



# Trustee Meeting

## Agenda

<b>Date:</b>	30 August 2023
<b>Time:</b>	9.00am
<b>Venue:</b>	VMR 8 – 0299 165 402 Guest PIN: 6905#

# Agenda

TSIRC **Trustee** Meeting – 30 August 2023

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Time	Agenda	
9.00am	1.	Welcome (Chair)
9.05am	2.	Opening Prayer
9.10am	3.	Attendance
9.15am	4.	Apologies
9.20am	5.	Conflict of Interest (COI) - Declarable/Prescribed
9.25am	6.	Previous Minutes (18 July 2023)
9.35am	7.	Action Items from Previous Meetings
9.50am	8.	CORPORATE SERVICES: St Pauls Lodge
10.00am	9.	CORPORATE SERVICES: Department of Education Lease - Poruma
10.15am	10.	CORPORATE SERVICES: CEQ Leases (late paper)
10.25am	11.	BUSINESS ARISING
10.30am	12.	Next Meeting: <b>19 September 2023 (Saibai)</b>
	13.	Closing Remarks & Prayer



## **DRAFT Minutes**

### **TRUSTEE COUNCIL MEETING**

18 July 2023

ST PAULS COMMUNITY  
MOA ISLAND

**COUNCIL TRUSTEE MEETING**

**Tuesday 18 July 2023**

**PRESENT:**

Cr Phillemon Mosby, Mayor  
Cr Torenzo Elisala, Division 2 – Dauan  
Cr Conwell Tabuai, Division 3 – Saibai  
Cr Keith Fell, Division 4 – Mabuiag  
Cr Lama Trinkoon, Division 6 – Arkai  
Cr John Levi, Division 7 – Wug (St. Pauls), Moa Island  
Cr Seriako Dorante, Division 8 – Kirirri (Hammond)  
Cr Kabay Tamu, Division 10 – Warraber  
Cr Francis Pearson, Division 11 – Poruma  
Cr Rocky Stephen, Division 13 – Ugar  
Cr Jimmy Gela, Division 14 – Erub  
Division 15 – Mer was not represented

**PRESENT:**

Mr James William, Chief Executive Officer  
Ms Hollie Faithfull, Executive Director Financial Services  
Mr David Baldwin, Executive Director Engineering Services (Teams)  
Mr Wayne Green, Executive Director Building Services  
Mr Dawson Sailor, Head of Community Services  
Mr David Kempton, Acting Executive Director Corporate Services (Teams)  
Ms Julia Mauro, Senior Legal Officer (Teams)  
Ms Julie Marino, Senior Executive Assistant to the Chief Executive Officer  
Ms Trudy Lui, Executive Assistant to the Mayor  
Mr Darryl Brooks, Secretariat Officer

**APOLOGIES:**

Cr Dimas Toby, Division 1 – Boigu  
Cr Getano Lui (Jnr) AM, Division 9 - Iama  
Cr Hilda Mosby, Division 12 – Masig

## **COUNCIL TRUSTEE MEETING**

**Tuesday 18 July 2023**

### **1. 9:05am    Welcome**

Our Mayor Mosby formally opened Council's seventh Trustee Meeting for 2023 which took place on St Paul's Community on Mua Island in July 2023.

Mayor Mosby invited Cr John Levi (as the Division 7 Councillor and host) to say a few words. Cr John Levi, on behalf of himself and Cr Lama Trinkoon from Division 6) welcomed the Council and Staff.

Mayor Mosby recognised the commitment and dedication of Councillors, the Chief Executive Officer, Executive and staff.

Mua Island is a part of the Torres Strait's western island group and is the second largest island in the Torres Strait and it is a pleasure and an honour to be here. Cr John Levi and Cr Lama Trinkoon have welcomed everyone with open arms and we acknowledge the hard work of Councilors and staff for the effort made to ensure this visit is enjoyable for all involved.

