



AGENDA

TORRES STRAIT ISLAND REGIONAL COUNCIL

APRIL 2021

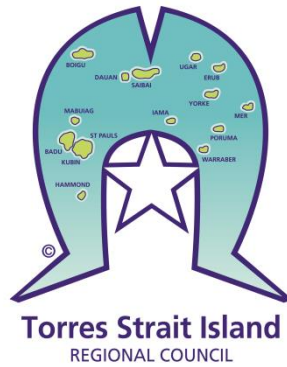
TRUSTEE MEETING

Thursday 22nd April 2021

Video Conference

TRUSTEE MEETING
Wednesday 21st April 2021
Agenda Items

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|----|------------------------|--|
| 1. | <u>1:30pm – 1:35pm</u> | <u>Opening Prayer and Welcome</u> |
| 2. | <u>1:35pm – 1:40pm</u> | <u>Apologies</u> |
| 3. | <u>1:40pm – 1:50pm</u> | <u>Declaration of Conflict of Interest (COI) Declarable and Prescribed</u> |
| 4. | <u>1:50pm – 2:00pm</u> | <u>Confirmation of Trustee Meeting held on 17th March 2021</u> |
| 5. | <u>2:00pm – 2:15pm</u> | <u>Outstanding Action Items</u> |
| 6. | <u>2:15pm – 2:45pm</u> | <u>Standing Agenda Item: (verbal update)</u> <ul style="list-style-type: none">• TRUSTEE – Undocumented commercial land occupation project• DOGIT Lease Verbal Update |
| 7. | <u>2:45pm – 3:15pm</u> | <u>LEGAL – Ugar Land Transfer and Saibai Land Transfer</u> |
| 8. | <u>3:15pm – 3:20pm</u> | <u>Next meeting – 17th and 18th May 2021</u> |
| 9. | <u>3:20pm – 3:30pm</u> | <u>Closing Remarks and Prayer</u> |



MINUTES

TORRES STRAIT ISLAND REGIONAL COUNCIL

MARCH 2021

TRUSTEE MEETING

Wednesday 17th March 2021

Video Conference

Wednesday 17th March 2021

Present

Cr Phillemon Mosby, Mayor (Poruma)
Cr Dimas Toby, Division 1 – Boigu
Cr Torengo Elisala, Division 2 – Dauan
Cr Conwell Tabuai, Division 3 – Saibai
Cr Keith Fell, Division 4 – Mabuiag
Cr Laurie Nona, Division 5 – Badu
Cr Lama Trinkoon, Division 6 – Kubin, Mua Island
Cr John Levi, Division 7 – St Pauls, Mua Island
Cr Seriako Dorante, Division 8 – Kirriri
Cr Getano Lui Jnr, Division 9 – Iama
Cr Kabay Tamu, Division 10 – Warraber
Cr Francis Pearson, Division 11 – Poruma
Cr Hilda Mosby, Division 12 – Masig
Cr Jimmy Gela, Division 14 – Erub
Cr Aven Noah, Division 15 – Mer

Mr Ilario Sabatino, Acting Chief Executive Officer (ACEO) (Poruma)
Ms Hollie Faithfull, Chief Financial Officer (CFO) (Cairns)
Mr David Baldwin, Chief Engineer (CE) (Cairns)
Ms Rachel Pierce, Acting Chief Operating Officer (ACOO)(TI)
Ms Julia Maurus, Manager Legal Services (MLS) (Cairns)
Mrs Kathy Cochran – Secretariat Officer (SO) (Cairns)

Apologies

TRUSTEE MEETING
Wednesday 17th March 2021
Agenda Items

1. 9:07am - 9:17am Opening Prayer and Welcome
Mayor Mosby welcomed and thanked everyone for their attendance and acting Chief Executive Officer did a roll call to establish quorum. Mayor paid respects to and acknowledge Papa God, Traditional Owners both in our region of Zenadth Kes and for the Cairns region, Leaders – past, present and emerging and other political leaders.

Mayor Mosby invited Cr Levi to open the meeting in prayer and Council observed a minute silence for families in sorry business.

2. 9:17am – 9:18am Apologies
Nil

3. 9:18am - 9:20am Declaration of Conflict of Interest (COI) Declarable and Prescribed
No declaration made.

9:19am – Cr Nona joined the meeting.

4. 9:20am – 9:15am Confirmation of Trustee Meeting held on 23rd February 2021

RESOLUTION:

Moved: Cr Levi; *Second:* Cr Gela

That the minutes from the Trustee meeting held on the 23rd February 2021, be adopted as a true and accurate record of that meeting.

