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Apology to Gerhardt Pearson

COOKTOWN Local News unreservedly apologises to Gerhardt Pearson for the publication of the article "Hope Vale Contract Furor" (sic) on pages 1 and 3 of last week's newspaper.

The original article was written by Joshua Robertson for *The Guardian*, which was published on the *Guardian's* Australian website on 6 January 2017. The article was subsequently republished by other news organisations, including the *Cooktown Local News*.

Although the *Cooktown Local News* editor did seek comment from some parties mentioned

in the article, none of our calls were returned. However, the *Cooktown Local News* did not attempt to contact Mr Pearson. Accordingly, the article did not contain any additional reporting by *Cooktown Local News*, but was edited for length by the newspaper's editor.

Mr Pearson's lawyer highlights that the article, as revised and republished in the *Cooktown Local News*, contained "untruthful statements". The *Cooktown Local News* was not aware of the facts stated below when the original article was published, but accepts the truth of those facts, as they relate to Mr Pearson.

Specifically, the article fails to state that the contract was initially awarded to a joint venture group which has no association with Mr Pearson. The Council resolution awarding the contract to this joint venture was unanimously passed by a full meeting of the Hope Vale Aboriginal Council, according to Council minutes dated 18 May 2016. All five councillors were present at that meeting, and the Mayor, Cr Greg McLean, did not move nor second the motion.

However, the resolution also included a caveat that if the approved tenderer could not perform the supply contract, the Council's Chief Ex-

ecutive Officer was authorised to negotiate with the Lakeland Quarry as the next lowest conforming tenderer. The *Cooktown Local News* understands that the Lakeland Quarry was awarded the contract under this part of the Council's resolution.

Accordingly, it is clear that the Council did not award the contract to Lakeland Quarry because of Cr McLean's familial relationship with Mr Pearson.

Mr Pearson's lawyer has also informed us that the Nambal tender "was non-conforming both in its substantive failure to demonstrate compliance with the required tender

specification and because the tender was lodged outside the closing time resulting in automatic disqualification".

It then follows that Nambal was not overlooked in favour of the Lakeland Quarry (as stated in the article), because Nambal was always ineligible for award of the contract because of its non-conforming tender.

Additionally, Mr Pearson had no involvement in the preparation, lodging or liaison in respect of the tender, nor did he have any communication with the Mayor, any councillor or anyone else on behalf of the Council about the tender.

Council minutes confirm that its decision (to authorise its CEO to negotiate with the Lakeland Quarry if the successful tenderer could not perform its obligations) was an unanimous decision and thus would have been no different had the Mayor not participated in the voting process because of a perceived conflict.

As Mr Pearson's lawyer points out, if the Council had awarded the tender to Nambal, the same considerations of relationships between cousins on the Council and Nambal's directors, shareholders and beneficiaries would arise.

Furthermore, in the view of Mr Pearson's lawyer, nothing in the *Local Government Act 2009* or its regulation required Mr McLean to disclose his familial relationship to the meeting of Councillors who decided this matter.

Cooktown Local News has now confirmed from our own search of the ASIC company index that the exact trail of ownership appearing in the *Guardian* article is untruthful because:

- ASIC records do not show that Mr Pearson is a direct or indirect owner of or shareholder in the Lakeland Quarry.

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- an ASIC search shows Mr Pearson is but one of 16 directors of Cape York Corporation Pty Ltd (not the Cape York Aboriginal Corporation as the *Guardian* article and our own article incorrectly state); and
- we accept that di-

rectorship of a company does not connote ownership of the company or its assets.

We have been advised by Mr Pearson's lawyer that Mr Pearson receives no personal or other benefit from his directorship of Cape York Corporation Pty Ltd as the trustee of a charitable trust

established for charitable purposes.

Further, "Mr Pearson had absolutely no discussions, dealings or interactions with: the Mayor; any councillor; or any other person within or associated with, the Council with respect to the tender, its lodgement, letting or otherwise." Mr

Pearson's lawyer stated in her correspondence with *Cooktown Local News*.

With all of these matters accepted by the *Cooktown Local News*, we again unreservedly apologise to Mr Pearson for the publication of the *Guardian* article which contained unjustified and untrue allegations of wrongdoing by Mr Pearson. To the extent that the article conveyed those allegations, which the *Cooktown Local News* concedes are damaging to Mr Pearson's reputation, they ought not to have been published and are fully retracted.