The Island is characterised by mounds of rock and is sparsely vegetated throughout. It is home to two communities: St Pauls and Kubin. St Pauls is located on the north-eastern side of the island at the base of Mua Peak, the highest peak in the Torres Strait. Kubin is located on the southern end of the island. The communities are linked by a bitumen and gravel road.

Mayor Mosby talked of our collective leadership and how we must pray for one another.

Our Mayor Mosby also acknowledged the traditional custodians of Mua, the Mualgal people, who are the Traditional Custodians of the island where this meeting was being held; as well as:

- Cultural acknowledgements for the Torres Strait region across the length and breadth of Zenadth Kes;
- Our Heavenly Father for his awesome wisdom, knowledge and understanding;
- Those who work in health; educators of our children; those who work in employment services;
- Those less fortunate than ourselves; and
- All Elders, past, present and emerging.

Our Mayor Mosby welcomed Ms Angela Toreenbeck from the community who is a public observer at Council's deliberations today.

### **2. Opening Prayer**

Cr Keith Fell asked everyone to be upstanding and delivered the opening prayer, followed by one minute silence for Sorry Business.

### **3. Attendance**

Mayor Mosby completed a roll call of Councillors to establish a Quorum. A Quorum was achieved.

### **4. Apologies**

Mayor Mosby reminded Council to advise Secretariat in advance by text or email if they are an apology.

**COUNCIL TRUSTEE MEETING**  
**Tuesday 18 July 2023**

The following apologies were tabled.

Cr Dimas Toby, Division 1 – Boigu (TSRA Portfolio commitments)  
Cr Getano Lui Jnr, Division 9 – Iama (medical reasons)  
Cr Hilda Mosby, Division 12 – Masig (medical reasons)

**RESOLUTION**

*Moved: Cr Torenzo Elisala; Second: Cr Keith Fell*

**That Council accepts the apology for Cr Dimas Toby, for the July 2023 Trustee Meeting.**

**MOTION CARRIED UNANIMOUS**

**RESOLUTION**

*Moved: Cr Torenzo Elisala; Second: Cr John Levi*

**That Council accepts the apology for Cr Getano Lui (Jnr), for the June 2023 Trustee Meeting.**

**MOTION CARRIED UNANIMOUS**

**RESOLUTION**

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

**That Council accepts the apology for Cr Hilda Mosby, for the June 2023 Trustee Meeting.**

**MOTION CARRIED UNANIMOUS**

Council noted and accepted the attendance of Cr Conwell Tabuai by Teams dial-in.  
Council noted that Cr Laurie Nona was not in attendance for the July 2023 Trustee Meeting.  
Mayor Mosby commented that Cr Laurie Nona has non attending was deemed “special circumstances which is a matter” and will be raised as an agenda item in the July Ordinary Meeting today.

**5. Conflict of Interest (COI) - Declarable/Prescribed**

Mayor Mosby requested that members make any relevant conflict of interest declarations and advise if any relevant legal proceedings were current pertaining to Council business to be considered at the meeting. No such declarations were made.

**6. Confirmation of Previous Trustee Minutes of 27 June 2023**

**RESOLUTION**

*Moved: Cr Jimmy Gela; Second: Cr Torenzo Elisala*

**That Council resolves to accept the minutes of the Trustee Meeting held on 27 June 2023, to be a true and accurate account of that meeting.**

**MOTION CARRIED UNANIMOUSLY**

**7. Action Items from Previous Meetings**

Acting Executive Director Corporate Services noted that there were no action items arising from the June 2023 Trustee Meeting, however, he would provide the Council with a verbal update on the remaining outstanding action items.