MOTION CARRIED

5. 9:15am – 9:50am Standing Agenda Item: (verbal update)
- TRUSTEE – Undocumented commercial land occupation project

Manager Legal Services, Ms Julia Maurus spoke to the report and informed Council an information report with the updates is included in the meeting documents. Council has a robust discussion around the commercial land occupation.

RESOLUTION:

Moved: Cr Elisala; *Second:* Cr Gela

That Council resolves to have the Manager Legal Service to develop and enter into leases with CEQ for all their sites across the Region.

MOTION CARRIED

Manager Legal Services also advised Councillors to consider nominating expenditure of DOGIT funds by completing the DOGIT expenditure form with proposed expenditure to be adopted in the FY21/22 budget in accordance with the General Reserve Procedure.

Manager Legal Services also informed Council the Trustee Policy will be held over to June OM.

6. 9:50am – 9:57am LEGAL – Defence Lease Boigu

Manager Legal Services, Ms Julia Maurus spoke to the report.

Cr Toby declared a prescribed conflict of interest as he currently has a yard maintenance contract with the department. Cr Toby left the room at 9:53am. Council has a discussion and asked for community consultation to be done.

ACTION: MLS to conduct further consultation with the Boigu community.

MATTER LEFT LYING ON THE TABLE TO ALLOW FURTHER COMMUNITY CONSULTATION.

7. 9:57am – 9:55am LEGAL – Saibai Health Lease F assignment to TCHHS

Manager Legal Services, Ms Julia Maurus spoke to the report. Cr Tabuai supports the proposal.

10:00am – Cr Toby re-joined the meeting.

RESOLUTION:

Moved: Cr Tabuai; *Second:* Cr Noah

- 1. That pursuant to the Torres Strait Islander Land Act 1991 (Qld), the Trustee consent to the State of Queensland (represented by Queensland Health) assigning Lease 717381004 (Saibai Lease F on SP258902, title reference 51134285) to the Torres and Cape Hospital and Health Service (TCHHS).**
- 2. That the Trustee delegate to the Chief Executive Officer the power to conclude the terms of the Deed of Consent to Assignment of Lease and execute same.**

MOTION CARRIED

10:01 – Cr Fell left the meeting.

Mayor thanked Julia for preparing everything and asked to convey their thanks to Peter also.

Mayor asked that a DOGIT update be provided to the monthly Trustee Meeting and be placed on the agenda as a standing item. Mayor encouraged all councillors to familiarise themselves with Leases and contact Manager Legal services, Ms Julia Maurus or Senior Legal Counsel, Mr Peter Krebs for any information or advice.

Cr Noah asked if the Culture, Arts, Land and Heritage Standing Committee be informed about these Leases etc. Mayor Mosby asked for DOGIT Leases to be place on Culture, Arts, Land and Heritage Standing Committee agenda as a standing agenda item. Cr Nona informed Council of the rate per m2 that Badu PBC charges. It was also noted that the Regional ILUA deals with native title and is not about the rent.

ACTION: Secretariat to place on Trustee agenda and Culture, Arts, Land and Heritage Standing Committee agenda as a standing agenda item.

8. 9:55am – 9:58am Next meeting – 20th April 2021
Next Trustee meeting date is confirmed for 20th April 2021.

9. 9:58am – 10:00am Closing Remarks and Prayer
Mayor Mosby informed Council, during the break they will be meeting with Minister Craig Crawford and Minister Fentamen in the Community Hall at Poruma and reconvene at 11am. Mayor declared the Trustee meeting closed.

MEETING CLOSED AT 10:10am

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Ilario Sabatino
Acting Chief Executive Officer
Torres Strait Island Regional Council
21st April 2021

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Phillemon Mosby
Mayor
Torres Strait Island Regional Council
21st April 2021

TORRES STRAIT ISLAND REGIONAL COUNCIL

TRUSTEE REPORT

ORDINARY MEETING

DATE: April 2020
SUBJECT ITEM: Ugar land transfer and Saibai land transfer
AUTHOR: Julia Maurus, Manager Legal Services
PRESENTER: Peter Krebs, Senior Legal Counsel

RECOMMENDATION

That the Trustee request the Department of Resources proceed with community consultation for the proposed Ugar land transfer and Saibai land transfer, and assist the Department as required to progress the land transfers.

