

# AGENDA

TORRES STRAIT ISLAND REGIONAL COUNCIL

JANUARY 2022

TRUSTEE MEETING

Tuesday, 18<sup>th</sup> January 2022

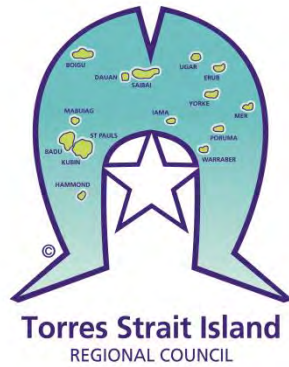
Video Conference

**TRUSTEE MEETING**  
**Tuesday, 18<sup>th</sup> January 2022**  
**Agenda Items**

- |    |                          |  |
|----|--------------------------|--|
| 1. | <u>9:00am - 9:03am</u>   | <u>Opening Prayer and Welcome</u>  |
| 2. | <u>9:03am – 9:05am</u>   | <u>Apologies</u>   |
| 3. | <u>9:05am - 9:10am</u>   | <u>Declaration of Conflict of Interest (COI) Declarable and Prescribed</u>   |
| 4. | <u>9:10am – 9:15am</u>   | <u>Confirmation of Trustee Meeting Minutes</u> <ul style="list-style-type: none"><li>• Trustee Meeting – 7<sup>th</sup> December 2021</li></ul>  |
| 5. | <u>9:15am – 9:20am</u>   | <u>Outstanding Action Items</u>  |
| 6. | <u>9:20am – 9:30am</u>   | <u>Standing Agenda Item: (verbal update)</u> <ul style="list-style-type: none"><li>• Undocumented commercial land occupation project – verbal update</li><li>• DOGIT Transfers – Verbal Update</li></ul> |
| 7. | <u>9:30am – 9:30am</u>   | <u>TRUSTEE MOVE INTO CLOSED BUSINESS</u>   |
| 8. | <u>09:30am – 10:00am</u> | <u>LEGAL – CB – CEQ (IBIS Stores) Leases</u>   |
| 9. | <u>10:00am – 10:00am</u> | <u>TRUSTEE MOVE OUT OF CLOSED BUSINESS AND RESUME IN OPEN COUNCIL</u>  |

**MORNING TEA 10:00am – 10:30am**

- |     |                          |   |
|-----|--------------------------|---|
| 10. | <u>10:30am – 10:50am</u> | <u>LEGAL – LHA Lease Transfer: Hammond Lot 57 on SP248418</u>     |
| 11. | <u>10:50am – 11:10am</u> | <u>LEGAL – LHA Lease Transfer: Boigu Lot 21 &amp; 25 SP273190</u> |
| 12. | <u>11:10am – 11:30am</u> | <u>LEGAL – Expenditure of Saibai DOGIT funds</u>                  |
| 13. | <u>11:30am – 11:35am</u> | <u>Next meeting – Tuesday 15<sup>th</sup> February 2022</u>       |
| 14. | <u>11:35am – 11:40am</u> | <u>Closing Remarks and Prayer</u>                                 |



# DRAFT MINUTES

TORRES STRAIT ISLAND REGIONAL COUNCIL

December 2021

TRUSTEE MEETING

Tuesday, 7<sup>th</sup> December 2021

Video Conference

**PRESENT:**

Cr Phillemon Mosby, Mayor  
Cr Dimas Toby, Division 1 – Boigu  
Cr Keith Fell, Division 4 – Mabuiag  
Cr Laurie Nona, Division 5 – Badu  
Cr Lama Trinkoon, Division 6 – Arkai (Kubin), Mua Island  
Cr John Levi, Division 7 – Wug (St Pauls), Mua Island  
Cr Seriako Dorante, Division 8 – Kirriri (Hammond)  
Cr Getano Lui Jnr (Deputy Mayor), Division 9 – Iama (Yam)  
Cr Kabay Tamu, Division 10 – Warraber (Sue)  
Cr Francis Pearson, Division 11 – Poruma (Coconut)  
Cr Rocky Stephen, Division 13 – Ugar (Stephen)  
Cr Jimmy Gela, Division 14 – Erub (Darnley)  
Cr Aven Noah, Division 15 – Mer (Murray)

**STAFF:**

Mr David Baldwin, Acting Chief Executive Officer (ACEO)  
Ms Hollie Faithfull, Executive Director, Financial Services (EDFS)  
Mr Dawson Sailor, Acting Executive Director, Community & Building Services (AEDCBS)  
Ms Megan Barrett, Interim Executive Director, Corporate Services  
Mr Peter Krebs, Manager Legal Services  
Mrs Ursula Nai, Senior Executive Assistant (SEA)  
Ms May Mosby, Acting Secretariat Officer (SO)

**APOLOGIES:**

Cr Torenzo Elisala, Division 2 – Dauan  
Cr Conwell Tabuai, Division 3 – Saibai  
Cr Hilda Mosby, Division 12 – Masig (Yorke)

**TRUSTEE MEETING**  
**Tuesday, 7<sup>th</sup> December 2021**

**1.     9:08am - 9:12am                     Opening Prayer and Welcome**

Mayor Mosby established a quorum and welcome everyone to the meeting and acknowledged the following:

- Our Heavenly Father
- Traditional Owners of the lands we meet today in the Cairns region and across the length and breadth of Zenadth Kes
- All Elders present and emerging
- Executive Staff

Cr Keith Fell opened the meeting in prayer.

