessible to Council; and
 - e) Any request for additional equipment or technical support must be submitted in writing and approved in writing by Council two weeks prior to the exhibition and may be refused at Council's absolute discretion.
- 4.6 The Recipient is responsible for the delivery and collection of all artworks and associated materials for the exhibition.
- a) Unless otherwise agreed in writing, all deliveries and collections must occur within Council's standard business hours for Tanks Arts Centre.
 - b) Any request to deliver or collect artworks outside of standard business hours must be:
 - i) requested by the Recipient in advance; and
 - ii) approved in writing by Council (Tanks Arts Centre) and may be refused at Council's discretion.
- 4.7 The Recipient must promptly notify Council:
- a) Of any matters that the Recipient reasonably considers may affect the Recipient's ability to meet any obligation under this Agreement;
 - b) Of any matter that may affect the Recipient's eligibility to continue receiving the In-Kind Support;
 - c) Of any allegation of misconduct or dishonesty concerning the Recipient; or
 - d) Of any change to its details in the Application Data.

- 4.8 The Recipient must not make any public statement concerning the In-Kind Support or Council's contribution to the delivery of the Recipient's Obligations generally, without first obtaining the written approval of Council.
- 4.9 Council may at any time during the Term request that the Recipient provide to it details in relation to the acquittal of the In-Kind Support and the Recipient must promptly comply with any such request.
- 4.10 The Recipient must maintain and retain for five (5) years following the Expiry Date, accurate records of how the In-Kind Support was acquitted.
- 4.11 **Council Contact**
- a) If the Recipient wishes to liaise with Council about the performance of the Recipient's Obligations or in relation to this Agreement generally, the Recipient may liaise with the Council Contact nominated in Item 5 of the Application Data and using the contact details nominated in Item 5 of the Application Data.
 - b) Nothing in the preceding subclause affects the Recipient's obligations to issue notices pursuant to Clause 13.

WARRANTIES, INSURANCES AND INDEMNITIES

5. WARRANTIES

- 5.1 The Recipient warrants that as at the date of this Agreement, the Recipient and/or its personnel (as the case may be) hold all necessary competencies, accreditations, qualifications, permits, clearances or other authorisations which are required for the Recipient to comply with its obligations under this Agreement, and will maintain such competencies, accreditation, qualifications, permits, clearances or other authorisations at all times during the Term.
- 5.2 The Recipient must ensure that, in performing work associated with the Recipient's Obligations, it complies with:
- a) This Agreement;
 - b) All applicable Law;
 - c) All relevant industry standards, codes and guidelines;
 - d) All policies, requirements and procedures of Council which are applicable to the Recipient's Obligations and which are publicly available or otherwise made known to the Recipient, including but not limited to Council's work health and safety policies and procedures. The Recipient warrants that it has reviewed copies of Council's policies and procedures, understands them and agrees to comply with them.
- 5.3 The Recipient warrants that it has the necessary skills and expertise to be able to competently deliver the Recipient's Obligations, in accordance with this Agreement and any applicable industry standard.
- 5.4 Without limiting the generality of the preceding subclauses, the Recipient warrants to Council that:

- a) The Recipient at all times shall exercise due skill, care and diligence in delivery of the Recipient's Obligations and otherwise discharging its obligations under this Agreement;
- b) The Recipient shall deliver the Recipient's Obligations and otherwise discharge its obligations under this Agreement so that the Recipient's Obligations, when delivered, are:
 - i) Fit for their stated purpose; and
 - ii) Compliant with all the requirements of the Agreement; and
- c) The Recipient has undertaken all necessary enquiries and investigations to satisfy itself as to:
 - i) The nature and extent of its obligations under the Agreement; and
 - ii) The completeness and accuracy of the Agreement.