**Agenda Item 12 (Business Arising) – Status of Ugar and Saibai re DOGIT**

- Cr Rocky Stephen asks when will we have the lessons learned meeting with the effected communities, along with advice to those communities from Council on a recommended way forward.
- Acting Executive Director Corporate Services commented that the current issue is that the transfer process is driven by the Department according to Government policy and consultation does not necessarily include all of the options available both to Council or to the community. The letter to the Premier therefore seeks to delay matters until Council's policies around freehold and trustee policy. Hopefully, these policies can be presented to the November 2023 Council Workshop.
- Cr Torenzo Elisala requested that the correspondence also highlight the complexities that exist between local PBC, GBK and TSIRC interests and issues around these complexities and any proposed solutions need to be diplomatically communicated to the Premier.
- Chief Executive Officer – we have to consider our options if we engage with the PBC and GBK – this is the challenge. Dealing directly with one interest group without going through another, immediately affords the potential for matters to become political, then our strategy must change – this is a challenge.
- Cr Rocky Stephen – commented that the Acting Executive Director Corporate Services gave us some excellent information at the Workshop including a new perspective on how to strategically address the process and that is why I am really supporting the letter to the Premier go out.
- Acting Executive Director Corporate Services advised that all parties concerned need to understand what the bigger issues are. Basically the recommended approach is that the Government has to stop the current process whilst we have conversations with our Communities and ascertain their preferences for the best way forward for them. The Government holds the Native Title – so this is a very complex conversation.
- Chief Executive Officer supported this approach and recommended that the Council be guided by the approach proposed by the Acting Executive Director Corporate Services.
- Acting Executive Director Corporate Services will send an updated version of the letter to the Premier to Mayor Mosby.

**8. Corporate Services – Freehold Policy**

**RESOLUTION**

*Moved: Cr Rocky Stephen; Second: Cr John Levi*

**Council resolves to refer the pathway to residential freehold to SARG committee to prepare a policy addressing:**

- 1. The statutory and practical implications of residential freehold land on Torres Strait Island DOGIT.**
- 2. The comparative advantages and disadvantages of residential freehold as against 99-year home ownership leases.**
- 3. The Native Title Act considerations.**
- 4. What impact the transfer of the DOGIT to the PBC or other Land Trust would have on the residential freehold option.**
- 5. The interactions with Council Trustee lease policy, and**
- 6. The role of security of tenure in self-governance.**

**MOTION CARRIED UNANIMOUSLY**

Senior Legal Officer, Ms Julia Mauro advised Council that back in 2015 and 2016, when the ordinary freehold option was made available to Indigenous communities, TSIRC participated in a pilot project with the Department of Natural Resources Mines and Energy. Three communities were involved in the pilot project: Poruma, St Pauls and Hammond Island. Community consultations were undertaken. St Pauls and Poruma did not show an interest in progressing with the freehold option. Former Cr Mario Sabatino (Hammond Island) and former Mayor Fred Gela instructed me to seek feedback from the Hammond Island community on whether it would be appropriate to introduce the ordinary freehold option. I prepared a proposal to convert to freehold only the land that is under a Katter lease granted under the 2013 Land Holding Act (where native title is already extinguished as a result of PERBA Pre-Existing Rights-Based Act). Council did not receive many responses on the proposal, and when it was presented to Council in May or June 2019, Mayor Mario Sabatino and Cr Fred Gela both declared conflicts of interest and left the room. The remaining Councillors did not consider they had enough information to make a decision on what is appropriate for Hammond Island, and Council directed that further community consultation would be required. The proposal has not progressed in this term of Council (2020 to 2024), until it was raised again at the May 2023 Council Workshop, whereupon the Council considered it would be worth reviving this proposal in the context of Mr David Kempton's broader freehold policy proposal. Mr David Kempton is working on drawing together the freehold policy and the trustee policy review to have a fulsome strategic policy with Council by November 2023.

Senior Legal Officer, Ms Julia Mauro further advised Council that there are 27 outstanding Katter lease entitlements. They have practical obstacles. An information report was provided to Council at the May Trustee Meeting (Closed Business). The applications for 99-year leases are awaiting the Trustee Policy review. Mr David Kempton is preparing the Trustee Policy review report for August 2025, Trustee Meeting.

**9. Business Arising**

No business discussed.



**10. Next Meeting**

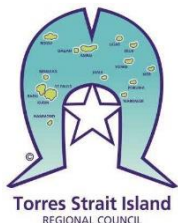
Council noted that its next meeting will be determined under Agenda Item 34 at the July 2023 Ordinary Council Meeting.