**2.     9:12am – 9:15am                     Apologies**

- Cr Conwell Tabuai – Division 3, Saibai  
Cultural reasons, Tombstone preparations

**RESOLUTION:**

*Moved:* Cr Aven Noah; *Second:* Cr Keith Fell

**That Council accepts the apology from Cr Conwell Tabuai for the December 2021 Ordinary meeting.**

**MOTION CARRIED**

- Cr Torenzo Elisala – Division 2, Dauan  
Live recording of Strait to the Plate SBS documentary series

**RESOLUTION:**

*Moved:* Cr Keith Fell; *Second:* Cr Jimmy Gela

**That Council accepts the apology from Cr Torenzo Elisala for the December 2021 Ordinary meeting.**

**MOTION CARRIED**

Cr Hilda Mosby gave her apologies that she will be running late due to her not feeling well and will be attending the medical centre for treatment and medical certificate.

9:12am - Cr Kabay Tamu joined the meeting.

**3.     9:15am - 9:17am                     Declaration of Conflict of Interest (COI) Declarable and Prescribed**

No declarations made however Mayor Mosby encouraged Councillors and staff to make a declaration at any time.

**4.     9:17am – 9:18am                     Confirmation of Trustee Meeting Minutes**

- Trustee Meeting – 15<sup>th</sup> November 2021

**RESOLUTION:**

*Moved:* Cr Jimmy Gela, *Second:* Cr Francis Pearson

**That the Trustee accepts the minutes of the Trustee meeting held on the 15<sup>th</sup> November 2021 as a true and accurate account of that meeting.**

**MOTION CARRIED**

5. **9:18am – 9:27am** **Outstanding Action Items**

Manager Legal Services, Mr Peter Krebs updated the Trustee on the action items.

6. **9:30am – 10:25am** **Standing Agenda Item: (verbal update)**

- **Undocumented commercial land occupation project – verbal update**
- **IBIS stores - agreement to lease**

Manager Legal Services, Mr Peter Krebs provided the Trustee with an update on the above two topics.

9:32am – Cr Laurie Nona joined the meeting.

The following Councillors declared their Declarable Conflict of Interest for DOGIT Transfer Update:

Cr Francis Pearson declared a Declarable Conflict of Interest in Council Meeting Agenda Item 6 – Standing Agenda Item – DOGIT Transfer. This declarable conflict of interest arises because I am a Director for GBK (Gur A Baradharaw Kod Torres Strait Sea and Land Council). Cr Francis Pearson proposed to leave and stay away from the place where the meeting is being held while this matter is discussed and voted on.

Cr Dimas Toby declared a Declarable Conflict of Interest in Council Meeting Agenda Item 6 – Standing Agenda Item – DOGIT Transfer. This declarable conflict of interest arises because I am a Director for GBK (Gur A Baradharaw Kod Torres Strait Sea and Land Council). Cr Dimas Toby proposed to leave and stay away from the place where the meeting is being held while this matter is discussed and voted on.

Cr Kabay Tamu declared a Declarable Conflict of Interest in Council Meeting Agenda Item 6 – Standing Agenda Item – DOGIT Transfer. This declarable conflict of interest arises because I am a Director for GBK (Gur A Baradharaw Kod Torres Strait Sea and Land Council). Cr Kabay Tamu proposed to leave and stay away from the place where the meeting is being held while this matter is discussed and voted on.

Cr Jimmy Gela declared a Declarable Conflict of Interest in Council Meeting Agenda Item 6 – Standing Agenda Item – DOGIT Transfer. This declarable conflict of interest arises because I am a Director for GBK (Gur A Baradharaw Kod Torres Strait Sea and Land Council). Cr Jimmy Gela proposed to leave and stay away from the place where the meeting is being held while this matter is discussed and voted on.

Mayor Phillemon Mosby declared a Declarable Conflict of Interest in Council Meeting Agenda Item 6 – Standing Agenda Item – DOGIT Transfer. This declarable conflict of interest arises because I am a Director for GBK (Gur A Baradharaw Kod Torres Strait Sea and Land Council). Mayor Mosby proposed to leave and stay away from the place where the meeting is being held while this matter is discussed and voted on.

09:38am – Cr Francis Pearson, Cr Dimas Toby, Cr Kabay Tamu, Cr Jimmy Gela and Mayor Phillemon Mosby left the room due to the declarable conflict of interest.

09:38am – Deputy Mayor, Cr Getano Lui chaired the meeting in the absence of Mayor Moby.

• **DOGIT Transfers – Verbal Update**

Manager Legal Services, Mr Peter Krebs provided the Trustee with an update and an in-depth discussion was held on the invitation received by GBK (Gur A Baradharaw Kod Torres Strait Sea and Land Council) to attend the upcoming DOGIT Transfer – Lesson learned session to be held at the Pullman in Cairns on the 13-14<sup>th</sup> December 2021. GBK (Gur A Baradharaw Kod

Torres Strait Sea and Land Council) confirmed they will only fund the travel of PBC representatives and will not cover TSIRC Councillors attendance or consultants.

**ACTION ITEM:** Manager Legal Services, Mr Peter Krebs draft a letter for Acting Chief Executive Officer, Mr David Baldwin's consideration with the points raised.

**RESOLUTION:**

*Moved: Cr Aven Noah; Second: Cr Laurie Nona*

That TSIRC will not attend the DOGIT Transfer sessions in Cairns due to failure to provide support.

**MOTION CARRIED UNANIMOUSLY**

10:22am – Cr Francis Pearson, Cr Dimas Toby, Cr Kabay Tamu, Cr Jimmy Gela and Mayor Phillemon Mosby re-joined the meeting.

10:22am – Mayor Mosby resumed as chair of the Trustee meeting.