5.5 The warranties set out in this clause remain unaffected notwithstanding any variation.

6. INSURANCES AND INDEMNITIES

- 6.1 The parties acknowledge and agree that Council's obligations are limited to the provision of Funding only. The Recipient is solely responsible for performing the Recipient's Obligations consistently with the terms of this Agreement.
- 6.2 The Recipient must, prior to the Commencement Date, take out and maintain insurance for the Term for public liability to the value of \$20,000,000.00 per incident in respect of the Recipient's activities, including but not limited to potential liabilities to Council and third parties under this Agreement and the Recipient must cause Council's interests to be noted on its insurance policies. The Recipient must provide Council with evidence of these insurances prior to the Commencement Date.
- 6.3 The Recipient must ensure that it holds workers' compensation insurance in respect of any personnel engaged by the Recipient as required by Law. The Recipient must provide Council with evidence of this insurance prior to the Commencement Date.
- 6.4 The parties acknowledge that Council is self-insured.
- 6.5 Council will not in any way be liable to the Recipient for loss or damage the Recipient suffers in connection with this Agreement.
- 6.6 The Recipient releases to the full extent permitted by law, Council and its representatives from all actions, claims, proceedings or demands and in respect of any loss, death, injury, illness or damage (whether personal or property, and whether special, direct, indirect or consequential, including consequential financial loss) arising from or in connection with any of the Recipient's Obligations or this Agreement.
- 6.7 The Recipient indemnifies Council against all losses, claims or damages Council incurs as a result of the performance of its obligations under this Agreement, or its negligence or failure to comply with the terms of this Agreement, except to the extent that any such losses claims or damages are caused by any negligent act or omission of the Council or any of its personnel and the amount of all claims, damages, costs and expenses which may be paid, suffered or incurred by Council in respect of any such loss, damage or injury will be made good at the Recipient's expense and may be deducted from any moneys due or becoming due to the Recipient.

- 6.8 Council and its representatives will not in any circumstances (including for negligence) be liable for any loss of revenue, loss of profit, loss of anticipated savings or business, loss of bargain, loss or denial of opportunity (including opportunity to enter into or complete arrangements with third parties), loss of production, loss of data or goodwill or credit, loss of reputation or future reputation or publicity, loss of use, loss of interest, damage to credit rating or any indirect or consequential loss, whether arising in contract, tort (including negligence) or otherwise, in connection with this Agreement.

END OF AGREEMENT

7. DEFAULT AND TERMINATION

- 7.1 Where a party (“**defaulting party**”) fails to comply with any term of this Agreement and fails to remedy that non-compliance within five (5) Business Days of receiving notice from the other party (“**non-defaulting party**”) to do so, then the non-defaulting party may terminate this Agreement by giving written notice to the defaulting party.

- 7.2 Where:

- a) Council considers, acting reasonably, that this Agreement is no longer desirable having regard to adverse publicity relating to or associated with the Recipient; or
- b) The control or beneficial ownership of the Recipient changes; or
- c) The Recipient becomes subject to any Insolvency Event during the Term;

then Council may terminate this Agreement by giving written notice to the Recipient.

7.3 Termination for convenience

- a) Notwithstanding any other provision of the Agreement, Council may terminate this Agreement at any time, for any reason or without cause in its absolute discretion, upon providing the Recipient with no less than 60 days’ written notice (“**Notice Period**”).
- b) If Council exercises its rights pursuant to the preceding subclause, the Recipient must cease expenditure of any Funding immediately upon receipt of the notice referred to in the preceding subclause, and Council will not be required to provide any further Funding to the Recipient.
- c) Notwithstanding the preceding subclause, the Recipient may continue to utilise the Funding during the Notice Period in respect of property, materials or services which have been ordered and for which the Recipient is legally bound to pay (but, in the case of property or materials, only if legal title to the property or material will pass to Council on payment).

- 7.4 Upon termination of this Agreement, Council will not be required to provide any further Funding to the Recipient and may require the Recipient to refund Council all or part of the Funding (at Council’s discretion) within ten (10) Business Days of Council’s request to do so.

