

AGENDA

TORRES STRAIT ISLAND REGIONAL COUNCIL

JANUARY 2021

TRUSTEE MEETING

Wednesday 20th January 2021

Video Conference

TRUSTEE MEETING
Wednesday 20th January 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) / Material Personal Interest (MPI)</u> |
| 4. | <u>9:10am – 9:15am</u> | <u>Confirmation of Trustee Meeting held on 8th December 2020</u> |
| 5. | <u>9:15am – 9:20am</u> | <u>Standing Agenda Item: (verbal update)</u> <ul style="list-style-type: none">• TRUSTEE – Undocumented commercial land occupation project |
| | | |
| 6. | <u>9:20am – 9:25am</u> | <u>LEGAL – LHA Leases – Mabuiag</u> |
| 7. | <u>9:25am – 9:30am</u> | <u>LEGAL – LHA Leases – Warraber</u> |
| 8. | <u>9:30am – 9:35am</u> | <u>LEGAL – Transfer of LHA – Masig – Lot 20</u> |
| 9. | <u>9:35am – 9:40am</u> | <u>LEGAL – Transfer of LHA – St Pauls – Lot 32</u> |
| 10. | <u>9:40am – 9:55am</u> | <u>LEGAL – Information Report – Home Ownership</u> |
| 11. | <u>9:55am – 9:58am</u> | <u>Next meeting – February 2021</u> |
| 12. | <u>9:58am – 10:00am</u> | <u>Closing Remarks and Prayer</u> |

TORRES STRAIT ISLAND REGIONAL COUNCIL

TRUSTEE REPORT

COUNCIL ORDINARY MEETING

DATE: January 2021
SUBJECT: Land Holding Act leases – Mabuiag
AUTHOR: Julia Maurus, Manager Legal Services
PRESENTER: Peter Krebs, Senior Legal Counsel

PERSONAL INTERESTS

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

RECOMMENDATION

- 1. That the Trustee recommend advising the Minister that the lease over lot 45 on SP273192 (45 Main Street, Mabuiag) should issue to Gesa William Joseph as soon as possible under section 35 of the Aboriginal and Torres Strait Islander Land Holding Act 2013, and authorise the Chief Executive Officer to sign the Advice and Recommendation Report.*
- 2. That the Trustee recommend advising the Minister that the lease over lot 25 on SP273192 (25 Main Street, Mabuiag) should issue to Norma Elizabeth Whap as sole tenant 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.*
- 3. That the Trustee recommend advising the Minister that the lease over lot 12 on SP273192 (12 Map Street, Mabuiag) should issue to Pele Mooka 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
MB 04/89	Philip Min	45 Main Street, Mabuiag	Gesa William Joseph

		(Lot 45 on SP273192)	
MB 10/89	Takata Lee	25 Main Street, Mabuiag (Lot 25 on SP273192)	Norma Elizabeth Whap
MB16/89	Satruck and Pele Mooka	12 Map Street, Mabuiag (Lot 12 on SP273192)	Pele Mooka

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 Keith Fell 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.

Hollie Faithfull
A/CEO

Julia Maurus
Manager Legal Services

ATTACHMENTS

1. Advice & Recommendation Report: MB 04/89
2. Advice & Recommendation Report: MB 10/89
3. Advice & Recommendation Report: MB16/89

ADVICE AND RECOMMENDATION REPORT

Mabuiag Island Trust Area

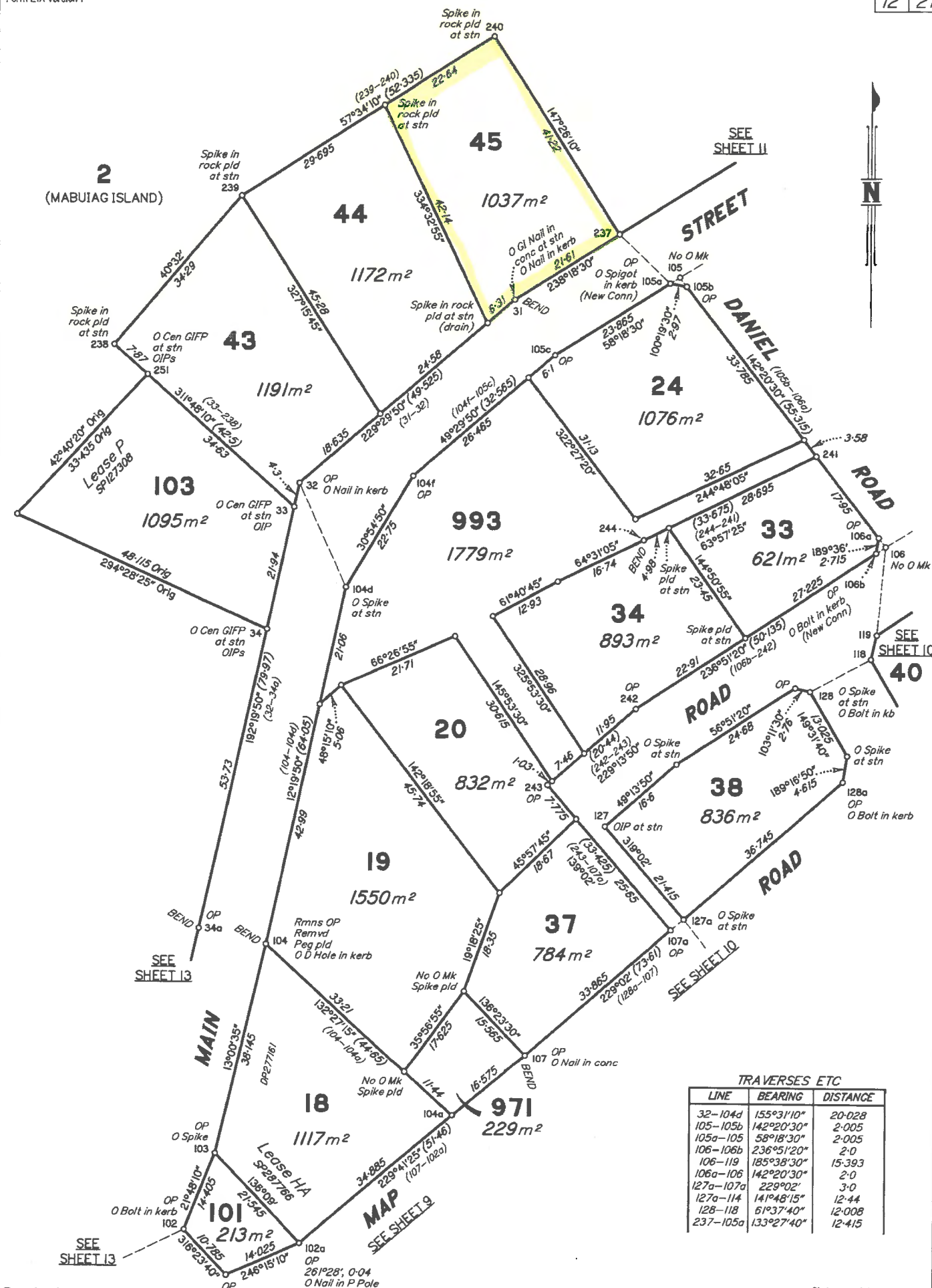
Aboriginal and Torres Strait Islander Land Holding Act 2013 (LHA 2013)

Purpose of Advice and Recommendation Report		
This matter has been referred on behalf of the Minister for Natural Resources, Mines and Energy to TSIRC as trustee of the trust area to: <i>Identify to the Minister any practical obstacles it considers to exist to satisfying the lease entitlement (section 30(2)(a))</i> <i>Provide the Minister any advice or recommendations it considers appropriate about satisfying the lease entitlement (section 30(2)(b))</i>		
LEASE ENTITLEMENT (LEN)		
Name of applicant(s):	Philip MIN (deceased)	No: 04/89
Type of tenancy:	Sole tenant	
Lot/Plan Description of original application:	Form 1: Lot 45	Current: 45/SP273192
Street address:	45 Main Street	
Date referred to trustee:	7 September 2020	

INFORMATION PROVIDED BY DNRME		
Trust Area notice published:	14 March 2019	
LEN published:	14 March 2019	Copy attached
Deceased applicant:	Yes.	
Beneficiary:	Yes - Gesa William Joseph is the sole beneficiary.	
Location of the area of the lease entitlement land:	The lease entitlement has been surveyed as lot 45 on SP273192, which is a suitable survey plan for issue of lease.	
Improvements on the lease entitlement land:	Nil – vacant land.	
Tenancy Of House (Managed By TSIRC):	N/A	

Consultation:	No.	
	Person consulted	Issues discussed
Comments:	Given the land is vacant, the Department of Aboriginal and Torres Strait Islander Partnerships (DATSIP) advise a home ownership acceptance letter is not required .	