**7.      10:25am – 10:25am                      TRUSTEE MOVE INTO CLOSED BUSINESS**

**RESOLUTION:**

*Moved: Cr Rocky Stephen; Second: Cr Francis Pearson*

**That the Trustee resolve to close the meeting to the public pursuant to section 84 of the *Local Government Act 2009* to allow the Trustee Council to discuss legal advice obtained by the local government or legal proceedings involving the local government.**

**MOTION CARRIED**

- LEGAL – CB – Tripartite Deed for Saibai Community Safety and Security Facility

**8.      10:32am – 10:32am                      TRUSTEE MOVE OUT OF CLOSED BUSINESS AND RESUME IN OPEN COUNCIL**

**RESOLUTION:**

*Moved: Cr Kabay Tamu; Second: Cr John Levi*

**That the Trustee move out of Closed Business and resume the Trustee meeting in open business.**

**MOTION CARRIED**

**10:32am – 10:42am                      LEGAL – CB – Tripartite Deed for Saibai Community and safety and security facility**

**RESOLUTION:**

*Moved: Cr Aven Noah; Second: Cr Francis Pearson*

**That the Trustee resolves to**

- Enter into the Indigenous Grants – Tripartite Purposes Deed relating to the construction of the Community Safety and Security Facility on Lot 102 on SP296838, Saibai Island, for the purpose of discharging its statutory functions as Trustee of the Saibai Deed of Grant in Trust.
- Delegate authority to the Mayor and the Chief Executive Officer each the power in accordance with the *Local Government Act 2009*:
  - power to make, amend or discharge the Deed and
  - power to negotiate, finalise and execute any and all matters associated with or in relation to the Deed including without limitation any variations.

**MOTION CARRIED**

**Morning Tea – 10:32am – 10:42am**

9. 10:42am – 10:57am LEGAL – TCHHS lease Kubin (lot 134 on SP271019)

Manager Legal Services, Mr Peter Krebs spoke to this report.

**RESOLUTION:**

*Moved: Cr Lama Trinkoon; Second: Cr John Levi*

That the Trustee resolve, pursuant to the Torres Strait Islander Land Act 1991 (Qld), to grant Torres and Cape Hospital and Health Service (TCHHS) an extension to 30 September 2022 (a further nine-month extension) of the date for the satisfaction of the native title requirements in relation to the proposed lease of Kubin lot 134 on SP271019, subject to continued payment of a monthly land occupation fee (pro rata at the same rate as the starting rent under the proposed lease) until the commencement of the lease (or until TCHHS ceases occupying the land, whichever is earlier), and delegate to the Chief Executive Officer the power to negotiate the terms of the Deed of Variation and lease, sign and discharge the Deed of Variation and lease.

**MOTION CARRIED**

10. 10:57am – 11:02am LEGAL – TCHHS lease St Pauls (lot 36 on SP256048)

Manager Legal Services, Mr Peter Krebs spoke to this report.

**RESOLUTION:**

*Moved: Cr John Levi; Second: Cr Lama Trinkoon*

That the Trustee resolve, pursuant to the Torres Strait Islander Land Act 1991 (Qld), to grant Torres and Cape Hospital and Health Service (TCHHS) an extension to 30 April 2022 (a further four-month extension) of the date for the satisfaction of the native title requirements in relation to the proposed lease of St Pauls lot 36 on SP256048, subject to continued payment of a monthly land occupation fee (pro rata at the same rate as the starting rent under the proposed lease) until the commencement of the lease (or until TCHHS ceases occupying the land, whichever is earlier), and delegate to the Chief Executive Officer the power to negotiate the terms of the Deed of Variation and lease, sign and discharge the Deed of Variation and lease.

**MOTION CARRIED**

11. 11:02am – 11:03am Next meeting – meeting dates to be discussed in Council Meeting

Mayor Mosby advised the next meeting dates are proposed in an agenda report to the Ordinary Meeting.

12. 11:03am – 11:03am Closing Remarks

Mayor Mosby thanks Councillors and Staff for their time and declared the Trustee meeting closed.

**MEETING CLOSED: 11:03am**

.....  
Mr David Baldwin  
Acting Chief Executive Officer  
Torres Strait Island Regional Council  
Date:

.....  
Cr Phillemon Mosby  
Mayor  
Torres Strait Island Regional Council  
Date:



STATEGIC AND OPERATIONAL ACTIONS FROM ORDINARY MEETING AND EXECUTIVE - PLUS OPERATIONAL ACTIONS ONLY FROM SARG TO BE INPUT ONTO THIS DOCUMENT #85075											
Date	Month of Meeting	Year	Type of Meeting	Community	Agenda Report	Action	Lead Officer	Advisory Officer	In Progress	Lead Officer Comments	ETA
7	December	2021	Trustee	Cairns	DOGIT Transfers	Manager Legal Services, Mr Peter Krebs draft a letter for Acting Chief Executive Officer, Mr David Baldwin's consideration with the points raised.	Manager Legal Services			In progress. Letter in draft awaiting final review	



# TORRES STRAIT ISLAND REGIONAL COUNCIL

## TRUSTEE REPORT

<b>ORDINARY MEETING:</b>	January 2022
<b>DATE:</b>	18 January 2022
<b>ITEM:</b>	Agenda Item for Resolution by Trustee
<b>SUBJECT:</b>	LHA lease transfer: Hammond Lot 57 on SP248418
<b>AUTHOR:</b>	Julia Maurus, Senior Legal Officer
<b>PRESENTER:</b>	Peter Krebs, Manager Legal Services

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### Recommendation:

The Trustee resolves pursuant to the *Aboriginal and Torres Strait Islander Land Holding Act 2013* to:

- consent to the transfer of a trustee lease (Lease No. 719137188) from Veronica Elizabeth Sabatino over Lot 57 on SP248418 (title reference 51067191) to Francis Raymond Sabatino and Kevin Cosmas Sabatino; and
- delegate to the Mayor and the Chief Executive Officer each the power to execute the General Consent form.

### Executive Summary:

This report proposes that the Trustee consent to the LHA (Katter) lease transfer for the lease over Lot 57 on SP248418 (57 and 58 Waterfront Road, Hammond Island).

