



AGENDA

TORRES STRAIT ISLAND REGIONAL COUNCIL

JULY 2021

TRUSTEE MEETING

Tuesday 20th July 2021

Division 9 - Iama

TRUSTEE MEETING
Tuesday 20th July 2021
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 held on 29th June 2021</u> |
| 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">• TRUSTEE – Undocumented commercial land occupation project• DOGIT Lease Verbal Update |
| 7. | <u>9:30am – 9:40am</u> | <u>LEGAL – DA consent – Masig Lots 15 and 30</u> |
| 8. | <u>9:50am – 10:00am</u> | <u>LEGAL – Boigu - LHA Entitlement – Lot 13 and 36</u> |
| 9. | <u>10:00am – 10:10am</u> | <u>LEGAL – St Pauls Lodge</u> |
| 10. | <u>10:33am – 10:34am</u> | <u>Next meeting – Tuesday 17th August 2021</u> |
| 11. | <u>10:34am – 10:35am</u> | <u>Closing Remarks and Prayer</u> |



Torres Strait Island
REGIONAL COUNCIL

MINUTES

TORRES STRAIT ISLAND REGIONAL COUNCIL

JUNE 2021

TRUSTEE MEETING

Tuesday 29th June 2021

Video Conference

TRUSTEE MEETING
Tuesday 29th June 2021
Agenda Items

- | | | |
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| 4. | <u>9:10am – 9:15am</u> | <u>Confirmation of Trustee Meeting held on 24th May 2021</u> |
| 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">• TRUSTEE – Undocumented commercial land occupation project• DOGIT Lease Verbal Update |
| 7. | <u>9:30am – 9:40am</u> | <u>LEGAL – Dauan Health Care Centre Proposed Easement</u> |
| 8. | <u>9:40am – 9:50am</u> | <u>LEGAL – Kubin – Landowner’s consent to make DA - Telstra</u> |
| 9. | <u>9:50am – 10:00am</u> | <u>LEGAL – Masig - LHA Entitlement – Lot 152</u> |
| 10. | <u>10:00am – 10:10am</u> | <u>LEGAL – St Pauls - LHA Entitlement – Lot 13</u> |
| 11. | <u>10:10am – 10:20am</u> | <u>LEGAL – Hammond - LHA Transfer – 21 Louis Road Hammond</u> |
| 12. | <u>10:20am – 10:30am</u> | <u>LEGAL – CLOSED BUSINESS – Litigation Update - verbal</u> |
| 13. | <u>10:30am – 10:33am</u> | <u>LEGAL – Information Report – Trustee Rent and Commercial Leasing</u> |
| 14. | <u>10:33am – 10:34am</u> | <u>Next meeting – Tuesday 20th July 2021</u> |
| 15. | <u>10:34am – 10:35am</u> | <u>Closing Remarks and Prayer</u> |

Trustee Meeting – Tuesday 29th June 2021

PRESENT

Cr Phillemon Mosby, Mayor (Erub)
Cr Dimas Toby, Division 1 – Boigu
Cr Torenzo Elisala, Division 2 – Dauan
Cr Keith Fell, Division 4 – Mabuiag
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 Rocky Stephen, Division 13 – Ugar
Cr Jimmy Gela, Division 14 – Erub
Cr Aven Noah, Division 15 - Mer

Mr David Baldwin, Acting Chief Executive Officer (ACEO) (Cairns)
Ms Hollie Faithfull, Chief Financial Officer (CFO) (Cairns)
Mr Dawson Sailor, Acting Chief Operating Officer (COO) (Cairns)
Mr Adeah Kabai, Acting Chief Engineer (ACE) (Cairns)
Mr Peter Krebs, Senior Legal Counsel (SLC) (Cairns)
Ms Ursula Nai, Senior Executive Assistant (SEA) (Hammond)
Mrs Kathy Cochran, Secretariat Officer (SO) (Cairns)

APOLOGY

Cr Conwell Tabuai, Division 3 – Saibai
Cr Laurie Nona, Division 5 – Badu

TRUSTEE MEETING
Tuesday 29th June 2021
Agenda Items

1. **9:04am - 9:12am** **Opening Prayer and Welcome**

Mayor Mosby welcomed everyone, did a roll call to established quorum, then acknowledged the traditional owners of our Zenadth Kes Region and the Cairns Region.