TRUSTEE ADVICE AND RECOMMENDATION	
Location of the area of the lease entitlement land:	The location of the area of the lease entitlement is resolved and identified as lot 45 on SP273192.
Improvements on the lease entitlement land:	N/A
Other Interests:	N/A
Practical Obstacles:	There are no practical obstacles to the grant of the lease and the lease can be granted under section 35 of the <i>Aboriginal and Torres Strait Islander Land Holding Act 2013</i> .
Recommendation:	It is recommended that the Minister be advised that the lease over lot 45 on SP273192 should issue to Gesa William Joseph as soon as possible.
APPROVAL	
Sign:	<p>.....</p> <p>Bruce Ranga Chief Executive Officer Torres Strait Island Regional Council</p>
Date:	This day of2019



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 Mabuiag 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
Name Philip MIN Address 45 Main Street Description Lot 45 on DP273192	14-Mar-19	14-Sep-20	4/89

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 May 2019
Last reviewed: 15 May 2017



**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 Phillip Min

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 Gesa William Joseph is the sole beneficiary to the portion of the estate of Phillip Min comprising lease entitlement MB04/89 over Lot 45 on SP273192 at Mabuiag Island and lease entitlement MB05/89 over Lot 13 on SP273192 at Mabuiag Island which were approved under the *Aborigines and Torres Strait Islanders (Land Holding) Act 1985*.

Signed on the Twenty sixth day of November, 2019


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

ADVICE AND RECOMMENDATION REPORT

Mabuiag Island Trust Area

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

Purpose of Advice and Recommendation Report		
<p>This matter has been referred on behalf of the Minister for Natural Resources, Mines and Energy to TSIRC as trustee of the trust area to:</p> <p><i>Identify to the Minister any practical obstacles it considers to exist to satisfying the lease entitlement (section 30(2)(a))</i></p> <p><i>Provide the Minister any advice or recommendations it considers appropriate about satisfying the lease entitlement (section 30(2)(b))</i></p>		
LEASE ENTITLEMENT (LEN)		
Name of applicant(s):	Takata LEE (deceased)	No: 10/89
Type of tenancy:	Sole tenant	
Lot/Plan Description of original application:	Form 1: 25/PLD561 SH. 1	Current: 25/SP273192
Street address:	25 Main Street	
Date referred to trustee:	7 September 2020	

INFORMATION PROVIDED BY DNRME		
Trust Area notice published:	14 March 2019	
LEN published:	14 March 2019	Copy attached
Deceased applicant:	Yes	
Beneficiary:	Yes - Norma Elizabeth Whap is the sole beneficiary.	
Location of the area of the lease entitlement land:	The lease entitlement has been surveyed as lot 25 on SP273192, which is a suitable survey plan for issue of lease.	
Improvements on the lease entitlement land:	Social house	
Tenancy Of House (Managed By TSIRC):	Head tenant: Norma Whap Relationship to applicant/beneficiary: Daughter and sole beneficiary Tenant relocation: No	
Consultation:	DATSIP has not been able to secure a home ownership acceptance letter from Norma Elizabeth Whap.	
	Person consulted	Issues discussed

INFORMATION PROVIDED BY DNRME	
Comments:	Norma has not yet signed a home ownership acceptance letter.

TRUSTEE ADVICE AND RECOMMENDATION	
Location of the area of the lease entitlement land:	The location of the area of the lease entitlement is resolved and identified as lot 25 on SP273192
Improvements on the lease entitlement land:	The ownership of improvements do not need to be resolved and will become the property of the lessees upon issue of the lease.
Postal address for intended lessee/s:	TBA
Other Interests:	N/A
Practical Obstacles:	There are no practical obstacles to the grant of the lease and the lease can be granted under section 35 of the <i>Aboriginal and Torres Strait Islander Land Holding Act 2013</i> .
Recommendation:	It is recommended that the Minister be advised that the lease over lot 25 on SP273192 should issue to Norma Elizabeth Whap as sole tenant as soon as possible.

APPROVAL	
Sign:	<p>.....</p> <p>Bruce Ranga Chief Executive Officer Torres Strait Island Regional Council</p>
Date:	This day of2019

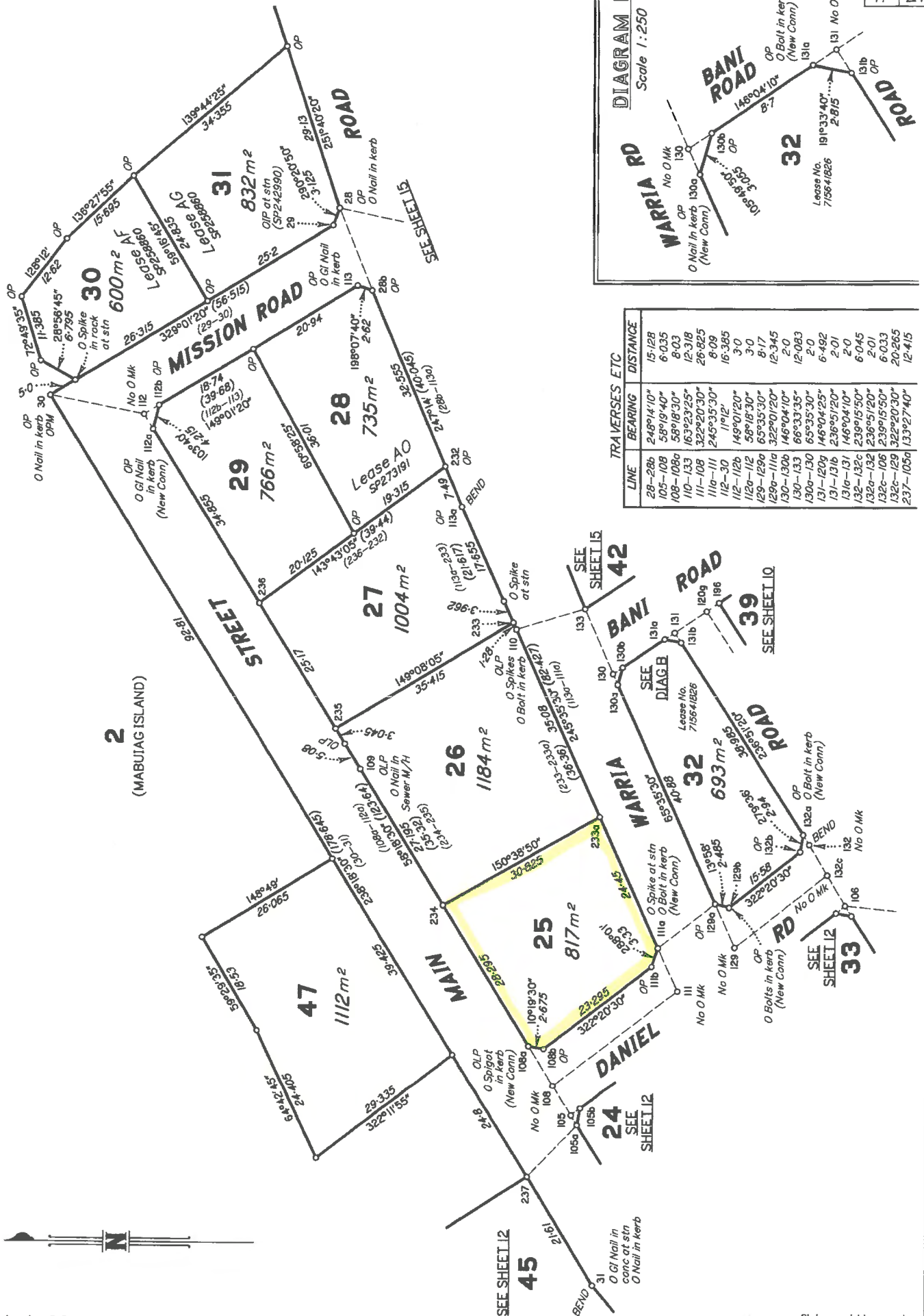
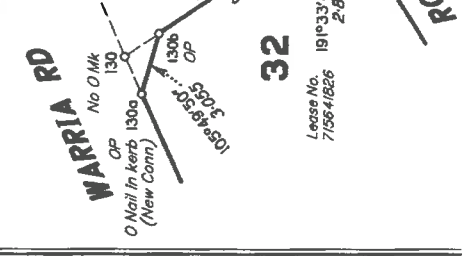


DIAGRAM B
Scale 1:250



LINE	BEARING	DISTANCE
28-28b	248°14'10"	15.128
105-108	58°19'40"	6.035
108-108a	58°18'30"	8.03
110-133	163°23'25"	12.318
111-108	322°20'30"	26.825
111a-111	245°35'30"	8.09
112-30	110°12'	16.385
112-112b	149°01'20"	3.0
112a-112	58°18'30"	3.0
129-129a	65°35'30"	8.17
129a-111a	322°20'30"	12.345
130-130b	146°04'10"	2.0
130a-133	68°33'35"	12.083
130a-130	65°35'30"	2.0
131-120g	146°04'25"	6.492
131-131b	236°51'20"	2.01
131a-131	146°04'10"	2.0
132-132c	239°15'50"	6.045
132a-132	236°51'20"	2.01
132c-105	239°15'50"	6.033
132c-129	322°20'30"	20.265
237-105a	133°27'40"	12.415

Scale 1:600

Metres 30m 60m 90m
50mm 100mm 150mm

State copyright reserved.