### Background:

Council has been contacted by the Department (DSDSATSIP) on behalf of Veronica Elizabeth Sabatino. Veronica Elizabeth Sabatino has requested that the Katter lease be transferred to two family members, Francis Raymond Sabatino and Kevin Cosmas Sabatino, for love and affection. The Katter lease is over 57 and 58 Waterfront Road, Hammond Island (surveyed as Lot 57 on SP248418).

### Comment:

1. A Land Holding Act lease (Lease No. 719137188) was granted under the *Aboriginal and Torres Strait Islander Land Holding Act 2013* (Qld) to Veronica Elizabeth Sabatino over Lot 57 on SP248418. The lease commenced on 1 December 2018. TSIRC is the lessor of the lease.
2. Section 64 of the *Aboriginal and Torres Strait Islander Land Holding Act 2013* (Qld) states that a lease may be transferred only to an Aboriginal or Torres Islander person, or a spouse, or former spouse, of an Aboriginal or Torres Strait Islander person who is deceased, and the lessor must not unreasonably withhold its consent.
3. Under the current Trustee Policy, consent to the transfer of an LHA/Katter lease requires a Council resolution.

## **Considerations**

### Risk Management

Senior Legal Officer has reviewed the documents and all is in order. No identified risks.

### Council Finance

Not applicable

## **Consultation:**

- Supported by Cr Dorante
- Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships (DSDSATSIP) Home Ownership Team

## **Links to Strategic Plans:**

TSIRC Corporate Plan 2020–2025

Delivery Pillar: Sustainability

Outcome 8: We manage council affairs responsibly for the benefit of our communities

- 8.1: Effective management of DOGIT Land as a Trustee

Operational Plan:

LHA (Katter) lease resolution

## **Statutory Requirements:**

*Torres Strait Islander Land Act 1991 (Qld)*

*Aboriginal and Torres Strait Islander Land Holding Act 2013 (Qld)*

## **Conclusion:**

It is recommended that the Trustee consent to the proposed transfer of this Katter lease.



### **Recommended:**

Peter Krebs

Manager Legal Services



### **Endorsed:**

Megan Barrett

Interim Executive Director, Corporate Services



### **Endorsed:**

Dawson Sailor

Acting Chief Executive Officer



Department of  
Seniors, Disability Services and  
Aboriginal and Torres Strait  
Islander Partnerships

Our Ref: LHA HA13/89  
Date: 01 November 2021

Mr Peter Krebs  
Senior Legal Counsel  
Torres Strait Island Regional Council  
PO Box 7336  
Cairns QLD 4870

Dear Mr Krebs

Please find attached a General Consent for a transfer of a Land Holding Act lease. The transferor is seeking Trustee execution by Mayor Mosby or the Chief Executive Officer TSIRC, to progress the transfer.

Details of the transfer are:

- Lot/plan – Lot 57 on SP248418
- Address – 57 & 58 Waterfront Road, Hammond Island
- Transferor – Veronica Elizabeth Sabatino
- Transferees – Francis Raymond Sabatino and Kevin Cosmas Sabatino
- Reason – wishes to transfer the lease to a family member for love and affection

I have enclosed a stamped, self-addressed envelope for return of the document as well as a copy of the executed Form 1 Transfer document for reference, if required.

Should you have any questions concerning any of the above, please do not hesitate to contact me on 4252 5107 or via e-mail [lauren.varley@dsdsatsip.qld.gov.au](mailto:lauren.varley@dsdsatsip.qld.gov.au).

Yours sincerely

A handwritten signature in cursive script, appearing to read "Lauren".

Lauren Varley  
**A/Manager, Home Ownership Team**  
**Remote Indigenous Land and Infrastructure Program Office**  
**Infrastructure and Coordination**

Cairns Corporate Tower  
Level 9, 15 Lake Street  
Cairns QLD 4870

Telephone: +61 7 4252 5129  
[www.datsip.qld.gov.au](http://www.datsip.qld.gov.au)

ABN: 25 791 185 155

1. Lot on Plan Description

Title Reference

LOT 57 ON SP248418

51067191

2. Instrument/document being consented to

Instrument/document type TRUSTEE LEASE NO 719137188

Dated 22/10/2021

Names of parties VERONICA ELIZABETH SABATINO AS TRANSFEROR AND FRANCIS RAYMOND SABATINO AND KEVIN COSMAS SABATINO AS TRANSFEREES

3. Instrument/document under which consent required

Instrument/document type TRUSTEE LEASE

Dealing No. 719137188

Name of consenting party TORRES STRAIT ISLAND REGIONAL COUNCIL DEED OF GRANT IN TRUST THE GRANTEE TO HOLD THE SAID LAND IN TRUST FOR THE BENEFIT OF ISLANDER INHABITANTS AND FOR NO OTHER PURPOSE WHATSOEVER

4. Execution by consenting party

The party identified in item 3 consents to the registration of the instrument/document identified in item 2.

**Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994**

..... signature

..... full name

..... qualification

**Witnessing Officer**

/ /  
**Execution Date**

.....  
**Mayor/Chief Executive Officer  
Torres Strait Island Regional Council**

**Consenting Party's Signature**

(Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

Mortgagee's Australian Credit Licence (if any)

**Privacy Statement**

Collection of information from this form is authorised by legislation and is used to maintain publicly searchable records. For more information see the Department's website.

Dealing Number



OFFICE USE ONLY

COPY

Privacy Statement

Collection of information from this form is authorised by legislation and is used to maintain publicly searchable records. For more information see the Department's website.