8. OPTION

8.1 This clause applies only if an Option is specified in the Application Data. If there is no Option specified in the Application Data, then this clause has no effect.

8.2 If the Recipient:

- a) Throughout the term of the Agreement has performed its obligations and met all Key Performance Indicators to the satisfaction of Council; and
- b) Is not in default under this Agreement; and
- c) Council has received written notification from the Recipient regarding their commitment to continue to deliver the Recipient's Obligations;

then Council, at its discretion, at any time before the Expiry Date, may renew this Agreement for a further term, the duration of which is specified in the Application Data as the Option. If multiple terms are specified in the Application Data as the Option, Council may, at its discretion, renew this Agreement for as many terms as are specified.

8.3 If Council exercises the Option, this Agreement shall be renewed on the same terms and conditions.

9. FORCE MAJEURE

9.1 Neither party is liable for any failure to perform or delay in performing its obligations under this Agreement if that failure or delay is due to anything beyond that party's (the "**Affected Party**") reasonable control and occurs without the fault or negligence of that party, including, but not limited to, fire, storm, flood, earthquake, explosion, war, terrorism, invasion, rebellion, sabotage, pandemic, epidemic, law, rule or regulation of any government or governmental agency, and executive or administrative order or act of general or particular application ("**Force Majeure Event**"), provided that any such event was not reasonably capable of being contemplated at the date of this Agreement. However, the Affected Party must:

- (a) Notify the non-affected party in writing as soon as practicable, describing in a reasonable level of detail the nature of the Force Majeure Event and its likely effect on the Affected Party's obligations under this Agreement;
- (b) Continue to perform all unaffected obligations in accordance with this Agreement;
- (c) Where possible, use reasonable endeavors to continue to perform the affected obligations, whether by way of a work-around or other methods agreed with the non-affected party;
- (d) Use reasonable endeavors to overcome the effects of the Force Majeure Event as soon as possible (which may include negotiating, in good faith, revisions to the Recipient's Obligations); and
- (e) Notify the non-affected party as soon as it is no longer affected by the Force Majeure Event.

9.2 If that failure or delay exceeds twenty (20) consecutive Business Days, either party may immediately terminate this Agreement (without affecting the accrued rights and obligations of the parties as at the date of termination) by giving written notice to the other party without any liability to the other party for any loss or damage suffered as a result of the termination. Termination shall be effective on and from the date the notice is given to the other party.

- 9.3 In the event a party exercises its right to terminate this Agreement pursuant to the preceding subclause, then any Unexpended Funds already paid by Council to the Recipient shall be immediately repayable to Council by the Recipient, and Council shall not be liable to pay any further instalments of Funding on and from the date the termination of this Agreement is effective. Council may demand, and the Recipient must provide, any information required by Council to determine the quantum of Unexpected Funds payable to Council within five (5) Business Days of any demand made by Council.
- 9.4 The parties acknowledge and agree that the COVID-19 pandemic is a Force Majeure Event, except to the extent provided under Clause 9.5.
- 9.5 The Recipient acknowledges and agrees that:
- (a) It has taken into account the circumstances of the COVID-19 pandemic Force Majeure Event and practical and legal requirements in relation to that pandemic, including Public Health Directions in force as at the date of this Agreement;
 - (b) Despite any other clause, the Public Health Directions in force as at the date of this Agreement will not constitute a Force Majeure Event; and
 - (c) Without limiting Clause 9.2, if the Recipient cannot deliver any of the Recipient's Obligations on the basis of the Public Health Directions in force as at the date of this Agreement constituting a Force Majeure Event, the Recipient will be in breach of this Agreement and, in addition to any other rights of Council in relation to that breach, Council may require the Recipient, upon demand, to refund any Funding.

