

AGENDA

TORRES STRAIT ISLAND REGIONAL COUNCIL

AUGUST 2021

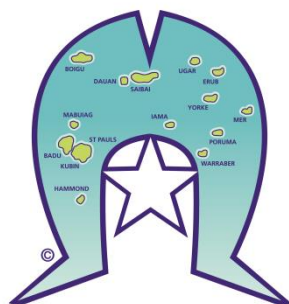
TRUSTEE MEETING

Tuesday 17th August 2021

Video Conference

TRUSTEE MEETING
Tuesday 17th August 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 Minutes</u> <ul style="list-style-type: none">• Special Trustee Meeting – 14th July 2021 - VC• Trustee Meeting – 21st July 2021 – Iama |
| 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 – verbal update• DOGIT Lease - verbal update |
| 7. | <u>9:30am – 9:50am</u> | <u>LEGAL – LHA Entitlements – Change of Procedure</u> |
| 8. | <u>9:50am – 9:55am</u> | <u>Next meeting – Tuesday 21st September 2021</u> |
| 9. | <u>9:55am – 10:00am</u> | <u>Closing Remarks and Prayer</u> |



Torres Strait Island
REGIONAL COUNCIL

MINUTES

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 – Boiqu - 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> |

Trustee Meeting – Tuesday 20th July 2021

PRESENT

Cr Phillemon Mosby, Mayor
Cr Dimas Toby, Division 1 – Boigu – online via Teleconference
Cr Torenzo Elisala, Division 2 – Dauan
Cr Conwell Tabuai, Division 3 – Saibai – online via Teleconference
Cr Keith Fell, Division 4 – Mabuiaig
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 Francis Pearson, Division 11 – Poruma
Cr Hilda Mosby, Division 12 – Masig
Cr Rocky Stephen, Division 13 – Ugar – online via Teleconference
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 (ACOO) (Warraber)
Mr Adeah Kabai, Acting Chief Engineer (ACE) (Saibai)
Mr Peter Krebs, Senior Legal Counsel (SLC) (Cairns)
Mrs Ursula Nai, Senior Executive Assistant (SEA) (Kirriri)

APOLOGY

Cr Laurie Nona, Division 5 – Badu
Cr Kabay Tamu, Division 10 – Warraber
Mrs Kathy Cochran, Secretariat (SO) (Cairns)

TRUSTEE MEETING
Tuesday 29th June 2021
Agenda Items

1. 9:24am - 9:30am **Opening Prayer and Welcome**

Mayor Mosby welcomed Councillors, Staff, and the Community Members in attendance, established quorum and acknowledged the traditional owners of Iama and our Zenadth Kes Region as a whole.

Mayor Mosby invited Cr John Levi to open the meeting in prayer with all in attendance observing one minute silence for families in mourning throughout our region.

2. 9:30am – 9:35am **Apologies**

- Cr Kabay Tamu – Division 10, Warraber
Personal Reasons.

RESOLUTION:

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

That Council accepts the apology from Cr Kabay Tamu for his absence at this meeting.

MOTION CARRIED

Secretariat advised Cr Laurie Nona has applied in advance for part day personal leave.

3. 9:35am - 9:45am **Declaration of Conflict of Interest (COI) Declarable and Prescribed**

- Cr John Levi declared a declarable conflict of interest for Agenda Item 9 – LEGAL – St Pauls Lodge
 - The applicant is Cr John Levi's sister.
 - Senior Legal Counsel, Mr Peter Krebs provided legal advice on the conflict and confirmed this is a Declarable Conflict of Interest
 - Cr John Levi will leave the room when this agenda item is discussed

- Cr Hilda Mosby declared a declarable conflict of interest for Agenda Item 7 - LEGAL – DA consent – Masig Lots 15 and 30
 - The applicants are distant family members of Cr Hilda Mosby
 - Senior Legal Counsel, Mr Peter Krebs provided legal advice on the conflict and confirmed this is a Declarable Conflict of Interest
 - The Council as Trustee voted in favour of Cr Hilda Mosby remaining in the room, participating in the discussion, and voting on the matter.