Print one-sided only

1. Interest being transferred (if shares show as a fraction)

TRUSTEE LEASE NO 719137188

Lodger (Name, address, E-mail & phone number)

Attn: John Coyle

DSDSATSIP

PO Box 5461

Cairns QLD 4870

FNQCSP@dstdsatsip.qld.gov.au

(07) 4252 5124

Lodger

Code

175

Note: A Form 24 - Property Information (Transfer) must be attached to this Form where interest being transferred is "fee simple" (Land Title Act 1994), "State leasehold" (Land Act 1994) or "Water Allocation" (Water Act 2000)

2. Lot on Plan Description

LOT 57 ON SP248418

Title Reference

51067191

3. Transferor

VERONICA ELIZABETH SABATINO

4. Consideration

FOR NATURAL LOVE AND AFFECTION

5. Transferee

Given names

Surname/Company name and number

(include tenancy if more than one)

FRANCIS RAYMOND

SABATINO

TENANTS IN COMMON in

KEVIN COSMAS

SABATINO

the interests of 1/2 and 1/2

respectively

6. **Transfer/Execution** The Transferor transfers to the Transferee the estate and interest described in item 1 for the consideration and in the case of monetary consideration acknowledges receipt thereof. The Transferor declares that the information contained in items 3 to 6 on the attached Form 24 is true and correct. The Transferee states the information contained in items 1, 2, 4 to 6(h) on the attached Form 24 is true and correct. Where a solicitor signs on behalf of the Transferee the information in items 1, 2, 4 to 6(h) on the Form 24 is based on information supplied by the Transferee.

NOTE: Witnessing officer must be aware of their obligations under section 162 of the Land Title Act 1994.

Separate executions are required for each transferor and transferee. Signatories are to provide to the witness, evidence that they are the person entitled to sign the instrument (including proof of identity).

Witnessing Officer (signature, full name & qualification)

Execution Date

Transferor's Signature

Witnessing Officer (signature, full name & qualification)

Execution Date

\*Transferee's or Solicitor's Signature

Witnessing Officer (signature, full name & qualification)

Execution Date

\*Transferee's or Solicitor's Signature

(Witnessing officer must be in accordance with Schedule 1 of the Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

\*Note: A Solicitor is required to print full name if signing on behalf of the Transferee and no witness is required in this instance

# TORRES STRAIT ISLAND REGIONAL COUNCIL

## TRUSTEE REPORT

**ORDINARY MEETING:** January 2022

**DATE:** 18 January 2022

**ITEM:** Agenda Item for Resolution by Trustee

**SUBJECT:** LHA lease transfers: Boigu Lot 21 & Lot 25 SP273190

**AUTHOR:** Julia Maurus, Senior Legal Officer

**PRESENTER:** Peter Krebs, Manager Legal Services

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### Recommendation:

The Trustee resolves pursuant to the *Aboriginal and Torres Strait Islander Land Holding Act 2013* to:

- consent to the transfer of a trustee lease (Lease No. 721011125) from Enna Matthew and Robbie Matthew over Lot 21 on SP273190 (title reference 51146278) to Jack Robinson Matthew;
- consent to the transfer of a trustee lease (Lease No. 721011128) from Enna Matthew and Robbie Matthew over Lot 25 on SP273190 (title reference 51146282) to Jack Robinson Matthew; and
- delegate to the Mayor and the Chief Executive Officer each the power to execute the General Consent forms.

### Executive Summary:

This report proposes that the Trustee consent to the LHA (Katter) lease transfer for the lease over Lot 21 on SP273190 (21 Toby & Gibuma Street, Boigu Island) and consent to the Katter lease transfer for the lease over Lot 25 on SP273190 (25 Army Street, Boigu Island).

### Background:

Council has been contacted by the Department (DSDSATSIP) on behalf of Enna Matthew and Robbie Matthew. Enna Matthew and Robbie Matthew have requested that their two Katter leases be transferred to a family member, Jack Robinson Matthew, for love and affection. The Katter leases are over 21 Toby & Gibuma Street, Boigu Island (surveyed as Lot 21 on SP273190) and 25 Army Street, Boigu Island (surveyed as Lot 25 on SP273190).

### Comment:

1. A Land Holding Act lease (Lease No. 721011125) was granted under the *Aboriginal and Torres Strait Islander Land Holding Act 2013* (Qld) to Enna Matthew and Robbie Matthew over Lot 21 on SP273190. The lease commenced on 17 August 2021. TSIRC is the lessor of the lease.
2. A Land Holding Act lease (Lease No. 721011128) was granted under the *Aboriginal and Torres Strait Islander Land Holding Act 2013* (Qld) to Enna Matthew and Robbie Matthew over Lot 25 on SP273190. The lease commenced on 17 August 2021. TSIRC is the lessor of the



- lease.
3. Section 64 of the *Aboriginal and Torres Strait Islander Land Holding Act 2013* (Qld) states that a lease may be transferred only to an Aboriginal or Torres Islander person, or a spouse, or former spouse, of an Aboriginal or Torres Strait Islander person who is deceased, and the lessor must not unreasonably withhold its consent.
  4. Under the current Trustee Policy, consent to the transfer of an LHA/Katter lease requires a Council resolution.

## **Considerations**

### Risk Management

Senior Legal Officer has reviewed the documents and all is in order. No identified risks.

### Council Finance

Not applicable

## **Consultation:**

- Supported by Cr Toby
- Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships (DSDSATSIP) Home Ownership Team

## **Links to Strategic Plans:**

TSIRC Corporate Plan 2020–2025

Delivery Pillar: Sustainability

Outcome 8: We manage council affairs responsibly for the benefit of our communities

- 8.1: Effective management of DOGIT Land as a Trustee

Operational Plan:

LHA (Katter) lease resolution

## **Statutory Requirements:**

*Torres Strait Islander Land Act 1991 (Qld)*

*Aboriginal and Torres Strait Islander Land Holding Act 2013 (Qld)*

## **Conclusion:**

It is recommended that the Trustee consent to the proposed transfer of these Katter leases.



