

AGENDA

TORRES STRAIT ISLAND REGIONAL COUNCIL

February 2023

TRUSTEE MEETING

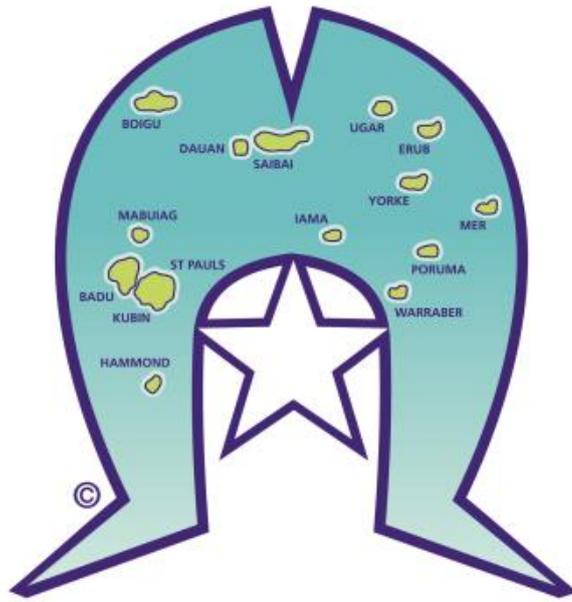
Tuesday, 21st February 2023

Video Conference

TRUSTEE MEETING
Tuesday, 21st February 2023
Agenda Items

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|-----|--------------------------|--|
| 1. | <u>9:00am - 9:10am</u> | <u>Opening Prayer and Welcome</u> |
| 2. | <u>9:10am – 9:15am</u> | <u>Apologies</u> |
| 3. | <u>9:15am - 9:20am</u> | <u>Declaration of Conflict of Interest (COI) Declarable and Prescribed</u> |
| 4. | <u>9:20am – 9:25am</u> | <u>Confirmation of Trustee Meeting Minutes</u> <ul style="list-style-type: none">• Trustee Meeting – 24th January 2023 |
| 5. | <u>9:25am – 9:35am</u> | <u>Trustee Outstanding Action Items</u> |
| 6. | <u>9:35am – 9:50am</u> | <u>Standing Agenda Item: (verbal update)</u> <ul style="list-style-type: none">• Undocumented commercial land occupation project – verbal update• DOGIT Transfers – Verbal Update |
| 7. | <u>9.50am – 9:50am</u> | <u>TRUSTEE MOVE INTO CLOSED BUSINESS</u> |
| 8. | <u>9:50am – 10:10am</u> | <u>LEGAL – CB – CEQ Leases</u> |
| 9. | <u>10:10am – 10:10am</u> | <u>TRUSTEE MOVE OUT OF CLOSED BUSINESS AND RESUME IN OPEN COUNCIL</u> |
| 10. | <u>10:10am – 10:20am</u> | <u>LEGAL – TR - Masig Lot 224 on SP331538 – LHA lease partial surrender</u> |
| 11. | <u>10:20am – 10:20am</u> | <u>Next meeting – Warraber – changed from original date of 21-22nd March to 22-23 March 2023 due to cost-of-living summit on Thursday Island (Council OM Agenda Item 12)</u> |
| 12. | <u>10:20am – 10:25am</u> | <u>Closing Remarks</u> |

MORNING TEA – 10:30AM – 10:45AM



Torres Strait Island
REGIONAL COUNCIL

DRAFT

Draft Minutes

TORRES STRAIT ISLAND REGIONAL COUNCIL

January 2023

Trustee Meeting

Tuesday, 24th January 2023

Video Conference

PRESENT:

Cr Phillemon Mosby, Mayor
Cr Dimas Toby, Division 1 – Boigu
Cr Torengo Elisala, Division 2 – Dauan
Cr Conwell Tabuai, Division 3 – Saibai
Cr Keith Fell, Division 4 – Mabuig
Cr Lama Trinkoon, Division 6 – Kubin (Arkai), Mua Island
Cr John Levi, Division 7 – Wug (St Pauls), Mua Island
Cr Seriako Dorante, Division 8 – Kirriri (Hammond)
Cr Kabay Tamu, Division 10 – Warraber (Sue)
Cr Francis Pearson, Division 11 – Poruma (Coconut)
Cr Hilda Mosby, Division 12 – Masig (Yorke)
Cr Rocky Stephen, Division 13 – Ugar (Stephen)
Cr Jimmy Gela, Division 14 – Erub (Darnley)
Cr Aven Noah, Division 15 – Mer (Murray)

STAFF:

Mr James William, Chief Executive Officer
Mr Wayne Green, Executive Director Building Services
Mr David Baldwin, Executive Director Engineering Services
Mr Dawson Sailor, Head of Community Services
Note: Technical Issues prevented Mr Sailor to engage uninterrupted
Ms Noeleen Selke, Executive Director Corporate Services
Mrs Julia Mauris, Senior Legal Officer
Mr Jacob Matysek, Executive Officer
Ms Nicola Acting Executive Director, Financial Services
Ms Julie Marino, Senior Executive Assistant to the Chief Executive Officer
Ms Trudy Lui, Executive Assistant to the Mayor
Note: Technical Issues prevented Ms Lui to engage uninterrupted

APOLOGIES:

Cr Laurie Nona, Division 5 – Badu – running late
Cr Getano Lui Jnr, Deputy Mayor, Division 9 – Iama (Yam) – medical appointment

TRUSTEE MEETING
Tuesday, 24 January 2023
Agenda Items

1. **9:20am - 9:25am** **Opening Prayer and Welcome**

Mayor Phillemon Mosby opened the Trustee Meeting for January 2023 with a welcome and declared a quorum was achieved and welcomed and acknowledged:

- Our new Executive Director for Corporate Services, Ms Noeleen Selke to the meeting and looks forward to working with Ms Selke through Council. Mayor Mosby also acknowledged the experience and knowledge Ms Selke brings to Council and trusts that she will use this knowledge to enable, assist and guide the collective team to progress the region moving forward.
- Our Heavenly Father for his awesome, wisdom, knowledge and understanding upon our lives, our family, our organisation, our people and region
- Traditional Owners of this land we gather today
- Elders, leaders, past, present and emerging
- Councillors, Chief Executive Officer and Executive Staff

Mayor Mosby opened the meeting in a word of prayer at 9:20am.