Insert
Plan
Number

SP273192

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 Mabuiag 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
Name Tataka LEE Address 25 Main Street Description Lot 25 on DP273192	14-Mar-19	14-Sep-20	10/89

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>).

Last updated: 27 May 2019

Last reviewed: 15 May 2017



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

**CERTIFICATE OF ENTITLEMENT
(BENEFICIARY CERTIFICATE)**

Estate of Tataka Lee

In accordance with section 60 of the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*, I hereby certify that Norma Elizabeth Whap is the sole beneficiary to the estate of Tataka Lee including lease entitlement MB10/89 over land currently described as Lot 25 on SP273192 at Mabuiag Island which was approved under the *Aborigines and Torres Strait Islanders (Land Holding) Act 1985*.

Signed on the 15th day of April, 2020

A handwritten signature in dark ink, appearing to be 'I. Mackie', written over a light blue horizontal line.

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

ADVICE AND RECOMMENDATION REPORT

Mabuiag Island Trust Area

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

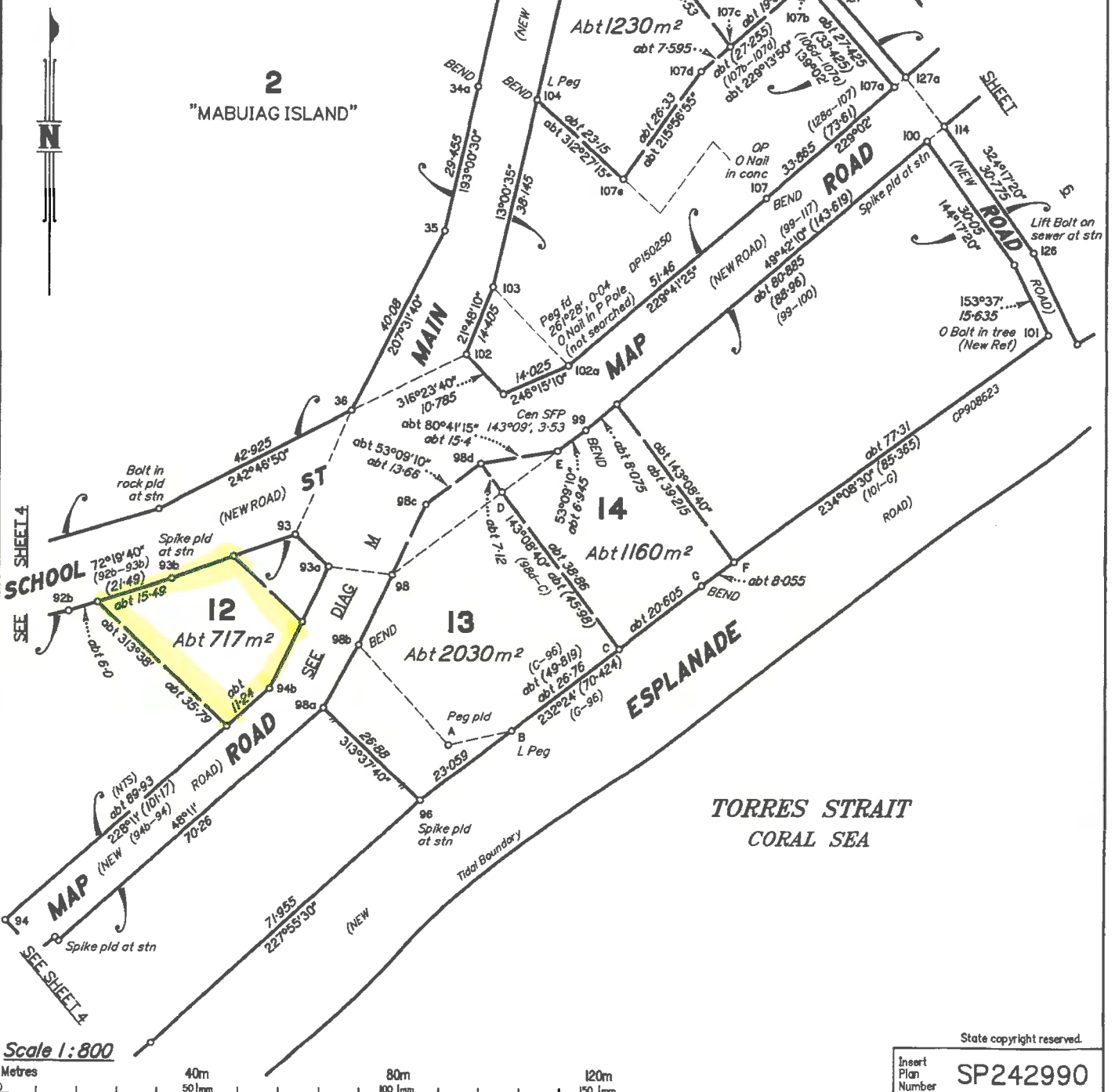
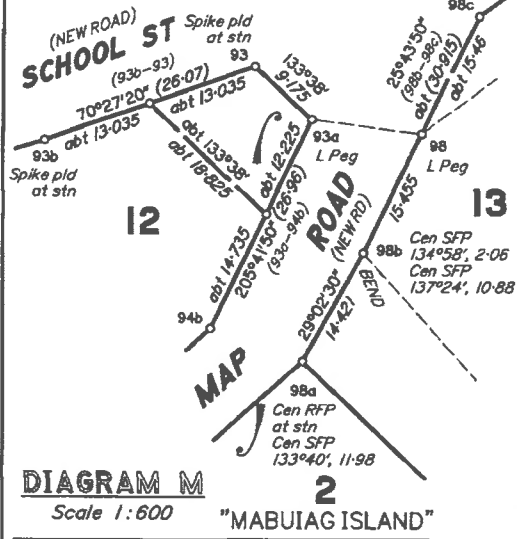
Purpose of Advice and Recommendation Report	
This matter has been referred on behalf of the Minister for Natural Resources, Mines and Energy to TSIRC as trustee of the trust area to:	
<i>Identify to the Minister any practical obstacles it considers to exist to satisfying the lease entitlement (section 30(2)(a))</i>	
<i>Provide the Minister any advice or recommendations it considers appropriate about satisfying the lease entitlement (section 30(2)(b))</i>	

LEASE ENTITLEMENT (LEN)		
Name of applicant(s):	Satrick (deceased) and Pele MOOKA	No: 16/89
Type of tenancy:	Joint tenants	
Lot/Plan Description of original application:	Form 1: 12/PLD561 SH. 1	Current: 12/SP273192
Street address:	12 Map Street	
Date referred to trustee:	9 November 2020	

INFORMATION PROVIDED BY DNRME		
Trust Area notice published:	14 March 2019	
LEN published:	14 March 2019	Copy attached
Deceased applicant:	Satrick has passed away survived by his spouse Pele.	
Beneficiary:	Yes. Pele became the sole surviving lease entitlement holder when her spouse Satrick passed away.	
Location of the area of the lease entitlement land:	The lease entitlement has been surveyed as lot 12 on SP273192, which is a suitable survey plan for issue of lease.	
Improvements on the lease entitlement land:	There is a 3 bedroom social house on the lot.	
Tenancy Of House (Managed By TSIRC):	Head tenant: Johnny Kris Relationship to applicant/beneficiary: Nephew Tenant relocation: Unknown	

Consultation:	Yes	
	Person consulted	Issues discussed
	Pele Mooka Johnny Kris Stephanie Mooka (Peke's daughter)	Home ownership Post-grant transfer
Comments:	<p>DATSIP have finalised their consultation with Pele Mooka, her daughter Stephanie Mooka and her nephew Johnny Kris.</p> <p>The family have decided that the lease be granted to Pele who will then transfer the lease to Johnny Kris.</p> <p>Home ownership acceptance letter received 3 November 2020.</p>	

TRUSTEE ADVICE AND RECOMMENDATION	
Location of the area of the lease entitlement land:	The location of the area of the lease entitlement is resolved and identified as lot 12 on SP273192.
Improvements on the lease entitlement land:	The ownership of improvements do not need to be resolved and will become the property of the lessees upon issue of the lease.
Postal address for intended lessee/s:	Unknown
Other Interests:	N/A
Practical Obstacles:	There are no practical obstacles to the grant of the lease and the lease can be granted under section 35 of the <i>Aboriginal and Torres Strait Islander Land Holding Act 2013</i> .
Recommendation:	It is recommended that the Minister be advised that the lease over lot 12 on SP273192 should issue to Pele MOOKA as soon as possible.
APPROVAL	
Sign:	<p>.....</p> <p>Bruce Ranga Chief Executive Officer Torres Strait Island Regional Council</p>
Date:	This day of2019



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 Mabuiag 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
Name Satrick and Pele MOOKA Address 12 Map Road Description Lot 12 on DP273192	14-Mar-19	14-Sep-20	16/89

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>).