- Cr Jimmy Gela declared a declarable conflict of interest for Agenda Item 7 - LEGAL – DA consent – Masig Lots 15 and 30
 - The applicants are distant family members of Cr Jimmy Gela
 - Senior Legal Counsel, Mr Peter Krebs provided legal advice on the conflict and confirmed this is a Declarable Conflict of Interest
 - The Council as Trustee voted in favour of Cr Jimmy Gela remaining in the room, participating in the discussion, and voting on the matter.

4. 9:45am – 9:50am Confirmation of Trustee Meeting held on 29th June 2021

RESOLUTION

Moved: Cr Lama Trinkoon; *Second:* Cr Jimmy Gela

That the minutes of the Trustee Meeting held on 29th June 2021, be adopted as a true and accurate record of that meeting.

MOTION CARRIED

5. 9:50am – 10:00am Outstanding Action Items

Senior Legal Counsel, Mr Peter Krebs provided updates on all outstanding action items as per Register.

ACTION: Secretariat to Add Divestment Policy which is currently on hold as an Agenda Item at the next meeting for the Economic Growth Standing Committee to discuss and provide input.

6. 10:00am – 10:18am Standing Agenda Item: (verbal update)

- TRUSTEE – Undocumented commercial land occupation project

Senior Legal Counsel, Mr Peter Krebs provided a brief update on this topic to Council

- DOGIT Lease Verbal Update

Senior Legal Counsel, Mr Peter Krebs provided a brief update to Council on the letter from TSIRC to the Minister and the response from the Minister regarding their support of DOGIT transfers. A teleconference has been held between GBK, TSRA Native Title Office and TSIRC representatives and TSRA have confirmed they will provide funding for consultations and provide support for PBC's in regard to licencing, leasing and databases etc. TSRA will be engaging GBK to drive this process.

Council discussed the possibility of charging full applicable rates once transfers are complete.

7. 10:18am – 10:25am LEGAL – DA consent – Masig Lots 15 and 30

- Cr Hilda Mosby declared a declarable conflict of interest for Agenda Item 7 - LEGAL – DA consent – Masig Lots 15 and 30
 - The applicants are distant family members of Cr Hilda Mosby
 - Senior Legal Counsel, Mr Peter Krebs provided legal advice on the conflict and confirmed this is a Declarable Conflict of Interest
 - The Council as Trustee voted in favour of Cr Hilda Mosby remaining in the room, participating in the discussion, and voting on the matter.
- Cr Jimmy Gela declared a declarable conflict of interest for Agenda Item 7 - LEGAL – DA consent – Masig Lots 15 and 30
 - The applicants are distant family members of Cr Jimmy Gela
 - Senior Legal Counsel, Mr Peter Krebs provided legal advice on the conflict and confirmed this is a Declarable Conflict of Interest
 - The Council as Trustee voted in favour of Cr Jimmy Gela remaining in the room, participating in the discussion, and voting on the matter.

Senior Legal Counsel, Mr Peter Krebs spoke to this report. Cr Hilda Mosby confirmed she is supportive of both the applications.

RESOLUTION:

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

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.

MOTION CARRIED

RESOLUTION:

Moved: Cr Keith Fell; *Second:* Cr Francis Pearson

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.

MOTION CARRIED

8. 10:25am – 10:30am

LEGAL – Boigu - LHA Entitlement – Lot 13 and 36

Senior Legal Counsel, Mr Peter Krebs spoke to this report. Cr Dimas Toby raised his possible Conflict of Interest as he is the Prescribed Body Corporate Chair for Boigu. Senior Legal Counsel, Mr Peter Krebs provided legal advice that Cr Dimas Toby does not have a Conflict of Interest regarding this application. Cr Dimas Toby confirmed he is supportive of the applications.