Mayor invited Cr Fell to open the meeting in prayer and Council observed a minute silence.

2. **9:12am – 9:19am** **Apologies**

- Cr Conwell Tabuai – Division 3, Saibai
Cultural reasons, son's initiation.

RESOLUTION:

Moved: Cr Fell; *Second:* Cr Pearson

That Council accepts the apology from Cr Conwell Tabuai for his absence at this meeting.

MOTION CARRIED

Cr Laurie Nona texted Secretariat Officer and advised he will be joining the meeting soon.

9:13am – Cr Rocky Stephen joined the meeting.

Chief Financial Officer advised Council regarding Cr Tabuai leave, he won't be paid due to the reason not meeting any of the criteria stipulated in the legislation. Mayor Mosby raised Ailan Kastom and why it should be captured in the legislation to accommodate culturally significant events. Full Council is in support.

ACTION: Acting Chief Executive Officer to bring to the attention of the Ministers and the relevant Departments regarding Ailan Kastom being incorporated into legislation.

3. **9:19am - 9:21am** **Declaration of Conflict of Interest (COI) Declarable and Prescribed**

- Cr Hilda Mosby declared a declarable conflict for Agenda Item #9 – LEGAL – LHA Masig – Lot 152
 - The parties are Cr Mosby's niece and nephew.
 - Senior Legal Counsel provided legal advice on the conflict
 - The Council as Trustee all in favour of Cr Hilda Mosby to remain in the room, participate in the discussion and vote on the matter.

4. **9:21am – 9:23am** **Confirmation of Trustee Meeting held on 24th May 2021**

RESOLUTION

Moved: Cr Gela; *Second:* Cr Pearson

That the minutes of the Trustee Meeting held on 24th May 2021, be adopted as a true and accurate record of that meeting.

MOTION CARRIED

5. **9:15am – 9:20am** **Outstanding Action Items**

Senior Legal Counsel provided updates on all outstanding action items as per Register.

- Cr Dimas Toby – declared a declarable conflict in the LHA transfer action items as he the Chair of the Boigu PBC.
 - Senior Legal Counsel provided advice on the conflict
 - The Council as Trustee all in favour of Cr Dimas Toby to remain in the room and participate in the discussion.

6. **9:20am – 10:03am** **TRUSTEE MOVES INTO CLOSED BUSINESS**

RESOLUTION:

Moved: Cr Lui; Second: Cr Elisala

That in accordance with section 254J of the *Local Government Regulation 2012 (Qld)* it is resolved for the meeting to go into closed session to discuss matters of the following nature:

(e) legal advice obtained by the local government or legal proceedings involving the local government.

MOTION CARRIED

9:21am - All staff except Acting Chief Executive Officer leaves the room.

10:02am – All staff return and joined the meeting.

7. **10:02am – 10:03am** **TRUSTEE MOVES OUT OF CLOSED BUSINESS**

RESOLUTION:

Moved: Cr; Second: Cr (see peter) ([sorry I do not have this in my notes, see David](#))

That the Trustee moves out of Closed Business.

MOTION CARRIED

No resolution made in closed business.

8. **10:03am – 10:05am** **Standing Agenda Item: (verbal update)**

- TRUSTEE – Undocumented commercial land occupation project

Senior Legal Counsel provided an update and informed Council a report is being tabled at today's meeting for further discussion.

- DOGIT Lease Verbal Update

Senior Legal Counsel provide a brief update to Council.

9. **10:05am – 10:11am** **LEGAL – Dauan Health Care Centre Proposed Easement**

Senior Legal Counsel, Mr Peter Krebs spoke to the report.

RESOLUTION:

Moved: Cr Elisala; *Second:* Cr Noah

The Trustee resolves pursuant to the *Torres Strait Islander Land Act 1991 (Qld)* and the *Land Title Act 1994 (Qld)* to

- consent to the registration of survey plan SP321502 and
- consent to the grant of proposed Easement C on SP321502 in Lot 48 on SP270872 to the Torres and Cape Hospital and Health Service (TCHHS), for the purpose of Lease 719407708 over Lot 49 on SP 270872 (Dauan Health Care Centre) and
- delegate to the Mayor and the Chief Executive Officer each the power to execute SP321502 and the Easement.