Last updated: 27 May 2019

Last reviewed: 15 May 2017

TORRES STRAIT ISLAND REGIONAL COUNCIL

TRUSTEE REPORT

COUNCIL ORDINARY MEETING

DATE: January 2021
SUBJECT: Land Holding Act leases – Warraber
AUTHOR: Julia Maurus, Manager Legal Services
PRESENTER: Peter Krebs, Senior Legal Counsel

PERSONAL INTERESTS

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

RECOMMENDATION

- 1. That the Trustee recommend advising the Minister that the lease over lot 8 on SP270859 (53 Yessie Street, Warraber) should issue to Harold Pearson, Mary Mosby, Olandi Pearson, Cessa Asai, Harry Pearson, Katherine Roberta Sailor and Dorothy Elizabeth Mari as tenants in common as soon as possible under section 35 of the Aboriginal and Torres Strait Islander Land Holding Act 2013, and authorise the Chief Executive Officer to sign the Advice and Recommendation Report.*
- 2. That the Trustee grant owner's consent to the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships in support of a development application for a reconfiguration of a lot (RAL) 1 lot into 2 lots over Lot 47 on SP270859 (33A and 33B Dabus Street, Warraber), on behalf of Ted and Helena Billy, in relation to Land Holding Act lease application WA1/86, and authorise the Chief Executive Officer to sign the owner's consent form and, subject to local government approval, the resulting survey plans.*

BACKGROUND

Proposed Resolution 1:

Application	Applicant	Address	Lease to be granted to
WA 07_86	George Pearson	53 Yessie Street, Warraber	Harold Pearson, Mary Mosby, Olandi Pearson, Cessa Asai, Harry Pearson, Katherine

		(Lot 8 on SP270859)	Roberta Sailor and Dorothy Elizabeth Mari
--	--	---------------------	---

Proposed Resolution 2:

Ted and Helena Billy have requested to subdivide Lot 47 on SP270859, also known as 33A and 33B Dabus Street, Warraber Island. Warraber Island Council approved Ted and Helena Billy's Katter lease application (WA1/86) on 4 July 1986, and the application was valid, but the lease was never granted.

They have asked to reconfigure Lot 47 from 1 into 2 lots to enable:

- the partial surrender of lease entitlement for proposed Lot B (33B) back to TSIRC as Trustee to enable their son Young Billy to remain living in the social housing, and
- the Katter lease to be granted over the remainder of the entitlement identified as Lot A (33A) to their other son James Nelson Billy who has formally agreed to be granted home ownership.

OFFICER COMMENT

The Advice & Recommendation report for the lease entitlement is attached (**Attachment 1**).

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 this Katter lease.

The proposed owner's consent form is attached (**Attachment 2**).

The CEO no longer has delegated power to grant owner's consent to a development application. A Trustee resolution is therefore required.

CONSULTATION

- DNRME
- Cr Kabay Tamu 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)
Planning Act 2016 (Qld)

FINANCE AND RISK

Capital Cost

NIL

Operating Cost

NIL

Risk Assessment

NIL

SUSTAINABILITY

NA

CONCLUSION

As presented.

Hollie Faithfull
A/CEO

Julia Maurus
Manager Legal Services

ATTACHMENTS

1. Advice & Recommendation Report: WA 07_86
2. Owner's Consent Form

ADVICE AND RECOMMENDATION REPORT

Warraber Island Trust Area

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

Purpose of Advice and Recommendation Report		
This matter has been referred on behalf of the Minister for Natural Resources, Mines and Energy to TSIRC as trustee of the trust area to: <i>Identify to the Minister any practical obstacles it considers to exist to satisfying the lease entitlement (section 30(2)(a))</i> <i>Provide the Minister any advice or recommendations it considers appropriate about satisfying the lease entitlement (section 30(2)(b))</i>		
LEASE ENTITLEMENT (LEN)		
Name of applicant(s):	George PEARSON (deceased)	No: 7/86
Type of tenancy:	Sole tenant	
Lot/Plan Description of original application:	Form 1: 8/TS176	Current: 8/SP270859
Street address:	53 Yessie Street	
Date referred to trustee:	30 July 2020	

INFORMATION PROVIDED BY DNRME		
Trust Area notice published:	14 March 2019	
LEN published:	14 March 2019	Copy attached
Deceased applicant:	Yes.	
Beneficiary:	Harold Pearson, Mary Mosby, Olandi Pearson, Cessa Asai, Harry Pearson, Katherine Roberta Sailor and Dorothy Elizabeth Mari have been identified in a certificate of entitlement (beneficiary certificate) as a beneficiaries to the estate of George Pearson.	
Location of the area of the lease entitlement land:	The lease entitlement has been surveyed as lot 8 on SP270859, which is a suitable survey plan for issue of lease.	
Improvements on the lease entitlement land:	3 bedroom social house.	
Tenancy Of House (Managed By TSIRC):	Head tenant: Mark Pearson Relationship to applicant/beneficiary: Grandson Tenant relocation: Unknown	

Consultation:	Yes DATSIP consultation complete.	
	Person consulted	Issues discussed
	Yancy Tamu (family spokesperson)	Yancy Tamu, family spokesperson, has advised verbally that the beneficiaries wish to take up home ownership.
Comments:	N/A	

TRUSTEE ADVICE AND RECOMMENDATION	
Location of the area of the lease entitlement land:	The location of the area of the lease entitlement is resolved and identified as lot 8 on SP270859.
Improvements on the lease entitlement land:	3 bedroom social house.
Postal address for intended lessee/s:	<ul style="list-style-type: none"> • Harold PEARSON - C/- Warraber Island TSIRC • Mary MOSBY - C/- Poruma Island TSIRC • Olandi PEARSON - C/- Poruma Island TSIRC • Cessa ASAI - C/- Poruma Island TSIRC • Harry PEARSON - C/- Warraber Island TSIRC • Katherine Roberta SAILOR - C/- Warraber Island TSIRC • Dorothy Elizabeth MARI - C/- Warraber Island TSIRC
Other Interests:	N/A
Practical Obstacles:	There are no practical obstacles to the grant of the lease and the lease can be granted under section 35 of the <i>Aboriginal and Torres Strait Islander Land Holding Act 2013</i> .
Recommendation:	It is recommended that the Minister be advised that the lease over lot 8 on SP270859 should issue to Harold Pearson, Mary Mosby, Olandi Pearson, Cessa Asai, Harry Pearson, Katherine Roberta Sailor and Dorothy Elizabeth Mari as tenants in common as soon as possible.
APPROVAL	
Sign:	<p>.....</p> <p>Bruce Ranga Chief Executive Officer Torres Strait Island Regional Council</p>
Date:	This day of2020