RESOLUTION:

Moved: Cr Dimas Toby; *Second:* Cr Conwell Tabuai

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.

MOTION CARRIED

9. 10:30am – 10:52am

LEGAL – St Pauls Lodge

- Cr John Levi declared a declarable conflict of interest for Agenda Item 9 – LEGAL – St Pauls Lodge
 - The party is Cr. John Levi's sister.
 - Senior Legal Counsel provided legal advice on the conflict and confirmed this is a Declarable Conflict of Interest
 - Cr. John Levi left the room at 10:31am

Senior Legal Counsel, Mr Peter Krebs spoke to this report and confirmed that Cr John Levi is supportive of this application. An in depth discussion was held on the reasons Ms Sailor requested the change from Sole Trader to her new company St Pauls Lodge Pty Ltd which will help reduce the tax component of her business and will allow her to focus on future development and growth of her business

RESOLUTION:

Moved: Cr Lama Trinkoon; *Second:* Cr Keith Fell

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.**

MOTION CARRIED

Cr John Levi returns to the room at 10:52am

10. 10:52am – 10:53am Next meeting – Tuesday 17th August 2021

Trustee confirms the next Trustee meeting will be held via Video Conference on Tuesday 20th July 2021 commencing at 9:00am.

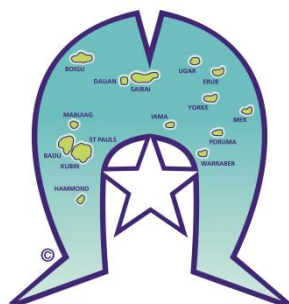
11. 10:53am – 10:55am Closing Remarks and Prayer

Mayor Mosby thanked Councillors, Staff and members of the public and declared the Trustee meeting closed.

MEETING CLOSED 10:55am

.....
David BALDWIN
Acting Chief Executive Officer
Torres Strait Island Regional Council
17th August 2021

.....
Phillemon MOSBY
Mayor
Torres Strait Island Regional Council
17th August 2021



Torres Strait Island
REGIONAL COUNCIL

DRAFT MINUTES

TORRES STRAIT ISLAND REGIONAL COUNCIL

JULY 2021

SPECIAL MEETING

Wednesday 14th July 2021

Video Conference

COUNCIL SPECIAL MEETING

Wednesday 18th July 2021

Agenda Items

- | | | |
|----|----------------------------|--|
| 1. | <u>10:00am – 10:05am</u> | <u>Welcome and Opening Prayer</u> |
| 2. | <u>10:05am – 10:10am</u> | <u>Apologies (Cr Tabuai, Cr Elisala)</u> |
| 3. | <u>10:10am – 10:20am</u> | <u>Declaration of Conflict of Interest (COI) Prescribed / Declarable</u> |
| 4. | <u>10:20am – 10:20am</u> | <u>COUNCIL MOVE INTO CLOSED BUSINESS</u> |
| 5. | <u>10:20am – 10:55am</u> | <u>LEGAL – CB – Ahwang -v- TSIRC Matter</u> |
| 6. | <u>10:55am – 10:55am</u> | <u>COUNCIL MOVE OUT OF CLOSED BUSINESS</u> |
| 7. | <u>11:55am – 12:00noon</u> | <u>Closing Remarks and Prayer</u> |

DRAFT

Wednesday 14th July 2021

Present

Cr Phillemon Mosby, Mayor (Cairns)
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 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)
Ms Hollie Faithfull, Chief Financial Officer (CFO) (Cairns)
Mr Peter Krebs, Senior Legal Counsel (SLC)(Cairns)
Ms Julia Maurus, Manager Legal Services (MLS) (Cairns)
Ms Naila Nomoa – Acting Secretariat Officer (SO) (Cairns)

Apologies

Cr Dimas Toby, Division 1 – Boigu
Cr Torengo Elisala, Division 2 – Dauan
Cr Conwell Tabuai, Division 3 – Saibai
Cr Keith Fell, Division 4 – Mabuig

8. **10:04am – 10:06am** **Welcome and Opening Prayer**

Mayor Mosby welcomed Councillors and staff , acknowledged the Traditional landowners and invited Cr Pearson to open the meeting with a word of prayer.