**11. Closing Remarks & Prayer**

Our Mayor Mosby thanked Councillors, Chief Executive Officer, Executive and Administration Staff for their contributions to the Trustee Meeting and closed the meeting at 9.40am for a short break prior to commencement of the Ordinary Meeting agenda.

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**Mr James William**  
**Chief Executive Officer**  
**Torres Strait Island Regional Council**  
**Date:**

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



# TRUSTEE MEETING

## ACTION ITEMS

### Actions Arising from July 2023 Meeting / **NIL**

OUTSTANDING ACTIONS FROM PREVIOUS MEETINGS (updated at July 2023 Trustee Meeting)			
Agenda Item	Action	Action Area	Current Status
May 2023 AI 7B	<b>Power of Veto</b>  Acting Executive Director Corporate Services to prepare a briefing paper on Power of Veto matters for consideration at an upcoming meeting of the Culture, Arts, Land and Heritage Committee.	Acting Executive Director Corporate Services	To be completed. Power of Veto exists in two forms: <ul style="list-style-type: none"> <li>• by Local Government as Trustee over DOGIT; and</li> <li>• by Native Title holders</li> </ul> Very complicated processes and a paper will need to be presented and considered at a future Trustee Meeting, in view of the inability of the Culture, Arts, Land and Heritage Committee to now achieve a quorum to meet.
May 2023 AI 8	<b>St Paul's Lots 46 and 152 – Consent to development application</b>  Chief Executive Officer to write to CEQ to clarify that the granting of this consent to development application should not be regarded by CEQ as ongoing acceptance by the Council of the terms and conditions under the existing current leasing arrangements.	Senior Legal Officer, Corporate Services	In progress, CEO to clear.

May 2023 AI 12	<b>Business Arising (Status of Ugar and Saibai re DOGIT)</b>  Further information to be provided to Minister Scott Stewart by Chief Executive Officer on TSIRC's stand on DOGIT and lessons learned.	Chief Executive Officer	<p>In progress. The Department remains steadfast to maintaining the status quo. Letter to Premier to urge the Department to stop the urgency and consider the unintended consequences impacting on the community.</p> <p>Cr Rocky Stephen advised that this matter has been ongoing for far too long and requested that priority be given to putting concerns to the Minister in writing as soon as possible.</p>
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# TORRES STRAIT ISLAND REGIONAL COUNCIL

## TRUSTEE REPORT

<b>ORDINARY MEETING:</b>	August 2023
<b>DATE:</b>	30 August 2023
<b>ITEM:</b>	Agenda Item for Resolution by Trustee
<b>SUBJECT:</b>	St Pauls Lodge
<b>AUTHOR:</b>	Julia Mauro, Senior Legal Officer
<b>PRESENTER:</b>	Martin Leech, Acting Executive Director Corporate Services

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### **Recommendation:**

The Trustee resolves to:

- Consent to Susannah Sailor (sole trader) to sub-licence the St Pauls Lodge "Licence to Operate" to allow the St Pauls Lodge to be operated by Ms Sailor's new company, St Pauls Lodge Pty Ltd (ACN 651 283 706), from 1 July 2021; and
  - Grant Ms Sailor an extension of time to 13 August 2024 to satisfy the native title special condition and the requirement to register a lease over the premises (Lot 176 on SP256048).
- and
- delegate to the Mayor and the Chief Executive Officer each the power to execute documentation to effect the extension of time for the native title special condition.

### **Executive Summary:**

Susannah Sailor, who runs the St Pauls Lodge, wants to run her business from 1 July 2021 through her newly registered company, St Pauls Lodge Pty Ltd, rather than as a sole trader. She requires the Trustee's consent, as well as an extension of time to register a lease over the premises, which is a condition of the Licence to Operate that Council granted when it transferred the St Pauls Lodge business to her in 2017.