**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)**

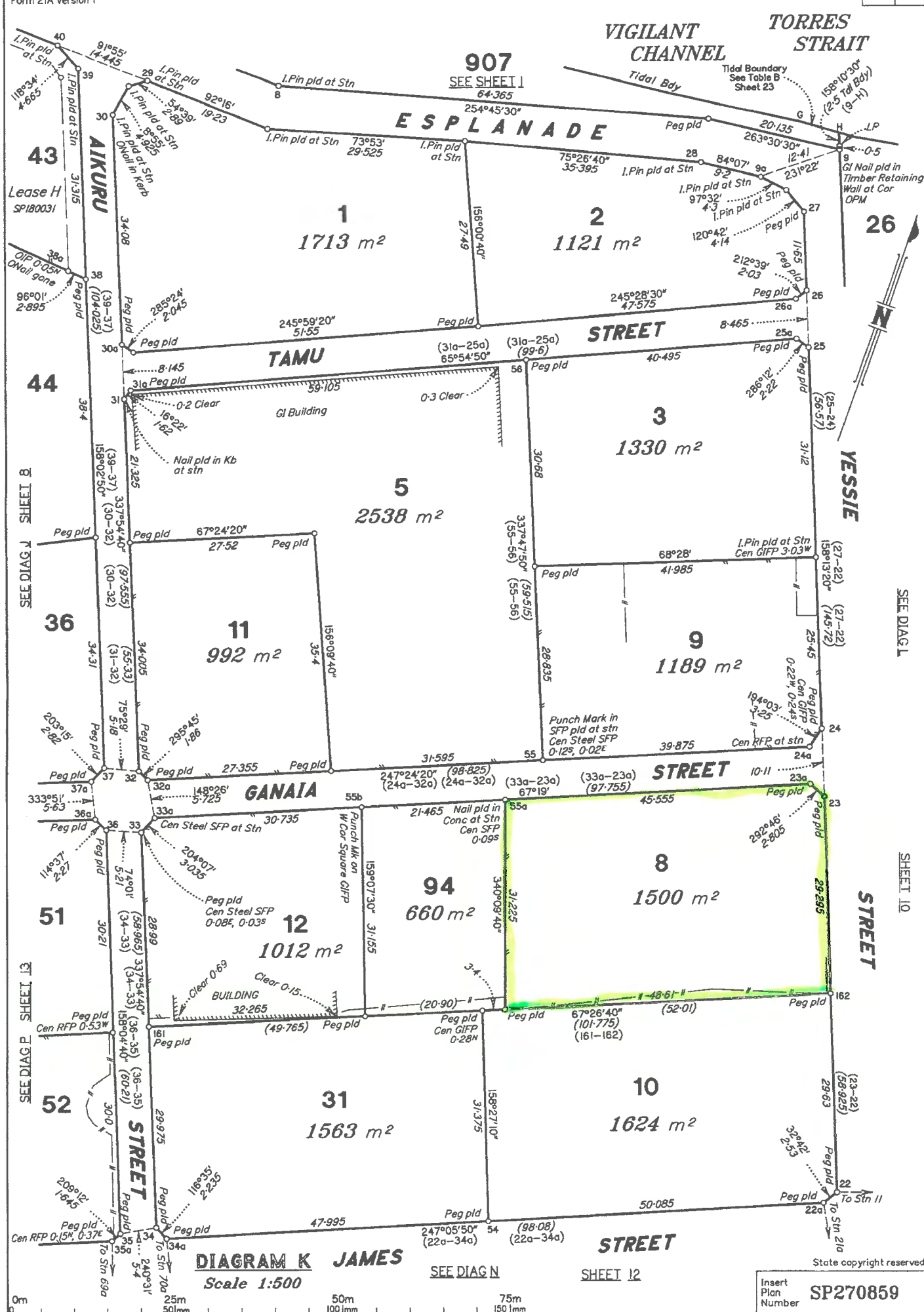
Estate of George Pearson

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 Harold Pearson, Mary Mosby, Olandi Pearson, Cessa Asai, Harry Pearson, Katherine Roberta Sailor and Dorothy Elizabeth Mari be identified as beneficiaries in equal interest to the portion of the estate of George Pearson comprising a lease entitlement under WA07/86 currently described as Lot 8 on SP270859, which was approved under the *Aborigines and Torres Strait Islanders (Land Holding) Act 1985*.

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

A handwritten signature in black ink, appearing to read 'Dr Ian Mackie', is written over a horizontal line.

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



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 Warraber 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
Name George PEARSON Address 53 Yessie Street Description Lot 8 on SP270859	14-Mar-19	14-Sep-20	7/86

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).

Last updated: 27 May 2019

Last reviewed: 15 May 2017

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 47 on SP270859 (Warraber Island)

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

Department of Aboriginal and Torres Strait Islander Partnerships on behalf of Torres Strait Island Regional Council

on the premise described above for:

Reconfiguring a Lot (1 lot into 2 lots)



The Planning Act 2016 is administered by the Department of State Development, Mining, Infrastructure and Planning, Queensland Government.

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

Date

Hollie Faithfull
A/CEO
Torres Strait Island Regional Council

TORRES STRAIT ISLAND REGIONAL COUNCIL

TRUSTEE REPORT

COUNCIL TRUSTEE MEETING

DATE: January 2021

SUBJECT: Transfer of Masig LHA Lease from Cynthia Elma Mabo to Ted Fraser Nai

AUTHOR: Peter Krebs, Senior Legal Counsel

PERSONAL INTERESTS

Councillors are reminded to declare any prescribed or declarable conflicts of interests relating to:

- Cynthia Elma Mabo, and Ted Fraser Nai
- Traditional Owner interests at Masig

RECOMMENDATION

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 715653361 from Cynthia Mabo to Ted Fraser Nai for 20 JDL Road (Lot 20 on SP277431) on Masig.

PURPOSE

This report provides information to Council on the application for the transfer of a Katter lease from Cynthia Mabo to Ted Fraser Nai.

As trustee for Masig Island Deed of Grant in Trust, it is TSIRC's role to provide consent to an LHA lease transfer. This report is for the Trustee to consider providing consent to the lease transfer.

BACKGROUND

1. The Katter lease for 20 JDL Road (Lot 20 on SP277431) was granted to Cynthia Elma Mabo. TSIRC is the lessor of the lease.
2. On 7 January 2021, DATSIP advised TSIRC that Cynthia Mabo wished to transfer her Katter lease to Ted Fraser Nai (**Attachment 1**).
3. The 2013 Act (Section 64) states that a lease may be transferred only to an Aboriginal or Torres Strait 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 their consent.

OFFICER COMMENT

Since this is a requested transfer to a family member who is eligible, there is no impediment to the transfer by Council.

The Form 18 (**Attachment 2**) needs to be signed by the Mayor to become effective.

CONSULTATION

- Cr Hilda Mosby
- CEO
- DATSIP

LINKS WITH STRATEGIC PLANS

Operational Plan:

To be advised

STATUTORY REQUIREMENTS

Torres Strait Islander Land Act 1991 (Qld)

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

Land Title Act 1994 (Cth)

FINANCE AND RISK

Capital Cost

NIL

Operating Cost

NIL

Risk Assessment

NIL

SUSTAINABILITY

NA

CONCLUSION

As presented.

A handwritten signature in black ink, appearing to read 'Peter Krebs', written over a faint circular stamp.

Hollie Faithfull
A/CEO

Peter Krebs
Senior Legal Counsel

ATTACHMENTS:

1. Letter dated 7 January 2021 from DATSIP requesting the transfer.
2. General Consent for transfer (FORM 18)



**Department of Seniors,
Disability Services and
Aboriginal and Torres Strait
Islander Partnerships**

Our reference: MS3/86

Date: 7 January 2021

ATTENTION: Peter Krebs

TSIRC

Level 1, Torres Haus

45 Victoria Parade

THURSDAY ISLAND QLD 4875

Dear Peter,

Please find enclosed a General Consent (Form 18) for a transfer of a Land Holding Act lease, the transferor is seeking Trustee execution by Mayor Mosby or the Chief Executive Officer, to progress the transfer.

Details of the transfer are:

- Lot/plan — Lot 20 on SP277431
- Address — 20 JDL Road
- Transferor — Cynthia Elma MABO
- Transferee — Ted Fraser NAI
- Reason — wishes to transfer the lease to a family member for love and affection

I have enclosed a copy of the executed Transfer (Form 1) for reference only. Please return the original signed Form 18 to: Home Ownership Team, DSDSATSIP, PO Box 5461, Cairns QLD 4870, attention: Mr John Coyle.

If you have any questions, please don't hesitate to call me on 4252 5117 or 1800 001 931.
Yours sincerely,

A handwritten signature in black ink, appearing to read "John Coyle".

John Coyle

Manager, Home Ownership

Remote Indigenous Land and Infrastructure Program Office

Aboriginal and Torres Strait Islander Partnerships

Phone 4252 5117 or 1800 001 931

1. Lot on Plan Description

Title Reference

LOT 20 ON SP277431

51071643

2. Instrument/document being consented to

Instrument/document type TRANSFER OF TRUSTEE LEASE 715653361

Dated 10 September 2020

Names of parties CYNTHIA ELMA MABO AS TRANSFEROR AND TED FRASER NAI AS TRANSFEREE

3. Instrument/document under which consent required

Instrument/document type TRUSTEE LEASE 715653361

Dealing No. 715653361

Name of consenting party 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

4. Execution by consenting party

The party identified in item 3 consents to the registration of the instrument/document identified in item 2.

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

.....signature

.....full name

.....qualification

/ /
Execution Date

Witnessing Officer

.....
Consenting Party's Signature
Mayor / CEO
Torres Strait Island Regional Council

(Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

Mortgagee's Australian Credit Licence (if any)

Privacy Statement

Collection of information from this form is authorised by legislation and is used to maintain publicly searchable records. For more information see the Department's website.

TORRES STRAIT ISLAND REGIONAL COUNCIL

TRUSTEE REPORT

COUNCIL TRUSTEE MEETING

DATE: January 2021

SUBJECT: Transfer of St Pauls LHA Lease from Christopher Ware to Michael Ibigan Ware

AUTHOR: Peter Krebs, Senior Legal Counsel

PERSONAL INTERESTS

Councillors are reminded to declare any prescribed or declarable conflicts of interests relating to:

- Christopher Ware, and Michael Ibigan Ware
- Traditional Owner interests at St Pauls

RECOMMENDATION

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 719331053 from Christopher Ware to Michael Ibigan Ware for 98 Ware Street (Lot 32 on SP256048) on St Pauls.

PURPOSE

This report provides information to Council on the application for the transfer of a Katter lease from Christopher Ware to Michael Ibigan Ware.

As trustee for St Pauls Island Deed of Grant in Trust, it is TSIRC's role to provide consent to an LHA lease transfer. This report is for the Trustee to consider providing consent to the lease transfer.

BACKGROUND

1. The Katter lease for 98 Ware Street (Lot 32 on SP256048) was granted to Christopher Ware. TSIRC is the lessor of the lease.
2. On 9 June 2020, DATSIP advised TSIRC that Christopher Ware wished to transfer his Katter lease to Michael Ibigan Ware (**Attachment 1**).
3. The 2013 Act (Section 64) states that a lease may be transferred only to an Aboriginal or Torres Strait 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 their consent.

OFFICER COMMENT

Since this is a requested transfer to a family member who is eligible, there is no impediment to the transfer by Council.

The Form 18 (**Attachment 2**) needs to be signed by the Mayor to become effective.