### **Recommended:**

Peter Krebs

Manager Legal Services



### **Endorsed:**

Megan Barrett

Interim Executive Director, Corporate Services



### **Endorsed:**

Dawson Sailor

Acting Chief Executive Officer





**Department of  
Seniors, Disability Services and  
Aboriginal and Torres Strait  
Islander Partnerships**

Our Ref: LHA BO35/89  
Date: 07 October 2021

Mr Peter Krebs  
Torres Strait Island Regional Council  
PO Box 7336  
Cairns QLD 4870

Dear Mr Krebs

Please find attached a General Consent for a transfer of a Land Holding Act lease. The transferors are seeking Trustee execution by Mayor Mosby or the Chief Executive Officer TSIRC, to progress the transfer.

Details of the transfer are:

- Lot/plan – Lot 21 on SP273190
- Address – 21 Toby & Gibuma Street, Boigu Island
- Transferor – Enna Matthew and Robbie Matthew
- Transferee – Jack Robinson Matthew
- Reason – wishes to transfer the lease to a family member for love and affection

I have enclosed a stamped, self-addressed envelope for return of the document as well as a copy of the executed Form 1 Transfer document for reference, if required.

Should you have any questions concerning any of the above, please do not hesitate to contact me on 4252 5117 or via e-mail [john.coyle@dsdsatsip.qld.gov.au](mailto:john.coyle@dsdsatsip.qld.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read "John Coyle".

John Coyle  
**Manager, Home Ownership Team  
Remote Indigenous Land and Infrastructure Program Office  
Infrastructure and Coordination**

**1. Lot on Plan Description**

**Title Reference**

LOT 21 ON SP 273190

51146278

**2. Instrument/document being consented to**

Instrument/document type TRUSTEE LEASE No 721011125

Dated 13/09/2021

Names of parties ENNA MATTHEW AND ROBBIE MATTHEW AS TRANSFERORS AND JACK ROBINSON  
MATTHEW AS TRANSFEREE

**3. Instrument/document under which consent required**

Instrument/document type TRUSTEE LEASE

Dealing No. No 721011125

Name of consenting party TORRES STRAIT ISLAND REGIONAL COUNCIL DEED OF GRANT IN TRUST  
THE GRANTEE TO HOLD THE SAID LAND IN TRUST FOR THE BENEFIT OF  
ISLANDER INHABITANTS AND FOR NO OTHER PURPOSE WHATSOEVER

**4. Execution by consenting party**

The party identified in item 3 consents to the registration of the instrument/document identified in item 2.

**Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994**

..... signature

..... full name

..... qualification

**Witnessing Officer**

/ /  
**Execution Date**

.....  
**Mayor/Chief Executive Officer**  
**Torres Strait Island Regional Council**

**Consenting Party's Signature**

(Witnessing officer must be in accordance with Schedule 1  
of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

Mortgagee's Australian Credit Licence (if any)

**Privacy Statement**

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the Department's website.

Dealing Number



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Print one-sided only

1. **Interest being transferred** (if shares show as a fraction)  
TRUSTEE LEASE NO 721011125

**Lodger** (Name, address, E-mail & phone number) **Lodger Code**  
Attn: John Coyle  
DSDSATSIP  
PO Box 5461  
Cairns QLD 4870  
FNQCSP@dssatsip.qld.gov.au  
(07) 4252 5124  
175

Note: A Form 24 - Property Information (Transfer) must be attached to this Form where interest being transferred is "fee simple" (Land Title Act 1994), "State leasehold" (Land Act 1994) or "Water Allocation" (Water Act 2000)

2. **Lot on Plan Description**  
LOT 21 ON SP273190

**Title Reference**  
51146278

3. **Transferors**  
ROBBIE MATTHEW  
ENNA MATTHEW

4. **Consideration**  
FOR NATURAL LOVE AND AFFECTION

5. **Transferee** Given names Surname/Company name and number (include tenancy if more than one)  
JACK ROBINSON MATTHEW

6. **Transfer/Execution** The Transferors transfers to the Transferee the estate and interest described in item 1 for the consideration and in the case of monetary consideration acknowledges receipt thereof. The Transferor declares that the information contained in items 3 to 6 on the attached Form 24 is true and correct. The Transferee states the information contained in items 1, 2, 4 to 6(h) on the attached Form 24 is true and correct. Where a solicitor signs on behalf of the Transferee the information in items 1, 2, 4 to 6(h) on the Form 24 is based on information supplied by the Transferee.

NOTE: Witnessing officer must be aware of their obligations under section 162 of the Land Title Act 1994.

Separate executions are required for each transferor and transferee. Signatories are to provide to the witness, evidence that they are the person entitled to sign the instrument (including proof of identity).

John J. Conroy  
Witnessing Officer (signature, full name & qualification)

30/08/2021  
Execution Date

Transferor's Signature

John J. Conroy  
Witnessing Officer (signature, full name & qualification)

30/08/2021  
Execution Date

Transferor's Signature

YAKOETA AKIBA-BAWIE

Justice of the Peace (Qualified)  
Witnessing Officer (signature, full name & qualification)  
Reg. No.: 65335  
C-DEC 13/09/21

13/09/2021  
Execution Date

Transferee's or Solicitor's Signature

(Witnessing officer must be in accordance with Schedule 1 of the Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

\*Note: A Solicitor is required to print full name if signing on behalf of the Transferee and no witness is required in this instance



Department of  
**Seniors, Disability Services and  
Aboriginal and Torres Strait  
Islander Partnerships**

Our Ref: LHA BO36/89  
Date: 07 October 2021

Mr Peter Krebs  
Torres Strait Island Regional Council  
PO Box 7336  
Cairns QLD 4870

Dear Mr Krebs

Please find attached a General Consent for a transfer of a Land Holding Act lease. The transferors are seeking Trustee execution by Mayor Mosby or the Chief Executive Officer TSIRC, to progress the transfer.