### **Background:**

Council made a resolution in September 2016 to divest the St Pauls Lodge to Susannah Sailor:

#### **9.1 (b)**

#### **Corporate: Enterprise Divestment**

#### **RESOLUTION**

*Moved Cr Pearson, Seconded Cr Nai*

*That in accordance with sections 227, 228 and 236 of the Local Government Regulation 2012 (Qld), Council enter into negotiations with the following entities (or related parties) with a view to those entities acquiring the following businesses and associated valuable non-current assets and staff on terms acceptable to the Chief Executive Officer of Council, and recommend to the Trustee, the grant of trustee lease to each entity over relevant land as presented:*

<b>Enterprise</b>	<b>Entity</b>
St Paul's Lodge	Susannah Sailor

**MOTION CARRIED**  
**WITH CR LEVI RECORDED AS ABSTAINING FROM VOTING**  
**DUE TO MATERIAL PERSONAL INTEREST DECLARATION**

Council transferred the St Pauls Lodge business to Ms Sailor under a Business Sale Contract dated 14 August 2017. That contract gives Ms Sailor a "Licence to Operate" the Lodge and requires Ms Sailor to get a lease in place long-term. The contract gave Ms Sailor 12 months to complete native title validation to get a lease in place.

Ms Sailor wants to run her business from 1 July 2021 through her newly registered company, St Pauls Lodge Pty Ltd (ACN 651 283 706), rather than as a sole trader. Ms Sailor wishes to do this to reduce the tax component of the business, and also to focus on capacity building in terms of economic future development and growth of the business.

The trustee has not yet made a trustee resolution to support the grant of a lease. Manager Legal Services has requested that Ms Sailor submit a lease expression of interest confirming the proposed term of the lease.

Ms Sailor has requested Council's consent:

1. For her as a sole trader to sub-licence the St Pauls Lodge "Licence to Operate" to allow the Lodge to be operated by her new company, St Pauls Lodge Pty Ltd (ACN 651 283 706), from 1 July 2021; and
2. For a further extension of time to 13 August 2024 to allow Ms Sailor to satisfy the native title special condition in order to get a lease registered over the St Pauls Lodge premises. The current status is that it has stalled with the PBC, Ms Sailor has been waiting for some time for a response from them.

This request requires Councillor support. Cr Levi has advised that Ms Sailor is his sister, so the request has been referred onto Council for a decision.

### **Comment:**

It is recommended that the requests be supported, given that:

1. native title future act validation tends to take years to finalise;
2. Senior Legal Officer is not aware of any objections to Ms Sailor's ongoing operation of the St Pauls Lodge;
3. the Council resolution in September 2016 accepting Ms Sailor's expression of interest to take on the St Pauls Lodge business was in favour of "Susannah Sailor (or related party)", so a sub-licence to Susannah's company is consistent with Council's original resolution; and
4. there is a benefit for Ms Sailor's business operating as a company.

### **Considerations**

#### Risk Management

Compliance and sustainability (enterprise divestment)

#### Council Finance

Not applicable

Divested Council assets: 1000444 (Divested Café); 1000556 (Divested Lodge)

As these assets are no longer on Council's asset register, it is for the Trustee to manage Ms Sailor's occupation and use of these improvements on the DOGIT land.

### **Consultation:**

This request requires Councillor support. Cr Levi has advised that Ms Sailor is his sister, so the request has been referred onto Council for a decision.

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

Corporate Plan 2020 to 2025

10.1 Facilitate the establishment of an Enterprise Development Strategy, identifying key sector opportunities.

10.2 Divestment of non-core council owned business.

### **Statutory Requirements:**

*Torres Strait Islander Land Act 1991 (Qld)*

*Native Title Act 1993 (Cth)*

### **Conclusion:**

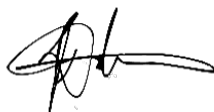
It is recommended that the Trustee consent to Ms Sailor's requests.