MOTION CARRIED

10. **10:11am – 10:15am** **LEGAL – Kubin – Landowner’s consent to make DA – Telstra**

Senior Legal Counsel, Mr Peter Krebs spoke to the report.

RESOLUTION:

Moved: Cr Trinkoon; *Second:* Cr Levi

That Council agrees for Telstra to make a Development Application for “Material Change of Use (code)” for the upgrade of the Telecommunications Tower – Kubin and agrees for the Chief Executive Officer to sign the owner’s consent form.

MOTION CARRIED

11. **10:15am – 10:17am** **LEGAL – St Pauls - LHA Entitlement – Lot 13**

Senior Legal Counsel, Mr Peter Krebs spoke to the report.

RESOLUTION:

Moved: Cr Levi; *Second:* Cr Trinkoon

That the Trustee recommend advising the Minister that the lease over Lot 13 on SP256048 (13 Main Street, St Pauls) should issue to Ned Joseph Wapau as soon as possible under section 35 of the Aboriginal and Torres Strait Islander Land Holding Act 2013, and authorise the Chief Executive Officer to sign the Advice and Recommendation Report.

Application	Applicant	Address	Lease to be granted to
25/88	Adea Wapau	13 Main Street, St Pauls (Lot 13 on SP256048)	Ned Wapau

MOTION CARRIED

12. **10:17am – 10:21am**

LEGAL – Masig - LHA Entitlement – Lot 152

- Cr Hilda Mosby declared a declarable conflict of interest
 - The parties are Cr Mosby's niece and nephew.
 - Senior Legal Counsel provided legal advice on the conflict
 - The Council as Trustee all in favour of Cr Hilda Mosby to remain in the room, participate in the discussion and vote on the matter.

- Cr Jimmy Gela declared a declarable conflict of interest
 - The parties are Cr Gela's close relatives
 - Senior Legal Counsel provided legal advice on the conflict
 - The Council as Trustee all in favour of Cr Jimmy Gela to remain in the room, participate in the discussion and vote on the matter.

Senior Legal Counsel, Mr Peter Krebs spoke to the report.

RESOLUTION:

Moved: Cr Hilda Mosby; *Second:* Cr Pearson

That the Trustee recommend advising the Minister that the lease over Lot 152 on SP277431 (152 Koben Road, Masig) should issue to Leah Maryann Gela and Frank Yauki Gela as soon as possible under section 35 of the Aboriginal and Torres Strait Islander Land Holding Act 2013, and authorise the Chief Executive Officer to sign the Advice and Recommendation Report.

Application	Applicant	Address	Lease to be granted to
41/86	Daniel Mosby	152 Koben Road (Lot 152 on SP270859	Leah Gela and Frank Gela

MOTION CARRIED

13. **10:21am – 10:25am**

LEGAL – Hammond - LHA Transfer – 21 Louis Road Hammond

Senior Legal Counsel, Mr Peter Krebs spoke to the report.

RESOLUTION:

Moved: Cr Dorante; *Second:* Cr Gela

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

- consent to the transfer of a perpetual lease (Lease No. 719137180) from the late Graham Daniel Amber over Lot 21 on SP248418 (title reference 51067155) to Nelson Richard Ambar and Zane Maynard Ambar and
- delegate to the Mayor and the Chief Executive Officer each the power to execute the General Consent form.

MOTION CARRIED

14. **10:25am – 10:25am** **TRUSTEE MOVE INTO CLOSED BUSINESS**
Councillors confirm there are no members in the public in the room as we move into closed business.

RESOLUTION:

Moved: Cr Noah; *Second:* Cr Elisala

That in accordance with section 254J of the *Local Government Regulation 2012 (Qld)* it is resolved for the meeting to go into closed session to discuss matters of the following nature:

(e) legal advice obtained by the local government.

MOTION CARRIED

- LEGAL – CB – Litigation

15. **10:26am – 10:27am** **TRUSTEE MOVE OUT OF CLOSED BUSINESS**

RESOLUTION:

Moved: Cr Gela; *Second:* Cr Levi

That the Trustee move out of closed business.