CONSULTATION

- Cr Levi
- CEO
- DATSIP

LINKS WITH STRATEGIC PLANS

Operational Plan:

To be advised

STATUTORY REQUIREMENTS

Torres Strait Islander Land Act 1991 (Qld)

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

Land Title Act 1994 (Cth)

FINANCE AND RISK

Capital Cost

NIL

Operating Cost

NIL

Risk Assessment

NIL

SUSTAINABILITY

NA

CONCLUSION

As presented.

Hollie Faithfull
A/CEO

A handwritten signature in black ink, appearing to read 'Peter Krebs', written over a faint circular stamp.

Peter Krebs
Senior Legal Counsel

ATTACHMENTS:

1. Letter dated 9 June 2020 from DATSIP requesting the transfer.
2. General Consent for transfer (FORM 18)



Department of
**Aboriginal and Torres Strait
Islander Partnerships**

Our reference: SP14/87
Date: 09 June 2020

Bruce Ranga
Chief Executive Officer
Torres Strait Island Regional Council
PO Box 7336
Cairns QLD 4870

Dear Mr Ranga,

Please find attached a General Consent for a transfer of a Land Holding Act. The transferor is seeking Trustee execution by Mayor Mosby or yourself as CEO, to progress the transfer.

Details of the transfer are:

- Lot/plan - Lot 32 on SP256048
- Address – 98 Ware Street, St Pauls
- Transferor – Christopher Ware
- Transferee – Michael Ibigan Ware
- Reason – wishes to transfer the lease to a family member for love and affection

I have enclosed a stamped, self-addressed envelope for return of the document.

If you have any questions please don't hesitate to call me on 4252 5117 or 1800 001 931.

Yours sincerely,

A handwritten signature in black ink, appearing to read "John Coyle".

John Coyle

Manager, Home Ownership
Remote Indigenous Land and Infrastructure Program Office
Department of Aboriginal and Torres Strait Islander Partnerships
Phone 4252 5117 or 1800 001 931

1. Lot on Plan Description

Title Reference

LOT 32 ON SP256048

51067378

2. Instrument/document being consented to

Instrument/document type TRANSFER OF TRUSTEE LEASE 719331053

Dated

Names of parties CHRISTOPHER WARE AS TRANSFEROR AND MICHAEL IBIGAN WARE AS TRANSFEREE

3. Instrument/document under which consent required

Instrument/document type TRUSTEE LEASE

Dealing No. 719331053

Name of consenting party 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

4. Execution by consenting party

The party identified in item 3 consents to the registration of the instrument/document identified in item 2.

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

.....signature

.....full name

.....qualification

/ /

Witnessing Officer

Execution Date

Consenting Party's Signature

(Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

Mortgagee's Australian Credit Licence (if any)

Privacy Statement

Collection of information from this form is authorised by legislation and is used to maintain publicly searchable records. For more information see the Department's website.

TORRES STRAIT ISLAND REGIONAL COUNCIL

TRUSTEE REPORT

COUNCIL ORDINARY MEETING

DATE: 19–20 January 2021

SUBJECT: Home-ownership program update

AUTHOR: Julia Maurus, Manager Legal Services

RECOMMENDATION

That the trustee note this report.

PURPOSE

This report provides an update to Council on the home-ownership program.

BACKGROUND

Under the *Torres Strait Islander Land Act 1991* (Qld) and the *Aboriginal Land Act 1991* (Qld), Council (as Trustee) can make ordinary freehold available, subject to Ministerial approval of a Freehold Instrument. Council (as Trustee) also has the power to grant home-ownership leases of 99 years.

TSIRC's Operational Plan 2020/21 includes the legal services project LHA (Katter) lease resolution: to advocate for the grant of pending LHA entitlements in all Divisions.

PROJECT UPDATE

LHA (Katter) lease resolution

The steps required for the resolution of a Katter lease entitlement are:

1. DATSIP consultation regarding home ownership responsibilities. Entitlement holder/beneficiary signs a letter confirming understanding of home ownership. (For either vacant land or house)

2. If the entitlement holder/beneficiary is not the current tenant of the house, it may be necessary to wait for the tenant to be relocated to another social house.
3. If there are no obstacles, DNRME will grant the lease to the entitlement holder, or beneficiary/beneficiaries. When the lease commences, TSIRC removes the house from its asset database and the general tenancy agreement terminates.
4. If the entitlement holder/beneficiary is the tenant of the LHA house, DHPW will inspect the house, identifying any maintenance required.
5. Maintenance work undertaken by DHPW.
6. The entitlement holder/beneficiary signs a form confirming maintenance has been completed.
7. Agreement to Transfer Dwelling is executed or gazette notice is published (depending on the type of entitlement).
8. The house now belongs to the entitlement holder/beneficiary.

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

In April 2019, TSIRC wrote to DHPW to advise that TSIRC is no longer insuring social housing dwellings once the lease is granted, because the house then becomes privately owned (even if DHPW has not yet completed repairs and maintenance work).

The current statistics for LHA leases in Torres Strait are included as **Attachment 1**. There are 144 registered LHA leases and 73 outstanding LHA lease entitlements.

A significant body of work has been undertaken on the Katter lease resolution project since 2018. As part of community visits to Hammond Island, St Pauls, Ugar, Erub, Mabuiag, Saibai, Warraber and Masig in 2018 and 2019 to deliver information about Katter lease resolution, Manager Legal Services also provided a home-ownership information session to each of these communities about 99-year home-ownership leases and the ordinary freehold option. Community information sessions were undertaken at Boigu in 2019 and 2020, including information sessions for Cairns-based families with interests at Boigu.

Attachment 2 is a summary of home-ownership options in TSIRC communities, distributed during the community information sessions.

In May 2019, Council endorsed an information sheet to tenants about home-ownership. (**Attachment 3**)

Ordinary Freehold Option

Home-ownership information was provided to Hammond Island, St Pauls and Poruma communities as part of the ordinary freehold pilot project, which was undertaken in 2015 and 2016. To date, the ordinary freehold option has not been adopted by TSIRC for any DOGIT community. In May 2019, the Trustee considered a proposal to make all LHA lease lots granted under the 2013 *Land Holding Act* ordinary freehold option land, but this proposal did not progress because:

- a) the land price issue had not been resolved; and
- b) With then Cr Sabatino having declared a conflict of interest, other Councillors were concerned that there were only 13 votes received in

the community ballot, and that further community consultation should be undertaken.

Home-ownership information sessions have not yet been presented by TSIRC at Dauan, Iama and Kubin. (Nor at Mer and Badu, which are not TSIRC DOGIT communities.)

99-year home-ownership leases

Council has received numerous applications for home-ownership leases. The steps required for a 99-year DOGIT lease are:

1. EOI submitted to Trustee – Form 1 on DNRME website
2. Trustee assesses EOI – approved/not approved
3. Development application and survey required – DATSIP completes
4. Applicant submits loan application, requires preapproval – TSRA
5. DHPW inspects the house and provides the sale price and list of maintenance
6. Trustee offers the applicant an Agreement to Lease
7. Applicant accepts and signs the Agreement to Lease
8. Agreement to Lease conditions must be met (includes native title compliance)
9. DHPW delivers maintenance on the house
10. Lease signed and money paid to Trustee
11. Lease registered with Land Titles Office
12. Registered lessee is now a home-owner

Home-ownership lease applications are currently on hold due to Alonza Ahwang's Supreme Court challenge of the Trustee's decision-making process for his lease application at St Pauls. Home-ownership lease applicants were sent an update in December 2020 (**Attachment 4**).

House price

If there is a house on the relevant land, Council is required to notify the chief executive of the Department of Housing and Public Works (“the Department”) of the ordinary freehold application or proposed home-ownership lease. If the dwelling is social housing, ordinary freehold or a home-ownership lease may only be granted if the Department consents to the sale of the social house and a “valuation methodology” is applied.

At the June 2019 Ordinary Meeting, Council (as trustee) set the price for the sale of a house, as follows:

RESOLUTION:

Moved: Cr Fell; Second: Cr Pearson

That Council, as Trustee for those communities for which Council holds a Deed of Grant in Trust, endorse the sale price for social housing on ordinary freehold land and home ownership (99-year) lease land for the purpose of sections 28R and 91–93 of the Torres Strait Islander Land Act 1991 (Qld) and sections 32R and 126–128 of the Aboriginal Land Act 1991 (Qld), as follows:

House type	New condition	Good condition	Fair condition
1-bedroom detached	\$55,000	\$40,000	\$30,000
2-bedroom detached	\$65,000	\$50,000	\$35,000
3-bedroom detached	\$75,000	\$60,000	\$45,000
4-bedroom detached	\$90,000	\$75,000	\$60,000
5-bedroom detached	\$100,000	\$85,000	\$67,000
6-bedroom detached	\$110,000	\$95,000	\$75,000
7-bedroom detached	\$120,000	\$100,000	\$80,000
2-bedroom duplex	\$50,000	\$40,000	\$25,000
3-bedroom duplex	\$55,000	\$45,000	\$35,000

Pricing is subject to review every three years based on the consumer price index.