9. **10:06am – 10:07am** **Apologies**

- Cr Dimas Toby, Division 1 – Boigu
- Cr Torengo Elisala, Division 2 – Dauan
- Cr Conwell Tabuai, Division 3 – Saibai
- Cr Keith Fell, Division 4 – Mabuig

RESOLUTION:

Moved: Cr Nona; *Second:* Cr Pearson

That Council accepts the apology from Cr Dimas Toby, Cr Torengo Elisala, Cr Conwell Tabuai and Cr Keith Fell for their absence at this meeting.

MOTION CARRIED

10. **10:07am – 10:10am** **Declaration of Conflict of Interest (COI) Prescribed / Declarable**

- Cr Jimmy Gela declared a declarable conflict of interest for Agenda Item 12 – LEGAL – CB – Ahwang -v- TSIRC Matter
 - Cr Jimmy Gela raised family connection concerns.
 - Senior Legal Counsel, Mr Peter Krebs provided legal advice on the conflict and confirmed this is a Declarable Conflict of Interest
 - The Council as Trustee voted in favour of Cr Jimmy Gela to remain in the room, participate in the discussion and vote on the matter.

11. **10:10am – 10:10am** **TRUSTEE MOVES INTO CLOSED BUSINESS**

RESOLUTION:

Moved: Cr Aven Noah; *Second:* Cr Jimmy Gela

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 including, for example, legal proceedings that may be taken by or against the local government.

MOTION CARRIED

- **LEGAL – CB – Ahwang -v- TSIRC Matter**

12. 10:11am – 11:23am

LEGAL – CB – Ahwang -v- TSIRC Matter

RESOLUTION:

Moved: Cr John Levi; *Second:* Cr Laurie Nona

That Council approves the lodgement of an appeal against the decision of the Supreme Court in the matter of Ahwang v TSIRC which was handed down on 21 June 2021 and instructs the Chief Executive Officer to take all necessary steps to implement the appeal.

MOTION CARRIED
AGAINST – Cr Aven Noah

13. 11:24am – 11:24am

COUNCIL MOVE OUT OF CLOSED BUSINESS

RESOLUTION:

Moved: Cr Gela; *Second:* Cr Mosby

That the Trustee move out of Closed Business.

MOTION CARRIED

14. 11:24am – 11:27am

Closing Remarks and Prayer

Mayor Mosby invited Cr Levi to close with a word of Prayer

METTING CLOSED – 11:27am

.....
David BALDWIN
Acting Chief Executive Officer
Torres Strait Island Regional Council
17th August 2021

.....
Phillemon MOSBY
Mayor
Torres Strait Island Regional Council
17th August 2021

TORRES STRAIT ISLAND REGIONAL COUNCIL
TRUSTEE REPORT

TRUSTEE MEETING

DATE: 17 August 2021
SUBJECT ITEM: LHA (Katter) Lease entitlements – State
procedure to grant entitlements
AUTHOR: Peter Krebs, Senior Legal Counsel

RECOMMENDATION

That Council resolves to:

- *Note the change to the process for the grant of LHA (Katter) lease entitlements as outlined in the letter of 13 July 2021 from the Department of Resources to Mayor Mosby, or*
- *Object to the process and authorizes that a formal letter of reply from the Mayor to the Minister responsible for the Department of Resources outlining Councils concerns with a request for a meeting to discuss.*

BACKGROUND

On 13 July 2021, a letter from Mr. Graham Nicholas Executive Director of Land and Native Title Operations for the Queensland Department of Resources was sent to Mayor Mosby outlining how the department was now going to grant LHA (Katter) Lease entitlements in the Torres Straits region. (Attachment 1)