MOTION CARRIED

16. **10:27am – 10:46am** **LEGAL – Litigation Update - verbal**

RESOLUTION:

Moved: Cr Levi; *Second:* Cr Trinkoon

That the Trustee instructs the Chief Executive Officer to lodge an appeal against the Supreme Court decision of *Ahwang v TSIRC* of 21 June 2021 and delegates to the Chief Executive Officer all necessary power to implement the lodging of the appeal

MOTION CARRIED

17. **10:46am – 10:58am** **LEGAL – Information Report – Trustee Rent and Commercial Leasing**

Senior Legal Counsel, Mr Peter Krebs spoke to the report.

Cr Toby asked about the QPS Lease on Boigu – Mayor advised Cr Toby and Senior Legal Counsel to take offline to discuss further.

Cr Noah asked about the Licence agreement for the guest house and the divestment to PBC.

ACTION: Manager Legal Service to provide a report with an update on the divestment of the Mer Guest House to the Mer PBC.

RESOLUTION:

Moved: Cr Noah; *Second:* Cr Gela

That the Trustee resolves to note the report.

MOTION CARRIED

18. **10:58am – 10:59am**

Next meeting – Tuesday 20th July 2021

Trustee confirms the next Trustee meeting be held on Tuesday 20th July 2021 at Division 9 – lama.

19. **10:59am – 11:00am**

Closing Remarks and Prayer

Mayor Mosby thanked everyone and declared the Trustee meeting closed.

MEETING CLOSED 11:00am

DRAFT

Action Items from May Trustee Meeting updated at Trustee – 29th June 2021

Agenda Item	Action	Lead Officer	Comments	Completion Date
Defence Lease Boigu	Manager Legal Services to conduct further consultation with the Boigu Community on the Defence Lease	Manager Legal Services	Arrangements being made to hold community meeting after Council OM in July	July 26
CEQ deputation	Senior Legal Counsel to invite CEQ to the next meeting to discuss lease arrangements	Senior Legal Counsel	Invitation extended to CEQ CEO Mr Ian Copeland to attend meeting in July.	July 21 Trustee Meeting
Rental Leases on commercial properties	Manager Legal Services to prepare an Information Report on Lease rent for all commercial property, whether they have a current lease, in the process of a getting a lease and or no lease.	Manager Legal Services	Completed	June 21 Trustee Meeting
Standing Agenda item – DOGIT Transfer verbal update	Senior Legal Counsel to invite Peter Lawrence to speak at Council workshop.	Senior Legal Counsel	A verbal update to be given by SLC regarding recent meeting with TSRA, DATSIP, Saibai and Ugar PBC's regarding DOGIT transfers	July 21 Trustee Meeting
Standing Agenda item – DOGIT Lease verbal update	To note in the Policy the issue of the ownership of the asset.	Senior Legal Counsel	In progress	
Dauan Kiosk divestment	Senior Legal Counsel to follow up with Manager Legal Services regarding the Divestment Policy.	Senior Legal Counsel	Negotiations still ongoing – MLS Update 7/7/21 – MLS – Awaiting confirmation from assets team of total utility charges payable and awaiting information from TSRA on PBC financial capacity to pay outgoings.	July 21 Trustee Meeting
Enterprise Divestment	Standing Committee to review the Divestment Policy	Senior Legal Counsel	On hold due to pending Supreme Court decision.	TBA
LHA transfer	Follow up with Manager Legal Services on the Warraber and Saibai Katter leases.	Senior Legal Counsel	In progress	July 21 Trustee Meeting
Apology - Cr Conwell Tabuai (son's initiation)	Acting Chief Executive Officer to bring to the attention of the Ministers and the relevant Departments regarding Ailan Kastom being incorporated into legislation.	Acting Chief Executive Officer	Letter to be drafted and sent to the Minister if changes to legislation is required. Consideration that since this may be fixed by changing the Councillor Remuneration policy. To be investigated.	TBA

Legal - Info Report - Trustee Rent and Commercial Leasing	Manager Legal Service to provide a report with an update on the divestment of the Mer Guest House to the Mer PBC	Manager Legal Services		TBA
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TORRES STRAIT ISLAND REGIONAL COUNCIL