#### **Recommended:**

Martin Leech

Acting Executive Director Corporate Services



#### **Endorsed:**

James William

Chief Executive Officer



# TORRES STRAIT ISLAND REGIONAL COUNCIL

## TRUSTEE AGENDA REPORT

**ORDINARY MEETING:** August

**DATE:** 30 August 2023

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

**SUBJECT:** Department of Education lease Poruma

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

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### Recommendation:

That the Trustee resolve, pursuant to the *Torres Strait Islander Land Act 1991 (Qld)*, to grant the State of Queensland represented by the Department of Education an extension to 18 September 2024 (a further 12-month extension) of the date for the satisfaction of the native title requirements in relation to the proposed lease of Poruma Lot 50 on SP270862, 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.

### Executive Summary:

The Department of Education has sought an extension of time to 18 September 2024 to allow time for the Department to address the native title requirements for the proposed lease at Lot 50 on SP270862 (staff residence) through the use of the Poruma Infrastructure and Housing ILUA (which is still at execution stage). This request has Councillor support. Due to the timing, the Deed is currently under interim CEO extension to 18 September 2023 to allow the Trustee time to consider the matter without the agreement lapsing.

### Background:

Under the *Torres Strait Islander Land Act 1991 (Qld)* and the *Aboriginal Land Act 1991 (Qld)*, Council (as Trustee) has the power to grant leases of up to 99 years. In May 2018, Council as Trustee for the various Deeds of Grant in Trust (including Poruma) set a rent methodology of \$10.80 per square metre per annum (starting rent subject to CPI) for commercial/government leases, with a minimum charge of \$6,000 per annum.

Council previously made the following resolutions relating to this lease proposal:

August 2013:

**Item 9**      **LOT 8 RESERVIE TRANSFER PORUMA**

**RESOLUTION**

Moved Cr. Mosby, Seconded Cr. Nai that Council resolve to accept from the State of Queensland (as represented by the Department of Education, Training and Employment) the transfer to Council as Reserve land under the Land Act 1994 (Qld), described as Lot 8 on CP TS167, County of Torres, Parish of Giaka, Title Reference 49016775, to act as future Trustee for community purpose.

**Motion Carried**



October 2013:

**Item 22.3      PORUMA LEASE TO STATE (DETE)**

**RESOLUTION**

*Moved* Cr. Mosby, *Seconded* Cr. J. Gela that pursuant to the Torres Strait Islander Land Act 1991 (Qld), the Trustee grant a standard lease to the State of Queensland (As Represented by the Department of Education, Training and Employment) over land identified as Lease A on SP248114 in Lots 6 on CP TS166, County of Torres, Parish of Giaka, Title Reference 21296128, for operation use and maintenance of a staff residence, subject to Native Title consent under the Native Title Act 1993 (Cth) and Development Approval under the Sustainable Planning Act 2009 (Qld).

**Motion Carried**

October 2018:

**RESOLUTION:**

*Moved:* Cr Kaigey; *Second:* Cr Akiba

1. That the Trustee, pursuant to the Torres Strait Islander Land Act 1991 (Qld), grant the State of Queensland represented by the Department of Education an extension to 18 September 2020 of the date for the satisfaction of the native title requirements in relation to the proposed lease of Lot 50 on SP270862 (Poruma Island), and delegate to the Chief Executive Officer the power to conclude the terms of this lease with the Department of Education.

**MOTION CARRIED**

October 2020:

6.      10:43am – 10:53am                      LEGAL SERVICES – DET Lease – Poruma

Cr Pearson and Mayor Mosby previously made a declarable conflict of interest. Mr Peter Krebs, Senior Legal Counsel spoke to this report.

**RESOLUTION:**

*Moved:* Cr Tabuai; *Second:* Cr Elisala

That the Trustee, pursuant to the Torres Strait Islander Land Act 1991 (Qld), grant the State of Queensland represented by the Department of Education an extension to 18 September 2022 ( a further two-year extension) of the date for the satisfaction of the native title requirements in relation to the proposed lease of Lot 50 on SP270862 (Poruma Island), and delegate to the Chief Executive Officer the power to conclude the terms of this lease with the Department of Education.