PURPOSE

The purpose of this report is to provide the new Council with an opportunity to endorse the proposed process for the Ugar land transfer and Saibai land transfer and the draft letter to the Minister requesting that the Department of Resources progress these two land transfers.

BACKGROUND

As noted in Council's Trustee Policy:

1. Council is committed to supporting the full restoration of self-management and self-determination in the Torres Strait Island Regional Council local government area.
2. Council envisions the transfer of land currently held by Council under Deed of Grant in Trust to Torres Strait Islander Freehold or Aboriginal Freehold (as the case may be), on a community-by-community basis, when the time is right for each community.

OFFICER COMMENT

The Department of Resources has provided a paper on land transfers, included as **Attachment 1**. The Culture, Arts, Land and Heritage Standing Committee and SARG have endorsed the Department's proposed process.

The transfer of land recognises the spiritual, social, historical, cultural and economic importance of land to Torres Strait Islanders.

Under the *Torres Strait Islander Land Act 1991* (Qld) and *Aboriginal Land Act 1991* (Qld), land can be transferred to following entities:

- i. A Registered Native Title Body Corporate (RNTBC)
- ii. A qualified corporation registered under the Corporations (Aboriginal and Torres Strait Islander) Act 2006
- iii. An existing Land Trust

Each land transfer must ensure the continuation of vital services to the community and must secure government interests in essential services, community infrastructure and social housing.

The land transfer process is run by Queensland's Department of Resources. It is proposed that Council will assist the Department to progress land transfers by participating in land transfer consultations with the State, communities, Registered Native Title Bodies Corporate and other stakeholder bodies.

A draft letter to the Minister is included as **Attachment 2** and is proposed to be issued once the Trustee passes the proposed resolution.

CONSULTATION

- Legal Services Division
- Culture, Arts, Land and Heritage Standing Committee (Feb 2021)
- SARG (Feb 2021)

LINKS WITH STRATEGIC PLANS

TSIRC Corporate Plan 2020–2025

Delivery Pillar: Sustainability

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

- Effective management of DOGIT land as a trustee

Operational Plan 2020/2021

- Poruma Land, Saibai Land Transfer & Ugar Land Transfer: Facilitate the progression of transfer of Deeds of Grant in Trust from Council to

community-based entity that has been fully endorsed by the community to be the trustee.

STATUTORY REQUIREMENTS

Local Government Act 2009 (Qld)

Local Government Regulation 2012 (Qld)

Torres Strait Islander Land Act 1991 (Qld)

Torres Strait Islander Cultural Heritage Act 2003 (Qld)

Aboriginal Land Act 1991 (Qld)

Aboriginal Cultural Heritage Act 2003 (Qld)

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

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

Native Title Act 1993 (Cth)

Land Act 1994 (Qld)

FINANCE AND RISK

Capital Cost

NIL

Operating Cost

NIL

Risk Assessment

Each land transfer must ensure the continuation of vital services to the community and must secure government interests in essential services, community infrastructure and social housing.

SUSTAINABILITY

TSIRC Corporate Plan 2020–2025

Delivery Pillar: Sustainability

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

➤ Effective management of DOGIT land as a trustee

Operational Plan 2020/2021

- Poruma Land, Saibai Land Transfer & Ugar Land Transfer: Facilitate the progression of transfer of Deeds of Grant in Trust from Council to community-based entity that has been fully endorsed by the community to be the trustee.

CONCLUSION

As presented.



Ilario Sabatino

A/CEO



Julia Maurus

Manager Legal Services

ATTACHMENTS:

- 1. Department of Resources paper on land transfers**
- 2. Proposed letter to Minister**

Land Transfer Process – *Torres Strait Islander Land Act 1991*

Legislative Provisions

The Department of Resources is responsible for administering the *Torres Strait Islander Land Act 1991* (TSILA).

The TSILA provides for the grant of inalienable freehold (ie. the land can't be sold) which is held in trust for the benefit of Torres Strait Islander people.

Under the TSILA the department is able to transfer the following 'types' of land to Torres Strait Islanders:-

- Deed of Grant in Trust land (DOGIT)
- Torres Strait Islander Reserve Land
- Available State land (declared to be transferable).

The transfer of land under the TSILA recognises the spiritual, social, historical, cultural and economic importance of land to Torres Strait Islanders.

Land Transfer Process

The TSILA allows land to be transferred to following entities:-

- A Registered Native Title Body Corporate (RNTBC)
- A qualified corporation registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (CATSIA)
- An existing Land Trust.