TRUSTEE REPORT

ORDINARY MEETING:	July 2021
DATE:	20 & 21 July 2021
ITEM:	Agenda Item for Resolution by Trustee
SUBJECT:	Masig Lots 15 & 30 – consent to development applications
AUTHOR:	Julia Maurus, Manager Legal Services
PRESENTER:	Peter Krebs, Senior Legal Counsel

Recommendation:

1. That the Trustee grant owner's consent to the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships in support of a development application (DA2021_011) for a Reconfiguration of Lot (1 into 2 Lots) over **Lot 15 on SP277431** (199 and 199A Dans Road, Masig Island), on behalf of Elia Julius Billy, Edna Maku Billy and Ingvali Emanuel Billy, in relation to Land Holding Act Lease No 715653318, and authorise the Chief Executive Officer to sign the owner's consent form and, subject to local government approval, the resulting survey plans.
2. That the Trustee grant owner's consent to the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships in support of a development application (DA2020_029) for a Reconfiguration of a Lot (1 into 3 Lots) over **Lot 30 on SP277431** (79, 78 & 30 Lowatta Road, Masig Island), on behalf of Flora Mosby, in relation to Land Holding Act Lease No 715653389, and authorise the Chief Executive Officer to sign the owner's consent form and, subject to local government approval, the resulting survey plans.

Executive Summary:

This report deals with two matters:

1. Elia, Emmanuel and Edna Billy seek Trustee consent to subdivide the Katter lease land at 199 Dans Road (Lot 15 on SP277431) into two lots.
2. Flora Mosby seeks Trustee consent to subdivide the Katter lease land at Masig lot 30 into three parcels so that there is one land parcel for each house.

Background:

Masig Lot 15:

1. Elia, Emmanuel and Edna Billy seek Trustee consent to subdivide the Katter lease land at 199 Dans Road (Lot 15 on SP277431) into two lots.
2. Elia, Emmanuel and Edna Billy are the current leaseholders of Land Holding Act Lease No 715653318.
3. Cr Hilda Mosby supports the application and has advised that the leaseholders are her mother's cousins.
4. The proposed subdivision is shown in the images **below**.
5. The application is for Reconfiguration of Lot (1 into 2 Lots) over Lot 15 SP277431 also known as 199 and 199A Dans Road, Masig Island.

6. The proposed development application is reference number DA2021_011.
7. The proposed subdivision is to enable home ownership and a partial sublease of the Katter lease to potential sublessee Gibson Urimah Billy.
8. The Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships (DSDSATSIP) was requested to progress the development application on behalf of Elia, Emmanuel and Edna Billy and potential sublessee Gibson Urimah Billy.
9. Manager Legal Services has checked the land title and the signed request from the leaseholders. All is in order.



Lot 15 (Proposed Lots A & B)

Lot 15 on SP277431 (199 Dans Road)

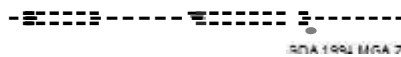


Masig Lot 30:



10. Flora Mosby seeks Trustee consent to subdivide the Katter (LHA) lease land at Masig lot 30 into three parcels so that there is one land parcel for each house.
11. Cr Hilda Mosby supports the application and has advised that Flora Mosby is her relative through marriage to her late nephew.
12. Flora Mosby is the sole beneficiary for Land Holding Act Lease No 715653389. The vesting (transfer) of the lease to Flora Mosby is currently being processed by DSDSATSIP.
13. The proposed development application is for Reconfiguration of a Lot (1 into 3 Lots) of Lot 30 on SP277431 (79, 78 & 30) Lowatta Road, Masig Island.
14. The proposed subdivision is to enable home ownership and partial surrender of the Katter lease.
15. The proposed subdivision is shown in the images **below**.
16. The Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships (DSDSATSIP) was requested to progress the development application on behalf of Flora Mosby.
17. The proposed development application is reference number DA2020_029.
18. Manager Legal Services has checked the land title, the beneficiary certificate and the signed beneficiary request to make a development application. All is in order.