GENERAL PROVISIONS

10. ASSIGNMENT

- 10.1 The Recipient may not assign, sell, subcontract or otherwise transfer its rights, interests and obligations under this Agreement without the prior written consent of Council, which may be given, withheld or given subject to conditions, in Council's absolute discretion.
- 10.2 Where the Recipient is a corporation, an assignment, sale, subcontract or other transfer of rights will include any arrangement whereby the controlling shareholders of the Recipient as at the Commencement Date are changed.

11. INTELLECTUAL PROPERTY, CONFIDENTIAL INFORMATION AND PERSONAL INFORMATION

- 11.1 The Recipient warrants to Council that it has not infringed any Intellectual Property Rights of a third party in connection with this Agreement or generally in the delivery of the Recipient's Obligations.
- 11.2 The Recipient agrees to maintain the confidence of any Confidential Information and to prevent its unauthorised disclosure to or use by any other person.
- 11.3 The Recipient warrants that it will not do anything to infringe Council's Intellectual Property Rights in any material, whether that material is provided by Council in accordance with this Agreement, or whether the material is identified by the Recipient during the course of the performance of its obligations.

21. DISCLOSURE OF INFORMATION

21.1 Other than as provided in this Agreement, the Recipient must not disclose the terms of this Agreement to any third party without Council's written consent.

21.2 Without limiting any specific clauses of this Agreement Council may disclose the terms of this Agreement as it sees fit.

21.3 This clause survives the termination of this Agreement.

22. VARIATIONS TO THIS AGREEMENT

22.1 This Agreement may not be varied other than in writing, signed by or on behalf of the parties.

Schedule 1 – Recipient’s Obligations

1. Parties

Cairns Regional Council
PO Box 359
CAIRNS QLD 4870

ABN 24 310 025 910

AND

Peninsula Art Educators Association
156-194 Sheridan Street
CAIRNS NORTH QLD 4870

ABN 66 539 148 590

2. Purpose of Agreement

- 2.1 This document represents a mutual agreement between Cairns Regional Council (Council) and Peninsula Art Educators Association (PAEA) to facilitate the annual delivery of the ENERGY exhibition. The function of this Agreement is to establish the level of support provided by Council and the minimum performance and reporting to be provided by Peninsula Art Educators Association.

3. Period of Agreement

- 3.1 This Agreement is for the period 1 July 2026 to 30 June 2030

4. Outcomes Sought by Cairns Regional Council

- 4.1 Council seeks to partner with the Peninsula Art Educators Association to deliver the annual Energy exhibition, showcasing high-quality visual artworks by secondary school students from across Far North Queensland.
- 4.2 Peninsula Art Educators Association supports and advocates for high-quality visual arts education in Far North Queensland by connecting educators, strengthening professional practice, and creating meaningful learning and exhibition opportunities for young artists within our region by:
- I. Delivering high-quality professional development and creative learning experiences
 - II. Providing authentic exhibition opportunities that showcase emerging young artists
 - III. Building partnerships that strengthen connections between education, arts, and community; and
 - IV. Facilitating professional networks and shared practice among visual arts educators

5. Conditions of the Agreement

Cairns Regional Council (Council)

Document Number: 7860890

Version: 1

Document Name: DRAFT Peninsula Art Educators Association (PAEA)
Resource and Performance Agreement 2026/30

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Document Author: NCARLON
Resource and Performance Agreement
860890

- 5.1 Commencing from July 1, 2026, Council will provide annual in-kind funding until 30 June 2030. The total amount will be a base amount of \$5,000 (excl GST) in-kind annually in accordance with the breakdown on page 4 of this agreement. The base amount will be indexed annually from year 2 onwards, in line with increases to Council's Fees and Charges Schedule.
- 5.2 The in-kind funding will be reconciled against the costs of venue hire, equipment, personnel, services and administration for hosting the exhibition at Tanks Arts Centre.
- 5.3 Council, at its discretion, may dedicate additional in-kind or cash funds to Peninsula Art Educators Association operations or initiatives.