Details of the transfer are:

- Lot/plan – Lot 25 on SP273190
- Address – 25 Army Street, Boigu Island
- Transferor – Enna Matthew and Robbie Matthew
- Transferee – Jack Robinson Matthew
- Reason – wishes to transfer the lease to a family member for love and affection

I have enclosed a stamped, self-addressed envelope for return of the document as well as a copy of the executed Form 1 Transfer document for reference, if required.

Should you have any questions concerning any of the above, please do not hesitate to contact me on 4252 5117 or via e-mail [john.coyle@dsdsatsip.qld.gov.au](mailto:john.coyle@dsdsatsip.qld.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read "John Coyle".

John Coyle  
**Manager, Home Ownership Team  
Remote Indigenous Land and Infrastructure Program Office  
Infrastructure and Coordination**

Cairns Corporate Tower  
Level 9, 15 Lake Street  
Cairns QLD 4870

Telephone: +61 7 4252 5129  
[www.datsip.qld.gov.au](http://www.datsip.qld.gov.au)

ABN: 25 791 185 155

**1. Lot on Plan Description**

**Title Reference**

LOT 25 ON SP 273190

51146282

**2. Instrument/document being consented to**

Instrument/document type TRUSTEE LEASE No 721011128

Dated 13/09/2021

Names of parties ENNA MATTHEW AND ROBBIE MATTHEW AS TRANSFERORS AND JACK ROBINSON  
MATTHEW AS TRANSFEREE

**3. Instrument/document under which consent required**

Instrument/document type TRUSTEE LEASE

Dealing No. No 721011128

Name of consenting party TORRES STRAIT ISLAND REGIONAL COUNCIL DEED OF GRANT IN TRUST  
THE GRANTEE TO HOLD THE SAID LAND IN TRUST FOR THE BENEFIT OF  
ISLANDER INHABITANTS AND FOR NO OTHER PURPOSE WHATSOEVER

**4. Execution by consenting party**

The party identified in item 3 consents to the registration of the instrument/document identified in item 2.

**Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994**

..... signature

..... full name

..... qualification

**Witnessing Officer**

/ /  
**Execution Date**

.....  
**Mayor/Chief Executive Officer**  
**Torres Strait Island Regional Council**

**Consenting Party's Signature**

(Witnessing officer must be in accordance with Schedule 1  
of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

Mortgagee's Australian Credit Licence (if any)

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1. Interest being transferred (if shares show as a fraction)

TRUSTEE LEASE NO 721011128

Lodger (Name, address, E-mail & phone number)

Lodger

Attn: John Coyle

Code

DSDSATSIP

175

PO Box 5461

Cairns QLD 4870

FNQCSP@dssatsip.qld.gov.au

(07) 4252 5124

Note: A Form 24 - Property Information (Transfer) must be attached to this Form where interest being transferred is "fee simple" (Land Title Act 1994), "State leasehold" (Land Act 1994) or "Water Allocation" (Water Act 2000)

2. Lot on Plan Description

LOT 25 ON SP273190

Title Reference

51146282

3. Transferors

ROBBIE MATTHEW

ENNA MATTHEW

4. Consideration

FOR NATURAL LOVE AND AFFECTION

5. Transferee

Given names

Surname/Company name and number

(include tenancy if more than one)

JACK ROBINSON

MATTHEW

6. Transfer/Execution

The Transferors transfers to the Transferee the estate and interest described in item 1 for the consideration and in the case of monetary consideration acknowledges receipt thereof. The Transferor declares that the information contained in items 3 to 6 on the attached Form 24 is true and correct. The Transferee states the information contained in items 1, 2, 4 to 6(h) on the attached Form 24 is true and correct. Where a solicitor signs on behalf of the Transferee the information in items 1, 2, 4 to 6(h) on the Form 24 is based on information supplied by the Transferee.

NOTE: Witnessing officer must be aware of their obligations under section 162 of the Land Title Act 1994.

Separate executions are required for each transferor and transferee. Signatories are to provide to the witness, evidence that they are the person entitled to sign the instrument (including proof of identity).

John J. Conroy

Witnessing Officer (signature, full name & qualification)

30/08/2021

Execution Date

[Signature]

Transferor's Signature

John J. Conroy

Witnessing Officer (signature, full name & qualification)

30/08/2021

Execution Date

R. Matthews

Transferor's Signature

YAKOPETA AKUBA BOWLE



Witnessing Officer (signature, full name & qualification)

13/09/2021

Execution Date

[Signature]

\*Transferee's or Solicitor's Signature

\*Note: A Solicitor is required to print full name if signing on behalf of the Transferee and no witness is required in this instance

COPY

## TRUSTEE REPORT

<b>ORDINARY MEETING:</b>	January 2022
<b>DATE:</b>	18 January 2022
<b>ITEM:</b>	Agenda Item for Resolution by Trustee
<b>SUBJECT:</b>	Expenditure of Saibai DOGIT funds
<b>AUTHOR:</b>	Julia Maurus, Senior Legal Officer
<b>PRESENTER:</b>	Peter Krebs, Manager Legal Services

---

### Recommendation:

The Trustee resolves to:

- endorse the subsequent expenditure of Saibai Deed Of Grant In Trust ("DOGIT") funds for the purpose of repairing the Holy Trinity Church Lot 82 on SP267944, Saibai Island (title reference 51134336);
- note that the utilisation of the funds is for the maintenance or enhancement of the Saibai DOGIT;
- apply to the Department of Environment and Science for a Heritage Exemption Certificate to allow Council to undertake the repair works;
- recommend that Council approve the subsequent expenditure of Saibai DOGIT funds in its annual budget; and
- delegate to the Chief Executive Officer the power to do all things necessary to apply for a Heritage Exemption Certificate, authorise and pay for the repair works.