Scale (D/A) 1:500



SDA 1991 MRA Zone 62

-  Subject site
-  Digital Cadastral Database

Proposed subdivision of lot 30 on SP277431

Masig (Yorke Island)

Local Government Area - Torres Strait Islands Regional Council

Masig Lot 30 SP277431



Street Addresses: 79, 78 and 30 Lowatta Road Masig Island.

Comment:

DSDSATSIP has advised that the current requests are in terms of the *Planning Act 2016* and are for the subdivisions only. Any future partial surrender or sublease of this Katter lease land following approval of the subdivisions will require a separate trustee resolution and will be dealt with in a separate process in terms of the *Torres Strait Islander Land Act 1991* through the DSDSATSIP Home Ownership Team.

Considerations

Risk Management

Compliance:

Manager Legal Services has checked the land titles, the beneficiary certificate and the signed requests. All is in order.

Council Finance

Not applicable

Consultation:

- Supported by Cr Hilda Mosby
- Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships

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 development applications.



Recommended:

Julia Maurus

Manager Legal Services



Endorsed:

David Baldwin

Acting Chief Executive Officer

TORRES STRAIT ISLAND REGIONAL COUNCIL

TRUSTEE REPORT

COUNCIL ORDINARY MEETING

DATE: July 2021
SUBJECT: Land Holding Act leases- Boigu
AUTHOR: Peter Krebs, Senior Legal Counsel
PRESENTER: Peter Krebs, Senior Legal Counsel

PERSONAL INTERESTS

Councillors are reminded to inform the meeting of any prescribed conflicts of interests or declarable conflicts of interests.

RECOMMENDATION

- 1. That the Trustee recommend advising the Minister that the lease over Lot 13 on SP273190 (13A and 13B Toby Street, Boigu) should issue to Frederick Anau as soon as possible under section 35 of the Aboriginal and Torres Strait Islander Land Holding Act 2013, and authorise the Chief Executive Officer to sign the Advice and Recommendation Report.*
- 2. That the Trustee recommend advising the Minister that the lease over Lot 36 on SP273190 (36 Toby Street, Boigu) should issue to Rosina Gibuma as soon as possible under section 35 of the Aboriginal and Torres Strait Islander Land Holding Act 2013, and authorise the Chief Executive Officer to sign the Advice and Recommendation Report.*

BACKGROUND

Application	Applicant	Address	Lease to be granted to
16/89	Frederick Anau	13A&B Toby Street, Boigu (Lot 72 on SP273190)	Frederick Anau
41/89	Rosina Gibuma	36 Army Street, Boigu (Lot 36 on SP273190)	Rosina Gibuma

OFFICER COMMENT

The Advice & Recommendation report for each lease entitlement is attached.

Under the current Trustee Policy, the CEO has delegated authority from November 2018 to recommend the grant of a Katter lease by executing all documents necessary to give effect to LHA lease interests, with advice provided to the Mayor and the Divisional Councillor.

However, the Trustee directed during the November delegations' workshop that all land-related decision-making by the trustee should be made at the Council level. Therefore, this report presents recommendations for the Trustee to endorse the grant of Katter leases.

CONSULTATION

- DNRME
- Cr Toby has confirmed support

LINKS WITH STRATEGIC PLANS

Operational Plan:

- LHA (Katter) lease resolution

STATUTORY REQUIREMENTS

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

FINANCE AND RISK

Capital Cost

NIL

Operating Cost

NIL

Risk Assessment

NIL

SUSTAINABILITY

NA

CONCLUSION

As presented.



David Baldwin
Acting CEO



Peter Krebs
Senior Legal Counsel

ATTACHMENTS

1. Advice & Recommendation Report: 16/89
2. Advice & Recommendation Report: 41/89

ADVICE AND RECOMMENDATION REPORT

Boigu Island Trust Area

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

Purpose of Advice and Recommendation Report	
<p>This matter has been referred on behalf of the Minister for Resources to TSIRC as trustee of the trust area to:</p> <p><i>Identify to the Minister any practical obstacles it considers to exist to satisfying the lease entitlement (section 30(2)(a))</i></p> <p><i>Provide the Minister any advice or recommendations it considers appropriate about satisfying the lease entitlement (section 30(2)(b))</i></p>	
LEASE ENTITLEMENT (LEN)	
Name of applicant(s):	Fredrick Anau (deceased) No: 16/89
Type of tenancy:	
Lot/Plan Description of original application:	Form 1: Lot 72 Current: Lot 13 on SP273190
Street address:	13A & 138 Toby Street
Date referred to trustee:	18 June 2021