**MOTION CARRIED**

October 2022

6.      9:44am – 9:51am                      LEGAL - TR – Department of Education lease Poruma

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

**RESOLUTION:**

*Moved:* Cr Jimmy Gela; *Second:* Cr Torenzo Elisala

That the Trustee resolve, pursuant to the Torres Strait Islander Land Act 1991 (Qld), to grant the State of Queensland represented by the Department of Education an extension to 18 September 2023 (a further 12-month extension) of the date for the satisfaction of the native title requirements in relation to the proposed lease of Poruma Lot 50 on SP270862, 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 UNANIMOUS**



The original Conditional Agreement to Lease dated 19 September 2014 provides for a lease term of 99 years at the nominal rent of \$6,000 per annum (starting rent subject to CPI). Council has previously consented to four Deeds of Variation concerning this Conditional Agreement to Lease.

Department of Education has requested a further 12-month extension to get native title validation to secure this lease at Poruma.

The proposed lease area (Lot 50 on SP270862, previously described as “Lease Area A on SP248114 in Lot 6 on Crown Plan TS166”) is currently in use by the Department as employee accommodation.

In 2018, Council procured the Department’s approval to pay Council \$6,000 per annum for its use of the land for the period from 19 September 2012 to the date the lease eventually starts (or the date the Department vacates if a lease is not signed).

The Third Deed of Variation also confirms the Department’s agreement to increase the starting rent of the lease from \$6,000 to \$9,514 per annum (based on the lease area of 880 square metres) to match Council’s current trustee rent methodology of \$10.80 per square metre.

### **Comment:**

This has been a long-standing matter whereby the Deed of Agreement for Lease between the Council and the Department of Education is still subject to the satisfaction of the native title condition. The native title condition has been extended several times, including most recently, pursuant to the fourth Deed of Variation until 17 November 2022.

Crown Law and DSDSATSIP (the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships) have conferred regarding the status of registration of the Poruma Regional ILUA. There have been some further delays with execution of the ILUA, and while execution is likely to occur in the coming months, it will not be possible for the Department to satisfy the native title condition by 17 November 2022.

Accordingly, the Department of Education has requested a further extension of the native title condition under the Poruma Deed of Agreement for Lease for 12 months to 18 September 2024. This will allow time for the ILUA execution and registration process, along with the consultation and validation process for the proposed lease from the Trustee to the Department of Education.

It is recommended that the Trustee agree to extend the deadline to satisfy the native title condition from 18 September 2023 to 18 September 2024 (12-month extension).

### **Considerations**

#### Risk Management

Compliance (land titles)

Compliance (native title)

#### Council Finance

The Trustee is receiving commercial land occupation fees for this site.

In 2018, Council procured the Department’s approval to pay Council \$6,000 per annum for its use of the land for the period from 19 September 2012 to the date the lease eventually starts (or the date the Department vacates if a lease is not signed).

The Third Deed of Variation also confirmed the Department’s agreement to increase the starting rent of the lease from \$6,000 to \$9,514 per annum (based on the lease area of 880 square metres) to match Council’s current trustee rent methodology of \$10.80 per square metre.

**Consultation:**

- Crown Law
- CEO
- Cr Pearson (Poruma) has confirmed his support for this extension to 18 September 2024.

**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

Trustee lease revenue is vital to ensuring the sustainability of the Trustee's functions and improvement of the DOGIT.

**Statutory Requirements:**

*Torres Strait Islander Land Act 1991 (Qld)*

*Native Title Act 1993 (Cth)*

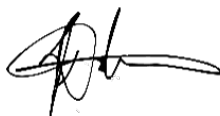
*Land Title Act 1994 (Qld)*

**Conclusion:**

*It is recommended that the Trustee grant the Department of Education an extension to 18 September 2024 of the date for the satisfaction of the native title requirements in relation to the proposed lease of Poruma Lot 50 on SP270862.*

**Recommended & Endorsed:**

Martin Leech  
Acting Executive Director,  
Corporate Services

**Endorsed:**

James William  
Chief Executive Officer