TSIRC as trustee had the following process for the grant of a LHA (Katter) Lease entitlement when an advice and recommendation report was received from the department:

1. Approval was sought from the Island Councillor where the Katter lease entitlement was located.

2. Checks with TSIRC housing department to see if there were any issues such as tenant relocation were required before the grant could be made.
3. The matter is brought before a Trustee meeting of council and if satisfied, council passes a resolution directing the CEO to sign off on the advice and recommendation report and the LHA (Katter) Lease can then be granted.

OFFICER COMMENT

This change in process is a significant change to the process regarding the grant of LHA (Katter) Leases in the Torres Strait Region.

Leading up to this change in procedure, there were complaints from the Department that TSIRC was taking too long to approve the grant of LHA (Katter) Lease entitlements.

It had been the department's position that it could always unilaterally issue LHA (Katter) Lease entitlements lawfully without consulting with Council but was doing so in the past just out of courtesy.

The new procedure in effect just gives Council 10 business days to object to the grant of a LHA (Katter) Lease with the only basis of objection being defined as a *practical objection* as set out in Section 29 of the Aboriginal and Torres Strait Islander Land Holding Act 2013. (Attachment 2)

In summary, this means that the only basis Council could object is if the location of the Katter lease is not clearly identified, or the ownership of improvements (houses, sheds etc) needs to be resolved or that there are competing interests in the land (tenant relocation etc).

Of particular concern regard the future grant of LHA (Katter) Lease entitlements on Boigu. There are approximately 37 LHA (Katter) Lease entitlements on Boigu, and some of these entitlements have significant TSIRC assets on them including the Community Hall and Airport waiting shed. Discussions with officers from the department have said that it was not their problem and that it was up to TSIRC to reach agreement with the Katter lease holders regarding TSIRC assets. This could prove difficult.

The new process also removes Council's ability to review the grant of Katter leases and the input of Island Councillors in the process and provides a further burden on Legal Services to review the entitlement applications within the 10 business days deadline.

CONSULTATION

Nil

LINK WITH STRATEGIC PLAN

Corporate Plan

- Home ownership.
- Economic Participation – Use of the asset to generate income or use as potential security for loans for business enterprises.

RISK AND SUSTAINBILITY

- Loss of rental revenue
- Removal of housing asset

STATUTORY REQUIREMENTS

Local Government Act 2009 (Old)

Torres Strait Islander Land Act 1991 (Qid)

CONCLUSION

As presented.



David Baldwin
A/CEO



Peter Krebs
Senior Legal Counsel

Attachments

1. Letter to Mayor Mosby dated 13 July 2021 from Department of Resources outlining the changes to the process of granting Katter lease entitlements in the region.
2. Section 29 of the Aboriginal and Torres Strait Islander Land Holding Act 2013 (Qld)

13 July 2021



Department of Resources

Councillor Phillemon Mosby
Mayor
Torres Strait Island Regional Council
PO Box 7336
Cairns QLD 4870

mayor@tsirc.qld.gov.au

Dear Mayor

I am writing to you regarding the resolution of the remaining Land Holding Act (LHA) lease entitlements in the Torres Strait Island Regional Council (Council) area, and to provide information about the Department of Resources (Resources) LHA Program for 2021/2022.

As of 6 July 2021, there are 65 unresolved lease entitlements across eight island communities. (See Attachment 1 – LHA Entitlement Summary). The Queensland Government has committed under the *Queensland Government's response to the Stolen Wages Repatriation Taskforce report, Reconciling Past Injustices* (2016), and through the *Queensland Housing Strategy 2017-27*, to resolve these lease entitlements by 30 June 2022. To achieve this, Resources is implementing a more streamlined process as outlined below.