MOTION CARRIED

CEO made mention of 5 times 8 bedroom houses in our Divisions.

ACTION: MLS to submit a report to the July OM to capture the 8 bedroom assets in the methodology.

Land price

For 99-year home-ownership leases, the price methodology is made up of a house price component and a (nominal) land price component. This is confirmed in section 91 of the *Torres Strait Islander Land Act 1991* (Qld):

General conditions and requirements

1. A home ownership lease is subject to all of the following conditions—
 - a. the annual rental under the lease is the amount, of not more than \$1, decided by the lessor;
 - b. the consideration payable for the lease must include, as a lump sum payment, an amount equal to the value of the lease land as decided by the lessor using at least 1 of the following—**
 - i. a valuation methodology decided by the chief executive;
 - ii. the benchmark purchase price, as prescribed by regulation, for land in the part of the State in which the lease land is situated;
 - c. the lease land must be used primarily for residential use;
 - d. if a dwelling for residential use is not situated on the lease land when the lease is granted—the lessee must ensure a dwelling for residential use is built on the land within 8 years after the lease is granted.
2. A lessor may grant a home ownership lease only if the amount equal to the value of the lease land decided under subsection (1)(b) has been paid to the lessor.
3. The chief executive—
 - a. must, if asked, give a person a copy of the valuation methodology mentioned in subsection (1)(b)(i); and
 - b. may make the valuation methodology available for inspection on the department's website.
4. However, the value of the lease land under subsection (1)(b) must be taken to be nil if—
 - a. the lessee is the recipient of a hardship certificate under the new Land Holding Act; and
 - b. the certificate has not previously been used under this section, whether or not the land identified in the certificate is the same as the lease land.

The land price proposed by DNRME for home-ownership leases is \$4,000 per 2,000 squared metres of land, plus \$100 for each additional 100 square metres of land.

DNRME has confirmed (by email on 8 March 2018) that, while the house price component would also apply to social houses on land converted to ordinary freehold, there is no statutory land price payable to obtain ordinary freehold.

At the May 2019 Ordinary Meeting, Council (as trustee) decided to request that DNRME set the home-ownership lease land price at \$1.00 for TSIRC DOGIT communities.

18. 13:39pm – 2:45pm TRUSTEE – LEGAL – Home Ownership Program Update

MLS spoke to this report providing Council with update of the Home Ownership Program and summarised below:

- Discussion around appropriate land price for home-ownership leases and ordinary freehold option land, taking into account traditional land ownership and noting the lack of land valuations for a local government area.
- Cr Nona asked what services are available to assist home-owners with repairs and maintenance. COO advised that her team is doing a mapping exercise on what tradespeople

Council Ordinary Meeting – 20 – 21 May 2019

Page 8

are available for home-owners to hire across the different communities and legalities of the process. This will be built into FY19/20 budget, covering TSIRC apprentices but not contractors. Home-owners would contact the tradespeople directly to arrange work.

- Councillors discuss community pool/fund options and credit union products available. In addition, possible administrative arrangements and considerations to existing resources.

ACTION: MLS to work with Department of Housing & Public Works to set sale price of One-bedroom detached house and duplex.

ACTION: MLS to inform Department of Natural Resources Mines and Energy with the proposed \$1.00 land price

RESOLUTION

Move: Cr Nona; Second: Cr Sabatino

That Council endorse the “Housing Update” newsletter about the home-ownership program for distribution to tenants, noting that TSIRC proposes a land price of \$1.00.

MOTION CARRIED

TSIRC sent a letter to the DNRME Minister and Director-General on 19 June 2019 (**Attachment 5**).

CONSULTATION

- Department of Aboriginal and Torres Strait Islander Partnerships
- Department of Housing and Public Works
- Department of Natural Resources, Mines and Energy

- Legal Services Division

LINKS WITH STRATEGIC PLANS

Operational Plan:

- LHA (Katter) lease resolution

Corporate Plan 2020–2025:

Outcome 7.1 Facilitate improvement to community housing awareness and information.

- Work with key agencies to refresh and develop community awareness programs for home ownership options, processes and mechanisms.

STATUTORY REQUIREMENTS

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

Aboriginal Land Act 1991 (Qld)

Torres Strait Islander Land Act 1991 (Qld)

FINANCE AND RISK

Capital Cost

NIL

Operating Cost

- *Internally funded through operational budget*

Risk Assessment

NIL

SUSTAINABILITY

NA

CONCLUSION

As presented.

Hollie Faithfull
A/CEO

Julia Maurus
Manager Legal Services

ATTACHMENTS:

1. LHA statistics as at 17 December 2020
2. Summary of home-ownership options in TSIRC communities
3. May 2019 information sheet to tenants about home-ownership
4. December 2020 letter to home-ownership lease applicants
5. June 2019 letter to DNRME regarding land price

CURRENT SUMMARY
GRANTED / SURRENDERED LEASES AND LEASE ENTITLEMENTS AND INVALID APPLICATIONS
UNDER THE 1985 AND 2013 ABORIGINAL AND TORRES STRAIT ISLANDERS LAND HOLDING ACTS
BY COMMUNITY
UPDATED AS AT 17 December 2020

TORRES STRAIT REGIONAL COUNCIL

Island Community	Perpetual Leases Granted	Entitlements	Invalid Applications	Surrendered Lease/Ent	Total Applications	TAN PUBLISHED	LEN PUBLISHED
Badu	18	2	13	0	33	30/05/2014	YES
Boigu	0	40	12	1	60	22/03/2019	YES
Hammond	22	0	31	0	53	20/08/2015	YES
Kubin	4	0	16	0	20	20/08/2014	NIL
Iama	0	0	33	0	33	26/11/2014	NIL
Mabuiag	9	7	0	0	16	14/03/2019	YES
Masig	33	6	0	0	39	24/05/2019	YES
Poruma	26	0	1	0	27	25/01/2019	YES
Saibai	2	4	2	7	15	21/08/2015	YES

St Pauls	20	4	1	0	26	19/10/2018	YES
Ugar	4	2	7	0	13	23/11/2018	YES
Warraber	6	8	0	1	19	14/03/2019	YES
TOTAL (12)	144	73	116	9	354		

DHPW - LAND HOLDING ACT PROJECT UPDATE

Torres Strait Island Regional Council

17th December 2020

Works Program to be fully completed by June 30 2022					
182 social dwellings on LHA entitlements or leases					
Dwellings billed as completed	Dwellings with TSIRC to complete works	Dwellings scoped and quotes not received. With QBuild or TSIRC	Dwellings scoped with RHO for sending	Dwellings not scoped	Quotes on Hold
59 <ul style="list-style-type: none">30 fully completed29 with defects or further work required	60 <ul style="list-style-type: none">All at various stages	39 <ul style="list-style-type: none">May be waiting on asbestos samples to tender	0 <ul style="list-style-type: none">RHO to send to QBuild as soon as complete	19 <ul style="list-style-type: none">RHO to scope prior to June 30 2021	5 <ul style="list-style-type: none">Waiting further adviseEg; engineering, etc.
Of the 182 properties 5 are demolitions					
13 social housing dwellings have transitioned to home ownership					
11 social dwellings with entitlements or leases have surrendered					

SUMMARY OF HOME-OWNERSHIP OPTIONS IN TSIRC COMMUNITIES

Home ownership option	Who can get it? (Eligibility)	Impact on native title	Cost: What do I have to pay to get it?	Cost: What will my ongoing costs be as a home-owner?	Can you buy/sell/lease the land?	Can you mortgage the house/land?	When do I need TSIRC / trustee permission?
99-year home-ownership lease	<p>An Aboriginal or Torres Strait Islander person or their spouse/former spouse/widow/widower.</p> <p>Can be owned by one or more people.</p> <p>Once you have a lease, you (the lessee) are responsible for looking after the house and land.</p>	<p>Native title survives but the land is under a lease.</p> <p>Requires an Indigenous Land Use Agreement.</p>	<p>Social house purchase price (unless vacant land, in which case you must build a house within 8 years)</p> <p>+ land price</p> <p>+ any native title compensation</p> <p>+ legal costs</p> <p>+ any necessary survey or development approval</p>	<p>Bills, repairs & maintenance (or build a new house, renovate or extend)</p> <p>Local government service charges (water, sewerage, rubbish)</p> <p>Home (and contents) insurance</p> <p>Bills/mortgage</p>	<p>You can't sell the land but you can transfer the lease to someone who is eligible to get a lease.</p> <p>You can sublease the land to someone who is eligible to get a lease.</p>	<p>Yes, but probably only through TSRA. If you don't pay your mortgage, the bank may sell your house/lease to another eligible person.</p>	<p>To get the lease and to transfer or sell the lease.</p> <p>You need building / planning approval for a new building or to change the use of the land (e.g. build a shop).</p>
Katter/LHA lease (Land Holding Act)	<p>Only to someone who made a valid application to the Island Council between 1985 and 1991, and their beneficiaries (next of</p>	<p>Native title is gone forever (extinguished).</p> <p>Does not require an</p>	<p>No cost for the house or land. Department of Housing will do initial repair work but after that all</p>	<p>Bills, repairs & maintenance (or build a new house, renovate or</p>	<p>You can't sell the land but you can transfer the lease to someone who</p>	<p>Yes, but probably only through TSRA. If you don't pay your mortgage, the</p>	<p>To transfer or sell the lease.</p> <p>You need building / planning</p>

