

# AGENDA

TORRES STRAIT ISLAND REGIONAL COUNCIL

JUNE 2021

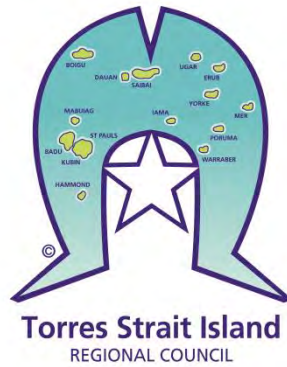
TRUSTEE MEETING

Tuesday 29<sup>th</sup> June 2021

Video Conference

**TRUSTEE MEETING**  
**Tuesday 29<sup>th</sup> June 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 24<sup>th</sup> 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"><li>• TRUSTEE – Undocumented commercial land occupation project</li><li>• DOGIT Lease Verbal Update</li></ul> |
|     |                          |  |
| 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 20<sup>th</sup> July 2021</u>  |
| 15. | <u>10:34am – 10:35am</u> | <u>Closing Remarks and Prayer</u>  |



# MINUTES

TORRES STRAIT ISLAND REGIONAL COUNCIL

MAY 2021

TRUSTEE MEETING

Monday 24<sup>th</sup> May 2021

Cairns

**TRUSTEE MEETING**  
**Monday 24<sup>th</sup> May 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>   |
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| 4.  | <u>9:10am – 9:15am</u>   | <u>Confirmation of Trustee Meeting held on 21<sup>st</sup> April 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"><li>• TRUSTEE – Undocumented commercial land occupation project</li><li>• DOGIT Lease Verbal Update</li></ul> |
|     |                          |  |
| 7.  | <u>9:30am – 9:40am</u>   | <u>LEGAL – Boigu – LHA Entitlements – Lot 90 – Lot 15</u>  |
| 8.  | <u>9:40am – 9:50am</u>   | <u>LEGAL – Dauan Kiosk divestment</u>  |
| 9.  | <u>9:50am – 10:00am</u>  | <u>LEGAL – LHA Transfer – Lot 12 – Pele Mooka</u>  |
| 10. | <u>10:00am – 10:10am</u> | <u>LEGAL – Mabuiag – LHA Transfer – Lot 14 Kame Paipai</u>   |
| 11. | <u>10:10am – 10:20am</u> | <u>LEGAL – St Pauls – LHA Transfer – Lot 22 – Rose Alau</u>  |
| 12. | <u>10:20am – 10:23am</u> | <u>Next meeting – 29<sup>th</sup> June 2021</u>  |
| 13. | <u>10:23am – 10:25am</u> | <u>Closing Remarks and Prayer</u>  |

## **TRUSTEE Meeting – 24<sup>th</sup> May 2021**

### **PRESENT:**

Cr Phillemon Mosby, Mayor (Poruma) -  
Cr Dimas Toby, Division 1 – Boigu -  
Cr Torenzo Elisala, Division 2 – Dauan  
Cr Conwell Tabuai, Division 3 – Saibai  
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 – Kiririri -  
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 -

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

### **APOLOGY:**

Cr Aven Noah, Division 15 – Mer

**TRUSTEE MEETING**  
**Monday 24<sup>th</sup> May 2021**  
**Agenda Items**

**1. 9:05am - 9:07am                      Opening Prayer and Welcome**

Mayor Mosby welcomed all Councillors, Executives and staff and invited Cr Lui to open the meeting in prayer.

**2. 9:07am - 9:10am                      Apologies**

- Cr Aven Noah – Division 15 – Mer (sorry business)

**RESOLUTION:**

Moved: Cr Fell; Second: Cr Elisala

That council accepts the apology from Cr Noah for his absence at this meeting.

**MOTION CARRIED**

Cr Pearson through the Mayor advised Council he will be leaving the meeting at 11:15am to attend a dentist appointment.

Cr Nona not present. No formal apology received from Cr Nona.

**3. 9:10am - 9:14am                      Declaration of Conflict of Interest (COI) Declarable and Prescribed**

Mayor Mosby encouraged Councillors and staff to update their Register of Interest and to make a declaration at any time throughout the meeting.

- Cr Elisala – COI (declarable) – 8. LEGAL - Dauan Kiosk divestment

Mr Peter Krebs, Legal Council advised Cr Elisala's conflict is a declarable conflict and if Council agrees he can remain in the room and be part of the discussion and vote.

- Cr Levi – COI (declarable) – 11. LEGAL – St Pauls LHA Transfer - Lot 22 – Rose Alau

Mr Peter Krebs, Legal Counsel advised Cr Elisala's conflict is a declarable conflict and if Council agrees he can remain in the room and be part of the discussion and vote.

**Mayor Mosby put it to Council if they agree to have Cr Elisala and Cr Levi to remain in the room. All Councillors agreed.**

5. **9:14am – 9:18am**

**Confirmation of Trustee Meeting held on 21<sup>st</sup> April 2021**

**Amendment**

Item 16 – Include Cr Elisala, Divisional Councillor for Dauan into the paragraph with Cr Stephen and Cr Tabuai for offline consultation.

**RESOLUTION**

*Moved:* Cr Toby *Second:* Cr Pearson

**That the minutes of the Council Meeting held in August 2020, be adopted as a true and accurate record of that meeting taking into account the above amendments.**

**MOTION CARRIED**

6. **9:18am – 9:32am**

**Outstanding Action Items**

Acting Chief Executive Officer provided Council with an update on all the action items.

**ACTION:** Manager Legal Services to prepare an Information Report to June OM 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.

7. **9:32am – 9:34am**

**Standing Agenda Item: (verbal update)**

- TRUSTEE – Undocumented commercial land occupation project

Senior Legal Counsel provided Council with an update on the status of commercial land occupation project for the whole Region.

- DOGIT Lease Verbal Update

Senior Legal Counsel provided Council with an update on DOGIT leases across the Region.

Cr Stephen raised engagement with DATSIP for DOGIT transfer.

**ACTION:** Senior Legal Counsel to invite Peter Lawrence to speak at Council workshop. To note in the Policy the issue of the ownership of the asset.

Chief Financial Officer informed Council the Policy was on the agenda of the Standing Committee for the meeting in February 2021 however the meeting was cancelled at the last minute. The Policy is on the agenda for the June Policy

8. **9:30am – 9:40am** **LEGAL – Dauan Kiosk Divestment**

Senior Legal Counsel, Mr Peter Krebs spoke to the report. Council had a robust discussion.

**ACTION:** Senior Legal Counsel to follow up with Manager Legal Services regarding the Divestment Policy.

**ACTION:** Standing Committee to review the Divestment Policy.

Concerns raised by Council that further consultation with Community be had around roles and responsibilities subject to further consultation with community on the roles and responsibilities of PBC, Council etc on taking on the investment. It poses a potential enterprise failure.

**MATTER LEFT LYING ON THE TABLE**

9. **9:40am – 10:02am** **LEGAL – Boigu – LHA Entitlements – Lot 90 – Lot 15**

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

**RESOLUTION:**

*Moved:* Cr Tabuai; *Second:* Cr Fell

1. That the Trustee recommend advising the Minister that the lease over Lot 90 on SP273190 (90 Airport Road, Boigu) should issue to John 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 Advise and Recommendation Report.
2. That the Trustee recommend advising the Minister that the lease over Lot 15 on SP273190 (15 Toby Street, Boigu) should issue to Wallen Ingui 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**

10. **10:02am – 10:05am** **LEGAL – LHA Transfer – Lot 12 – Pele Mooka**

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

**RESOLUTION:**

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

That pursuant to the Aboriginal and Torres Strait Islander Land Holding Act 2013 (Qld), the Council as Trustee consent to the transfer of the Land Holding Act (Katter) lease 720577066 from Pele Mooka to Shania and Stephanie Mooka for 12 Map Street (Lot 12 on SP273192) on Mabuiag.

**MOTION CARRIED**



**11. 10:05am – 10:08am**

**LEGAL – Mabuiaq – LHA Transfer – Lot 14 Kame Paipai**

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

**RESOLUTION:**

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

**That pursuant to the Aboriginal and Torres Strait Islander Land Holding Act 2013 (Qld), the Council as Trustee consent to the transfer of the Land Holding Act (Katter) lease 719506879 from Kame Paipai to Nalam Paipai for 14 Map Street (Lot 14 on SP273192) on Mabuiaq.**

**MOTION CARRIED**

**12. 10:08am – 10:20am**

**LEGAL – St Pauls – LHA Transfer – Lot 22 – Rose Alau**

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

**RESOLUTION:**

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

**That pursuant to the Aboriginal and Torres Strait Islander Land Holding Act 2013 (Qld), the Council as Trustee consent to the transfer of the Land Holding Act (Katter) lease 719331045 from Rose Alau to Wallington Monwell Kris for 56 Anu Namai Street (Lot 22 on SP256048) on St Pauls.**

**ACTION:** Follow up with Manager Legal Services on the Warraber Katter leases.

**ACTION:** Senior Legal Counsel to look into the outstanding Katter Leases for Saibai.

Mayor encouraged Councillors to contact Mr Peter Krebs, Senior Legal Council if they had questions on Katter Leases etc.

Councillors raised the issue of flexibility around the time frame of the budget process and accessing Trustee funds. CFO to take offline.

**13. 10:20am – 10:23am**

**Next meeting – 29<sup>th</sup> June 2021**

Mayor confirmed the next Trustee meeting is scheduled for Tuesday 29<sup>th</sup> June 2021.

**14. 10:23am – 10:25am**

**Closing Remarks and Prayer**

Mayor thanked everyone and declared the Trustee meeting closed.

**MEETING CLOSED – 10:18am**

.....  
**David Baldwin**  
**Acting Chief Executive Officer**  
**Torres Strait Island Regional Council**  
**29<sup>th</sup> June 2021**

.....  
**Phillemon Mosby**  
**Mayor**  
**Torres Strait Island Regional Council**  
**29<sup>th</sup> June 2021**

DRAFT

## Action Items from May Trustee Meeting

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	Currently in progress	Peter to follow up with Julia
Ugar and Saibai Land Transfer	Senior Legal Counsel to invite CEQ to the next meeting to discuss lease arrangements	Senior Legal Counsel	CEQ CEO Mr Ian Copeland is currently unable to travel due to medical reason for the next 6 weeks and has requested to attend the July Trustee Meeting	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		June 21 Trustee Meeting
Standing Agenda item – DOGIT Lease verbal update	Senior Legal Counsel to invite Peter Lawrence to speak at Council workshop. To note in the Policy the issue of the ownership of the asset.	Senior Legal Counsel		June 21 Trustee Meeting
Dauan Kiosk divestment	Senior Legal Counsel to follow up with Manager Legal Services regarding the Divestment Policy.	Senior Legal Counsel		June 21 Trustee Meeting
Dauan Kiosk divestment	Standing Committee to review the Divestment Policy	Senior Legal Counsel		June 21 Trustee Meeting
LHA transfer – St Pauls	Follow up with Manager Legal Services on the Warraber Katter leases.	Senior Legal Counsel		June 21 Trustee Meeting
LHA transfer – St Pauls	Senior Legal Counsel to look into the outstanding Katter Leases for Saibai.	Senior Legal Counsel		June 21 Trustee Meeting

# TORRES STRAIT ISLAND REGIONAL COUNCIL

## TRUSTEE REPORT

<b>ORDINARY MEETING:</b>	June 2021
<b>DATE:</b>	29 & 30 June 2021
<b>ITEM:</b>	Agenda Item for Resolution by Trustee
<b>SUBJECT:</b>	Dauan Health Care Centre proposed Easement C
<b>AUTHOR:</b>	Julia Maurus, Manager Legal Services

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### Personal Interests

Councillors are reminded to declare any personal interests relating to:

- Torres and Cape Hospital and Health Service (TCHHS)
- Traditional owner interests at Dauan

### Recommendation:

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.

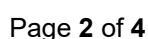
### Executive Summary:

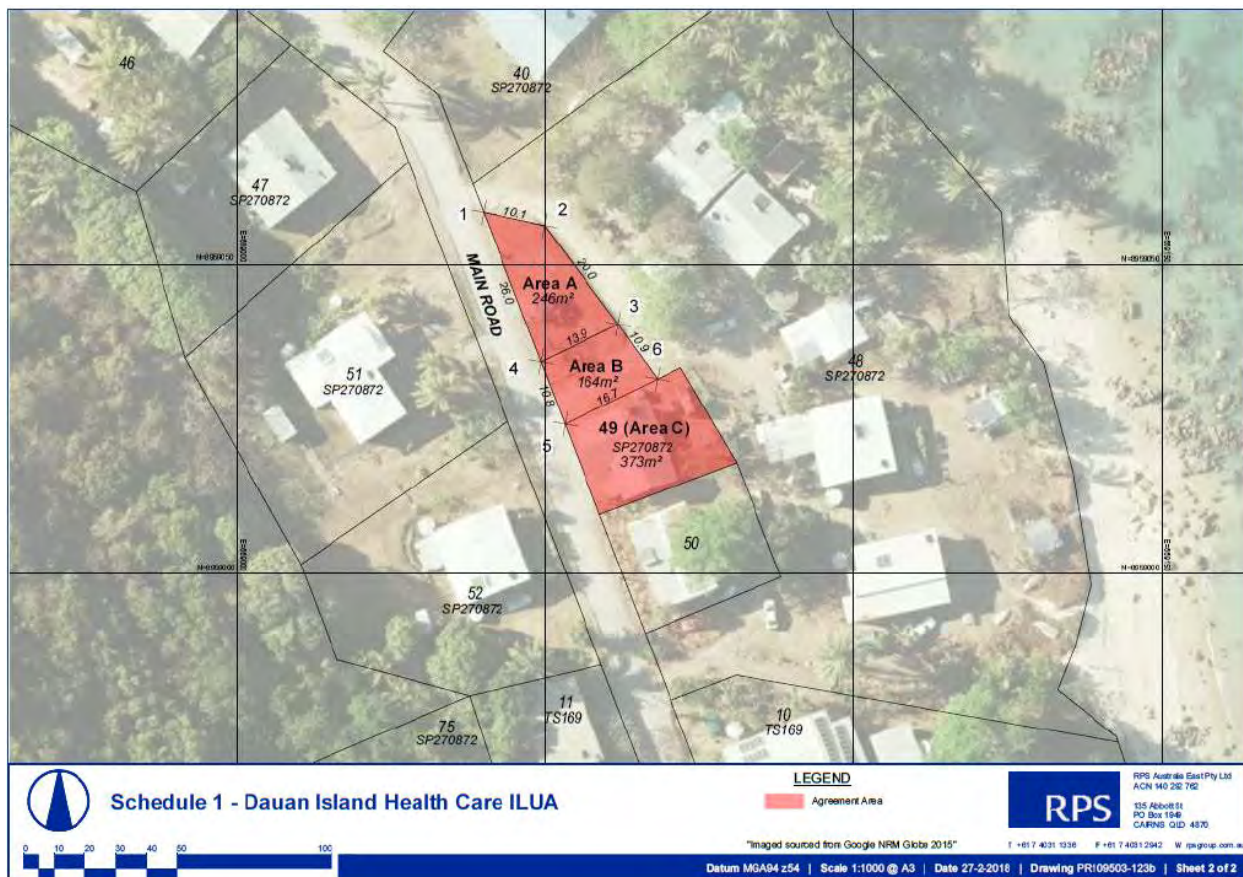
TCHHS requires a permanent sewerage easement "EMT C" (57m<sup>2</sup>) over part of lot 48 on SP270872, next to the Dauan Health Care Centre. The proposed easement has been assessed as compliant and is supported by the Divisional Councillor.

### Background:

1. TCHHS has a registered 40-year lease for Dauan lot 49 for the new health care centre. This lease was registered following a trustee resolution made in February 2018.
2. TCHHS also has a registered short-term lease ("Lease A") over part of lot 48 (next to lot 49) for a temporary health clinic and construction laydown area. This two-year lease was registered following a trustee resolution in March 2018.
3. The development permit for the new health care centre was originally granted by Council resolution in October 2018, and amended in December 2018. The development permit requires TCHHS to install a waste water treatment and disposal system. There was not

4. TCHHS therefore needs a permanent easement over part of lot 48 (next to the health care centre) for the septic tank/sewerage. The conditions of the development permit require TCHHS to have permanent tenure arrangements in place for the sewerage soakage trench before the short-term lease expires on 30 September 2021.
5. The proposed easement is shown below as “EMT C” (57m<sup>2</sup>).
6. The Dauan Health Care ILUA (QI2018/026) was registered in March 2019.
7. Crown Law on behalf of TCHHS has requested that TSIRC execute the attached sewerage easement located next to the new Dauan health facility. (**Attachment 1**)
8. The Easement survey plan (SP321502) is included as **Attachment 2**.





### Comment:

1. To date there has been no trustee resolution explicitly supporting the grant of an easement and the registration of the easement survey plan, so an additional trustee resolution is required before Council can sign off on the easement.
2. MacDonnells Law has reviewed the proposed easement document. Manager Legal Services has settled the proposed easement document (**Attachment 1**).
3. The proposed easement is for peppercorn rent (\$1.00), each party is to bear its own legal costs (clause 8.1) and TCHHS will pay all fees associated with registration of the survey plan and easement. This is the first easement that TSIRC as trustee has ever had to consider and the trustee has no policy specifically relating to easements.
4. Manager Legal Services does not recommend charging commercial rent for this easement. Council's trustee rent methodology (resolved in May 2018) is \$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. Peppercorn rent is considered appropriate in this instance, given that the Dauan Health Care Centre lease is a small block at only 373m<sup>2</sup> and is charged at the trustee's commercial rent (minimum starting rent of \$6,000 per annum was applied). Easement C adds only 57m<sup>2</sup> to TCHHS land interests for the Dauan Health Care Centre, which when added to the Lot 49 lease area still comes in below the minimum starting rent of \$6,000 per annum.
5. Holding Redlich has reviewed the proposed easement from a native title perspective and has advised that it is validated / compliant. Jenny Humphris concluded that the grant of the proposed easement is validated under the Dauan Health Care ILUA (QI2018/026) registered in March 2019, because the easement is "necessary or incidental" for the new health care centre.

6. Council has not delegated statutory power to the CEO to sign an instrument of easement and survey plan. The trustee directed that delegation of this power is to be made on a case-by-case basis only. In this instance, it is recommended the trustee authorise the Mayor to sign the instrument of easement and survey plan, with the CEO to sign if the Mayor is unavailable.

## **Considerations**

### Risk Management

Compliance (development permit)

Compliance (native title)

### Council Finance

Not applicable

Revenue: Survey plan signing fee will be charged to TCHHS

## **Consultation:**

- Supported by Cr Elisala
- Crown Law
- Torres and Cape Hospital and Health Service
- Holding Redlich (native title review)
- MacDonnells Law (easement document review)

## **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

## **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 consent to the registration of survey plan SP321502, consent to the grant of proposed Easement C on SP321502 and delegate to the Mayor and Chief Executive Officer each the power to execute SP321502 and the Easement.



### **Recommended:**

Julia Maurus

Manager Legal Services



### **Endorsed:**

David Baldwin

Acting Chief Executive Officer

Dealing Number

Duty Imprint



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1. Grantor	Lodger (Name, address & phone number)	Lodger Code
Torres Strait Island Regional Council deed of grant in trust the grantee to hold the said land in trust for the benefit of islander inhabitants and for no other purpose whatsoever		
2. Description of Easement/Lot on Plan	Title Reference	
Servient Tenement (burdened land)		
Easement C on SP 321502 in Lot 48 on SP 270872	51093457	
#Dominant Tenement (benefited land)		
Lot 49 on SP 270872		
# not applicable if easement in gross	51093458	
3. Interest being burdened	#4. Interest being benefited	
Deed of Grant in Trust	Lease no. 719407708	
5. Grantee	(include tenancy if more than one)	
Given names	Surname/Company name and number	
	TORRES AND CAPE HOSPITAL AND HEALTH SERVICE	
6. Consideration	7. Purpose of easement	
\$1.00	Sewerage	

8. Grant/Execution

The Grantor for the above consideration grants to the Grantee the easement over the servient tenement for the purpose stated in item 7 and the Grantor and Grantee covenant with each other in terms of: the attached schedule.

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

..... signature		Torres Strait Island Regional Council by its duly authorised delegate in accordance with the Local Government Act
..... full name		
..... qualification	/ /	
Witnessing Officer	Execution Date	Signature of authorised delegate
(Witnessing officer must be in accordance with Schedule 1 of the Land Title Act 1994 eg Legal Practitioner, JP, C Dec)		
		Full name Grantor's Signature
		Torres and Cape Hospital and Health Service by its duly authorised delegate
..... signature		
..... full name		
..... qualification	/ /	
Witnessing Officer	Execution Date	Signature of authorised delegate
(Witnessing officer must be in accordance with Schedule 1 of the Land Title Act 1994 eg Legal Practitioner, JP, C Dec)		
		Full name Grantee's Signature



Title Reference 51093457, 51093458

This is the **Schedule** referred to in the Form 9 Easement between the Torres Strait Island Regional Council and Torres and Cape Hospital and Health Service dated 2021.

**1. Definitions and interpretations**

1.1 In this Easement unless the context otherwise indicates:

- (a) **Authorised Persons** means tenants, employees, agents, contractors, licensees and invitees of and other persons claiming (or authorised) by, through or under, the Grantee or the Grantor (as relevant).
- (b) **Claims** means any claims, demands or causes of action (whether based in contract, equity, tort or statute), losses, liabilities, costs, compensation or expenses.
- (c) **Consequential Loss** means loss of anticipated or actual profits or revenue, loss of production or use of equipment, business interruption, loss of good will, loss of data, punitive or exemplary damages or indirect, remote, abnormal or unforeseeable loss or damage.
- (d) **Easement** means this Form 20 Schedule and the Form 9 to which this Form 20 Schedule is annexed and includes any annexure.
- (e) **Equipment** includes vehicles, machinery, tools, materials, plant and equipment.
- (f) **Grantee** means the person named in Item 5 of the Form 9 that is a party to this Easement.
- (g) **Grantor** means the person named in Item 1 of the Form 9 that is a party to this Easement.
- (h) **GST** has the same meaning as that term in the GST Act.
- (i) **GST Act** means the A New Tax System (Goods and Services Tax) Act 1999 (Cth).
- (j) **Infrastructure** means works, Equipment and infrastructure for carrying, treating or disposing of Sewage and other wastewater, all ancillary plant, Equipment, fittings and attachments (including pumps and pump stations) and works of any nature to protect or support any of them, including any underground pipes, drains, wires, cables, conduits and related infrastructure and landscaping reasonably required in connection with them.
- (k) **Land** means the land described as Lot 48 on SP 270872 as at the date of this Easement.
- (l) **Servient Tenement** means the land described as such in Item 2 of the Form 9 of this Easement.
- (m) **Sewage** includes raw or treated sewage and liquids whether foul or not and whether flowing individually or in concentration.
- (n) **Supply** has the same meaning as in the GST Act.
- (o) **Tax Invoice** has the same meaning as in the GST Act.