LHA Resolution Process

1. Resources receives confirmation from the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships (DSDSATSIP formerly DATSIP) that the correct entitlement holder or beneficiary has been identified.
2. Resources receives a signed home ownership acceptance letter on behalf of the entitlement holder or beneficiary from the Home Ownership Team, DSDSATSIP.
3. Resources provides Council with a draft Advice and Recommendation Report for their information and review via email.
4. On receipt Council will have ten business days to return the Advice and Recommendation Report to Resources with a recommendation to grant the lease, or alternatively requesting a delay of the grant of the lease. If requesting a delay, the particular practical obstacle as defined under section 29 of the *Aboriginal and Torres Strait Land Holding Act 2013* (2013 LHA), to satisfying the lease entitlement, should be identified in the response to the Advice and Recommendation Report.
5. Resources will proceed to grant the lease after ten days if Council has not identified any practical obstacle as defined in 2013 LHA.
6. NOTE: Where entitlement holders or beneficiaries decide to surrender their lease entitlement, Resources will continue to advise Council of those surrenders.

The 2013 LHA provides a three-month period after the Lease Entitlement Notice has been referred to the reference entity (Council) for it to identify practical obstacles to satisfying a lease entitlement and provide the Minister for Resources any advice or recommendation about satisfying the lease entitlement. For each of the eight island communities where lease entitlements remain unresolved, Resources has met its legislative responsibilities by previously publishing all necessary Lease Entitlement Notices and Trust Area Notices. All surveys have been finalised and boundary issues resolved. Therefore, Resources is of the view there should not be any practical obstacles to the resolution of the leases, except for possible tenant relocation issues.

I appreciate that providing the Advice and Recommendation Reports to Council, first for consideration by the relevant individual island Councillors, then for consideration at a full Council meeting, is a useful way for new Councillors and a new Council to get across the details of LHA lease business. Unfortunately, this extended process is now contributing to considerable delays in the grant process.

As Council would be aware, a LHA lease entitlement is a legal entitlement. Where DSDSATSIP has engaged with the lease entitlement holder or beneficiary and has obtained a signed home ownership acceptance letter, the grant of the lease should not be delayed where no practical obstacle exists.

In order to resolve the majority of lease entitlements over the next 12 months a streamlined process is essential. It is accepted that due to circumstances beyond Resources control there will be a small number of lease entitlements that may not be resolved in this timeframe, however, Resources is committed to resolving the vast majority of lease entitlements by 30 June 2022.

Should you wish to discuss this matter or require any further clarification, please do not hesitate to contact Julie Brogan, Director, Indigenous Land Operations of the Department of Resources on telephone 3087 8903.

Yours sincerely

Graham Nicholas
Executive Director, Land and Native Title Operations

cc: David Baldwin, A/CEO, Torres Strait Island Regional Council

Attachment 1: LHA Entitlement Summary

LHA Entitlement Summary

Trust Area	Number outstanding
BADU	2
BOIGU	37
MABUIAG	4
MASIG	6
SAIBAI	4
St PAULS	3
UGAR	2
WARRABER	7
Total	65

**Queensland Consolidated Acts****ABORIGINAL AND TORRES STRAIT ISLANDER LAND HOLDING ACT 2013 - SECT 29 What are practical obstacles****ABORIGINAL AND TORRES STRAIT ISLANDER LAND HOLDING ACT 2013 - SECT 29****What are practical obstacles****29 WHAT ARE PRACTICAL OBSTACLES**

(1) Without limiting what practical obstacles to satisfying a lease entitlement may be identified under this Act, the following could be expected to be identified as obstaclesa€"

(a) that the location of the area of the lease entitlement land can not be clearly identified;

(b) that the ownership of improvements on the lease entitlement land needs to be resolved;

(c) that competing interests in the lease entitlement land need to be dealt with.

(2) However, the identification, or the need to obtain the agreement, of an interested person in the estate of a deceased holder of a lease entitlement is not a practical obstacle under this Act.