INFORMATION PROVIDED BY DoR	
Trust Area notice published:	22 March 2019
LEN published:	22 March 2019 Copy attached
Deceased applicant:	N/A
Beneficiary:	N/A
Location of the area of the lease entitlement land:	The lease entitlement has been surveyed as Lot 13 on SP273190, which is a suitable survey plan for issue of lease.
Improvements on the lease entitlement land:	1 x Social Housing - 5 bedroom detached house 1 x Private House
Tenancy Of House (Managed By TSIRC):	Head tenant: Tolanai Anau Relationship to applicant/beneficiary: Daughter Tenant relocation: Not required

Consultation:	Yes	
	Person consulted	Issues discussed
	Fredrick Anau	Written home ownership acceptance provided.
Comments:	The PBC has endorsed the granting of this lease.	

TRUSTEE ADVICE AND RECOMMENDATION

Location of the area of the lease entitlement land:	The location of the area of the lease entitlement is resolved and identified as Lot 13 on SP273190.
Improvements on the lease entitlement land:	The ownership of improvements do not need to be resolved and will become the property of the lessees upon issue of the lease.
Postal address for intended lessee/s:	2/41 Sandown Close, Woree QLD 4870
Other Interests:	N/A
Practical Obstacles:	There are no practical obstacles to the grant of the lease and the lease can be granted under section 35 of the <i>Aboriginal and Torres Strait Islander Land Holding Act 2013</i> .
Recommendation:	It is recommended that the Minister be advised that the lease over Lot 13 on SP273190 should issue to Fredrick Anau as soon as possible.

APPROVAL

Sign:

David Baldwin
Acting Chief Executive Officer
Torres Strait Island Regional Council

Date: This day of2021

Queensland Government home Queensland Government homeFor QueenslandersAboriginal
and Torres Strait Islander peoplesEnvironment, land use and native titleleasing Indigenous
landLand Holding Act Leaseslease entitlement notices

Lease entitlement notices Boigu Island

These notices identify the persons entitled to the grant of a lease under the *Aboriginal and Torres Strait Islander Land Holding Act 2013* as a consequence of an application previously lodged and approved under the *Aborigines and Torres Strait Islanders (Land Holding) Act 1985*.

Return to the [list of all communities \(https://www.dnrm.qld.gov.au/qld/indigenous-land/notices\)](https://www.dnrm.qld.gov.au/qld/indigenous-land/notices).

Notice details	Date of publication	Deadline for changes	Application number
Name Frederick ANAU Address 13A and 138 Toby Street Description Lot 13 on SP273190	22-Mar-19	22-Sep-20	16/89

Granting of leases

Before making an application regarding your entitlement, please read about the [process for resolving lease entitlements \(http://www.qld.gov.au/atsi/environment/land-use-native-title/process-granting-leases/index.html\)](http://www.qld.gov.au/atsi/environment/land-use-native-title/process-granting-leases/index.html).

Last updated: 15 April 2019
Last reviewed: 15 May 2017

ADVICE AND RECOMMENDATION REPORT

Boigu Island Trust Area

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

Purpose of Advice and Recommendation Report	
<p>This matter has been referred on behalf of the Minister for Resources to TSIRC as trustee of the trust area to:</p> <p><i>Identify to the Minister any practical obstacles it considers to exist to satisfying the lease entitlement (section 30(2)(a))</i></p> <p><i>Provide the Minister any advice or recommendations it considers appropriate about satisfying the lease entitlement (section 30(2)(b))</i></p>	
LEASE ENTITLEMENT (LEN)	
Name of applicant(s):	Rosina Annita Gibuma No: 41189
Type of tenancy:	
Lot/Plan Description of original application:	Form 1: Lot 36 on PLD554 Current: Lot 36 on SP273190
Street address:	36 Army Street
Date referred to trustee:	29 June 2021

INFORMATION PROVIDED BY DoR	
Trust Area notice published:	22 March 2019
LEN published:	22 March 2019 Copy attached
Deceased applicant:	N/A
Beneficiary:	N/A
Location of the area of the lease entitlement land:	The lease entitlement has been surveyed as Lot 36 on SP273190, which is a suitable survey plan for issue of lease.
Improvements on the lease entitlement land:	4 Bedroom Social House
Tenancy Of House (Managed By TSIRC):	Head tenant: Ishmael Gibuma Relationship to applicant/beneficiary: Brother Tenant relocation: Not required.