1.2 If a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning.

1.3 A reference to:

- (a) a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation, and, in the case of a trustee, includes a substituted or an additional trustee;

**Title Reference 51093457, 51093458**

- (b) a thing on, or the doing of anything on or in respect of, land in the Servient Tenement includes a reference to a thing, or the doing of the thing, through, over, across or under the Land; and
- (c) land in the Servient Tenement includes the land's surface, sub-surface and strata above the surface.

- 1.4 A person includes a corporation, partnership, incorporated association, body corporate, unincorporated body, instrumentality of the crown and any statutory, public or local authority.
- 1.5 Any statute or statutory provision includes all consolidations, re-enactments and substitutions thereof or as amended from time to time and the regulations, bylaws and orders for the time being in force thereunder.
- 1.6 Words importing:
- (a) any gender include all other genders; and
  - (b) singular include the plural and vice versa.
- 1.7 Headings are inserted for convenience only and do not affect the interpretation of any clauses. References to clauses shall be construed as references to clauses of this Easement.

**2. Grant**

- 2.1 The Grantor grants to the Grantee and the Grantee accepts an easement for the Grantee and its Authorised Persons, at all times, to:
- (a) construct, place, lay, deepen, widen, inspect, clean, maintain, change, add to, remove, repair, replace, relay, renew, use and manage the Infrastructure in the Servient Tenement;
  - (b) discharge, pass, convey, conduct, store and treat Sewage (whether flowing continuously, intermittently or occasionally) through, to, from and within the Infrastructure, above or beneath the surface of the Servient Tenement;
  - (c) inspect or survey the Servient Tenement; and
  - (d) access and use the Servient Tenement in accordance with this Easement with or without Equipment.

**3. Grantee's rights and obligations**

- 3.1 Without limiting clause 2.1, and for the purposes noted in that clause, the Grantor grants the Grantee and its Authorised Persons the rights:
- (a) of ingress, egress and regress to and from the Servient Tenement and over the land of the Grantor immediately adjacent to the Servient Tenement as is reasonably necessary to enable the Grantee and Authorised Persons (with or without Equipment) to obtain access to and from the Servient Tenement;
  - (b) to clear vegetation and open and break up soil (both surface and subsurface);
  - (c) to dig pits and trenches, sink shafts, erect scaffolding, construct manholes and lay pipes and concrete;
  - (d) to store soil and gravel;
  - (e) to operate and store Equipment;

**Title Reference 51093457, 51093458**

- (f) to run and pass electric current and radio and electronic signals and transmissions through the Servient Tenement (including the Infrastructure);
- (g) to carry out any other activities or other incidental works the Grantee considers reasonably necessary in order to exercise its rights under this Easement;
- (h) to pull down or break open any fencing on, or on land of the Grantor adjacent to, the Servient Tenement; and
- (i) to temporarily use land owned by the Grantor immediately adjacent to the Servient Tenement as may reasonably be necessary.

3.2 In exercising its rights under this Easement, the Grantee and its Authorised Persons must:

- (a) ensure all work is done in a proper and workmanlike manner;
- (b) comply with all relevant laws; and
- (c) do as little damage as possible to the Servient Tenement, land owned by the Grantor immediately adjacent to the Servient Tenement, and any infrastructure located on the Servient Tenement or land owned by the Grantor immediately adjacent to the Servient Tenement.

3.3 The Grantee must maintain the Infrastructure at its cost in good working order and condition.

3.4 The Grantee must reinstate, at its cost and to the satisfaction of the Grantor, all damage to the Servient Tenement and adjacent land that is caused by the Grantee or its Authorised Persons in the exercise and performance of any of rights granted under this Easement.

#### **4. Infrastructure and Equipment**

4.1 All Infrastructure and Equipment constructed, installed, erected or placed on the Servient Tenement and used in or associated with the exercise by the Grantee of the rights granted under this Easement will be and remain the property of the Grantee.

4.2 At the end or termination of this Easement, the Grantee must remove the Infrastructure from the Servient Tenement within 3 months of the date that this Easement ends and the Grantee must repair any damage caused by such the removal, unless in its sole discretion the Grantor elects to retain any the Infrastructure.

4.3 Where the Grantor elects to retain the Infrastructure, it will become the property of the Grantor on the date this Easement ends.

#### **5. Grantor's obligations**

5.1 Subject to any express provision of this Easement to the contrary, the Grantor must not:

- (a) interrupt or disturb the Grantee's right to use the Servient Tenement in accordance with the rights conferred by this Easement;
- (b) construct or allow to be constructed upon the Servient Tenement any improvement, buildings or structures;
- (c) grant any rights to any person in relation to the Easement Area to the extent the granting of those other rights could or will conflict or interfere with the Infrastructure or the exercise of any of the Grantee's rights and powers under the Easement;

**Title Reference 51093457, 51093458**

- (d) remove from or stockpile on the Servient Tenement soil, sand, gravel or any other substance or material;
- (e) light a fire on the Servient Tenement, or allow a fire to escape onto the Servient Tenement from the part of the Land that is not part of the Servient Tenement;
- (f) park any vehicle or plant any tree or other vegetation or crop on the Servient Tenement;
- (g) permit the Servient Tenement to be used in such a way as to obstruct or interfere with the Infrastructure and/or the proper and effective use of the Infrastructure by the Grantee;
- (h) install or have installed any concrete or bitumen paths, gardens or landscaping on the Servient Tenement;
- (i) alter the surface level of the Servient Tenement; or
- (j) obstruct, interrupt, impede, impair, or interfere with or divert the flow of storm water drainage along the Servient Tenement (other than as a result of any event or occurrence that is outside the reasonable control of the Grantor).

5.2 The Grantor must use its best endeavours to prevent anyone else doing any of the things that the Grantor is required not to do under the Easement and not allow or authorise anyone else to do any of those things.

5.3 If the Grantor does not comply with any of its obligations under this Easement (whether a positive or negative obligation) the Grantee may remedy the Grantor's breach and recover the cost of doing so from the Grantor as a debt owing to the Grantee.

## **6. Risk and indemnity**

6.1 The exercise of the Grantee's rights under this Easement and the use of the Servient Tenement by the Grantee and any Authorised Person will be solely at the risk of the Grantee.

6.2 Each party (**Indemnifying Party**) will indemnify and keep indemnified the other party (**Indemnified Party**) against any costs, expenses, claims, demands or actions (excluding any Consequential Loss) arising out of:

- (a) personal injury or property damage to the Indemnified Party or any third party; or
- (b) any damage or destruction (excluding fair wear and tear) to the surface of the Servient Tenement or the Infrastructure,

to the extent arising out of the acts or omissions of the Indemnifying Party or the Indemnifying Party's Authorised Users in the use and enjoyment of the Servient Tenement or the rights granted by this Easement, except to the extent caused or contributed to (whether proportionately, [in which case the indemnity given under this clause decreases by such proportion], or jointly and severally) by the Indemnified Party or the Indemnified Party's Authorised Users or any third party.

## **7. Release – party ceasing to be registered proprietor**

7.1 When the Grantee ceases to be registered lessee of the Dominant Tenement or the Grantor ceases to be the registered proprietor of the Land that party is under no further liability to the other, or to the successors in title to the other, for any event, occurrence, thing connected with this Easement that arises afterwards, but without prejudice to any Claims arising for matters occurring prior to that time.

**Title Reference 51093457, 51093458**

**8. Costs**

- 8.1 Each party must pay its own costs of and incidental to the negotiation and execution of this Easement but the Grantee must pay all survey fees, transfer duty (including fines and penalties, except to the extent they have been imposed as a result of the Grantor's delay) and registration fees.

**9. GST**

- 9.1 The parties acknowledge that GST may be payable on a Supply under this Easement.
- 9.2 Where GST is payable on any Supply, the party making the Supply must issue a valid Tax Invoice for the Supply and the party receiving the Supply must pay the GST in addition to the consideration for the Supply.
- 9.3 If for any reason including:
- (a) an amendment to the GST Act;
  - (b) the issue of a ruling or advice by the Commissioner for Taxation;
  - (c) a refund of GST in respect of any Supply made under this Easement; or
  - (d) a decision of any tribunal or court;
- the amount of GST paid by a party under this Easement differs from the amount of GST paid or payable to the Commissioner of Taxation, then the party making the Supply must issue an appropriate GST adjustment note and the difference must be paid by or to the other party as the case may be.
- 9.4 The parties agree to exchange with each other such information as may be necessary to enable each party to accurately assess its rights and obligations under this clause 9.

**10. Notices**

- 10.1 Any notice, request, consent, or approval under this Lease must be in writing and may be delivered by hand, by prepaid post, or by email to the addresses specified below, or any substitute address as may have been notified by the relevant addressee from time to time.

**Grantor**

Torres Strait Island Regional Council

**Delivery Address:**

Lot 12 Francis Road  
Hammond Island Qld 4870

**Postal Address:**

PO Box 7336  
Cairns Qld 4875

**Email:**

[ceo@tsirc.qld.gov.au](mailto:ceo@tsirc.qld.gov.au)

**Attention:**

**Grantee**

Torres and Cape Hospital and Health Service

**Delivery Address:**

Level 6, William McCormack Place  
5B Sheridan Street  
Cairns Qld 4870

**Postal Address:**

PO Box 5607  
Cairns Qld 4870

**Email:**

[TCHHS-Chief-Executive@health.qld.gov.au](mailto:TCHHS-Chief-Executive@health.qld.gov.au)

**Title Reference 51093457, 51093458**

Chief Executive Officer

**Attention:**

Chief Executive

10.2 Subject to clause 10.3, notices will be deemed to be given:

- (a) if posted - 10 days after deposit in the mail with postage prepaid;
- (b) if hand-delivered - on the date of delivery;
- (c) if emailed - on the date of the email, earlier of receipt of delivery confirmation or the date of transmission (unless otherwise notified that delivery of the email was unsuccessful or delayed),

as the case may be.

10.3 A notice received after 5.00pm on any day will be deemed to be received at 9:00 a.m. on the next business day.

10.4 Notices must be signed by an authorised person (the parties agree that a party's solicitor is an authorised person for the purposes of this clause).

10.5 Notices may be given by or to a party's solicitor by any of the means specified in clause 10.1.

**11. General**

11.1 The easement is governed by the laws of Queensland.

11.2 A variation of the easement will only take effect if it is in writing and executed by both parties. The Grantee shall pay the Grantor's expenses (including legal costs on a solicitor and own client basis) of and incidental to a variation of this easement requested by the Grantee and agreed to by the grantor. For the avoidance of doubt, any variation to this easement may be agreed or not agreed to by the Grantor in its sole discretion.

11.3 Each party must do whatever is necessary and sign all appropriate documentation to enable registration of this easement, including that the Grantor must promptly:

- (a) produce the relevant instrument of title (if any) to the Land to the Registrar of Titles or other appropriate officer; and
- (b) obtain and produce to the Registrar of Titles or other appropriate officer any consent required from any person having any interest in the Land.

11.4 If any provision of this Easement is void, ineffective or unenforceable, then the legality, validity or enforceability of any other provision will not be affected and the void, ineffective or unenforceable provision will be taken to be deleted from this Easement.

11.5 No condition or obligation in this easement shall be deemed to have been waived by the Grantor or Grantee unless the waiver is in writing and signed on behalf of the Grantor or Grantee. Any waiver shall not affect or prejudice rights or remedies in respect of any future or former breach and (unless expressly stated) shall not amount to a general waiver.

11.6 Upon the expiry or termination of Lease No. 719407708, the Grantee agrees to do all things and sign all documents necessary to enable the surrender of this easement. The parties are to bear their own costs associated with the surrender of this easement pursuant to this clause 11.6.

REFERENCE MARKS

STN	TO	ORIGIN	BEARING	DIST
1	O Screw in Kerb	18/SP270872	180°46'	4.26
2	O Nail in Kerb	2/SP307136	241°25'	2.026
3	Nail in Kerb		243°53'	1.994
3	O Screw in Kerb	19a/SP270872	207°51'35"	2.621
4	Pin		210°34'	1.444
5	OIP	5/SP307136	142°07'	2.655

Reinstatement Report

Plans Searched – SP270872, SP307136 & DP310129.

The meridian of survey is MGA zone 54 Vide SP270872.

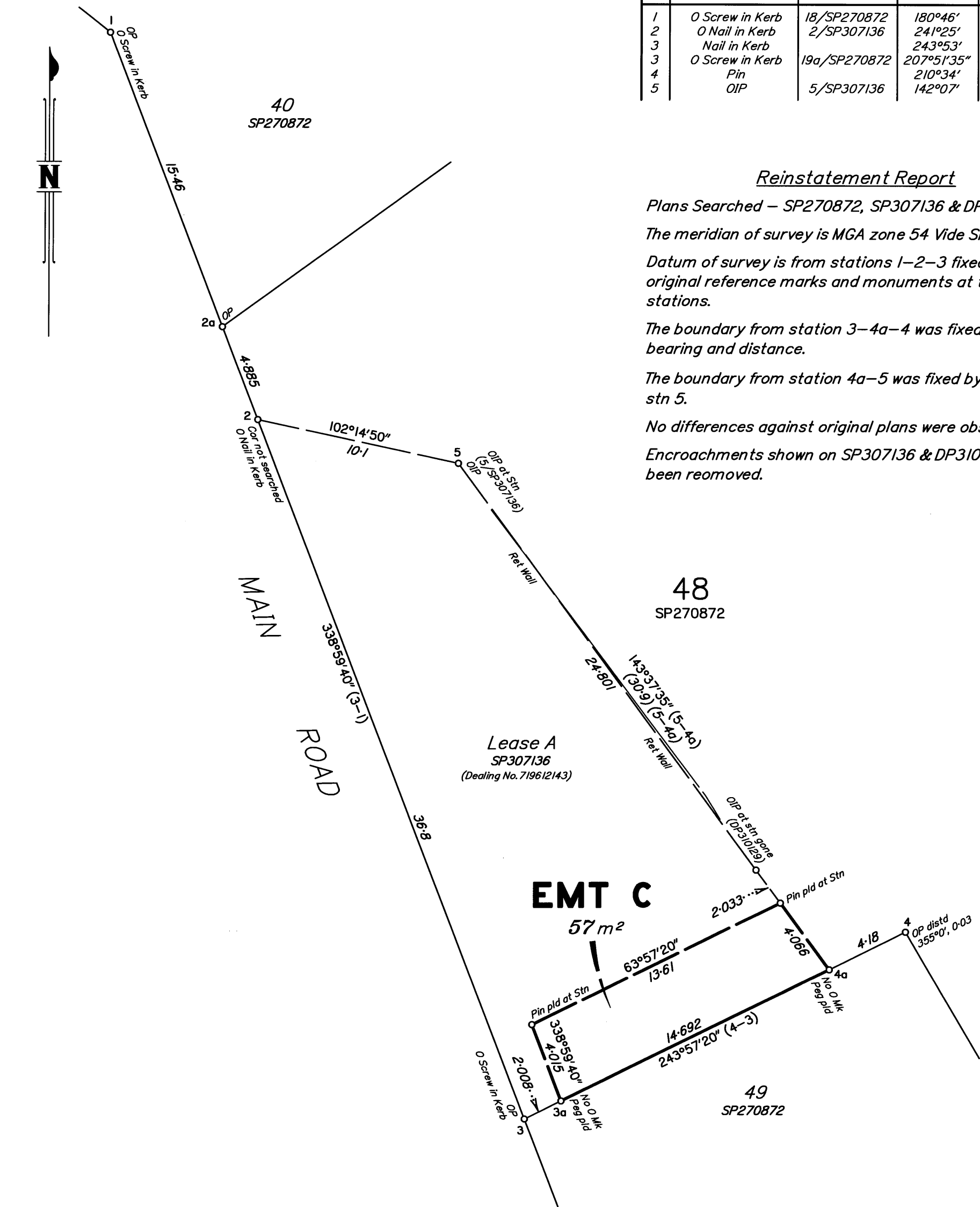
Datum of survey is from stations 1–2–3 fixed by original reference marks and monuments at these stations.

The boundary from station 3–4a–4 was fixed by deed bearing and distance.

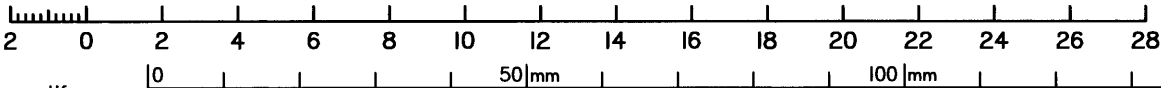
The boundary from station 4a–5 was fixed by OIP's at stn 5.

No differences against original plans were observed.

Encroachments shown on SP307136 & DP310129 have been removed.



Scale 1:200 – Lengths are in Metres.



RPS Australia East Pty Ltd (ACN 140 292 762) hereby certify that the land comprised in this plan was surveyed by the corporation, by Darryl Christopher WILLING, surveying graduate and Daniel Geoffrey PINKHAM, surveying graduate, for whose work the corporation accepts responsibility, under the supervision of Adrian Edward SOLOMON, cadastral surveyor, and that the plan is accurate, that the said survey was performed in accordance with the Survey and Mapping Infrastructure Act 2003 and Surveyors Act 2003 and associated Regulations and Standards and that the said survey was completed on 22/09/2020.

*S. Rodriguez*  
Authorised Delegate

29.9.2020  
Date

LOCAL TORRES STRAIT  
GOVERNMENT: ISLAND REGIONAL LOCALITY: DAUAN ISLAND  
Meridian: MGA Zone 54 Vide SP270872 Survey Records: No

Plan of Emt C  
in Lot 48 on SP270872

Scale: 1:200  
Format: STANDARD



SP321502

State copyright reserved.

**WARNING : Folded or Mutilated Plans will not be accepted.**  
**Plans may be rolled.**  
**Information may not be placed in the outer margins.**

(Dealing No.)

4. Lodged by

(Include address, phone number, email, reference, and Lodger Code)

I. Existing		Created		
Title Reference	Description	New Lots	Road	Secondary Interests
51093457	Lot 48 on SP270872			Emt C

*Easement C does affect Lease A on SP307136  
(Dealing No. 719612143) on CT 51093457 as at 24/09/2020.*

Lots	Orig

2. Orig Grant Allocation :

3. References :  
Dept File :  
Local Govt :  
Surveyor : PRI41799

5. Passed & Endorsed :  
By : RPS Australia East Pty Ltd  
Date : 29.9.2020  
Signed : *S. Ridgman*  
Designation : Cadastral Surveyor

6. Building Format Plans only.  
I certify that :  
\* As far as it is practical to determine, no part of the building shown on this plan encroaches onto adjoining lots or road;  
\* Part of the building shown on this plan encroaches onto adjoining\* lots and road  
.....  
Cadastral Surveyor/Director\* Date  
\*delete words not required

7. Lodgement Fees :  
Survey Deposit \$ .....  
Lodgement \$ .....  
.....New Titles \$ .....  
Photocopy \$ .....  
Postage \$ .....  
TOTAL \$ .....

8. Insert Plan Number  
**SP321502**



## **TORRES STRAIT ISLAND REGIONAL COUNCIL**

### **TRUSTEE REPORT**

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#### **COUNCIL TRUSTEE MEETING**

**DATE:** June 2021

**SUBJECT:** Landowners Consent - Application to make a Development Application - Telstra Corporation Limited – Material Change of Use (code) – Upgrade Telecommunications Tower - Kubin

**AUTHOR:** Peter Krebs, Senior Legal Counsel

---

**APPLICANT:** Telstra Corporation Limited

**LOCATION:** Kubin

**PROPOSAL:** Material Change of Use (code) – Upgrade Telecommunications Tower

**EXISTING PROPERTY DESCRIPTION:** Lot 51 SP271019 (Kubin)

**REFERENCE:** Telstra Project ID: 32149659

#### **RECOMMENDATION**

***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.***

#### **EXECUTIVE SUMMARY**

Council has received a landowner's consent form (Attachment 1) from Telstra for approval to make a development application for a 'Material Change of Use (code)' for the upgrade of the telecommunications facility at Kubin which requires a planning approval.

Telstra currently lease 444sqm of land area from the Torres Strait Island Regional Council, which accommodates a brick equipment building and 6m mast with associated equipment. Telstra propose to upgrade this site by installing a 50m concrete telecommunications tower with antennas and anti-climb device, within the existing lease area. Telstra also propose to recover the existing 20m mast and its associated Grid Parabolic Antenna once the new 50m tower has been installed and antennas have been cut over. Once

all upgrade and maintenance works have been completed Telstra will ensure the working area is left tidy.

The development is comprised of the following works (Attachment 2)

- Demolition of the existing 6m tower and building
- Installation of a 50m telecommunications mast with attached/ associated antennas & anti- climb device – within the existing Telstra lease area. The existing structure will then be removed.
- The site is within Lot 51 SP271019 which allows for the 'construction, operation and maintenance (including replacement, renewal and construction of Improvements from time to time) of a Telecommunications Facility'. (Attachment 3)

A summary of the relevant matters is provided as follows:

- The proposed 50m telecommunications tower is higher than the existing tower and as a result triggers a material change in scale and therefore a Development Application for a 'material change of use' is required.
- The existing Telstra lease site is within a Township Zone.
- The proposed development involves "Material Change of Use (code)" which under the *Planning Act 2016* requires Council as the Assessment Manager to issue a formal Development Permit.
- The proposal is considered to be relatively consistent with relevant planning legislation and policies and therefore should be approved by Council.

## **CONSULTATION**

Cr. Trinkoon has been consulted and has given his approval.