6. Key Performance Indicators

KPA	Components	KPI
Operational Plan	Delivery of annual ENERGY exhibition	<ul style="list-style-type: none"> • Total reach of audiences, number of participants, number of attendees, and other pertinent details of the exhibition event
Finance and Sustainability	Budget vs Actuals forecast	<ul style="list-style-type: none"> • Annual event report

7. Reporting Requirements

- 7.1 Peninsula Art Educators Association will, within 12 weeks of the completion of the annual Event, provide Council with an acquittal report containing the following in respect of the Event:
 - I. a financial statement including income and expenditure (budgeted versus actuals)
 - II. a report quantifying the performance of the Event (both financial and otherwise) against the projections for the Event; and
 - III. any other pertinent information in respect of the performance of the Event (including but not limited to notice of any awards or copies of any other promotional information in respect of the event such as:- promotional brochures, details of media coverage, date list of television and radio interview and publications regarding the Event)
- 7.2 Peninsula Art Educators Association will prior to the Commencement Date, conduct, on terms satisfactory to Council, a thorough assessment of risks of any nature in respect of the Event which could impose liability on Peninsula Art Educators Association, and provide a report detailing these risks to Council.
- 7.3 Peninsula Art Educators Association will maintain and retain for 5 years following the Event accurate records of:
 - I. the income, expenditure and any other details necessary to ascertain the financial performance of the Event;
 - II. statistical data in respect of the participants and spectators at the Event (including the number of and locality of these persons) and other pertinent details regarding the Event.

8. Payment Schedule & Timing

- 8.1 Commencing from 1 July 2026 Council will provide in-kind funding towards items identified in clause 5 for a four-year period. The amount of base in-kind funding for the first year will be \$5,000 (excluding GST). The funding amount will be deducted from the final show reconciliation at the conclusion of the event.
- 8.2 The financial year 2026/27 is the base year and no increases are payable until the commencement of the 2027/28 financial year. For each of the three years subsequent to 2026/27, the funding agreement will be indexed in line with changes to Council's Fees and Charges Schedule.

Phase	Milestones	Payment	Amount (ex GST)
Commencement	1 July 2026		
Year 1	Reconciliation of ENERGY exhibition 2026 event	In-Kind	\$5,000
Year 2	Reconciliation of ENERGY exhibition 2027 event	In-Kind	Year 1 + F&C indexation
Year 3	Reconciliation of ENERGY exhibition 2028 event	In-Kind	Year 2 + F&C indexation
Year 4	Reconciliation of ENERGY exhibition 2029 event	In-Kind	Year 3 + F&C indexation
Total			\$20,000 excl GST plus F&C indexation

10. Acknowledgement of Cairns Regional Council Support

Peninsula Art Educators Association acknowledges the financial support it receives from Council and will therefore provide acknowledgment in the following ways:

- I. Inclusion of Cairns Regional Council's logo and the following wording acknowledgment statement. "Proudly supported by Cairns Regional Council" on all printed material produced by the Peninsula Art Educators Association, including its website and social media;
- II. Invitations and tickets to the event for Councillors and appropriate staff of Council; and
- III. Opportunities for Council representatives to speak at key activities (may exclude events where special sponsorship arrangements apply)

Executed as an Agreement

SIGNED for and on behalf of **CAIRNS REGIONAL COUNCIL ABN 24 310 025 910** by its delegated officer, in the presence of:

Witness Name

Witness Signature

Signature:
Destry Puia, Director Lifestyle & Community

Signature Dated: ____ / ____ / ____

EXECUTED by **Peninsula Art Educators Association** in the presence of:

Witness Name

Witness Signature

Signature:
Leanne Sachse, Treasurer

Signature Dated: ____ / ____ / ____

Signature:
Hannah Murray, Secretary

Signature Dated: ____ / ____ / ____