Consultation:	Yes	
	Person consulted	Issues discussed
	Rosina Gibuma Ishmael Gibuma	Rosina advised she intends to transfer the lease to her brother Ishmael once the lease is granted to her. Ishmael has provided written acceptance of home ownership.
Comments:	The PBC has endorsed the granting of this lease.	

TRUSTEE ADVICE AND RECOMMENDATION	
Location of the area of the lease entitlement land:	The location of the area of the lease entitlement is resolved and identified as Lot 36 on SP273190.
Improvements on the lease entitlement land:	The ownership of improvements do not need to be resolved and will become the property of the lessee upon issue of the lease.
Postal address for intended lessee/s:	C/- Post Office, Boigu Island OLD 4875 (Rosina) C/- Post Office, Poruma Island QLD 4875 (Ishmael)
Other Interests:	N/A
Practical Obstacles:	There are no practical obstacles to the grant of the lease and the lease can be granted under section 35 of the <i>Aboriginal and Torres Strait Islander Land Holding Act 2013</i> .
Recommendation:	It is recommended that the Minister be advised that the lease over Lot 36 on SP273190 should issue to Rosina Annita Gibuma as soon as possible.
APPROVAL	
Sign: David Baldwin Acting Chief Executive Officer Torres Strait Island Regional Council
Date:	This day of2021

Queensland Government home Queensland Government homeFor QueenslandersAboriginal and Torres Strait Islander peoplesEnvironment,land use and native titleleasingIndigenous landland Holding Act Leaseslease entitlement notices

Lease entitlement notices Boigu Island

These notices identify the persons entitled to the grant of a lease under the *Aboriginal and Torres Strait Islander Land Holding Act 2013* as a consequence of an application previously lodged and approved under the *Aborigines and Torres Strait Islanders (Land Holding) Act 1985*.

Return to the [list of all communities \(https://www.dnrm.qld.gov.au/qld/indigenous-land/notices\)](https://www.dnrm.qld.gov.au/qld/indigenous-land/notices).

Notice details	Date of publication	Deadline for changes	Application number
Name Rosina Annita GIBUMA Address 36 Army Street Description Lot 36 on SP273190	22-Mar-19	22-Sep-20	41/89

Granting of leases

Before making an application regarding your entitlement, please read about the [process for resolving lease entitlements \(http://www.qld.gov.au/atsi/environment-land-use-native-tjtle/process-granting-leases/index.htm\)](http://www.qld.gov.au/atsi/environment-land-use-native-tjtle/process-granting-leases/index.htm).



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OP
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66
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Spike at stn
12-78

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Screw in conc
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18-605 (36-74)
(51a-51b)
100°42'20"

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"Copy for Survey
Information only not
registered under either the
Land Act or Land Title Act"

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273190



TORRES STRAIT ISLAND REGIONAL COUNCIL

TRUSTEE REPORT

ORDINARY MEETING:	June 2021
DATE:	29 & 30 June 2021
ITEM:	Agenda Item for Resolution by Trustee
SUBJECT:	St Pauls Lodge
AUTHOR:	Julia Maurus, Manager Legal Services
PRESENTER:	Peter Krebs, Senior Legal Counsel

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 2023 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:

Enterprise	Entity
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 an extension of time to 13 August 2023 to allow Ms Sailor to satisfy the native title special condition in order to get a lease registered over the St Pauls Lodge premises.

This request requires Councillor support. Cr Levi has advised that Ms Sailor is his sister, so the request was referred to Mayor Mosby, who has confirmed he supports the request.

Comment:

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

1. native title future act validation tends to take years to finalise;
2. Manager Legal Services 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 was referred to Mayor Mosby, who has confirmed he supports the request.

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:
Julia Maurus
Manager Legal Services



Endorsed:
David Baldwin
Acting Chief Executive Officer