## **STATUTORY REQUIREMENTS**

*Local Government Act 2009 (Qld)*  
*Local Government Regulation 2012 (Qld)*  
*Planning Act 2016 (Qld)*  
*Telecommunications Act 1997 (Cth)*

### **1. RECOMMENDATIONS**

From the information provided, the proposed development appears to be relatively consistent with the relevant legislative requirements and planning

guidelines which apply to the site and therefore, from a planning perspective, should be supported by Council.

If council approves the recommendation, Telstra will submit a development application to Council which in due course will be considered by both the Trustee and Ordinary meeting before any final approval will be granted.

### **CONCLUSION**

As presented.



**David Baldwin  
A/CEO**



**Peter Krebs  
Senior Legal Counsel**

### **Attachments:**

1. Landowners consent form
2. Planning Assessment Report
3. Site map of Lot 51

**Individual owner's consent for making a development application under the Planning Act 2016.**

Torres Strait Island Regional Council

as owner of the premise identified as:

Lot 51 on SP271019 (Kubin)

consent to the making of a development application under the *Planning Act 2016* by:

Telstra

on the premise described above for:

Material Change of Use for telecommunications facility

*Date*

CEO  
Torres Strait Island Regional Council

INTERNAL CURRENT TITLE SEARCH  
DEPARTMENT OF RESOURCES, QUEENSLAND

Search Date: 14/06/2021 13:08

Title Reference: 51089413  
Date Created: 13/04/2017

Previous Title: 51089019

REGISTERED OWNER

Dealing No: 717945770 05/04/2017

TORRES STRAIT ISLAND REGIONAL COUNCIL

DEED OF GRANT IN TRUST  
THE GRANTEE TO HOLD THE SAID LAND IN TRUST FOR THE  
BENEFIT OF ISLANDER INHABITANTS AND FOR NO OTHER PURPOSE  
WHATSOEVER

ESTATE AND LAND

Estate in Fee Simple

LOT 51 SURVEY PLAN 271019  
Local Government: TORRES STRAIT ISLAND

EASEMENTS, ENCUMBRANCES AND INTERESTS

1. Rights and interests reserved to the Crown by  
Deed of Grant No. 21296132 (Lot 5 on SP 248095)
2. TRUSTEE LEASE No 717120988 10/03/2016 at 11:11  
TELSTRA CORPORATION LIMITED A.C.N. 051 775 556  
OF LEASE U' ON SP238257  
TERM: 22/09/2015 TO 22/01/2032 OPTION NIL  
Lodged at 11:11 on 10/03/2016 Recorded at 11:51 on 01/04/2016
3. COVENANT No 717945773 05/04/2017 at 16:22  
restricts dealings over  
THE LAND IDENTIFIED AT ITEM 2 OF THIS DOCUMENT  
Lodged at 16:22 on 05/04/2017 Recorded at 11:15 on 13/04/2017

ADMINISTRATIVE ADVICES

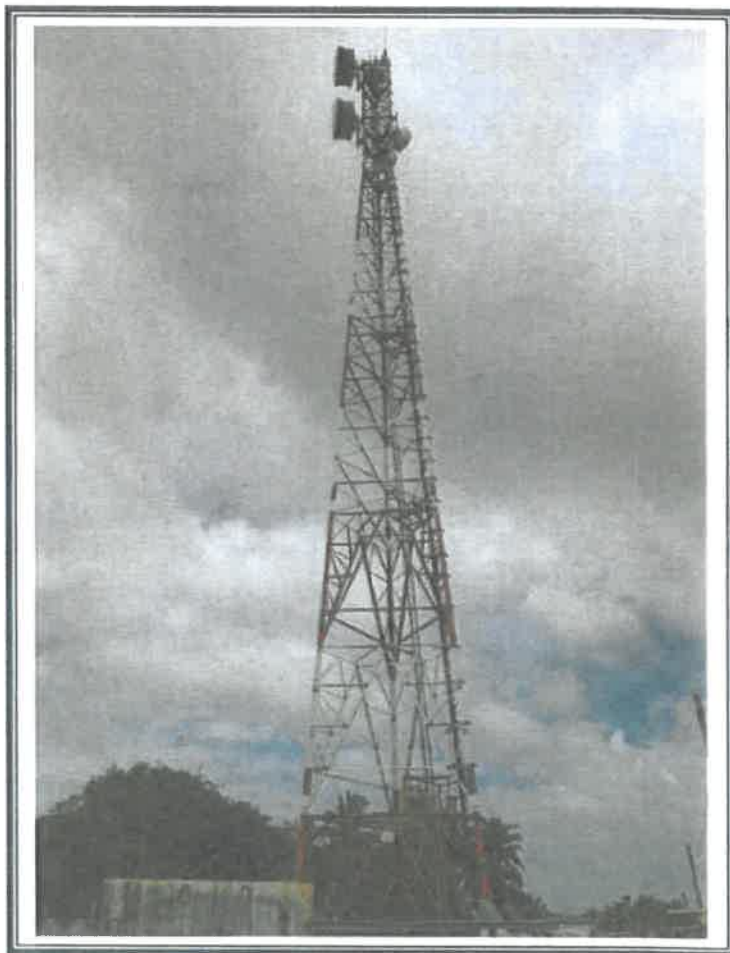
Dealing	Type	Lodgement Date	Status	Location
709885365	VEG NOTICE VEGETATION MANAGEMENT ACT 1999	28/08/2006 10:19	CUR	TE-GEN -00
713412367	RT NOTING LAND TITLE ACT 1994	17/08/2010 14:39	CUR	BE-RECV -00

UNREGISTERED DEALINGS - NIL

Caution - Charges do not necessarily appear in order of priority

\*\* End of Current Title Search \*\*

## Planning Assessment Report



**Kubin Village**  
Lot 51 on SP271019,  
Gerainelgau Yabu,  
Kubin, Moa Island, Qld

IT'S HOW  
WE CONNECT



## Planning Assessment Report

Date | Wednesday 19th May 2021  
Project Manager | Frank Watson  
Project Reference No | 32149659  
Site Name | Kubin Village RT QLD

Document Prepared By:  
Peta Chapman  
Land Access and Environment  
Networks  
Telstra Operations

Locked Mail Bag 3501  
Brisbane Qld 4000

T: 07 3455 2467  
E: [Peta.Chapman@team.telstra.com](mailto:Peta.Chapman@team.telstra.com)

**No Restriction on Commonwealth Legislation**

This report has been prepared with due care and diligence based on the information available at the time of preparation. It is not intended to affect, restrict, limit or derogate from the rights, powers and immunity of a carrier under and by virtue of the Act or any other applicable legislation and/or regulations of the Commonwealth for this, or any other telecommunications facility, now or into the future.

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## Proposed Site Summary

<b>Applicant:</b>	<b>Telstra Corporation Ltd</b> ABN 33 051 775 556 Locked Bag 3501 Brisbane QLD 4001	<b>Peta Chapman</b> T +61 7 3455 2467 E Peta.Chapman@team.telstra.com
<b>Proposal:</b>	Installation of a 50m concrete telecommunications pole, with associated antennas and anti-climb device – within the existing Telstra lease area. All the antennas on the existing structure will be transferred on to the new structure at new heights. The existing structure will then be removed under schedule 3 of the Telecommunications Act 1997.	
<b>Application type:</b>	Development Permit for a Material Change of Use	
<b>Site address:</b>	"Kubin Village RT" - Lot 51 SP271019, Gerainelgau Yabu, Kubin, Moa Island QLD	
<b>Site Area:</b>	444sqm	
<b>Land Tenure:</b>	Torres Strait Island Regional Council – Deed of grant in trust – The grantee to hold the said land in trust for the benefit of Islander inhabitants and for no other purpose whatsoever.	
<b>Telstra Tenure:</b>	Lease for "the construction, operation and maintenance (including replacement, renewal and construction of improvements from time to time) of a Telecommunications Facility"	
<b>Native Title:</b>	Mualgal People v State of Queensland – Federal Court Ref: QUD6035/1998	
<b>ILUA</b>	Telstra and Moa island ILUA	
<b>Council:</b>	Torres Strait Island Regional Council	
<b>Planning Scheme:</b>	Zenadth Kes Torres Strait Island Planning Scheme	
<b>Zoning:</b>	Township Zone	
<b>Site selection criteria:</b>	<ul style="list-style-type: none"> <li>The site achieves the radio frequency objectives for the frequency update required by the Australian Communications and Media Authority (ACMA).</li> <li>The proposed facility is located an acceptable distance from other sensitive land uses.</li> <li>The proposed facility is located to minimise impact on the local environment</li> <li>The proposal is consistent with the regulatory framework of Commonwealth State and Local legislation, codes, policies and guidelines.</li> </ul>	
<b>Operational criteria:</b>	<ul style="list-style-type: none"> <li>The proposed facility will operate within current and relevant standards regulated by the Australian Communications and Media Authority (ACMA).</li> </ul>	

## Introduction

The telecommunications mast at Kubin village needs replacing. Telstra intends to replace the existing mast with a concrete pole that will be more resistant to corrosion and will allow Telstra to continue to provide the same level of service to the people of the Torres Strait.

Telstra will continue to work with the Torres Strait Island Regional Council and all levels of government to ensure that telecommunications infrastructure in the Torres Strait region is capable of delivering the technology and innovation needed for border protection, biosecurity management and multiple socioeconomic, educational, health and community safety outcomes for the island communities and people of the Torres Strait region.

This project will ensure continued mobile, broadband and transmission coverage for government agencies and businesses located within the community, as well as communications for the entire community.

This report has been prepared to support an application for the construction of new telecommunications equipment within the existing facility "Kubin Village RT", Lot 51 SP271019, Gerainelgau Yabu, Kubin Village, Moa Island QLD.

The purpose of this Planning Report is to:

- Describe the subject land and locality
- Describe the proposed works and installation procedure
- Present an assessment of how the proposed development meets the planning objectives of the various applicable Commonwealth, State and Local laws
- Present an assessment of the environmental implications associated with the proposed facility.

## Proposed Development

The proposal is for the installation of a telecommunications facility on Lot 51 SP271019, located at Gerainelgau Yabu, Kubin Village, Moa Island QLD. The facility will be referred to as "Kubin Village RT". This application will involve a Material Change of Use application.

### Proposal Summary

The proposed telecommunications facility comprises of the following:

- One (1) 50m freestanding mast, plus headframe unit
- Relocation of all existing antennas, and associated equipment to the new structure as per drawings

The proposal is detailed on:

- Drawing No. Q109793 Sheet No. 1 – Site Layout and access.
- Drawing No. Q109793 Sheet No. 1-1 – Site Layout.
- Drawing No. Q109793 Sheet No. 3 – North East Elevation

These preliminary drawings have been prepared by Telstra. A complete set of construction drawings will be produced after final consultation with the structural engineer. These can be made available prior to the start of works should a copy be required.

Refer to Appendix A for Drawings and Site information sheets.

### **Traffic, Access and Parking**

Access to the subject site, both during construction and for future maintenance activities, will be from Italgau Yabu and Gerainelgau Yabu.

During construction, a truck will be used to deliver equipment and crane will be set up on the land. The crane will be used to construct the tower and to install the antennas. An adjoining block will also be used as for the purposes of a concrete batching plant, storage of equipment, machinery, vehicles, painting activities and construction.

After installation, It is not expected for staff to access the site more than 4-5 times per calendar year to complete maintenance works.

### **Construction Process**

A total construction period of approximately nine months is anticipated. Construction activities will involve four basic stages:

- Stage 1 - site preparation such as field testing, delivery of materials
- Stage 2 - earthworks
- Stage 3 - erection and construction
- Stage 4 - antenna installation and testing of equipment

### **Utility Service Details**

No new utility services will be required for this facility; power is as per existing to the facility.

### **Maintenance Details**

The proposed telecommunications facility is self-contained and operates on a continuous un-staffed basis. Once operational, and integrated with the Telstra telecommunications network, the facility typically requires only infrequent maintenance inspections. There may be periods when maintenance operations are undertaken on a more frequent basis, such as during network optimisation. However, this would not be for a prolonged period.

## **Moa Island Indigenous Land Use Agreement**

The following parties have entered into an agreement for works occurring on Moa Island in the Torres Strait, Queensland, to the high water mark.

Telstra Corporation Limited and Mualgal (Torres Strait Islanders) Corporation RNTBC.

Assets within the Agreement:

- Kubin Village (20m x 20m)
- St Pauls Village Radio Transmitter (100m x 120m)
- Banks Peak Radio Transmitter and Seaphone (100m x 100m)
- Local Distribution Cabling

**Agreement regarding existing sites (being assets in place on 12 February 1999):**

**Native title holders**

- must not challenge the validity of Telstra's occupancy;
- consent to Telstra doing new works on existing sites;
- must not act to disturb Telstra's use of existing sites and facilities;
- have limited compensation rights in respect of existing sites; and
- consent to the grant of occupancy agreements over existing sites.

(Note: There are particular conditions which apply to any occupancy agreement over the Bank's Peak Site)

**Cultural heritage protection:**

Telstra's rights under the agreement do not affect its obligations under Cultural Heritage legislation.

**Consent of the Native Title Holders and Future Occupancy Agreements:**

The Native Title Holders consent to the granting of any valid Occupancy Agreement which Telstra reasonably requires in connection with the proposed Construction of a Future Telecommunications Facility provided that Telstra has complied with clause 8.2 and in relation to the in relation to the area (approximately) of an Existing Site or the area (approximately) of an Existing Occupancy Right over an Existing Site.

Who to send notices to:

All notices sent to the native title holders must be copied to the Torres Strait Regional Authority.

**Mualgal (Torres Strait Islanders) Corporation**

Contact: PBC Chair – Mr Iona Manus – 0475 621 985 – [iona.manus10@hotmail.com](mailto:iona.manus10@hotmail.com)  
C/- Kubin Village Post Office Moa Island via Thursday Island QLD 4875

**Torres Strait Island Regional Council**

Email: [info@TSIRC.qld.gov.au](mailto:info@TSIRC.qld.gov.au)  
Mail: PO Box 7336 Cairns QLD 4870

**Torres Strait Regional Authority**

Email: [info@tsra.gov.au](mailto:info@tsra.gov.au)  
Mail: PO Box 261, Thursday Island Qld 4875

## Native Title

Native Title was determined to be in effect on 12<sup>th</sup> February 1999.

The determination Mualgal People v State of Queensland with Federal Court reference QUD6035/1998 specifies that the registered Native Title Body Corporate is:

Mualgal (Torres Strait Islanders) Corporation RNTBC

PBC Chair – Mr Iona Manus

Ph: 0475 621 985

E-mail: [iona.manus10@hotmail.com](mailto:iona.manus10@hotmail.com)

Post: C/- Kubin Village Post Office Moa Island via Thursday Island QLD 4875

In regards of the works that Telstra is to undertake, the determination specifies:

**Matters Determined:**

- 
4. The nature and extent of any other interest in relation to the determination area are:
- (f) the interest of Telstra Corporation Limited as an entity exercising statutory powers and as owner and operator to telecommunications facilities situated on the determination area; including:
    - (i) the right to enter upon the determination area in accordance with law; and
    - (ii) its interest under a Deed of Agreement dated 3 February 1999 between it and a representative of the common law holders;

5. The relationship between the native title rights and interests in Order 3 and the other interests in Order 4 in relation to the determination area is as follows;

The native title rights and interests described in Order 3 are exercisable concurrently with the other interests described in Order 4, but in those circumstances where they cannot be so exercised, the rights of the holders of the other interests may regulate, control, curtail, restrict, suspend or postpone the exercise of those native title rights and interests.

## Site Selection

### Site Selection

Telstra strives to strike a balance between providing services and minimising the impacts on the locality. During the site selection process, which involves identifying several potential locations to site the telecommunications facility, a number of factors are taken into consideration. These include, achieving coverage requirements for the area as well as planning objectives, co-location opportunities and property and construction requirements. Each candidate is then ranked accordingly.

The nature of the telecommunications tower (whether used for mobile or radio) is reliable communication is limited to "line of sight" of the receiving and sending antennae. Whilst some buildings and foliage can be penetrated, radio signals cannot penetrate more substantial objects, such as hills or buildings. As a general rule, the higher a base station is elevated and the taller a base station structure is, the greater its range of coverage. In order to achieve Telstra's network performance and quality requirements for the area, the base station must be situated to ensure appropriate coverage.

In this instance we have been able to continue the use of the existing site, minimising the impact to the surrounding area, and ensuring the future development of the telecommunications infrastructure.

### Need for the proposed telecommunications facility

The proposed facility is required to ensure the continued level of communications to the Torres Strait Queensland.

Due to the location of the facility on the island, and the environmental impact to the steel structure, the lifespan of the tower is coming to an end, and as such the structure need to be replaced.

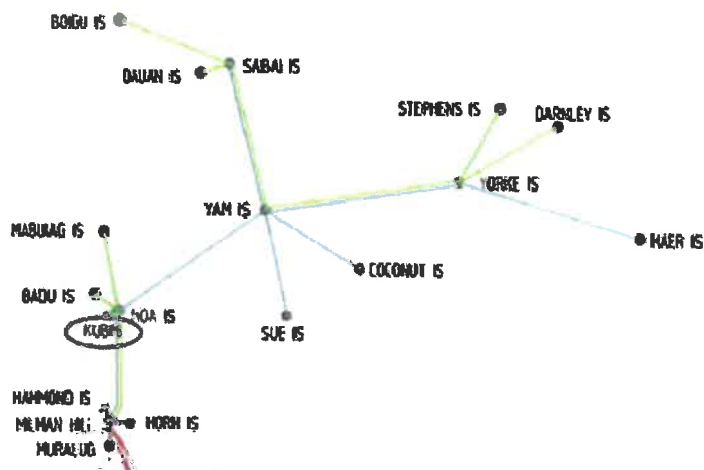


Figure 1 -- Ray line diagram -- connections to Kubin

## Subject Land and Locality Description

The subject land is legally described as Lot 51 on SP271019.

The proposed telecommunications facility is to be located within the existing facility area.

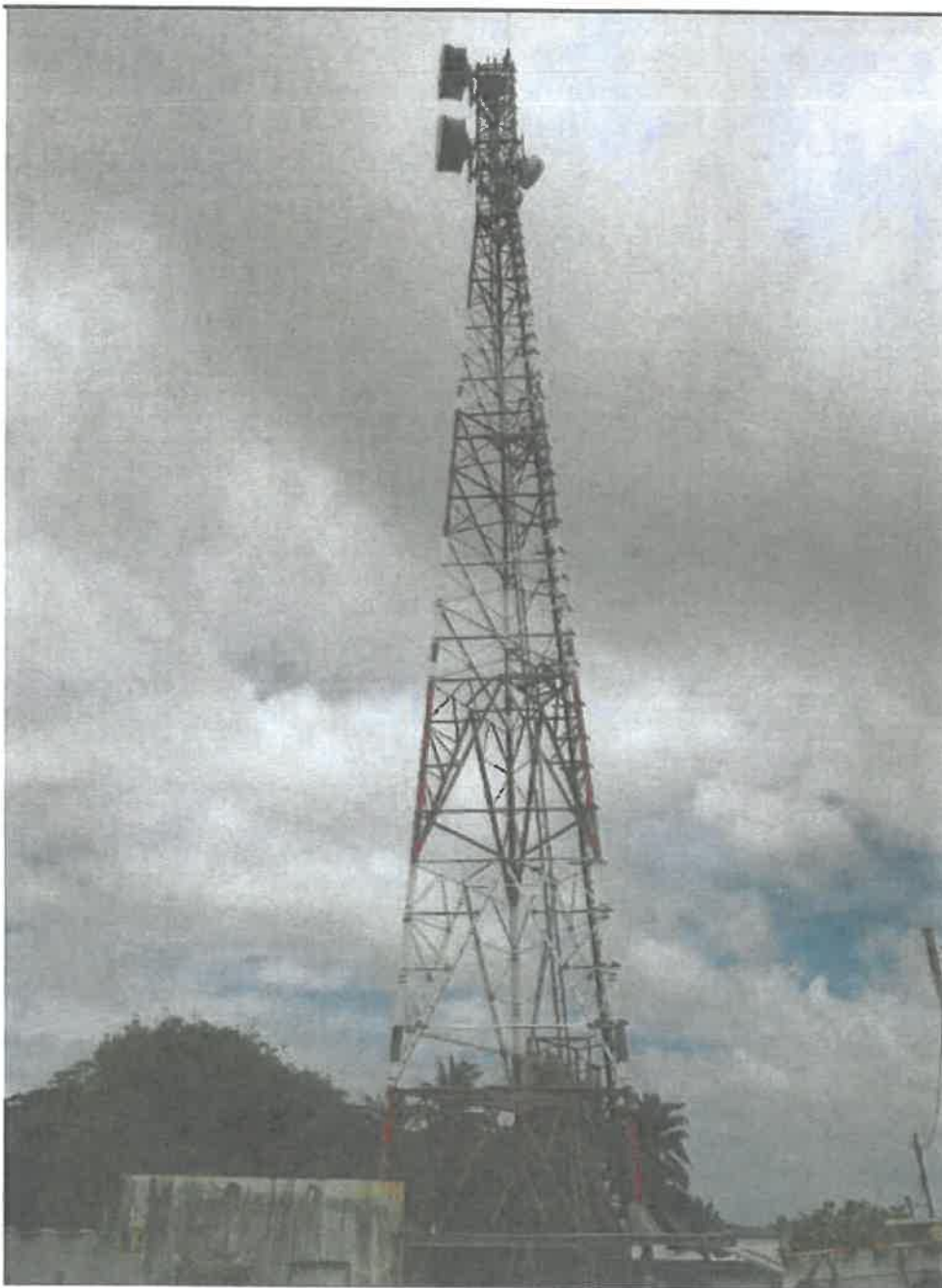
The surrounding area is primarily dedicated to infrastructure, with the telecommunications facility, council compound, and a series of wind turbines.

Refer to the images below for further details of the locality of the proposed telecommunications facility in relation to the overall site.



Figure 2 – Site Location - Queensland Globe





*Figure 4 ~ Site Location Street View*

## Federal Legislation

In 1991, the Commonwealth Government initiated a major reform of the communications industry in Australia. The reforms allowed limited competition until July 1997 at which time full competition was permitted. In July 1997, the *Telecommunications Act 1997* (the Act) was introduced, replacing the 1991 Act, which facilitated this competition.