### Executive Summary:

The report proposes that the Trustee endorse the subsequent expenditure of Saibai DOGIT funds for the purpose of repairing the Holy Trinity Church Lot 82 on SP267944 (Main Road St, Saibai Island).

### Background:

The roof of the Holy Trinity Church on Saibai Island (surveyed as Lot 82 on SP267944) is in poor condition. Councillor Tabuai, on behalf of the Elders Group, has requested that DOGIT funds be used to assist the repairs. The Holy Trinity Church is a State heritage place under s 35 of the *Queensland Heritage Act 1992* (Qld).

Operations Engineer, Tony Wynen, estimates the costs of repairs to be approximately \$110,000 for 294m<sup>2</sup> of roof replacement. These costs involve:

- \$88,000 which includes labour, freight, Aluminium roof sheets, insulation, Stainless Steel screws, barge & ridge capping & Aluminium guttering;
- \$7,000 to remove all the materials off the island back to Cairns, consistent with Council's local law waste management requirements; and
- \$15,000 contingency in case securing battens or fascia plate is rotten and requires replacement.

Aluminium roofing and stainless steel screws are being used instead of Colourbond to further mitigate corrosion issues.



**Comment:**

1. The Holy Trinity Church was registered as a State heritage place on 8 November 2010 under s 36 of the *Queensland Heritage Act 1992 (Qld)*.
2. Council's planning consultant has advised that, in order to undertake the proposed repair works, Council will need to apply to the Department of Environment and Science for an exemption certificate (no fee applies). A Heritage Exemption Certificate gives approval for low-impact development, conservation work and simple projects that only affect the heritage values of a place in a minor way. Council's application will confirm that the roof will be repaired for structural reasons to ensure that the cultural heritage significance of the place is appropriately recognised and managed. Without an exemption certificate, Council would require a Development Approval for the works.
3. Council's *Reserve Policy* states that all subsequent expenditure can only be made by Council resolution and by inclusion in Council's annual budget. Transfers from reserves must be made for the stated purpose of the reserve.
4. Council's *General Reserve Procedure* states that DOGIT reserve funds are to be used for the maintenance and enhancement of DOGIT land. This must be supported by a resolution of Council in its capacity as Trustee.
5. "Maintenance" is defined under the *General Reserve Procedure* as "expenditure to keep the DOGIT in proper condition, care or upkeep including taking steps to avoid something breaking down and bringing something back to working order". "Enhancement" is defined as "expenditure to increase or improve the quality, value or extent of the DOGIT".
6. The proposed expenditure is considered consistent with the purpose of the DOGIT.
7. Council has received two competing lease Expressions of Interest for the Holy Trinity Church. As Council is currently awaiting the outcome of the *TSIRC v Ahwang* Supreme Court appeal, it is advisable to wait until the appeal decision is handed down before the Trustee decides which applicant will be granted a lease over the Holy Trinity Church at Lot 82 on SP267944, Saibai. Cr Tabuai has advised that the Saibai community would still like to refurb the church whilst waiting on the court decision, before deciding the lease applications, because the church is fast deteriorating.

**Considerations**Risk Management

Compliance (planning/development/heritage law): Council's planning consultant has advised that, in order to undertake the proposed repair works, Council will need to apply to the Department of Environment and Science for an exemption certificate (from the requirement for a Development Application).

Compliance (trustee lease decision-making): Council has received two competing lease Expressions of Interest for the Holy Trinity Church. As Council is currently awaiting the outcome of the *TSIRC v Ahwang* Supreme Court appeal, it is advisable to wait until the appeal decision is handed down before the Trustee decides which applicant will be granted a lease over the Holy Trinity Church at Lot 82 on SP267944, Saibai, in case the Court of Appeal decision requires Council to change its trustee lease decision-making process. Cr Tabuai has advised that the community would still like to refurb the church whilst waiting on the court decision, before deciding the lease applications, because the church is fast deteriorating.

Council Finance

Saibai DOGIT funds: adequate funds are available. As at 30 June 2020, the Saibai DOGIT reserve balance was \$133,868.60 and no funds have been spent from this reserve to date. The proposed expenditure is considered consistent with the purpose of the DOGIT.

**Consultation:**

- Supported by Cr Tabuai
- Operations Engineer Tony Wynn
- Manager Legal Services
- Head of Financial Services Nicola Daniels



- Planning Consultant Ian Doust (RPS)

### **Links to Strategic Plans:**

TSIRC Corporate Plan 2020–2025

Delivery Pillar: Sustainability

Outcome 8: We manage council affairs responsibly for the benefit of our communities

- 8.1: Effective management of DOGIT Land as a Trustee

Operational Plan:

No. 46: Assist in the effective management of DOGIT Land as a Trustee.

### **Statutory Requirements:**

*Local Government Act 2009 (Qld)*

*Torres Strait Islander Land Act 1991 (Qld)*

*Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984 (Qld)*

*Queensland Heritage Act 1992 (Qld)*

### **Conclusion:**

It is recommended that the Trustee:

- (a) endorse the subsequent expenditure of Saibai DOGIT funds for the purpose of repairing the Holy Trinity Church Lot 82 on SP267944, Saibai Island;
- (b) apply to the Department of Environment and Science for a Heritage Exemption Certificate to allow Council to undertake the repair works;
- (c) recommend that Council approve the subsequent expenditure of Saibai DOGIT funds in its annual budget; and
- (d) delegate to the Chief Executive Officer the power to do all things necessary to apply for a Heritage Exemption Certificate, authorise and pay for the repair works.



#### **Recommended:**

Peter Krebs

Manager Legal Services



#### **Endorsed:**

Megan Barrett

Interim Executive Director, Corporate Services



#### **Endorsed:**

Dawson Sailor

Acting Chief Executive Officer

Locality plan