	<p>kin).</p> <p>Can be owned by one or more people.</p> <p>Once you have a lease, you (the lessee) are responsible for looking after the house and land.</p>	Indigenous Land Use Agreement, just government notification to PBC.	repairs are your responsibility.	<p>extend)</p> <p>Local government service charges (water, sewerage, rubbish)</p> <p>Home (and contents) insurance</p>	<p>is eligible to get a lease.</p> <p>You can sublease the land to someone who is eligible to get a lease.</p>	bank may sell your house/lease to another eligible person.	approval for a new building or to change the use of the land (e.g. build a shop).
Ordinary freehold title	<p>Initially, an Aboriginal or Torres Strait Islander person or their spouse/former spouse/widow/widower. After that, it is an open market.</p> <p>Can be owned by one or more people or corporation(s).</p> <p>Once you have freehold title, you (the landowner) are responsible for looking after the house and land.</p>	<p>Native title is gone forever (extinguished).</p> <p>Requires an Indigenous Land Use Agreement (unless native title has already been extinguished).</p>	<p>Social house purchase price (unless vacant land)</p> <p>+ land price</p> <p>+ any native title compensation</p> <p>+ legal costs</p> <p>+ any necessary survey or development approval</p>	<p>Bills, repairs & maintenance (or build a new house, renovate or extend)</p> <p>Local government service charges (water, sewerage, rubbish) + general rates</p> <p>Home (and contents) insurance</p>	Yes, you can buy, sell or lease the land to anyone (open market).	<p>Yes.</p> <p>If you don't pay your mortgage, the bank may sell your house/land to anyone (open market).</p>	<p>To get freehold title. After that, you don't need permission to transfer or sell the land.</p> <p>You need building / planning approval for a new building or to change the use of the land (e.g. build a shop).</p>



Housing Fact Sheet

May 2019



LEASES

LHA (LAND HOLDING ACT) (KATTER) LEASES AND 99-YEAR LEASES

Currently there are a number of lease programs happening on identified island communities.

The granting of Katter leases and home ownership is managed by the Queensland Government and the Trustee (Torres Strait Island Regional Council apart from Badu and Mer).

Katter leases

When a Katter lease is granted to a beneficiary and that beneficiary is also the tenant of the house standing on the lease land, the beneficiary becomes the owner of the house. It is an individual choice whether to take a Katter lease or remain in social housing. However, the State Government will bring each entitled social house up to standard whether or not the Katter lease is taken.

- The new home owner is responsible for paying for all repairs and maintenance.
- Home modifications for occupational therapy (such as ramps for wheelchair access) are no longer organised and paid through social housing. Owners must pay for home modifications, unless modifications are provided by another service.
- The property is taken off Council's asset register and register of social housing and no longer available for social tenancy.
- Council stops charging rent.
- The new home owner is still responsible for all outstanding rental debts due to Council.
- **Note: it is no longer possible to apply for a Katter lease.**

99-year leases

- The 99-year lease expression of interest (EOI) is made between the applicant (tenant) and the Trustee. The Trustee needs to request agreement with the Department of Housing and Public Works to remove the house from social housing. The applicant needs approval for the lease through an Indigenous Land Use Agreement (ILUA).
- Houses and land packages are valued by the Government. TSIRC is proposing a land price of \$1.00. Houses are valued according to their condition and number of bedrooms. As an example, a three-bedroom house in good condition is \$60,000.
- 99-year leases are subject to finance approval. Torres Strait Regional Authority (TSRA) is the primary lender for the Torres Strait. It is also possible to apply for a lease of vacant land and build a house on the land within eight (8) years.
- **The new lease holder will still be responsible for rental debts due to Council.**

For all questions on Katter leases or 99-year leases, please contact Marie-Claire Cull, Manager Housing and Policy by email: marie-claire.cull@tsirc.qld.gov.au



TORRES STRAIT ISLAND REGIONAL COUNCIL

Lot 12 Francis Road Hammond Island QLD 4875
p: (07) 4048 6009 f: (07) 4069 1692 e: records@tsirc.qld.gov.au

PO Box 7336 Cairns QLD 4870
ABN 15 292 645 165

Our Ref: MLS

BY EMAIL / POST

16 December 2020

Dear lease applicant,

TORRES STRAIT ISLAND REGIONAL COUNCIL – EXPRESSION OF INTEREST (EOI) FOR HOME-OWNERSHIP LEASE

I refer to the application for a 99-year home ownership lease you submitted to Council and would like to give you an update regarding when your application will be processed.

At the moment, there is a Supreme Court action involving Council which involves determining Council's legal powers when granting these leases.

This litigation will need to be finalised before the Council can make any progress in processing the lease applications.

At this stage we do not anticipate that the Supreme Court will hand down its decision until mid 2021.

I will advise you in due course of the outcome of the decision and when your lease application will be likely determined.

Thank you for your patience.

Yours faithfully

Peter Krebs

Senior Legal Counsel



TORRES STRAIT ISLAND REGIONAL COUNCIL

Lot 12 Francis Road Hammond Island QLD 4875
p: (07) 4048 6009 f: (07) 4069 1692 e: records@tsirc.qld.gov.au

PO Box 7336 Cairns QLD 4870
ABN 15 292 645 165

Our Ref: MLS

BY EMAIL
nrm@ministerial.qld.gov.au

19 June 2019

Hon Dr Anthony Lynham
Minister for Natural Resources, Mines and Energy
PO Box 15216
CITY EAST QLD 4002

Mr James Purtill
Director-General
Department of Natural Resources, Mines and Energy
PO Box 15216
CITY EAST QLD 4002

TORRES STRAIT ISLAND REGIONAL COUNCIL – LAND PRICE

We note that DNRME has previously set a land price for home-ownership leases of \$4,000 per 2,000 square metres of land, plus \$100 for each additional 100 square metres of land.

Over the last year, Council, as Deed of Grant in Trust trustee, has delivered home-ownership community information sessions at Hammond Island, St Pauls/Wug (Moa Island), Ugar (Stephen Island), Erub (Darnley Island), Mabuiag Island, Saibai Island, Masig (Yorke Island) and Warraber (Sue Island).

In relation to the DNRME-set land price, feedback received from our communities at St Pauls, Ugar, Erub, Mabuiag, Saibai, Warraber and Masig was as follows:

- Traditional owners say they should not have to pay to get a lease for their own traditional land. ("Why should we pay \$4,000 for our own land?")
- Only outsiders should have to pay for land, not traditional owners.
- The land price makes a mockery of native title.
- The land price is a land tax, like under the old DNA and LMS systems.
- One community member commented that the proposed price is nothing when compared to cost of land at Thursday Island.

Council considered this matter at its May 2019 trustee meeting. Council noted that there are no land valuations for any of the trust land. Council noted that there are native title rights and interests across most of the trust land held by Council, and that lease applicants who are not traditional owners would have to negotiate with native title holders in order to get a home-ownership lease. These negotiations could include the payment of compensation to the common law native title holder, and that is a matter for the lease applicant and the native title holders.

Taking into account Ailan Kastom and the system of traditional land ownership in the Torres Strait, Council is unable to support the DNRME land price.

At its 20 & 21 May Ordinary Meeting Council made the following resolution:

That the trustee propose to the Department of Natural Resources Mines and Energy (DNRME) a land price of \$1.00 for the purpose of a home-ownership lease under section 91(1)(b) of the *Torres Strait Islander Land Act 1991* (Qld) and the corresponding section of the *Aboriginal Land Act 1991* (Qld).

Council therefore requests that the Department prescribe, under section 91(1)(b)(i) of the *Torres Strait Islander Land Act 1991* (Qld) and section 126(1)(b)(ii) of the *Aboriginal Land Act 1991* (Qld), a benchmark purchase price of \$1.00 for Deed of Grant in Trust land in the Torres Strait Island Regional Council area, capturing Boigu Island, Dauan Island, Saibai Island, Ugar (Stephen Island), Erub (Darnley Island), Masig (Yorke Island), Iama (Yam Island), Poruma (Coconut Island), Warraber (Sue Island), Mabuiag Island, St Pauls/Wug (Moa Island), Kubin/Arkai (Moa Island) and Kirriri (Hammond Island).

Should you have any queries with the above, please contact me.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Fred Gela', with a stylized, overlapping loop at the end.

Cr Fred Gela

Mayor

CC: Jan Bradley
Manager, Indigenous Land Operations
Land and Native Title Services | Natural Resources
Department of Natural Resources Mines and Energy
PO Box 937
CAIRNS QLD 4870

Jan.Bradley@dnrme.qld.gov.au

IndigenousLandServices@dnrme.qld.gov.au