Under the Act, the Government established the *Telecommunications Code of Practice 2018* (The Code), which sets out the conditions under which a carrier must operate. Telstra, as a licensed telecommunications carrier, must comply with the *Telecommunications Act 1997* (the Act) and the *Telecommunications Code of Practice 2018* for all telecommunication facilities. Under the Act, provisions have been made for telecommunications carriers to be subject to State and Territory planning laws in certain instances. The Act exempts carriers from the requirements of State planning legislation when the proposed facility is compliant with the *Telecommunications (Low-impact Facilities) Determination 2018*.

### Telecommunications Act 1997

The *Telecommunications Act 1997* is the principal Act that governs the activities of both telecommunications carriers and service providers.

The aim of the *Telecommunications Act 1997* is to provide a regulatory framework that promotes:

*“the long-term interests of end users of carriage services or of services provided by means of carriage services [and to improve] the efficiency and international competitiveness of the Australian Telecommunications Industry.”*

Under Schedule 3 of the *Telecommunications Act 1997*, provisions have been made for telecommunication carriers to be subject to State and Territory environmental and planning laws when developing telecommunications facilities.

The principal powers and immunities of telecommunications carriers are:

- The power to inspect land for the purpose of determining whether the land is suitable for the carriers purposes
- The power to install a facility on the land – this power may only be exercised if certain conditions are satisfied. These conditions are:
  - The carrier is authorised to do so by a Facility Installation Permit
  - The facility is a Low-impact facility
  - The facility is a temporary facility for use by a defence organisation for defence purposes
- The power to maintain a facility that is situated on the land.

In exercising powers under this part Telstra must comply with certain conditions including:

- Doing as little damage as practicable;
- Acting in accordance with good engineering practice;
- Complying with recognised industry standards;
- Complying with conditions specified in the regulations;
- Complying with conditions specified in a Ministerial Code of Practice;
- Complying with conditions specified in a Facility Installation Permit;
- Giving notice to the owner of the land.

If however, a telecommunication carrier proposes to install a low-impact facility that meets the requirements of Schedule 3, Part 1, Division 3, of the *Telecommunications Act 1997*, the carrier is exempt from State and Territory laws.

As this proposal is for the installation of a 50m pole it is considered to be above the line. The works cannot be considered low impact, as defined by the telecommunications (Low-impact facilities) determination and therefore the proposal is not exempt from state planning laws in this instance.

### Telecommunications Code of Practice 2018

The Telecommunications Code of Practice 2018 (The Code) authorises a carrier to enter land, inspect land and install and maintain a facility. The Code emphasises “best practice” design, planning and installation of facilities, compliance with industry standards and minimisation of adverse impacts as much as practicable, particularly in terms of degradation of the environment and visual impact. It is considered that the subject proposal is “best practice” given the proposal will:

- Ensure the continued quality of service to the existing customer base.
- Be located in a non-residential site within the local area;
- Comprise the smallest scale configuration possible for the site to reduce the visual impact of the proposal.

### Commonwealth Environment Protection and Biodiversity Conservation Act 1999

The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) commenced on 16 July 2000, and is the Commonwealth Government’s overarching piece of environmental legislation. This legislation is designed to incorporate with the States and Territories to provide a truly national approach to the protection of the environment, heritage and biodiversity conservation. The focus of the EPBC Act is matters of national environmental significance, with states and territories being responsible for matters of state and local significance.

The proposal is not of National Environmental Significance, as it will not impact on:

- world Heritage Areas;
- wetlands protected by the international treaty (RAMSAR convention);
- nationally listed threatened species, communities and migratory species;
- all nuclear actions; or
- the environment of Commonwealth Marine Area.

### Communications Alliance Ltd Deployment Code (Deployment Code)

An industry code of practice has been designed to improve consultation by telecommunications carriers when planning and installing new mobile facilities, which is registered by the Australian Communications and Media Authority (ACMA). Registration of the code, Communications Alliance Limited – *Mobile Phone Base Station Deployment C564:2011* (the Deployment Code) (previously the Australian Communications Industry Forum (ACIF) - *Deployment of Mobile Phone Network Infrastructure C564: 2004* (the ACIF Industry Code)), means that it is compulsory for all licensed telecommunications carriers (including Telstra) to abide by its provisions.

This facility is an existing mobile phone base and is not subject to the Deployment Code.

### Civil Aviation Safety Authority (CASA)

Notification has been sent to CASA regarding the installation of the new tower, they have advised that the airstrip is not regulated by CASA. Telstra will install aviation lighting at the top of the tower, in order to provide notification to any aircraft that are approaching the area.

## State Legislation

### The Planning Act 2016

The *Planning Act 2016 (Planning Act)* provides for the efficient, effective, transparent, integrated, coordinated, and accountable system of land use planning and development assessment to facilitate the achievements of ecological sustainability.

### State Planning Policy 2017

The *State Planning Policy (SPP)* defines the Queensland Government's approach to, matters of State interest in land use planning and development. The SPP identifies the State's interests in planning and development and how they must be dealt with in planning schemes, Council development assessment processes and in designation land or community infrastructure.

The *SPP* consolidates the state's 17 interests across 5 broad themes:

1. Liveable communities and housing;
2. Economic growth;
3. Environment and heritage;
4. Hazards and safety; and
5. Infrastructure

Within these categories there is a number of identified state interests which are not applicable to the assessment of the subject development application.

- Housing supply and diversity
- Liveable communities
- Agriculture
- Development and construction
- Tourism
- Energy and water supply
- Strategic ports

It is intended that the *SPP* be reflected in Council's planning schemes. However many Councils are still operating on planning schemes written prior to the release of the *Planning Act 2016* and the new *SPP*, assessment against the new *SPP*, may need to be considered. As the Zenadth Kes Torres Strait Island Planning Scheme was written prior to the release of the current *SPP* as assessment against the applicable themes of the *SPP* has been provided in table below.

State Interests	Comments
<b>Economic Growth</b>	
Mining and extractive resources	Not Applicable The proposal is not a mine, will not impact on any extractive resources, and is not located within a Key Resource Area.
<b>Environment and heritage</b>	
Biodiversity	Site is within an existing area that has been cleared in a built-up area that is a dedicated telecommunications facility. There is no proposed disturbance of flora or fauna as part of this development.



Cultural Heritage	Torres Strait Islander Cultural heritage – notification of works, and liaising with the cultural heritage authority will be undertaken as part of this project. There is no world, national or state heritage over this site.
Coastal environment	Not Applicable The site is not located within a coastal environment.
Water quality	Not Applicable The facility is not within proximity to any waterways or wetlands. All works associated with this proposed development will be confined to existing property and no impacts to any waterways or wetlands are anticipated. The telecommunications facility does not produce pollutants, and as such there are no anticipated impacts.
<b>Safety and resilience to hazards</b>	
Emissions and hazardous activities	Not Applicable The proposed use is not defined as a sensitive land use under the SPP. In addition, the telecommunications facility will not emit noise of air emissions.
Natural hazards, risk and resilience	Not Applicable The site is not within an area identified as being prone to flood or fire.
<b>Infrastructure</b>	
Transport infrastructure	Not Applicable The proposed use is not located within 400m of a public passenger transport facility or a future public passenger transport facility.
Strategic Airports and Aviation Facility	Not Applicable Notification has been sent to CASA regarding the installation of the new tower, they have advised that the airstrip is not regulated by CASA. Telstra will install aviation lighting at the top of the tower, in order to provide notification to any aircraft that are approaching the area.

### Referral Agencies

A referral agency is an agency that has jurisdiction over a matter in a development application if referral to that agency is triggered under Schedule 10 of the Planning Regulation 2017.

The State Assessment and Referral Agency (SARA) established on 1 July 2013, made the Department of Infrastructure, Local Government and Planning (DILGP) the single referral agency for all development applications where the Chief Executive of the Planning Act has a jurisdiction as either the Assessment Manager or as a referral agency. While DILGP is responsible for a number of



referral agency triggers, there are still a number of other entities that exist outside of SARA, that still hold jurisdiction for their own referral agency triggers.

In accordance with Schedule 10 of the Planning Act, the proposed development does not trigger any referrals for State matters.

### **Vegetation Management Act 1999**

The Vegetation Management Act is to regulate the clearing of vegetation in a way that will conserve remnant vegetation that is an 'endangered' regional ecosystem, an 'of concern' regional ecosystem, or a 'least concern' regional ecosystem. It aims to conserve vegetation in declared areas, ensures that clearing does not cause land degradation, prevents the loss of biodiversity and maintains ecological processes. It manages the environmental effects of clearing, greenhouse gas emissions and allows for sustainable land use.

There is no proposed clearing of vegetation for the proposed works.

### **Regional Planning Interests Act 2014**

The RPI Act integrates the Strategic Cropping Land Act 2011 policy framework for 'on-tenure' resource activities (eg activities on a mining lease or gas lease). It also integrates the Wild Rivers legislation within the Strategic Environmental Area (SEA's) framework.

#### Strategic Cropping Land

The RPI Act carries forward strategic cropping land policies through:

- declaring the strategic cropping area as an area of regional interest
- applying the SCA Assessment Criteria to activities within the strategic cropping area that are not also located on a priority agricultural land use within a priority agricultural area
- providing for the chief executive to condition mitigation as part of a regional interests development approval issued for an activity in the strategic cropping area.

The SCA Assessment Criteria are included in Schedule 2 of the Regional Planning Interests Regulation 2014. For further information on the content of the SCA Assessment Criteria how an applicant may address the SCA Assessment Criteria refer to RPI Guideline 03/14: Carrying out resource activities in the strategic cropping area.

#### Strategic Environmental Areas

Strategic Environmental Areas (SEAs) include:

- the Cape York strategic environmental area (as per the Cape York Regional Plan);
- the Channel Country strategic environmental area (prescribed under regulation);
- the Fraser Island strategic environmental area (prescribed under regulation);
- the Gulf Rivers strategic environmental area (prescribed under regulation);
- the Hinchinbrook Island strategic environmental area (prescribed under regulation).

There is no strategic cropping land overlay on the lot proposed for development. Nor are we within a strategic environmental area.

### **Queensland Development Code**

The Queensland Development Code consolidates Queensland-specific building standards. The code covers Queensland matters outside the scope of, and in addition to, the Building Code of Australia.

The proposed Telecommunications Facility, being a Class 10b building and not being within a flood hazard area or within a reticulated town water area, does not have any Queensland Development Codes that apply specifically to the proposal.

<http://www.hpw.qld.gov.au/construction/BuildingPlumbing/Building/BuildingLawsCodes/QueenslandDevelopmentCode/Pages/QueenslandDevelopmentCodeCurrentParts.aspx>

<b>Part 1.0 – Siting and Amenity (Detached Housing and Duplexes)</b>		
MP 1.1	Not Applicable	Class 10b
MP 1.2	Not Applicable	Class 10b
MP 1.3	Not Applicable	Class 10b
MP 1.4	Not Applicable	Not building over or near relevant infrastructure
<b>Part 2.0 – Fire Safety</b>		
MP 2.1	Not Applicable	Class 10b
MP 2.2	Not Applicable	Class 10b
MP 2.3	Not Applicable	Class 10b
MP 2.4	Not Applicable	Class 10b
<b>Part 3.0 – Special Buildings</b>		
MP 3.1	Not Applicable	Telecommunications Facility
MP 3.2	Not Applicable	Telecommunications Facility
MP 3.3	Not Applicable	Telecommunications Facility
MP 3.4	Not Applicable	Telecommunications Facility
MP 3.5	Not Applicable	Not located within a Flood Hazard area
MP 3.6	Not Applicable	Telecommunications Facility
MP 3.7	Not Applicable	Telecommunications Facility
<b>Part 4.0 – Building Sustainability</b>		
MP 4.1	Not Applicable	Class 10b
MP 4.2	Not Applicable	Class 10b
MP 4.3	Not Applicable	Class 10b not associated or ancillary to a Class 1-9 building.
MP 4.4	Not Applicable	Class 10b
<b>Part 5.0 – General health, safety and amenity</b>		
MP 5.1	Not Applicable	Class 10b
MP 5.2	Not Applicable	Telecommunications Facility
MP 5.3	Not Applicable	Telecommunications Facility
MP 5.4	Not Applicable	Telecommunications Facility
MP 5.5	Not Applicable	Telecommunications Facility
MP 5.6	Not Applicable	Telecommunications Facility
MP 5.7	Not Applicable	Telecommunications Facility
MP 5.8	Not Applicable	Telecommunications Facility
<b>Part 6.0 – Maintenance of Buildings</b>		
MP 6.1	Not Applicable	Class 10b

#### Part 4.3 – Supplementary water sources – commercial buildings

The proposal is not within a reticulated town water area nor was any approval granted by the minister under this Part and therefore MP 4.3 does not apply to this proposal.

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**MP 6.1: Fire Safety installations in buildings – Maintenance Code.**

The QDC 6.1 applies to all buildings, including existing buildings, other than class 1a and class 10 buildings.

The proposed facility is a Class 10b building and as such is not applicable to the Fire Safety Installations in Buildings – Maintenance Code.



## Local Government Regulatory Framework

The proposed development falls within the Zenadth Kes Torres Strait Island Planning Scheme.

### Planning Scheme Assessment

The installation of a Telecommunications facility in a township zone is impact assessable. The relevant assessment criteria are:

- *Township zone code*
- *Kubin (on Moa Island) local plan code*
- *Infrastructure and works code*
- *Water quality and acid sulfate soils code*

The Telstra site also features the following Overlays according to the Schedule 2, Dauan Island maps:

- *Town Centre core*
- *Low Environmental Value (Gogobithiay - land, sea, and sky)*
- *Land Above 5m and below 20m AHD (Natural Hazards)*

This proposal is consistent with the overall performance objectives of the applicable assessment codes listed in Zenasth Kes Planning Scheme. The relevant assessment codes applicable to this proposal have been addressed in Appendix A, Table 1.

### Township Zone Code

To provide for a mix of uses within townships and to identify land that may be suitable for expansion of towns over the life of the planning scheme. The proposed development will achieve the outcomes outlined in the Township Zone Code in the following ways.

Development of the new telecommunications facility will be within the existing leasehold land, building on the existing telecommunications infrastructure that is already on the island. The proposed telecommunications facility will support the community through the ongoing provision of telecommunication service to the local community, and also to the surrounding islands.

The development is not a new community service and will be constructed within the existing confines of the site. The proposed telecommunications facility there is no expected change or impact to the health and safety of the area, or the people using the adjoining premises. Lighting at the premises will solely be the aviation lighting per general requirements of CASA. The existing noise levels will remain the same after the facility replacement. There are no adjustments being made to the access of the site area. In addition, there will be no vegetative landscaping adjustments being made. The facility will continue to be surrounded by 1.8m security fencing.

This is a class 10b building and will be unstaffed, as such no water or sewerage infrastructure is required. Electricity will be provided via the existing connection to the premises. Contact has been made with CASA, aviation lighting will be installed at the top of the facility.

A response has been made to the local plan below.

### Kubin (on Moa Island) Local Plan Code

The purpose of the Kubin (on Moa Island) local plan code is to guide development in Kubin in a way that best meets the needs of the community.

The responses below will show how the proposed telecommunications infrastructure will continue to assist and support the community through the following headings.

- a) Gogobithiay (land, sea, sky)
- b) Natural Hazards
- c) Torres Strait people and townships
- d) Ailan kastom and cultural heritage
- e) Getting around
- f) Town infrastructure

#### **Gogobithiay (Land, Sea and Sky)**

Telstra have designed the facility to fit within the existing lease area, which is located within the township zone. This area is deemed to be of low environmental value.

The proposed facility will be constructed within the existing allotment, there is no proposed impact to the surrounding vegetation, waterways or fauna movement corridors.

All soil stockpiles will be located away from drainage lines and outside defined flood zones in order to manage any onsite risks. Appropriate sediment controls will be set up when working near the natural drainage channel to the rear of the property.

The proposed facility is not to be sited near the wetlands, waterways, or near any recreational or commercial fishing areas, nor will construction impact on the marine environment.

All vehicles and machinery to come to the island will have completed a washdown

#### **Natural hazards**

Proposed structure is not to be installed within a coastal hazard area, nor is it a facility which will house people of community events. There is no reconfiguration of a lot associated with this development. The proposed development is not expected to worsen the severity or impact to people or property caused by coastal hazards.

The Telstra site is not located within any of the following areas (*as per Schedule 2, Kubin (on Moa Island) maps*): flood hazard, storm tide inundation area or an erosion prone area.

The site is also not within an area for potential bushfires or medium hazard, it is also within the Land above 5m and below 20m AHD. A soil test has been completed, which confirmed there are no Acid Sulphate soils in the proposed construction area.

It is expected that in the event of any hazards the upgraded facility will provide a more reliable telecommunications service than the existing facility, serving the community, and ensuring a better environment for resilience and recovery.

#### **Torres Strait people and townships**

The proposed facility is located within an existing Telstra lease area which is currently used for telecommunications services. The proposed facility has been designed at the minimum height and bulk to achieve Telstra's coverage objectives and sited to fit within Telstra's existing lease area. The proposal has also been designed with no outdoor lighting and during normal operation will not generate any odorous air emissions, putrescent wastes, excessive noise, dust, or other air

pollutants. As a result, it is not expected that any impacts will unduly affect residents and visitors to the site.

#### Ailan kastom and cultural heritage

A recent search of the Cultural Heritage Register and database administered by Department of Aboriginal and Torres Strait Islander Partnerships under the Aboriginal Cultural Heritage Act 2003 & the Torres Strait Islander Cultural Heritage Act 2003 indicates that there are no listed cultural heritage artefacts or places of significance near the construction area. The Local planning Scheme maps in Schedule 2 (*Kubin on Moa Island Map*) has also been reviewed for any Sacred sites and none were found within the vicinity of Telstra lease area.

Telstra has designed the proposed facility to be located as close to the original facility as possible and within the existing lease area. This is to ensure that we do not infringe on any unknown artefacts or sacred sites. It is not expected that the proposed facility will impede the continued practice of ailan kastom within Kubin Village.

#### Getting around

The proposed facility will not impact on any of Kubin's air or sea transport infrastructure. Aviation lighting will be installed at the top of the tower to ensure safe operation of aircraft in the area.

Telstra will be organising a barge to transport all of the required construction equipment and materials to this site however this will only be once at the start and once at the end of this project and should not impact on any normal barge operations/ services.

Traffic control may be required for the movement of equipment and machinery to the site location.

#### Town infrastructure.

The majority of the construction waste will be returned to the mainland, in order to minimise the use of the island waste disposal facilities.

The proposed facility is located within an existing Telstra lease area which is currently used for telecommunications services. The proposed facility has been designed at the minimum height and bulk in order to achieve Telstra's coverage objectives and sited to fit within Telstra's existing lease area. The proposal has also been designed with no outdoor lighting and during normal operation will not generate any odorous air emissions, putrescent wastes, excessive noise, dust or other air pollutants. As a result, it is not expected that any impacts will unduly affect the community.

#### Infrastructure and works code

A Geotechnical investigation was undertaken by 'Douglas Partners (Geotechnics) in May 2021 to assess subsurface conditions and the allowable bearing pressures for high level footings for the proposed pole. It was found that a high-level pad footing would be considered suitable. Telstra staff and contractors will follow all applicable industry standards in the installation of its facilities and take care with appropriate precautions to ensure impacts to: any adjoining properties, environmental values and public safety are minimized.

The majority of the works will be contained to the current telecommunications facility, and some adjoining land. Should roads or footpaths be impacted during the construction of the facility traffic control will be implemented.

### Water quality and acid sulphate soils

Telstra environmental processes will be followed for the proposed construction works, the stormwater management design objectives outlined will be followed, to ensure the entry and transport of soil and contaminants are avoided or minimised.

During construction works Telstra will endeavour to avoid discharging wastewater into waterways by ensuring that any wastewater generated from any of Telstra's site-based activities is managed in accordance with the relevant state legislation, especially when considering disposal options.

'Telstra Environment Handbook' mitigation procedures will also be utilized throughout the construction process to minimise run off from clearing activities and stockpiles.

Telstra will utilise erosion prevention and sediment control measures during all construction activities as per 'Telstra Environment Handbook' procedures. This will ensure that the concentration of total suspended solids and other contaminants in stormwater flows do not increase, as well as ensure that run-off which may cause erosion on or off site does not increase.

## Environmental Assessment

In order to determine whether there were any environmental, natural or cultural heritage values of state or national significance were associated with the site; searches were conducted of the following registers & databases:

- Register of Environment Protection Biodiversity Conservation (EPBC) Act Protected Matters (administered by the Australian Department of Agriculture, Water, and the Environment).
- Australian Heritage Database
- Queensland Heritage Register
- Cultural Heritage Register and database administered by Department of Aboriginal and Torres Strait Islander Partnerships under the Aboriginal Cultural Heritage Act 2003 & the Torres Strait Islander Cultural Heritage Act 2003
- Department of Natural Resources & Mines Vegetation Report & Land Suitability Map
- State of Queensland (Department of Environment and Heritage Protection) Protected Plants Flora Survey Trigger Map, Wetlands Report & Species List.
- Preliminary Soil Screen Survey
- Queensland Government – Department of Infrastructure, Local Government and Planning: State Assessment & Referral Agency mapping and State Planning Policy overlays

All reports were reviewed, and no significant impact is expected from this proposal.

### Visual amenity

Telstra has endeavoured to strike a balance between providing services and minimising any visual impact on the community and local environment.

It is not expected that the proposed facility will have a significant impact on the visual amenity of the area considering:

- the proposed facility is located within the existing facility area; and
- the proposed facility is in keeping with “best practices” and “industry standards”.

To further reduce the potential for visual impact of the proposed facility, the following measures have been incorporated into the proposal:

- The proposal has been designed at the minimum height and bulk in order to achieve Telstra’s coverage objectives;
- The proposed telecommunications equipment shelter can be colour matched to the surroundings with a non-reflective paint to the satisfaction of Council should it be requested.

#### **Heritage and environmental significance**

A recent search of the Cultural Heritage Register and database administered by the Department of Aboriginal and Torres Strait Islander Partnerships indicates there is no listed cultural heritage on site.

Under the provisions of the EPBC Act Policy Statement 1.1 (Significant Impact Guidelines) the proponent can decide whether the proposed action will impact upon the matter of national environmental significance (NES). There are certain parameters in the policy to help determine whether the action proposed will have a significant impact. As such, the proponent has determined that the proposed development is minimal and complies with these parameters. Therefore, it will not have a significant environmental impact on this area.