The transfer process under the TSILA is not about native title and does not affect native title.

Transfer of township and non-township areas require different considerations to be addressed.

Existing registered interests in the transferable lands continue post transfer e.g. social housing, local government/state infrastructure leases and any interests held by service providers.

The Minister needs to be reasonably satisfied that appropriate arrangements are in place to ensure a continued provision of services to communities on the land after it is transferred.

The transfer process has two components – **Administration** and **Consultation**.

The **Administrative** component requires undertaking an evaluation of the land proposed for transfer, and includes:-

- identifying existing registered interests over the land such as trustee leases, leases to individuals or easements;
- identifying any future requirements the local government may have for use of the land
- establishing access to land and any survey requirements;
- seeking views from relevant State and Commonwealth agencies and service providers in relation to their interests or future requirements for service provision.

The **Consultation** component requires that before making an appointment of a grantee for the subject land, the department, on behalf of the Minister must consult with and consider the views of Torres Strait Islander people particularly concerned with the land.

Consultation meetings will be arranged in consultation with representatives of the registered native title body corporate and Council.

When consulting, the Minister and his representatives must have regard to Torres Strait Islander traditions applicable to the land.

All views on the transfer will be taken into consideration.

Following community consultation:-

- Notice of the Minister's intention to appoint the nominated grantee is published in a local newspaper in which the land is located. It provides a 28 day period for Torres Strait Islanders particularly concerned with the land to make written representations regarding the proposed grantee appointment.
- Relevant information and views are collated from the consultation and provided to the Minister for consideration, as well as any representations received in response to the public notice.
- The Minister makes a decision to appoint a grantee to hold the land.
- Subject to the Minister's appointment of a grantee and directing that title issue for the land, the Governor in Council's approval of a deed will be sought and the grant of the land will occur thereafter.

Post Land Transfer

Council remains the local governing authority for the land.

The Grantee would still be subject to Local Government, State and Commonwealth laws in relation to the land.

The Grantee could issue leases or other interests, such as permits or licences to individuals or businesses over the land.

The Grantee would need to address native title for future acts over the land.

In dealing with the land, the Grantee must give consideration to the people for whom the land is held in benefit for, as Council currently does as trustee.

Going Forward

1. Get Council's support and views as trustee and local government in regards to the broad process prior to moving forward into community consultation.
2. Provide Council with a schedule of Saibai and Ugar DOGITs (lot/plan descriptions) proposed for transfer and seek Council's views on registered/non-registered interests, tenure options and roads.
3. Schedule separate and joint meetings with Council and RNTBC Directors for discussion on schedule of land and planning for community consultation.
4. Schedule community consultation meetings.



Our Ref: CA:MSS-DOGIT

Issued by email:
resources@ministerial.qld.gov.au

Hon Scott Stewart
Minister for Resources

x/04/2021

Land transfer

Dear Minister,

I wish to thank your Department and its delegates for their deputation to Council's Strategic Advisory Reference Group Committee meeting in February 2021.

The delegates' presentation outlined the process to progress transfers of land held by Torres Strait Island Regional Council.

Council is supportive of the process proposed by the Department and notes that, the Department will:

- Conduct a separate joint meeting with Council and the RNTBC Directors on Saibai and Ugar
- Conduct community consultation meetings on Saibai and Ugar.

Council further notes, that the template Torres Strait Housing and Infrastructure Agreement Indigenous Land Use Agreement provides a consent-based process for transfer related future acts, and that this Indigenous Land Use Agreement has been registered for the Ugar and Saibai native title determination areas.

Council is supportive of utilising the process under this Indigenous Land Use Agreement for transfer-related future acts wherever possible.

Council will assist the Department as required to progress the land transfers. In particular we look forward to working with the Department to:

- Identify where leases (or other appropriate arrangements) need to be in place to ensure continuation of services after transfer.
- Identify all Torres Strait Island Regional Council assets that require transfer.
- Identify land for transfer that falls outside the native title determination area and how transfer-related future acts will be validated for these areas.
- Discuss options for registered/non-registered interests, tenure types and roads.



Torres Strait Island Regional Council as Trustee requests the Department of Resources proceed with community consultation for the proposed Ugar land transfer and Saibai land transfer.

For any enquiries please contact.

Peter Krebs
Senior Legal Counsel
Phone 07 4034 5272
Email peter.krebs@tsirc.qld.gov.au

Yours faithfully,

Cr. Phillemon Mosby, Mayor
Torres Strait Island Regional Council