The AHD search established that there are no Heritage Places in the vicinity of the site.

Please see Appendix B for copies of the searches performed.

#### **Flora and Fauna**

The proposed facility is located on land identified under the Vegetation Management Act as a Category X area. There is no proposed disturbance of vegetation as a result of these works. All vehicles will undergo a “weed and seed” cleaning process prior to accessing the island. No significant impact is expected from these works.

#### **Noise and vibration emissions**

Noise and vibration emissions associated with the proposed facility would be limited to the construction phase outlined above. Noise generated during the construction phase would be of short duration and not likely to interfere with the general amenity of residences adjacent to the site or visitors utilising the site.

During operation the only noise emitted will be by the existing facility, which has small domestic air-conditioning unit attached to the equipment shelter, which would not be significant. Noise emanating from the air-conditioning equipment would be similar to those used in domestic situations and will comply with the background noise levels given in Australian Standard AS 1055.

#### **Public health and safety**

All Telstra facility installations are designed and certified by qualified Professional Engineers in accordance with all relevant Australian Standards. This ensures that the proposed facility does not result in any increase in the level of risk to the public.

#### **Electromagnetic Emissions (EME)**

All radio communications systems use EME in the radiofrequency (RF) part of the electromagnetic spectrum between 3 kilohertz (kHz) and 300 gigahertz (GHz). These include TV, AM and FM radio

broadcasting, mobile phones and their base stations, paging services, cordless phones, baby monitors, and emergency and rural communications systems.

In Australia communications are regulated by the Australian Communications and Media Authority (ACMA). For the safety standards for mobile communications and other radiofrequency signal transmissions, ACMA takes advice from the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) in the Commonwealth Department of Health and Ageing.

Safety standards are based on careful analysis of the scientific literature (both thermal and non-thermal effects) and are designed to offer protection against identified health effects of EME with a large in-built safety margin.

Since 2002 Australia's safety standard for electromagnetic emissions has been based on the safety standard recommended by the World Health Organization (WHO). This safety standard has also been adopted by the United States, United Kingdom and European Union.

The proposed radio communications antennae will not provide any unsafe Electro Magnetic Emissions (EME) as stipulated under ARPANSA RPS3. New radio communication site management books (RCSMB) will be produced in accordance with Australian/New Zealand Standard AS/NZS ISO 9001:2000 (Quality management system - Requirements) certificate No. 8947 registered with NCSI Pty Ltd (NATA Certification Services International).

All hazardous to public EME levels will be restricted to the aperture of the antennas and will present no uncontrolled workplace hazard.

#### **Health and Safety during Construction**

Telstra Network Construction staff and its contractors will follow all applicable industry standards in the installation of the facility. Care and appropriate precautions will be taken at all times to ensure safety.

At no time during the installation, operation or maintenance, will the equipment pose any danger or risk to residents or the public in the surrounding area.

#### **Effect on other transmission frequencies**

The proposed facility would operate at a unique frequency allocated by the Federal Government. In addition, the facility operates on a low power output. Consequently, its operation would have no effect on the operation of any other transmission frequencies including AM/FM radio, television, satellite, Sky channel, CB, amateur or any emergency service frequency.



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## Conclusion

The proposed telecommunications facility at Kubin Village RT forms an integral component in the Torres Strait communications infrastructure, the maintenance to this structure will ensure the ongoing provision of service to parts of the Torres Strait.

Telstra has undertaken an assessment of the relevant matters as required by the *Telecommunications Act 1997*, *Environmental Protection, Biodiversity and Conservation Act 2000* and the *Planning Act 2016*. The proposal is considered appropriate in light of the relevant legislative, environmental, technical, coverage, and safety requirements.

The assessment of this site indicates that the proposal is a suitable form of development on this site for the following reasons:

- No clearing of vegetation at the site is required;
- The size and configuration of the upgrade represents the lowest impact option for the site;
- The proposed facility provides a structure in which other telecommunications carriers can co-locate in the future if required.

A detailed assessment of the proposed development has been undertaken with a view to ensuring that the proposal complies with relevant Commonwealth, State and Local planning policies and procedures.

During the design phase, integrated industry standards and best practice procedures have been included.

The proposed use is compatible to the surrounding land uses and will not significantly decrease the general amenity of the area nor have a detrimental impact on the local environment.

It is therefore respectfully requested that Council grant a permit to support this development application.

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## Appendix A - Drawings of Proposal

Drawing No. Q109793 Sheet No. 1 – Site Layout and access.

Drawing No. Q109793 Sheet No. 1-1 – Site Layout.

Drawing No. Q109793 Sheet No. 3 – North East Elevation



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## Appendix D – Owners Consent

**Individual owner's consent for making a development application under the Planning Act 2016.**

Torres Strait Island Regional Council

as owner of the premise identified as:

Lot 51 on SP271019 (Kubin)

consent to the making of a development application under the *Planning Act 2016* by:

Telstra

on the premise described above for:

Material Change of Use for telecommunications facility

DAUD BAUDWIN



Date

18/5/21

CEO

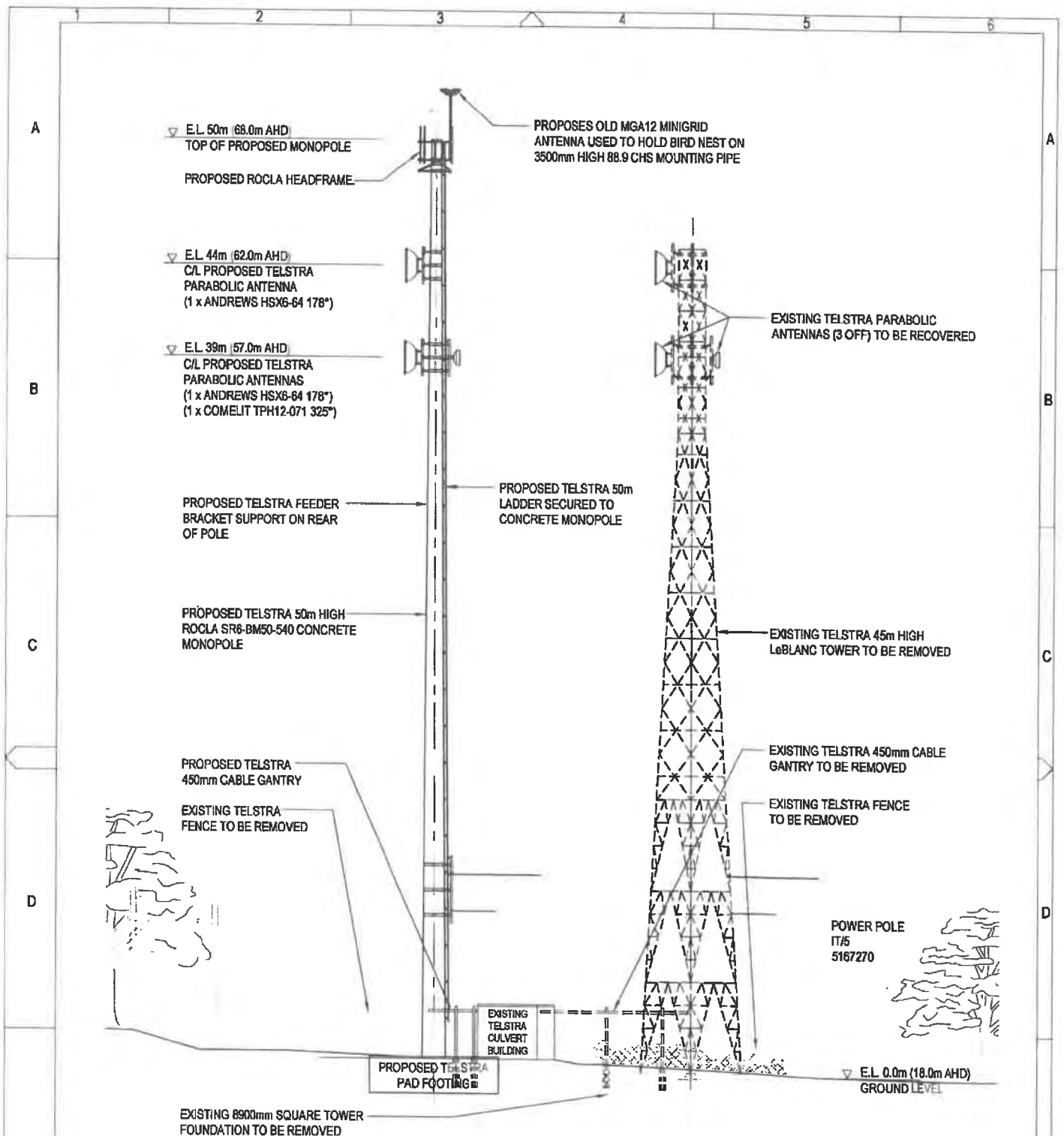
Torres Strait Island Regional Council











# **NORTH EAST ELEVATION** SCALE 1:200

2m 0 2m 4m 6m 8m 10m SCALE 1:200

## **NOTES:-**

LEVEL DATUM - AUSTRALIAN HEIGHT DATUM.  
SOURCE BENCH MARK PM 78087 24.602m.

DO NOT  
SCALE

DIMENSION  
IN



**PRELIMINARY**

ORDER	DRAWN	CHKD	AMENDMENT	EXAM	APPD	DATE	ISS
10/532	GDW	GDW	STRUCTURE TO CF11625 (SP238257)	GGG	GDW	18.10.10	3
10/708	GDW	GDW	PROPOSED GANTRY ADDED	GGG	GDW	22.12.10	4
11/550	GDW	GGG	AS BUILT UPDATE	GGG	GDW	22.09.11	5
11/740	GDW	GGG	AS BUILT AMENDMENTS	GGG	GDW	19.12.11	6
	VPL	BS	PROPOSED MONOPOLE ADDED AND EXISTING LeBLANC TOWER REMOVED	-	-	21.04.21	7

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**Telstra**  
**TELECOMMUNICATIONS SITE - 57028**  
**KUBIN VILLAGE R/T**  
**NORTH EAST ELEVATION**  
**GERAINELGAU-YABU ST, KUBIN, MOA ISLAND**

DWG NO. **Q109793** SHT NO. **3** INDEX **S3**

Card No: Q109793.DWG A3V

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## **Appendix B - Environmental Searches**

1. EPBC Report
2. Australian Heritage Database Report
3. Cultural Heritage Results



## EPBC Act Protected Matters Report

This report provides general guidance on matters of national environmental significance and other matters protected by the EPBC Act in the area you have selected.

Information on the coverage of this report and qualifications on data supporting this report are contained in the caveat at the end of the report.

Information is available about [Environment Assessments](#) and the EPBC Act including significance guidelines, forms and application process details.

Report created: 01/12/20 10:15:51

### [Summary](#)

### [Details](#)

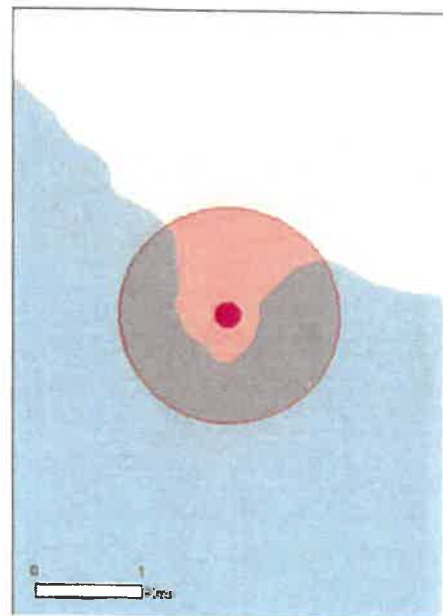
[Matters of NES](#)

[Other Matters Protected by the EPBC Act](#)

[Extra Information](#)

### [Caveat](#)

### [Acknowledgements](#)



This map may contain data which are  
©Commonwealth of Australia  
(Geoscience Australia), ©PSMA 2015

[Coordinates](#)  
[Buffer: 1.0Km](#)





## Summary

### Matters of National Environmental Significance

This part of the report summarises the matters of national environmental significance that may occur in, or may relate to, the area you nominated. Further information is available in the detail part of the report, which can be accessed by scrolling or following the links below. If you are proposing to undertake an activity that may have a significant impact on one or more matters of national environmental significance then you should consider the [Administrative Guidelines on Significance](#).

<u>World Heritage Properties:</u>	None	
<u>National Heritage Places:</u>	None	
<u>Wetlands of International Importance:</u>	None	
<u>Great Barrier Reef Marine Park:</u>	None	
<u>Commonwealth Marine Area:</u>	None	
<u>Listed Threatened Ecological Communities:</u>	None	
<u>Listed Threatened Species:</u>	24	← No significant impact expected
<u>Listed Migratory Species:</u>	40	← No significant impact expected

### Other Matters Protected by the EPBC Act

This part of the report summarises other matters protected under the Act that may relate to the area you nominated. Approval may be required for a proposed activity that significantly affects the environment on Commonwealth land, when the action is outside the Commonwealth land, or the environment anywhere when the action is taken on Commonwealth land. Approval may also be required for the Commonwealth or Commonwealth agencies proposing to take an action that is likely to have a significant impact on the environment anywhere.

The EPBC Act protects the environment on Commonwealth land, the environment from the actions taken on Commonwealth land, and the environment from actions taken by Commonwealth agencies. As heritage values of a place are part of the 'environment', these aspects of the EPBC Act protect the Commonwealth Heritage values of a Commonwealth Heritage place. Information on the new heritage laws can be found at <http://www.environment.gov.au/heritage>

A [permit](#) may be required for activities in or on a Commonwealth area that may affect a member of a listed threatened species or ecological community, a member of a listed migratory species, whales and other cetaceans, or a member of a listed marine species.

<u>Commonwealth Land:</u>	None	
<u>Commonwealth Heritage Places:</u>	None	
<u>Listed Marine Species:</u>	88	← No significant impact expected
<u>Whales and Other Cetaceans:</u>	10	← No significant impact expected
<u>Critical Habitats:</u>	None	
<u>Commonwealth Reserves Terrestrial:</u>	None	
<u>Australian Marine Parks:</u>	None	

### Extra Information

This part of the report provides information that may also be relevant to the area you have nominated.

<u>State and Territory Reserves:</u>	None	
<u>Regional Forest Agreements:</u>	None	
<u>Invasive Species:</u>	6	← Not expected to come into contact with any invasive species
<u>Nationally Important Wetlands:</u>	None	
<u>Key Ecological Features (Marine)</u>	None	

## Details

### Matters of National Environmental Significance

Listed Threatened Species		[ Resource Information ]
Name	Status	Type of Presence
<b>Birds</b>		
<u><i>Calidris canutus</i></u> Red Knot, Knot [855]	Endangered	Species or species habitat may occur within area
<u><i>Calidris ferruginea</i></u> Curlew Sandpiper [856]	Critically Endangered	Species or species habitat known to occur within area
<u><i>Limosa lapponica baueri</i></u> Bar-tailed Godwit (baueri), Western Alaskan Bar-tailed Godwit [86380]	Vulnerable	Species or species habitat may occur within area
<u><i>Limosa lapponica menzbieri</i></u> Northern Siberian Bar-tailed Godwit, Bar-tailed Godwit (menzbieri) [86432]	Critically Endangered	Species or species habitat may occur within area
<u><i>Numenius madagascariensis</i></u> Eastern Curlew, Far Eastern Curlew [847]	Critically Endangered	Species or species habitat known to occur within area
<u><i>Rostratula australis</i></u> Australian Painted Snipe [77037]	Endangered	Species or species habitat may occur within area
<b>Mammals</b>		
<u><i>Balaenoptera musculus</i></u> Blue Whale [36]	Endangered	Species or species habitat may occur within area
<u><i>Pteropus conspicillatus</i></u> Spectacled Flying-fox [185]	Endangered	Species or species habitat may occur within area
<u><i>Saccolaimus saccolaimus nudiclunatus</i></u> Bare-rumped Sheath-tailed Bat, Bare-rumped Sheath-tail Bat [66889]	Vulnerable	Species or species habitat may occur within area
<b>Plants</b>		
<u><i>Dendrobium johannis</i></u> Chocolate Tea Tree Orchid [13585]	Vulnerable	Species or species habitat likely to occur within area
<u><i>Dendrobium mirbelianum</i></u> Dark-stemmed Antler Orchid, Mangrove Orchid [14310]	Endangered	Species or species habitat likely to occur within area
<u><i>Dischidia litoralis</i></u> [82026]	Vulnerable	Species or species habitat likely to occur within area

Name	Status	Type of Presence
<u>Germainia capitata</u> [14069]	Vulnerable	Species or species habitat likely to occur within area
<b>Reptiles</b>		
<u>Caretta caretta</u> Loggerhead Turtle [1763]	Endangered	Foraging, feeding or related behaviour known to occur within area
<u>Chelonia mydas</u> Green Turtle [1765]	Vulnerable	Breeding known to occur within area
<u>Dermochelys coriacea</u> Leatherback Turtle, Leathery Turtle, Luth [1768]	Endangered	Breeding likely to occur within area
<u>Eretmochelys imbricata</u> Hawksbill Turtle [1766]	Vulnerable	Breeding known to occur within area
<u>Lepidochelys olivacea</u> Olive Ridley Turtle, Pacific Ridley Turtle [1767]	Endangered	Foraging, feeding or related behaviour known to occur within area
<u>Natator depressus</u> Flatback Turtle [59257]	Vulnerable	Breeding known to occur within area
<b>Sharks</b>		
<u>Carcharodon carcharias</u> White Shark, Great White Shark [64470]	Vulnerable	Species or species habitat may occur within area
<u>Glyphis glyphis</u> Spear-tooth Shark [82453]	Critically Endangered	Species or species habitat may occur within area
<u>Pristis pristis</u> Freshwater Sawfish, Largetooth Sawfish, River Sawfish, Leichhardt's Sawfish, Northern Sawfish [60756]	Vulnerable	Species or species habitat known to occur within area
<u>Pristis zijsron</u> Green Sawfish, Dindagubba, Narrowsnout Sawfish [68442]	Vulnerable	Species or species habitat known to occur within area
<u>Rhincodon typus</u> Whale Shark [66680]	Vulnerable	Species or species habitat may occur within area
<b>Listed Migratory Species</b>		
* Species is listed under a different scientific name on the EPBC Act - Threatened Species list.		
Name	Threatened	Type of Presence
<b>Migratory Marine Birds</b>		
<u>Anous stolidus</u> Common Noddy [825]		Foraging, feeding or related behaviour likely to occur within area
<u>Calonectris leucomelas</u> Streaked Shearwater [1077]		Species or species habitat likely to occur within area
<u>Fregata ariel</u> Lesser Frigatebird, Least Frigatebird [1012]		Species or species habitat likely to occur within area
<u>Fregata minor</u> Great Frigatebird, Greater Frigatebird [1013]		Species or species habitat likely to occur within area
<b>Migratory Marine Species</b>		
<u>Anoxypristis cuspidata</u> Narrow Sawfish, Knifetooth Sawfish [68448]		Species or species habitat likely to occur within area

Name	Threatened	Type of Presence
<u>Balaenoptera edeni</u> Bryde's Whale [35]		Species or species habitat may occur within area
<u>Balaenoptera musculus</u> Blue Whale [36]	Endangered	Species or species habitat may occur within area
<u>Carcharhinus longimanus</u> Oceanic Whitetip Shark [84108]		Breeding may occur within area
<u>Carcharodon carcharias</u> White Shark, Great White Shark [64470]	Vulnerable	Species or species habitat may occur within area
<u>Caretta caretta</u> Loggerhead Turtle [1763]	Endangered	Foraging, feeding or related behaviour known to occur within area
<u>Chelonia mydas</u> Green Turtle [1765]	Vulnerable	Breeding known to occur within area
<u>Crocodylus porosus</u> Salt-water Crocodile, Estuarine Crocodile [1774]		Species or species habitat likely to occur within area
<u>Dermochelys coriacea</u> Leatherback Turtle, Leathery Turtle, Luth [1768]	Endangered	Breeding likely to occur within area
<u>Dugong dugon</u> Dugong [28]		Species or species habitat known to occur within area
<u>Eretmochelys imbricata</u> Hawksbill Turtle [1766]	Vulnerable	Breeding known to occur within area
<u>Lepidochelys olivacea</u> Olive Ridley Turtle, Pacific Ridley Turtle [1767]	Endangered	Foraging, feeding or related behaviour known to occur within area
<u>Manta alfredi</u> Reef Manta Ray, Coastal Manta Ray, Inshore Manta Ray, Prince Alfred's Ray, Resident Manta Ray [84994]		Species or species habitat may occur within area
<u>Manta birostris</u> Giant Manta Ray, Chevron Manta Ray, Pacific Manta Ray, Pelagic Manta Ray, Oceanic Manta Ray [84995]		Species or species habitat may occur within area
<u>Natator depressus</u> Flatback Turtle [59257]	Vulnerable	Breeding known to occur within area
<u>Orcaella heinsohni</u> Australian Snubfin Dolphin [81322]		Species or species habitat likely to occur within area
<u>Orcinus orca</u> Killer Whale, Orca [46]		Species or species habitat may occur within area
<u>Pristis pristis</u> Freshwater Sawfish, Largetooth Sawfish, River Sawfish, Leichhardt's Sawfish, Northern Sawfish [60756]	Vulnerable	Species or species habitat known to occur within area
<u>Pristis zijsron</u> Green Sawfish, Dindagubba, Narrowsnout Sawfish [68442]	Vulnerable	Species or species habitat known to occur within area
<u>Rhincodon typus</u> Whale Shark [66680]	Vulnerable	Species or species habitat may occur within area
<u>Sousa chinensis</u> Indo-Pacific Humpback Dolphin [50]		Species or species

Name	Threatened	Type of Presence habitat may occur within area
<b>Migratory Terrestrial Species</b>		
<u>Cecropis daurica</u> Red-rumped Swallow [80610]		Species or species habitat may occur within area
<u>Cuculus optatus</u> Oriental Cuckoo, Horsfield's Cuckoo [86651]		Species or species habitat may occur within area
<u>Hirundo rustica</u> Barn Swallow [662]		Species or species habitat may occur within area
<u>Monarcha melanopsis</u> Black-faced Monarch [609]		Species or species habitat likely to occur within area
<u>Myiagra cyanoleuca</u> Satin Flycatcher [612]		Species or species habitat likely to occur within area
<b>Migratory Wetlands Species</b>		
<u>Actitis hypoleucos</u> Common Sandpiper [59309]		Species or species habitat known to occur within area
<u>Calidris acuminata</u> Sharp-tailed Sandpiper [874]		Species or species habitat known to occur within area
<u>Calidris canutus</u> Red Knot, Knot [855]	Endangered	Species or species habitat may occur within area
<u>Calidris ferruginea</u> Curlew Sandpiper [856]	Critically Endangered	Species or species habitat known to occur within area
<u>Calidris melanotos</u> Pectoral Sandpiper [858]		Species or species habitat may occur within area
<u>Gallinago hardwickii</u> Latham's Snipe, Japanese Snipe [863]		Species or species habitat may occur within area
<u>Limosa lapponica</u> Bar-tailed Godwit [844]		Species or species habitat known to occur within area
<u>Numenius madagascariensis</u> Eastern Curlew, Far Eastern Curlew [847]	Critically Endangered	Species or species habitat known to occur within area
<u>Pandion haliaetus</u> Osprey [952]		Species or species habitat known to occur within area
<u>Tringa nebularia</u> Common Greenshank, Greenshank [832]		Species or species habitat likely to occur within area

## Other Matters Protected by the EPBC Act

### Listed Marine Species

### [ Resource Information ]

* Species is listed under a different scientific name on the EPBC Act - Threatened Species list.	
Name	Type of Presence
<b>Birds</b>	
<u><i>Actitis hypoleucos</i></u> Common Sandpiper [59309]	Species or species habitat known to occur within area
<u><i>Anous stolidus</i></u> Common Noddy [825]	Foraging, feeding or related behaviour likely to occur within area
<u><i>Ardea alba</i></u> Great Egret, White Egret [59541]	Species or species habitat known to occur within area
<u><i>Calidris acuminata</i></u> Sharp-tailed Sandpiper [874]	Species or species habitat known to occur within area
<u><i>Calidris canutus</i></u> Red Knot, Knot [855]	Endangered Species or species habitat may occur within area
<u><i>Calidris ferruginea</i></u> Curlew Sandpiper [856]	Critically Endangered Species or species habitat known to occur within area
<u><i>Calidris melanotos</i></u> Pectoral Sandpiper [858]	Species or species habitat may occur within area
<u><i>Calonectris leucomelas</i></u> Streaked Shearwater [1077]	Species or species habitat likely to occur within area
<u><i>Fregata ariel</i></u> Lesser Frigatebird, Least Frigatebird [1012]	Species or species habitat likely to occur within area
<u><i>Fregata minor</i></u> Great Frigatebird, Greater Frigatebird [1013]	Species or species habitat likely to occur within area
<u><i>Gallinago hardwickii</i></u> Latham's Snipe, Japanese Snipe [863]	Species or species habitat may occur within area
<u><i>Haliaeetus leucogaster</i></u> White-bellied Sea-Eagle [943]	Species or species habitat known to occur within area
<u><i>Hirundo daurica</i></u> Red-rumped Swallow [59480]	Species or species habitat may occur within area
<u><i>Hirundo rustica</i></u> Barn Swallow [662]	Species or species habitat may occur within area
<u><i>Limosa lapponica</i></u> Bar-tailed Godwit [844]	Species or species habitat known to occur within area
<u><i>Merops ornatus</i></u> Rainbow Bee-eater [670]	Species or species habitat may occur within



Name	Threatened	Type of Presence area
<u>Monarcha melanopsis</u> Black-faced Monarch [609]		Species or species habitat likely to occur within area
<u>Myiagra cyanoleuca</u> Satin Flycatcher [612]		Species or species habitat likely to occur within area
<u>Numenius madagascariensis</u> Eastern Curlew, Far Eastern Curlew [847]	Critically Endangered	Species or species habitat known to occur within area
<u>Pandion haliaetus</u> Osprey [952]		Species or species habitat known to occur within area
<u>Rostratula benghalensis (sensu lato)</u> Painted Snipe [889]	Endangered*	Species or species habitat may occur within area
<u>Tringa nebularia</u> Common Greenshank, Greenshank [832]		Species or species habitat likely to occur within area
<b>Fish</b>		
<u>Acentronura tentaculata</u> Shortpouch Pygmy Pipehorse [66187]		Species or species habitat may occur within area
<u>Campichthys tricarinatus</u> Three-keel Pipefish [66192]		Species or species habitat may occur within area
<u>Choeroichthys brachysoma</u> Pacific Short-bodied Pipefish, Short-bodied Pipefish [66194]		Species or species habitat may occur within area
<u>Choeroichthys suillus</u> Pig-snouted Pipefish [66198]		Species or species habitat may occur within area
<u>Corythoichthys amplexus</u> Fijian Banded Pipefish, Brown-banded Pipefish [66199]		Species or species habitat may occur within area
<u>Corythoichthys flavofasciatus</u> Reticulate Pipefish, Yellow-banded Pipefish, Network Pipefish [66200]		Species or species habitat may occur within area
<u>Corythoichthys intestinalis</u> Australian Messmate Pipefish, Banded Pipefish [66202]		Species or species habitat may occur within area
<u>Corythoichthys ocellatus</u> Orange-spotted Pipefish, Ocellated Pipefish [66203]		Species or species habitat may occur within area
<u>Corythoichthys schultzi</u> Schultz's Pipefish [66205]		Species or species habitat may occur within area
<u>Cosmocampus maxweberi</u> Maxweber's Pipefish [66209]		Species or species habitat may occur within area
<u>Doryrhamphus dactyliophorus</u> Banded Pipefish, Ringed Pipefish [66210]		Species or species habitat may occur within area
<u>Doryrhamphus excisus</u> Bluestripe Pipefish, Indian Blue-stripe Pipefish, Pacific Blue-stripe Pipefish [66211]		Species or species habitat may occur within

Name	Threatened	Type of Presence area
<a href="#"><u>Doryrhamphus janssi</u></a> Cleaner Pipefish, Janss' Pipefish [66212]		Species or species habitat may occur within area
<a href="#"><u>Festucalex cinctus</u></a> Girdled Pipefish [66214]		Species or species habitat may occur within area
<a href="#"><u>Halicampus brocki</u></a> Brock's Pipefish [66219]		Species or species habitat may occur within area
<a href="#"><u>Halicampus dunckeri</u></a> Red-hair Pipefish, Duncker's Pipefish [66220]		Species or species habitat may occur within area
<a href="#"><u>Halicampus grayi</u></a> Mud Pipefish, Gray's Pipefish [66221]		Species or species habitat may occur within area
<a href="#"><u>Halicampus macrorhynchus</u></a> Whiskered Pipefish, Ornate Pipefish [66222]		Species or species habitat may occur within area
<a href="#"><u>Halicampus spinirostris</u></a> Spiny-snout Pipefish [66225]		Species or species habitat may occur within area
<a href="#"><u>Haliichthys taeniophorus</u></a> Ribbioned Pipehorse, Ribbioned Seadragon [66226]		Species or species habitat may occur within area
<a href="#"><u>Hippichthys cyanospilos</u></a> Blue-speckled Pipefish, Blue-spotted Pipefish [66228]		Species or species habitat may occur within area
<a href="#"><u>Hippichthys heptagonus</u></a> Madura Pipefish, Reticulated Freshwater Pipefish [66229]		Species or species habitat may occur within area
<a href="#"><u>Hippichthys penicillus</u></a> Beady Pipefish, Steep-nosed Pipefish [66231]		Species or species habitat may occur within area
<a href="#"><u>Hippichthys spicifer</u></a> Belly-barred Pipefish, Banded Freshwater Pipefish [66232]		Species or species habitat may occur within area
<a href="#"><u>Hippocampus angustus</u></a> Western Spiny Seahorse, Narrow-bellied Seahorse [66234]		Species or species habitat may occur within area
<a href="#"><u>Hippocampus hystrix</u></a> Spiny Seahorse, Thorny Seahorse [66236]		Species or species habitat may occur within area
<a href="#"><u>Hippocampus kuda</u></a> Spotted Seahorse, Yellow Seahorse [66237]		Species or species habitat may occur within area
<a href="#"><u>Hippocampus planifrons</u></a> Flat-face Seahorse [66238]		Species or species habitat may occur within area
<a href="#"><u>Hippocampus spinosissimus</u></a> Hedgehog Seahorse [66239]		Species or species habitat may occur within area
<a href="#"><u>Hippocampus trimaculatus</u></a> Three-spot Seahorse, Low-crowned Seahorse, Flat-faced Seahorse [66720]		Species or species habitat may occur within area



Name	Threatened	Type of Presence
<a href="#">Hippocampus zebra</a> Zebra Seahorse [66241]		Species or species habitat may occur within area
<a href="#">Micrognathus brevirostris</a> thorntail Pipefish, Thorn-tailed Pipefish [66254]		Species or species habitat may occur within area
<a href="#">Microphis brachyurus</a> Short-tail Pipefish, Short-tailed River Pipefish [66257]		Species or species habitat may occur within area
<a href="#">Solegnathus hardwickii</a> Pallid Pipehorse, Hardwick's Pipehorse [66272]		Species or species habitat may occur within area
<a href="#">Solenostomus cyanopterus</a> Robust Ghostpipefish, Blue-finned Ghost Pipefish, [66183]		Species or species habitat may occur within area
<a href="#">Syngnathoides biaculeatus</a> Double-end Pipehorse, Double-ended Pipehorse, Alligator Pipefish [66279]		Species or species habitat may occur within area
<a href="#">Trachyrhamphus bicoarctatus</a> Bentstick Pipefish, Bend Stick Pipefish, Short-tailed Pipefish [66280]		Species or species habitat may occur within area
<a href="#">Trachyrhamphus longirostris</a> Straightstick Pipefish, Long-nosed Pipefish, Straight Stick Pipefish [66281]		Species or species habitat may occur within area
<b>Mammals</b>		
<a href="#">Dugong dugon</a> Dugong [28]		Species or species habitat known to occur within area
<b>Reptiles</b>		
<a href="#">Acalyptophis peronii</a> Horned Seasnake [1114]		Species or species habitat may occur within area
<a href="#">Aipysurus duboisii</a> Dubois' Seasnake [1116]		Species or species habitat may occur within area
<a href="#">Aipysurus eydouxii</a> Spine-tailed Seasnake [1117]		Species or species habitat may occur within area
<a href="#">Aipysurus laevis</a> Olive Seasnake [1120]		Species or species habitat may occur within area
<a href="#">Aspeltotia stokesii</a> Stokes' Seasnake [1122]		Species or species habitat may occur within area
<a href="#">Caretta caretta</a> Loggerhead Turtle [1763]	Endangered	Foraging, feeding or related behaviour known to occur within area
<a href="#">Chelonia mydas</a> Green Turtle [1765]	Vulnerable	Breeding known to occur within area
<a href="#">Crocodylus porosus</a> Salt-water Crocodile, Estuarine Crocodile [1774]		Species or species habitat likely to occur within area
<a href="#">Dermochelys coriacea</a> Leatherback Turtle, Leathery Turtle, Luth [1768]	Endangered	Breeding likely to occur within area

Name	Threatened	Type of Presence
<u>Disteira kingii</u> Spectacled Seasnake [1123]		Species or species habitat may occur within area
<u>Disteira major</u> Olive-headed Seasnake [1124]		Species or species habitat may occur within area
<u>Enhydrina schistosa</u> Beaked Seasnake [1126]		Species or species habitat may occur within area
<u>Eretmochelys imbricata</u> Hawksbill Turtle [1766]	Vulnerable	Breeding known to occur within area
<u>Hydrophis atriceps</u> Black-headed Seasnake [1101]		Species or species habitat may occur within area
<u>Hydrophis elegans</u> Elegant Seasnake [1104]		Species or species habitat may occur within area
<u>Hydrophis gracilis</u> Slender Seasnake [1106]		Species or species habitat may occur within area
<u>Hydrophis mcdowelli</u> null [25926]		Species or species habitat may occur within area
<u>Hydrophis melanosoma</u> Black-banded Robust Seasnake [1109]		Species or species habitat may occur within area
<u>Hydrophis ornatus</u> Spotted Seasnake, Ornate Reef Seasnake [1111]		Species or species habitat may occur within area
<u>Hydrophis pacificus</u> Large-headed Seasnake, Pacific Seasnake [1112]		Species or species habitat may occur within area
<u>Hydrophis vorisi</u> a seasnake [25927]		Species or species habitat may occur within area
<u>Lepemys hardwickii</u> Spine-bellied Seasnake [1113]		Species or species habitat may occur within area
<u>Laticauda colubrina</u> a sea krait [1092]		Species or species habitat may occur within area
<u>Laticauda laticaudata</u> a sea krait [1093]		Species or species habitat may occur within area
<u>Lepidochelys olivacea</u> Olive Ridley Turtle, Pacific Ridley Turtle [1767]	Endangered	Foraging, feeding or related behaviour known to occur within area
<u>Natator depressus</u> Flatback Turtle [59257]	Vulnerable	Breeding known to occur within area
<u>Pelamis platurus</u> Yellow-bellied Seasnake [1091]		Species or species habitat may occur within area

Whales and other Cetaceans		[ Resource Information ]
Name	Status	Type of Presence

Name	Status	Type of Presence
<b>Mammals</b>		
<u>Balaenoptera edeni</u> Bryde's Whale [35]		Species or species habitat may occur within area
<u>Balaenoptera musculus</u> Blue Whale [38]	Endangered	Species or species habitat may occur within area
<u>Delphinus delphis</u> Common Dolphin, Short-beaked Common Dolphin [60]		Species or species habitat may occur within area
<u>Grampus griseus</u> Risso's Dolphin, Grampus [64]		Species or species habitat may occur within area
<u>Orcaella brevirostris</u> Irrawaddy Dolphin [45]		Species or species habitat likely to occur within area
<u>Orcinus orca</u> Killer Whale, Orca [46]		Species or species habitat may occur within area
<u>Sousa chinensis</u> Indo-Pacific Humpback Dolphin [50]		Species or species habitat may occur within area
<u>Stenella attenuata</u> Spotted Dolphin, Pantropical Spotted Dolphin [51]		Species or species habitat may occur within area
<u>Tursiops aduncus</u> Indian Ocean Bottlenose Dolphin, Spotted Bottlenose Dolphin [68418]		Species or species habitat likely to occur within area
<u>Tursiops truncatus s. str.</u> Bottlenose Dolphin [68417]		Species or species habitat may occur within area

## Extra Information

### Invasive Species

### [ Resource Information ]

Weeds reported here are the 20 species of national significance (WoNS), along with other introduced plants that are considered by the States and Territories to pose a particularly significant threat to biodiversity. The following feral animals are reported: Goat, Red Fox, Cat, Rabbit, Pig, Water Buffalo and Cane Toad. Maps from Landscape Health Project, National Land and Water Resources Audit, 2001.

Name	Status	Type of Presence
<b>Birds</b>		
<u>Passer domesticus</u> House Sparrow [405]		Species or species habitat likely to occur within area
<b>Mammals</b>		
<u>Canis lupus familiaris</u> Domestic Dog [82654]		Species or species habitat likely to occur within area

Name	Status	Type of Presence
Felis catus Cat, House Cat, Domestic Cat [19]		Species or species habitat likely to occur within area
Sus scrofa Pig [6]		Species or species habitat likely to occur within area
Reptiles		
Hemidactylus frenatus Asian House Gecko [1708]		Species or species habitat likely to occur within area
Lepidodactylus lugubris Mourning Gecko [1712]		Species or species habitat likely to occur within area

## Caveat

The information presented in this report has been provided by a range of data sources as acknowledged at the end of the report.

This report is designed to assist in identifying the locations of places which may be relevant in determining obligations under the Environment Protection and Biodiversity Conservation Act 1999. It holds mapped locations of World and National Heritage properties, Wetlands of International and National Importance, Commonwealth and State/Territory reserves, listed threatened, migratory and marine species and listed threatened ecological communities. Mapping of Commonwealth land is not complete at this stage. Maps have been collated from a range of sources at various resolutions.

Not all species listed under the EPBC Act have been mapped (see below) and therefore a report is a general guide only. Where available data supports mapping, the type of presence that can be determined from the data is indicated in general terms. People using this information in making a referral may need to consider the qualifications below and may need to seek and consider other information sources.

For threatened ecological communities where the distribution is well known, maps are derived from recovery plans, State vegetation maps, remote sensing imagery and other sources. Where threatened ecological community distributions are less well known, existing vegetation maps and point location data are used to produce indicative distribution maps.

Threatened, migratory and marine species distributions have been derived through a variety of methods. Where distributions are well known and if time permits, maps are derived using either thematic spatial data (i.e. vegetation, soils, geology, elevation, aspect, terrain, etc) together with point locations and described habitat; or environmental modelling (MAXENT or BIOCLIM habitat modelling) using point locations and environmental data layers.

Where very little information is available for species or large number of maps are required in a short time-frame, maps are derived either from 0.04 or 0.02 decimal degree cells; by an automated process using polygon capture techniques (static two kilometre grid cells, alpha-hull and convex hull); or captured manually or by using topographic features (national park boundaries, islands, etc). In the early stages of the distribution mapping process (1999-early 2000s) distributions were defined by degree blocks, 100K or 250K map sheets to rapidly create distribution maps. More reliable distribution mapping methods are used to update these distributions as time permits.

Only selected species covered by the following provisions of the EPBC Act have been mapped:

- migratory and
- marine

The following species and ecological communities have not been mapped and do not appear in reports produced from this database:

- threatened species listed as extinct or considered as vagrants
- some species and ecological communities that have only recently been listed
- some terrestrial species that overfly the Commonwealth marine area
- migratory species that are very widespread, vagrant, or only occur in small numbers

The following groups have been mapped, but may not cover the complete distribution of the species:

- non-threatened seabirds which have only been mapped for recorded breeding sites
- seals which have only been mapped for breeding sites near the Australian continent

Such breeding sites may be important for the protection of the Commonwealth Marine environment.

## Coordinates

-10.23503 142.2187

## Acknowledgements

This database has been compiled from a range of data sources. The department acknowledges the following custodians who have contributed valuable data and advice:

- [Office of Environment and Heritage, New South Wales](#)
- [Department of Environment and Primary Industries, Victoria](#)
- [Department of Primary Industries, Parks, Water and Environment, Tasmania](#)
- [Department of Environment, Water and Natural Resources, South Australia](#)
- [Department of Land and Resource Management, Northern Territory](#)
- [Department of Environmental and Heritage Protection, Queensland](#)
- [Department of Parks and Wildlife, Western Australia](#)
- [Environment and Planning Directorate, ACT](#)
- [Birdlife Australia](#)
- [Australian Bird and Bat Banding Scheme](#)
- [Australian National Wildlife Collection](#)
- Natural history museums of Australia**
- [Museum Victoria](#)
- [Australian Museum](#)
- [South Australian Museum](#)
- [Queensland Museum](#)
- [Online Zoological Collections of Australian Museums](#)
- [Queensland Herbarium](#)
- [National Herbarium of NSW](#)
- [Royal Botanic Gardens and National Herbarium of Victoria](#)
- [Tasmanian Herbarium](#)
- [State Herbarium of South Australia](#)
- [Northern Territory Herbarium](#)
- [Western Australian Herbarium](#)
- [Australian National Herbarium, Canberra](#)
- [University of New England](#)
- [Ocean Biogeographic Information System](#)
- [Australian Government, Department of Defence](#)
- [Forestry Corporation, NSW](#)
- [Geoscience Australia](#)
- [CSIRO](#)
- [Australian Tropical Herbarium, Cairns](#)
- [eBird Australia](#)
- [Australian Government – Australian Antarctic Data Centre](#)
- [Museum and Art Gallery of the Northern Territory](#)
- [Australian Government National Environmental Science Program](#)
- [Australian Institute of Marine Science](#)
- [Reef Life Survey Australia](#)
- [American Museum of Natural History](#)
- [Queen Victoria Museum and Art Gallery, Inveresk, Tasmania](#)
- [Tasmanian Museum and Art Gallery, Hobart, Tasmania](#)
- Other groups and individuals**

The Department is extremely grateful to the many organisations and individuals who provided expert advice and information on numerous draft distributions.

Please feel free to provide feedback via the [Contact Us](#) page.

## Search Results

No results found.

Enter at least one search criterion.

[Search Hints](#)

		<b>Search</b>	<b>Reset form</b>
<b>Place name</b>			
<input type="text"/>			
<b>Street name</b>			
<input type="text"/>			
<b>Town or suburb</b>		<b>State</b>	
<input type="text" value="Kubin"/>		<input type="text" value="--All--"/>	
<b>Country</b>			
<input type="text"/>			
<b>Advanced search options</b>			
<b>List</b>			
<input type="text" value="All Lists"/>			
<i>Different lists will provide different status and class options</i>			
<b>Local Government Area</b>		<b>Place ID number</b>	
<input type="text"/>		<input type="text"/>	
<b>Legal status</b>		<b>Class</b>	
<input type="text" value="--All--"/>		<input type="text" value="--All--"/>	
<b>Keyword Search</b>			
<input type="text"/>			
<input checked="" type="checkbox"/> Description	<input checked="" type="checkbox"/> Statement of Significance	<input checked="" type="checkbox"/> Place history	
<a href="#">Latitude/Longitude</a>			
N			
Latitude 1			
Longitude 1	<input type="text"/>	S	Longitude 2
W	<input type="text"/>	E	Latitude 2
	<input type="text"/>	S	<input type="text"/>
		E	E
S			
<input type="radio"/> Wholly within region			
<input checked="" type="radio"/> Wholly or partially within region			
<i>Longitude coordinates should be entered as ddd.mm.ss</i>			
<i>Latitude coordinates should be entered as dd.mm.ss</i>			
<b>Map Ref No</b>			
<input type="text"/>			
1:100,000 eg 2357			
1:250,000 eg SF-50-01			

[Search Hints](#)

- Not all fields need to be filled in. The fewer you fill in the more results you will get.
- If you cannot find a place, check spelling and try alternative names. Reduce the number of words that you include and use fewer fields.
- The Local Government field used on its own will provide a comprehensive list of places in an area.

Report Produced: Tue Dec 1 10:15:33 2020

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## Search Results

No results found.

Enter at least one search criterion.

[Search Hints](#)

<input type="text"/>		<input type="button" value="Search"/>	<input type="button" value="Reset form"/>
Place name			
<input type="text"/>			
Street name			
<input type="text"/>			
Town or suburb		State	
<input type="text" value="Moa"/>		<input type="text" value="Queensland"/>	
Country			
<input type="text"/>			

### Advanced search options

List

*Different lists will provide different status and class options*

Local Government Area

Place ID number

[Legal status](#)

Class

Keyword Search

☒ Description

☒ Statement of Significance

☒ Place history

[Latitude Longitude](#)

				N					
				Latitude 1					
Longitude 1		<input type="text"/>	<input type="text" value="S"/>	Longitude 2		<input type="text"/>	<input type="text" value="E"/>	<input type="text" value="E"/>	
W	<input type="text"/>	E		Latitude 2	<input type="text"/>	E	<input type="text" value="E"/>		
		<input type="text"/>	<input type="text" value="S"/>						
				S					

☐ Wholly within region

☒ Wholly or partially within region

*Longitude coordinates should be entered as ddd.mm.ss*

*Latitude coordinates should be entered as dd.mm.ss*

Map Ref No

*1:100,000 eg 2357*

*1:250,000 eg SF-50-01*

[Search Hints](#)

- Not all fields need to be filled in. The fewer you fill in the more results you will get.
- If you cannot find a place, check spelling and try alternative names. Reduce the number of words that you include and use fewer fields.
- The Local Government field used on its own will provide a comprehensive list of places in an area.

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## Latitude/Longitude Search

Cultural heritage party for the area is:

QC Ref Number	QUD Ref Number	Party Name	Contact Details
QCD1999/002 DET	QUD6035/1998	Moa Island (Mualgal People)	Mualgal Torres Strait Islanders Corporation RNTBC PO Box 335 THURSDAY ISLAND QLD 4875

Cultural heritage body for the area is:

Name	Contact Details
Mualgal (TSI) Corporation RNTBC	Mualgal (Torres Strait Islanders) Corporation RNTBC PO Box 335 THURSDAY ISLAND QLD 4875

There are no cultural heritage management plans recorded in your specific search area.

There are no Designated Landscape Areas (DLA) recorded in your specific search area.

There are no Registered Cultural Heritage Study Areas in your specific search area.

Regional Coordinator:

Name	Position	Phone	Mobile	Email
Leigh Preston	Cultural Heritage Coordinator North Region	07 4796 7862	0427 142 782	Leigh.Preston@atsip.qld.gov.au

**Disclaimer:** Department of Aboriginal and Torres Strait Islander Partnerships is the custodian of spatial data provided by various third parties for inclusion in the Aboriginal and Torres Strait Islander cultural heritage online portal. This includes spatial data provided by the National Native Title Tribunal and Aboriginal and Torres Strait Islander parties. Department of Aboriginal and Torres Strait Islander Partnerships is not responsible for the accuracy of information provided by third parties or any errors in this search report arising from such information. **Map Datum:** Geographic Latitude & Longitude (GDA2020)

## Latitude/Longitude Search

I refer to your submission in which you requested advice regarding Aboriginal or Torres Strait Islander cultural heritage recorded at your nominated location.

The Cultural Heritage Database and Register have been searched in accordance with the location description provided, and the results are set out in the above report.

Aboriginal or Torres Strait Islander cultural heritage which may exist within the search area is protected under the terms of the *Aboriginal Cultural Heritage Act 2003* and the *Torres Strait Islander Cultural Heritage Act 2003*, even if the Department of Aboriginal and Torres Strait Islander Partnerships has no records relating to it.

Under the legislation a person carrying out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal or Torres Strait Islander cultural heritage. This applies whether or not such places are recorded in an official register and whether or not they are located on private land.

Please refer to our website <https://www.datsip.qld.gov.au/people-communities/aboriginal-torres-strait-islander-cultural-heritage> for a copy of the gazetted Cultural Heritage Duty of Care Guidelines, which set out reasonable and practicable measure for meeting the cultural heritage duty of care.

In order to meet your duty of care, any land-use activity within the vicinity of recorded cultural heritage should not proceed without the agreement of the Aboriginal or Torres Strait Islander Party for the area, or by developing a Cultural Heritage Management Plan under Part 7 of the legislation.

If your proposed activity is deemed a Category 5 activity pursuant to the Duty of Care Guidelines, there is generally a high risk that it may harm cultural heritage. In these circumstances, the activity should not proceed without cultural heritage assessment.

Where a category 5 activity is proposed, it is necessary to notify the Aboriginal or Torres Strait Islander Party and seek:

- a. Advice as to whether the area is culturally significant;
- b. If it is, agreement on how best the activity may be managed to avoid or minimise harm to any cultural heritage values.

The extent to which the person has complied with Cultural Heritage Duty of Care Guidelines and the extent the person consulted Aboriginal or Torres Strait Islander Parties about carrying out the activity – and the results of the consultation – are factors a court may consider when determining if a land user has complied with the cultural heritage duty of care.



Queensland Government

Department of Aboriginal and Torres Strait Islander Partnerships

## Latitude/Longitude Search

Should you have any further queries, please do not hesitate to contact the Search Approval Officer on 1300 378 401.

Kind regards

The Director

Cultural Heritage | Community Participation | Department of Aboriginal and Torres Strait Islander Partnerships

## Appendix C – Title Search



CURRENT TITLE SEARCH  
DEPT OF NATURAL RESOURCES AND MINES, QUEENSLAND  
Request No: 26009780  
Search Date: 23/05/2017 14:27

Title Reference: 51089413  
Date Created: 13/04/2017

Previous Title: 51089019

REGISTERED OWNER

Dealing No: 717945770 05/04/2017

TORRES STRAIT ISLAND REGIONAL COUNCIL

DEED OF GRANT IN TRUST  
THE GRANTEE TO HOLD THE SAID LAND IN TRUST FOR THE  
BENEFIT OF ISLANDER INHABITANTS AND FOR NO OTHER PURPOSE  
WHATSOEVER

ESTATE AND LAND

Estate in Fee Simple

LOT 51 SURVEY PLAN 271019  
Local Government: TORRES STRAIT ISLAND

EASEMENTS, ENCUMBRANCES AND INTERESTS

1. Rights and interests reserved to the Crown by  
Deed of Grant No. 21296132 (Lot 5 on SP 248095)
2. TRUSTEE LEASE No 717120988 10/03/2016 at 11:11  
TELSTRA CORPORATION LIMITED A.C.N. 051 775 556  
OF LEASE U ON SP238257  
TERM: 22/09/2015 TO 22/01/2032 OPTION NIL
3. COVENANT No 717945773 05/04/2017 at 16:22  
restricts dealings over  
THE LAND IDENTIFIED AT ITEM 2 OF THIS DOCUMENT

ADMINISTRATIVE ADVICES

Dealing	Type	Lodgement Date	Status
709885365	VEG NOTICE VEGETATION MANAGEMENT ACT 1999	28/08/2006 10:19	CURRENT
713412367	RT NOTING LAND TITLE ACT 1994	17/08/2010 14:39	CURRENT

UNREGISTERED DEALINGS - NIL

CERTIFICATE OF TITLE ISSUED - No

Caution - Charges do not necessarily appear in order of priority

\*\* End of Current Title Search \*\*

COPYRIGHT THE STATE OF QUEENSLAND (DEPT OF NATURAL RESOURCES AND MINES) [2017]  
Requested By: D-ENQ SAI GLOBAL

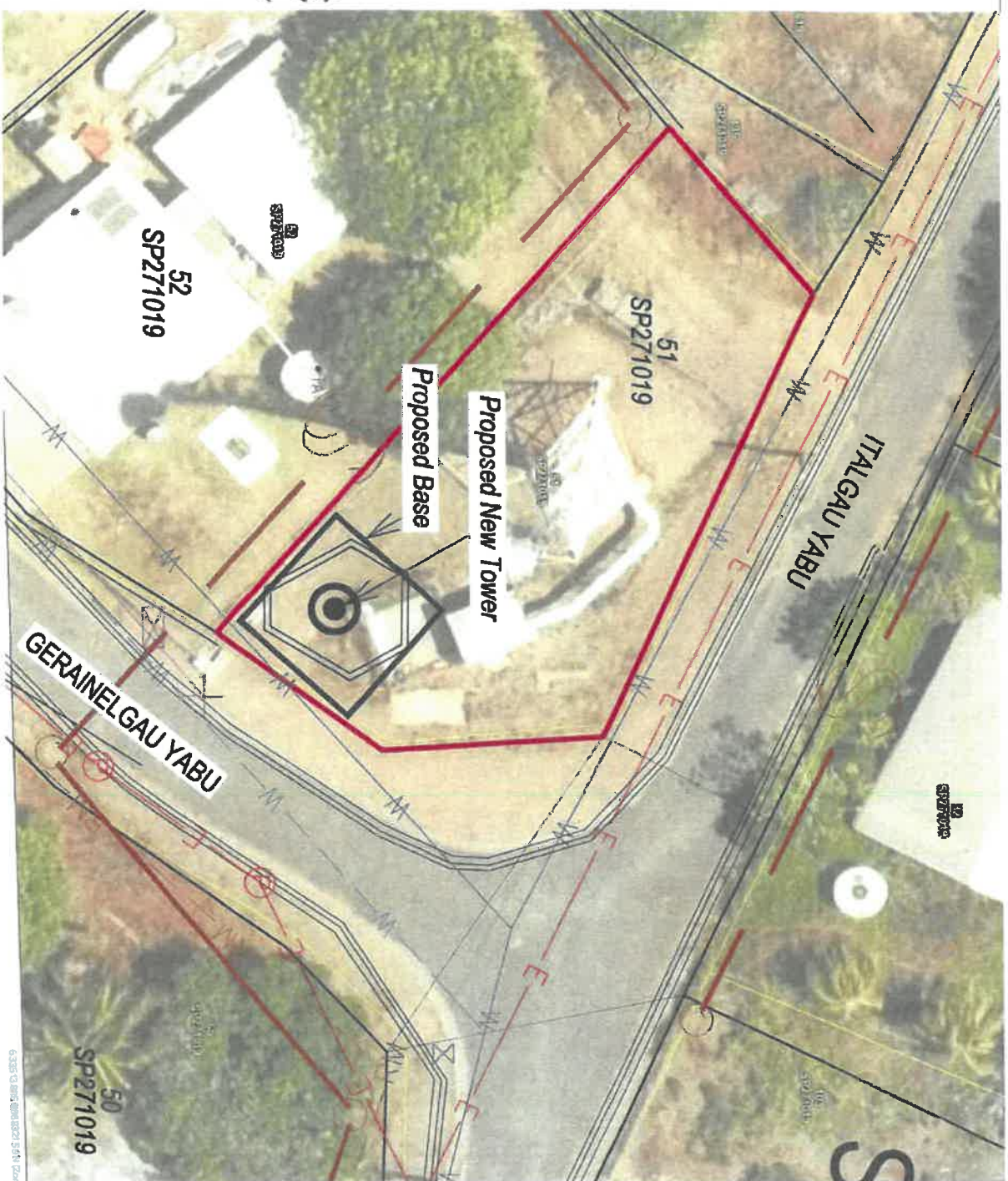




**LOCALITY**  
NOT TO SCALE



**DA05-21-06(1) Telstra Kubin Tower**  
Location Plan



**PRELIMINARY plan**

RF5 Australia East Pty Ltd  
ACN 140 202 702  
135 Abbott St  
PO Box 1948  
COORUBA QLD 4870  
T +61 7 4051 1235  
F +61 7 4051 1232  
W rf5group.com



PRELIMINARY - FOR DISCUSSION PURPOSES ONLY

Date: MGA94 Z55 | Scale: 1:200 @ A3 | Date: 26-6-2021 | Drawing: 10358-77

# TORRES STRAIT ISLAND REGIONAL COUNCIL

## TRUSTEE REPORT

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### COUNCIL TRUSTEE MEETING

**DATE:** June 2021  
**SUBJECT:** Land Holding Act lease – Masig  
**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

*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.*

### BACKGROUND

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

### 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 Mosby 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  
A/CEO



Peter Krebs  
Senior Legal Counsel

## **ATTACHMENTS**

1. Advice & Recommendation Report: 41/86



# ADVICE AND RECOMMENDATION REPORT

## Masig Island Trust Area

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

Purpose of Advice and Recommendation Report		
<p><b>This matter has been referred on behalf of the Minister for Resources to TSIRC as trustee of the trust area to:</b></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)		
<b>Name of applicant(s):</b>	Daniel <b>MOSBY</b> (deceased)	<b>No:</b> 41/86
<b>Type of tenancy:</b>	Sole tenant	
<b>Lot/Plan Description of original application:</b>	<b>Form 1:</b> Lot 70	<b>Current:</b> 152/SP277431
<b>Street address:</b>	152 Koben Road	
<b>Date referred to trustee:</b>	20 April 2021	

INFORMATION PROVIDED BY DoR		
<b>Trust Area notice published:</b>	24 May 2019	
<b>LEN published:</b>	24 May 2019	Copy attached
<b>Deceased applicant:</b>	Yes.	
<b>Beneficiary:</b>	Frank Yauki Gela and Leah Maryann Gela have been identified as beneficiaries in equal interest to the estate of Daniel Mosby as per the Certificate of Entitlement issued in accordance with the <i>Aboriginal and Torres Strait Island Communities (Justice, Land and Other Matters) Act 1984, s.60.</i>	
<b>Location of the area of the lease entitlement land:</b>	The lease entitlement has been surveyed as lot 152 on SP277431, which is a suitable survey plan for issue of lease.	
<b>Improvements on the lease entitlement land:</b>	Vacant land	
<b>Consultation:</b>	Yes.	
	<b>Person consulted</b>	<b>Issues discussed</b>
	Leah Maryann Gela	Consultation has occurred with Leah Maryann Gela regarding the lease entitlement and home

INFORMATION PROVIDED BY DoR		
		ownership responsibilities. Leah has verbally indicated that both her and Frank want the lease granted.
<b>Comments:</b>	Given the land is vacant there are no tenant relocation issues or any other practical obstacle to the grant of the lease to Leah and Frank.	

TRUSTEE ADVICE AND RECOMMENDATION	
<b>Location of the area of the lease entitlement land:</b>	The location of the area of the lease entitlement is resolved and identified as lot 152 on SP277431.
<b>Improvements on the lease entitlement land:</b>	Vacant land.
<b>Postal address for intended lessee/s:</b>	c/- Masig Island Post Office, MASIG ISLAND QLD 4875
<b>Other Interests:</b>	N/A
<b>Practical Obstacles:</b>	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> .
<b>Recommendation:</b>	It is recommended that the Minister be advised that the lease over lot 152 on SP277431 should issue to <b>Leah Maryann Gela</b> and <b>Frank Yauki Gela</b> as soon as possible.
APPROVAL	
<b>Sign:</b>	..... Ilario Sabitino A/Chief Executive Officer Torres Strait Island Regional Council
<b>Date:</b>	This ..... day of .....2021





Queensland Government home For Queenslanders Aboriginal and Torres Strait Islander peoples Environment, land use and native title Leasing Indigenous land Land Holding Act Leases Lease entitlement notices

## Lease entitlement notices Masig 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 \(https://www.dnrme.qld.gov.au/qld/indigenous-land/notices\)](https://www.dnrme.qld.gov.au/qld/indigenous-land/notices).

Notice details	Date of publication	Deadline for changes	Application number
<b>Name</b> Daniel MOSBY <b>Address</b> 152 Lowatta Road <b>Description</b> Lot 152 on SP277431	24-May-19	24-Nov-20	41/86

## Granting of leases

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





**ABORIGINAL AND TORRES STRAIT ISLANDER COMMUNITIES (JUSTICE,  
LAND AND OTHER MATTERS) ACT 1984, s.60**

**CERTIFICATE OF ENTITLEMENT  
(BENEFICIARY CERTIFICATE)**

Estate of Daniel Mosby

In accordance with section 60 of the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*, I hereby certify that Frank Yauki Gela and Leah Maryann Gela are beneficiaries in equal interest to the estate of Daniel Mosby including lease entitlement MS41/86 over land currently described as Lot 152 on SP277431 at Masig Island, which was approved under the *Aborigines and Torres Strait Islanders (Land Holding) Act 1985*.

Signed on the Twenty Ninth day of January, <sup>2021</sup>~~2020~~

  
**Dr Ian Mackie**  
**Deputy Director-General**  
**Culture and Economic Participation**  
**ABORIGINAL AND TORRES STRAIT ISLANDER PARTNERSHIPS**

# TORRES STRAIT ISLAND REGIONAL COUNCIL

## TRUSTEE REPORT

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### COUNCIL TRUSTEE MEETING

**DATE:** June 2021  
**SUBJECT:** Land Holding Act lease – St Pauls  
**AUTHOR:** Peter Krebs, Senior Legal Counsel  
**PRESENTER:** Peter Krebs, Senior Legal Counsel

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### PERSONAL INTERESTS

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

### RECOMMENDATION

*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

### 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 Levi 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  
**A/CEO**



Peter Krebs  
**Senior Legal Counsel**

## **ATTACHMENTS**

1. Advice & Recommendation Report: 25/88

# ADVICE AND RECOMMENDATION REPORT

## St Paul's Island Trust Area

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

Purpose of Advice and Recommendation Report		
<p><b>This matter has been referred on behalf of the Minister for Resources to TSIRC as trustee of the trust area to:</b></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)		
<b>Name of applicant(s):</b>	Adea WAPAU (deceased)	<b>No:</b> 25/88
<b>Type of tenancy:</b>	Sole tenant	
<b>Lot/Plan Description of original application:</b>	<b>Form 1:</b> Lot 63	<b>Current:</b> Lot 13 on SP256048
<b>Street address:</b>	13 Main St (aka Anu Namai) Road	
<b>Date referred to trustee:</b>	1 June 2021	

INFORMATION PROVIDED BY DOR		
<b>Trust Area notice published:</b>	19 October 2018	
<b>LEN published:</b>	19 October 2018	Copy attached
<b>Deceased applicant:</b>	Yes	
<b>Beneficiary:</b>	Rithia Patricia Nona, Elsie Selena Bartlett, Kathleen Doris Mene, Ned Joseph Wapau, Edward Jimmy Wapau, Erra Fred Wapau and Hylda Myra Wapau have been identified as equal beneficiaries of the estate of Adea Wapau.	
<b>Location of the area of the lease entitlement land:</b>	The lease entitlement has been surveyed as lot 13 on SP256048, which is a suitable survey plan for issue of lease.	
<b>Improvements on the lease entitlement land:</b>	4 bedroom social house	
<b>Tenancy Of House (Managed By TSIRC ):</b>	Head tenant: Rev Ned Wapau Relationship to applicant/beneficiary: Son Tenant relocation: N/A	

INFORMATION PROVIDED BY DOR		
Consultation:	Yes	
	<b>Person consulted</b> Rithia Patricia Nona Elsie Selena Bartlett Kathleen Doris Mene <b>Ned Joseph Wapau</b> Edward Jimmy Wapau Erra Fred Wapau Hylida Myra Wapau	<b>Issues discussed</b> All beneficiaries have requested their share of the entitlement be assigned to Ned Joseph Wapau.  Ned Joseph Wapau has provided written acceptance of home ownership.
Comments:		

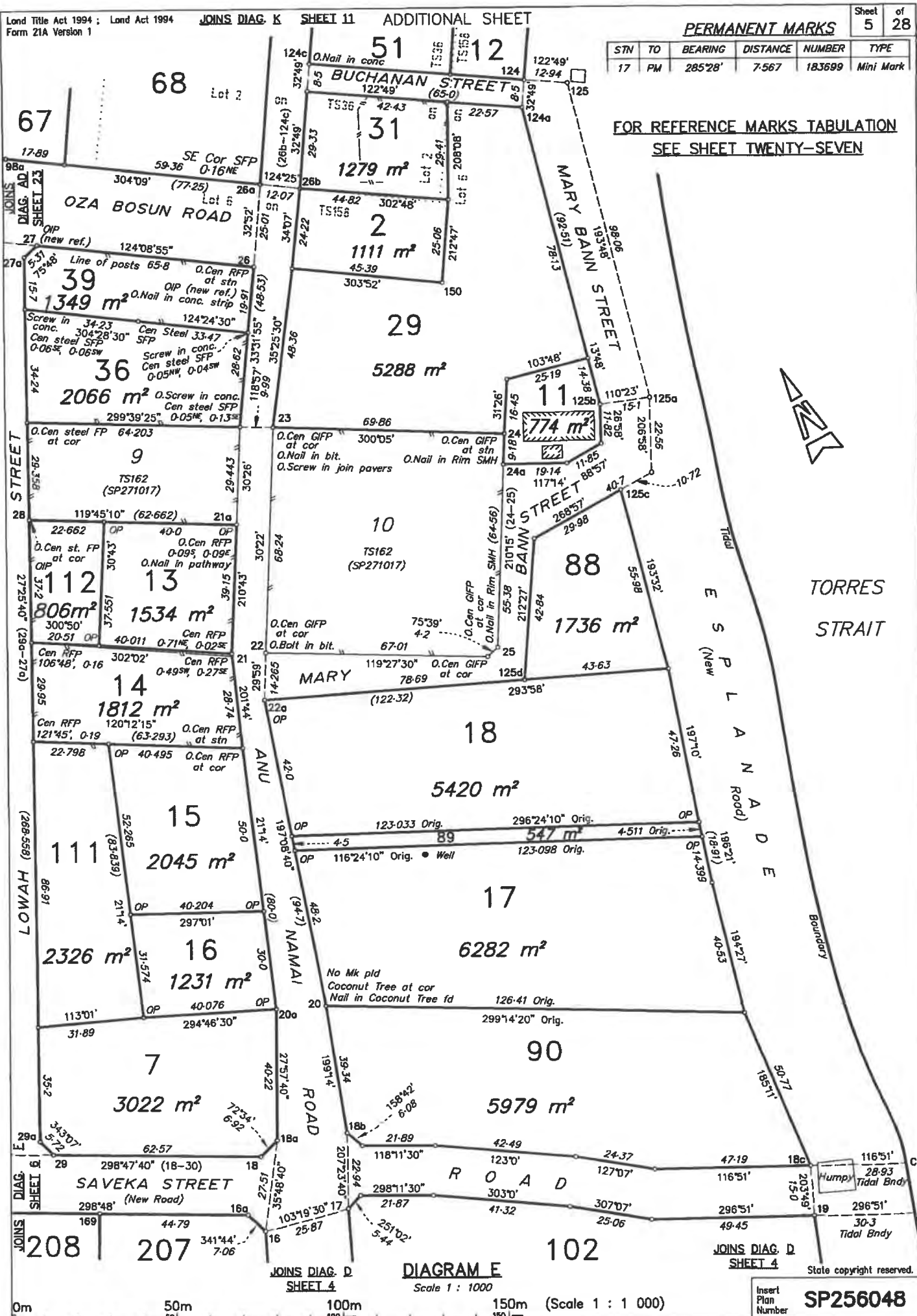
TRUSTEE ADVICE AND RECOMMENDATION	
<b>Location of the area of the lease entitlement land:</b>	The location of the area of the lease entitlement is resolved and identified as lot 13 on SP256048
<b>Improvements on the lease entitlement land:</b>	The ownership of improvements do not need to be resolved and will become the property of the lessee upon issue of the lease.
<b>Postal address for intended lessee/s:</b>	C/- Post Office, St Pauls QLD 4875
<b>Other Interests:</b>	N/A
<b>Practical Obstacles:</b>	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> .
<b>Recommendation:</b>	It is recommended that the Minister be advised that the lease over lot 13 on SP256048 should issue to <b>Ned Joseph Wapau</b> as soon as possible.

APPROVAL	
<b>Sign:</b>	.....  Ilario Sabatino A/CEO Torres Strait Island Regional Council
<b>Date:</b>	This ..... day of .....2021

PERMANENT MARKS

STN	TO	BEARING	DISTANCE	NUMBER	TYPE
17	PM	285°28'	7.567	183699	Mini Mark

FOR REFERENCE MARKS TABULATION  
SEE SHEET TWENTY-SEVEN



TORRES  
STRAIT

E S P L A N A D E  
(New Road)

Boundary

116°51'  
28°33'  
Tidal Bndy  
296°51'  
30°3'  
Tidal Bndy

JOINS DIAG. D  
SHEET 4

State copyright reserved.

Insert  
Plan  
Number

SP256048

DIAGRAM E

Scale 1 : 1000

(Scale 1 : 1 000)

JOINS DIAG. D  
SHEET 4

0m 50m 100m 150m (Scale 1 : 1 000)



Home >For Queenslanders >Land Holding Act Leases >Lease entitlement notices

## Lease entitlement notices St Pauls

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.resources.qld.gov.au/qld/indigenous-land/notices) (<https://www.resources.qld.gov.au/qld/indigenous-land/notices>).

Notice details	Date of publication	Deadline for changes	Application number
Name Adea WAPAU Address 13 Main (aka Anu Namai) Road Description Lot 13/SP256048	19-Oct-18	19-Apr-20	25/88

## Granting of leases

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

Last updated: 27 April 2021

Last reviewed: 15 July 2020

## Are you entitled to a lease?

- Check the lease entitlement notices (<https://www.resources.qld.gov.au/qld/indigenous-land/notices>).
- Make an application about a lease entitlement notice (<http://www.dnrm.qld.gov.au/forms/land-property/application-forms>).



## Contact

For more information about your granted lease and lease entitlement, email [ILOperations@dnrme.qld.gov.au](mailto:ILOperations@dnrme.qld.gov.au) (<mailto:ILOperations@dnrme.qld.gov.au>) or call 13 QGOV (13 74 68)

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**ABORIGINAL AND TORRES STRAIT ISLANDER COMMUNITIES (JUSTICE,  
LAND AND OTHER MATTERS) ACT 1984, s.60**

**CERTIFICATE OF ENTITLEMENT TO A PORTION OF AN ESTATE  
(BENEFICIARY CERTIFICATE)**

Estate of Adea Wapau

In accordance with section 60 of the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984* and sections 35 to 37 of the *Succession Act 1981*, I hereby certify that Rithia Patricia Nona (nee Wapau), Elsie Selena Bartlett (nee Wapau), Kathleen Doris Mene (nee Wapau), Ned Joseph Wapau, Edward Jimmy Wapau, Erra Fred Wapau and Hylda Myra Wapau as beneficiaries in equal interest to the portion of the estate of Adea Wapau comprising a lease entitlement over Lot 13 on SP256048 at St Paul's, Moa Island which was approved under the *Aborigines and Torres Strait Islanders (Land Holding) Act 1985*.

Signed on the *Fifth* day of *December*, 2019

A handwritten signature in black ink, appearing to read 'Dr Ian Mackie', is written over a circular official stamp. The signature is fluid and cursive.

**Dr Ian Mackie  
Deputy Director-General  
Culture and Economic Participation  
DEPARTMENT OF ABORIGINAL AND TORRES STRAIT ISLANDER  
PARTNERSHIPS**

# TORRES STRAIT ISLAND REGIONAL COUNCIL

## TRUSTEE REPORT

<b>ORDINARY MEETING:</b>	June 2021
<b>DATE:</b>	29 & 30 June 2021
<b>ITEM:</b>	Agenda Item for Resolution by Trustee
<b>SUBJECT:</b>	LHA lease transfer – 21 Louis Road, Hammond Island
<b>AUTHOR:</b>	Julia Maurus, Manager Legal Services
<b>PRESENTER:</b>	Peter Krebs, Senior Legal Counsel

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### Recommendation:

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

- consent to the transfer of a 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.

### Executive Summary:

The report proposes that the Trustee consent to the LHA (Katter) lease transfer for the lease over Lot 21 on SP248418 (21 Louis Road, Hammond Island).

### Background:

Council has been contacted by the solicitors for the estate of Graham Daniel Amber, who passed away on 19 May 2020. Under his Will, Mr Amber left his Katter lease to his sons Nelson Richard Ambar and Zane Maynard Ambar. The Katter lease is over 21 Louis Road, Hammond Island (surveyed as Lot 21 on SP248418). Mr Amber's Executor has requested that the Katter lease be transferred to Nelson Richard Ambar and Zane Maynard Ambar.

### Comment:

1. A Land Holding Act lease was granted under the *Aboriginal and Torres Strait Islander Land Holding Act 2013* (Qld) to Graham Daniel Mosby. The lease commenced on 1 December 2018. TSIRC is the lessor of the lease.
2. Section 64 of the *Aboriginal and Torres Strait Islander Land Holding Act 2013* (Qld) states that a lease may be transferred only to an Aboriginal or Torres Islander person, or a spouse, or former spouse, of an Aboriginal or Torres Strait Islander person who is deceased, and the lessor must not unreasonably withhold its consent.
3. Under the current Trustee Policy, consent to the transfer of an LHA/Katter lease requires a Council resolution.

## **Considerations**

### Risk Management

Compliance (testate law): MacDonnells Law has reviewed the proposed transfer and has confirmed that all is in order.

### Council Finance

Not applicable

## **Consultation:**

- Supported by Cr Dorante
- MacDonnells Law

## **Links to Strategic Plans:**

TSIRC Corporate Plan 2020–2025

Delivery Pillar: Sustainability

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

- 8.1: Effective management of DOGIT Land as a Trustee

Operational Plan:

LHA (Katter) lease resolution

## **Statutory Requirements:**

*Torres Strait Islander Land Act 1991 (Qld)*

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

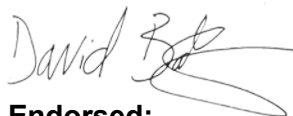
## **Conclusion:**

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



### **Recommended:**

Julia Maurus  
Manager Legal Services



### **Endorsed:**

David Baldwin  
Acting Chief Executive Officer

# TORRES STRAIT ISLAND REGIONAL COUNCIL

## TRUSTEE REPORT

<b>ORDINARY MEETING:</b>	June 2021
<b>DATE:</b>	29 & 30 June 2021
<b>ITEM:</b>	Information Report for noting by Trustee
<b>SUBJECT:</b>	Trustee rent and commercial leasing
<b>AUTHOR:</b>	Julia Maurus, Manager Legal Services
<b>PRESENTER:</b>	Peter Krebs, Senior Legal Counsel

### Recommendation:

The Trustee resolves to note the report.

### Executive Summary:

At the May 2021 trustee meeting, the trustee requested the following:

- An information report to next trustee meeting on Council's rent charges (paper presented at Hammond OM in June 2019)
- Info Report – update on undocumented commercial land occupation project

### Background:

The following papers were presented at the June 2019 meeting so this report covers all of those topics:

- Trustee rent methodology: supermarkets and schools
- Licence fees and DOGIT revenue
- Trustee Policy: policy review

### Comment:

#### Trustee rent methodology: supermarkets and schools

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.

Council as Trustee for the various Deeds of Grant in Trust has to date set the following rent methodology:

Land Use	Rent	Source
<b>Residential/ Community</b>	\$4 per square metre per annum subject to annual CPI increase	Council resolution 15 May 2018

<b>Commercial/ Government</b>	\$10.80* per square metre per annum subject to annual CPI increase  *Minimum starting rent of \$6,000p/a per lease shall apply.	Council resolution 15 May 2018
<b>Religious</b>	\$1 per annum, payable on demand	CEO decision 17 October 2018, under Council delegation
<b>Home-ownership lease</b>	\$1 per annum, payable on demand  plus up-front land price	Torres Strait Islander Land Act 1991  Aboriginal Land Act 1991

In November 2018, the CEO under delegated authority confirmed the peppercorn divestment of social housing assets for the purpose of resolving LHA lease entitlements.

At the June 2019 trustee meeting, the following resolutions were passed:

**RESOLUTION:**

Moved: Cr Toby; Second: Cr Thaiday

**That the Trustee, for those communities where Council holds land under Deed of Grant in Trust, confirms that the following rent methodology applies to the following types of land use:**

**State school (Department of Education) campus:**

- Residential/Community (\$4 per square metre per annum subject to annual CPI increase)

**State school (Department of Education) accommodation:**

- Commercial/Government (\$10.80\* per square metre per annum subject to annual CPI increase. \*Minimum starting rent of \$6,000p/a per lease shall apply.)

**Private school campus and accommodation:**

- ResidentialCommunity (\$4 per square metre per annum subject to annual CPI increase)

**MOTION CARRIED**

**RESOLUTION:**

Moved: Cr Toby; Second: Cr Nona

**That the Trustee, for those communities where Council holds land under Deed of Grant in Trust, confirms that the following rent methodology applies to the following types of land use:**

**Supermarket:**

- Commercial/Government (\$10.80\* per square metre per annum subject to annual CPI increase. \*Minimum starting rent of \$6,000p/a per lease shall apply.)

**MOTION CARRIED**

Rent for the IBIS sites requiring leases has been calculated as follows:

Site	Lot on plan	Starting rent: commercial rate (\$10.80m <sup>2</sup> )
Iama IBIS	Lot 8 on SP270867 (706m <sup>2</sup> )	\$7,624.80
Masig IBIS	Lot 119 on SP277431 (691m <sup>2</sup> )	\$7,462.80
Masig IBIS fuel facility	Part of Lot 196 on SP277431 (4,695m <sup>2</sup> )	Land area TBC Minimum \$6,000.00
Poruma IBIS	Lot 51 on SP270862 (514m <sup>2</sup> )	\$5,551.20 Defaults to minimum \$6,000.00
St Pauls IBIS	Lot 152 on SP256048 (4,365m <sup>2</sup> )	\$47,142.00
Kubin IBIS	Lot 74 on SP271019 (1,278m <sup>2</sup> )	\$13,802.40
Boigu IBIS	Lot 8 on SP273190 (508m <sup>2</sup> )	\$5,486.40 Defaults to minimum \$6,000.00
		Subtotal minimum \$94,032.00 (Masig fuel site TBC)

Rent for the school sites requiring leases has been calculated as follows:

Site	Lot on plan	Starting rent: commercial rate (\$10.80m <sup>2</sup> )
Hammond Island school campus	Lot 116 on SP248418 (1,688m <sup>2</sup> )	\$18,230.40
Masig Tagai school campus	Lot 106 on SP277431 (11,880m <sup>2</sup> )	\$128,304.00
Masig Tagai school accommodation	Lots 107 on SP277431 (814m <sup>2</sup> )	\$8,791.20
	Lot 108 on SP277431 (789m <sup>2</sup> )	\$8,521.20
	Lot 109 on SP277431 (750m <sup>2</sup> )	\$8,100.00

### Licence fees and DOGIT revenue

On 22 May 2019, Council workshopped Deed of Grant in Trust (DOGIT) land issues.

The workshop included discussion of commercial licence revenue that Council (as local government) is receiving for the following:

1. Part of a TSIRC building (asset) e.g. room/office only
2. Whole of a TSIRC building (asset) e.g. BRACS building, old CDEP building
3. Land only used by an agency for IBC (airport land)
4. Land only used for agency-owned donga or storage container (DOGIT land)

Council concluded that it is appropriate for categories 1, 2 and 3 above to be received as local government (not trustee) revenue.

Council identified that fees for category 4 above should be generating DOGIT revenue, calculated based on the land area used and Council's trustee rent methodology. This DOGIT revenue will be deducted from the licence fees that TSIRC receives for each category 4 licence site (that is, no additional fees will be charged to the licensee).

Council directed Legal Services to apply this principle from 1 July 2019 onwards, and to provide an update to Council on the resulting trustee revenue.



Current licence agreements that include category 4 (trust land use) are as follows, and DOGIT revenue has been calculated and coded to DOGIT reserves from 1 July 2019 accordingly:

- Department of Agriculture (DAWR)
- Department of Home Affairs (Border Force)
- TSRA
- MyPathway (Enterprise Management Group)
- Australian Reef Pilots

### **Trustee Policy: policy review**

Council's Trustee Policy was originally adopted on 15 November 2018.

The updated Trustee Policy was endorsed by Council resolution in June 2019.

#### **32. 5:55pm – 5:58pm TRUSTEE – LEGAL – Trustee Policy Update**

MLS spoke to the report; the purpose of the report is to present to Council, for endorsement, policies in the Legal Services area of responsibility that are due for review.

The following changes are recommended to bring this Policy up-to-date:

1. Paragraph 4(e): Amend to reflect the fact that where a template Infrastructure and Housing ILUA has been registered for the relevant community and applies to the relevant future act, Council must comply with that ILUA process. Council does not have the discretion, under the ILUA, to use an alternative future act validation process (such as section 24KA), unless Council first follows the ILUA process and the PBC does not provide its consent under the ILUA process.

2. Paragraph 9(c):

- a. Update to reflect the November 2018 delegation to the CEO to sign off on documents necessary to give effect to Katter leases.
- b. Update to include the decision-making process for the surrender of a Katter lease (which is proposed to be the same as for the transfer of a Katter lease).

Legal recommends setting a review date of 30 June 2021 for this Policy. However, if significant trustee policy decisions are made in the meantime, the Policy can be reviewed and updated earlier than that.

### **RESOLUTION:**

*Moved:* Cr Nona; *Second:* Cr Akiba

**That Council endorse the updated PO19 Trustee Policy, as presented, except for Hammond Island which is exempt.**

**MOTION CARRIED**

The reference in the resolution to Hammond Island being “exempt” is in relation to the template Infrastructure and Housing ILUA, which does not apply at Hammond Island because there is no native title determination to date and therefore no PBC to opt in to the template ILUA.



The Trustee Policy is due for review, and needs to be reviewed against the 21 June 2021 Supreme Court decision in *Ahwang v TSIRC*. The Trustee Policy review will be presented at an upcoming Trustee meeting.

**Update on undocumented commercial land occupation project:**

There are various leases in place across the communities where Council holds land under a Deed of Grant in Trust.

This project has identified various agencies that have been occupying trust land for years without a registered lease or any agreement in place with the trustee regarding the use of the land. This has been identified as a trust revenue opportunity. Undocumented commercial land occupation is being addressed strategically based on legal advice from MacDonnells Law. Attachment 1 is a summary of the project as it currently stands, for discussion and further directions from the Trustee.

The project remains as advised in the Information Report to the Trustee in March 2021 (see **Attachment 1**). As there is no remaining budget for outsourcing legal matters, this project is now being dealt with in-house.

The next leases to be actioned are AMSA (Hammond Island) and CEQ/IBIS (various islands), noting that the CEO of CEQ has been invited to attend the July trustee meeting.

**Considerations**

Risk Management

Risk Assessment:

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

Formalising trustee leases addresses the legal uncertainty caused by undocumented land occupation.

Council Finance

Capital Cost

NIL

Operating Cost

Trustee lease revenue is vital to ensuring the sustainability of the Trustee's functions. Council should consider sustainability from the perspective of both TSIRC and a potential future trustee. For example, the Badu PBC is bound to the terms of the leases that started when TSIRC was trustee and continued when the PBC became the trustee. The Badu PBC does not have the ability, under those leases, to increase the rent and thereby increase its revenue.

**Consultation:**

TSIRC Trustee meeting March 2021: The trustee directed Legal Services to progress commercial leases in accordance with the Trustee's commercial rent methodology.

**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

**Statutory Requirements:**

*Torres Strait Islander Land Act 1991 (Qld)*

*Aboriginal Land Act 1991 (Qld)*

**Conclusion:**

It is recommended that the Trustee note this report. Senior Legal Counsel and Manager Legal Services are available to answer any questions arising from this report.

A handwritten signature in black ink that reads "Julia Maurus". The script is cursive and elegant, with the first letter of each word being capitalized and prominent.**Recommended:**

Julia Maurus  
Manager Legal Services

**Endorsed:**

David Baldwin  
Acting Chief Executive Officer

# Torres Strait Island Regional Council – MacDonnells Law Leasing Matters Handover memo 19 January 2021

Matter No	Matter Type	Matter Details	Person Acting	Status Update	Now with
180962	Lease	Lease with Department of Home Affairs – Kubin (Date opened – 30.07.18)	Ben Taylor	CATL and Lease has been drafted and provided to the Department, along with further comments on Rent following this being raised as an issue by the Department.  Next Steps – Council to follow up with the Department for a response with a view to finalising lease terms.  <b>See Ben's email 16 Dec 2020 – Ben emailed Patrick 29 Oct 2020. Julia to follow up with Patrick.</b>	Julia
181054	Licence	Licences for SES use of TSIRC premises (Date opened – 10.08.18)	Ben Taylor	We reviewed MOU and Schedule to same for SES and QFES use of Council owned land and have provided same to Council for its consideration. <b>See Ben's email 17 October 2018.</b>  <b>Next Steps – Council to follow up with QFES to set up a time to discuss issues with MOU and Schedule.</b>	Julia
190229	Lease	<b>AMSA</b> occupation at Hammond Island (Date opened – 05.03.19)  <b>PRIORITY – NO PAYMENT AT PRESENT</b>	Ben Taylor	CATL and Lease has been drafted and issued to AMSA. AMSA have requested Council provide their comment on a number of items raised by ASMA. <b>Email from Ben Taylor to Julia on 20 October 2020 setting out our comments on those requested items of AMSA.</b>  <b>Next Steps – Council to contact AMSA provide a response to their queries.</b>	Julia
190465	Lease	Torres Strait Island Regional Council - Lease to TCHHS - Mabuiag Island	Ben Taylor	Council passed resolution to grant Lease to TCHHS. Lease has been emailed to Crown Law for	Julia

Matter No	Matter Type	Matter Details	Person Acting	Status Update	Now with
		(Date opened – 10.05.19)		execution by TCHHS. <b>(Ben/Elene 28 October 2020)</b>  Next Steps – Council to follow up with Crown Law for executed Lease.	
190468	Lease	<b>Community Enterprise Queensland (supermarkets)</b> (Date opened – 13.05.19) <b>PRIORITY – NO PAYMENT AT PRESENT</b>	Ben Taylor	Council have provided our office with initial information on this matter.  Next Steps – Council to progress discussions with CEQ.	Julia
190536	Lease	<b>Ergon Energy</b> power stations (Date opened – 29.05.19) <b>PRIORITY – NO PAYMENT AT PRESENT</b>	Ben Taylor	Ergon has provided draft Leases for 3 sites without formal occupation. <b>Email from Ben Taylor to Julia on 31 August 2020 with advice on documents.</b>  <b>Next Steps – Review documents with MacDonnells Law advice, obtain Trustee instructions and respond to Ergon.</b>	Julia
190562	Lease	<b>Department of Defence – Boigu</b> (Date opened – 04.06.19)	Ben Taylor	Deed of Variation of lease entered into. CATL and Lease drafted and issued to Department's solicitor. Awaiting a response to the terms of same. In the interim, Council to consider Trustee resolution to grant Lease. Held over on commercial rent in the interim.  Next Steps - follow up Department's solicitor and Trustee resolution.	Julia
190747	Lease	<b>Tagai Accommodation</b> at Masig – Lots 107, 108 & 109 SP277431 (Date opened – 15.07.19) <b>PRIORITY – NO PAYMENT AT PRESENT</b>	Ben Taylor	Council provided MacDonnells with preliminary information on matter.  Next Steps – Council to progress discussions with Tagai.	Julia

Matter No	Matter Type	Matter Details	Person Acting	Status Update	Now with
190749	Lease	<b>Tagai Campus</b> at Masig – Lot 106 on SP277431  (Date opened – 15.07.19)  <b>PRIORITY – NO PAYMENT AT PRESENT</b>	Ben Taylor	Council provided MacDonnells with preliminary information on matter.  Next Steps – Council to progress discussions with Tagai.	Julia
190756	Lease	<b>TSRA</b> Lease of Lot 53 on SP270862, Poruma  (Date opened – 15.07.19)	Ben Taylor	Council provided MacDonnells with preliminary information on matter.  Next Steps – Council to progress discussions with TSRA.	Julia
190757	Lease	<b>TSRA</b> Lease of Lot 970 on SP723192, Mabuiag  (Date opened – 15.07.19)	Ben Taylor	Council provided MacDonnells with preliminary information on matter.  Next Steps – Council to progress discussions with TSRA.	Julia
200261	Property	TSIRC lease from DNRME – Divestment of Lot 27 on SP 116888, <b>Thursday Island</b> <b>(workshop)</b> (Date opened – 02.03.20)	Ben Taylor	TSIRC has requested divestment from DNRME. DNRME advised only a new Lease will be granted at a peppercorn. DNRME arranging for a site report prior to Lease being drafted. Interim holdover on terms of previous peppercorn lease.  Ben followed up by email on 16 Dec 2020.  Next Steps – follow up with Jacinta Ryan of DNRME.	Peter