A minute's silence is observed as a mark of respect to families in sorry business throughout the region and on the mainland.

2. **9:25am – 9:26am** **Apologies**

Deputy Mayor, Cr Getano Lui, Division 9 – Iama – medical appointment. Will dial in after medical appointment.

RESOLUTION:

Moved: Cr Aven Noah; Second: Cr Francis Pearson

That Council accepts the apology of Deputy Mayor, Cr Getano Lui for the January 2023 Trustee Meeting.

MOTION CARRIED UNANIMOUS

Cr Laurie Nona, Division 5 – Badu – running late

RESOLUTION:

Moved: Cr Aven Noah; Second: Francis Pearson

That Council accepts the apology of Cr Laurie Nona for the January 2023 Trustee Meeting.

MOTION CARRIED UNANIMOUS

3. **9:26am – 9:27am** **Declaration of Conflict of Interest (COI) Declarable and Prescribed**

No declarations or relevant legal proceedings declarations were made by Councillors. Mayor Mosby encouraged Councillors to make a declaration at any time during the meeting.

4. **9:27am – 9:30am** **Confirmation of Trustee Meeting Minutes**

- Trustee Meeting – Tuesday 13th December 2022.

RESOLUTION:

Moved: Cr Dimas Toby Second: Cr John Levi

That the Trustee accepts the minutes of the Trustee meeting held on 13th December 2022 as a true and accurate account of that meeting.

MOTION CARRIED UNANIMOUS

5. **9:30am – 9:50am** **Trustee Outstanding Action Items**

Mr James William, Chief Executive Officer provided an update of the Trustee Action Items.

Chief Executive Officer reported that we are unable to successfully recruit a qualified and experienced lawyer for the current budgeted remuneration. This remuneration will have to be reviewed in order to attract suitable candidates.

We need one legal officer focusing on Land strategies, DOGIT, Trustee Issues etc and one legal officer focussing on Commercial and Local Government Issues and contracts.

ACTION:

Cr Aven Noah as Chair of the Standing Committee, Cultural Arts, Land and Heritage Committee to review November 2021 Closed Business Report on Entry to DOGIT Land before Secretariat sends information on to Mayor Mosby and Councillors information from Mrs Julia Mauris.

ACTION:

Cr Aven Noah as Chair of the Standing Committee, Cultural Arts, Land and Heritage Committee to review Action Item Island Custom under Provision under Legislation. Standing Committee to review prior to Secretariat sending information on to Mayor Mosby and Councillors information from Mrs Julia Mauris.

6. **9:45am – 9:45am** **Standing Agenda Item: (verbal update)**

- Undocumented commercial land occupation project – verbal update
- DOGIT Transfers – Verbal Update

Ms Julia Mauro, Senior Legal Officer, provided a verbal update on the undocumented commercial land occupation project.

9:55am Cr Laurie Nona joined the Trustee meeting.

DOGIT Transfers – Verbal Update

Mayor Phillemon Mosby and Mr James William, Chief Executive Officer, provided a verbal update on the DOGIT Transfers.

Cr Rocky Stephen suggested to hold a discussion with full Council re: Code of Conduct and processes and engage with Registrar regarding processes, lessons learned and handover.

9:50am Deputy Mayor Cr Gaetano Lui joined the Trustee meeting.

7. **9:50am – 10:00am** **LEGAL – TR – Badu Council v Minister**

Ms Julia Mauro, Senior Legal Officer spoke to the report.

RESOLUTION:

Moved: Cr Jimmy Gela, Second: Cr Aven Noah

That Trustee resolves to note the report.

MOTION CARRIED UNANIMOUS

8. **10:00am – 10:00am** **Next meeting – Tuesday, 21st February 2023 via VC**

9. **10:00am – 10:05am** **Closing Remarks**

Mayor Mosby thanked all staff and Councillors for their engagement in the Trustee meeting. Mayor Mosby declared the Trustee meeting closed to reconvene in Council Ordinary Meeting after morning tea.

MEETING CLOSED – 10:05AM

MORNING TEA – 10:05AM – 10:20AM

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Mr James William
Chief Executive Officer
Torres Strait Island Regional Council
Date:

.....
Cr Phillemon Mosby
Mayor
Torres Strait Island Regional Council
Date:

DRAFT

STRATEGIC AND OPERATIONAL ACTIONS FROM COUNCIL TRUSTEE/ORDINARY MEETING

Date	Month of Meeting	Year	Type of Meeting	Community	Agenda Report	Action	Lead Officer	Lead Officer Comments	ETA
24	January	2023	Trustee	VC	Trustee Action Items	Cr Aven Noah as Chair of the Standing Committee, Cultural Arts, Land and Heritage Committee to review November 2021 Closed Business Report on Entry to DOGIT Land before Secretariat sends information on to Mayor Mosby and Councillors information from Mrs Julia Mauro.	Executive Director Corporate Services		
24	January	2023	Trustee	VC	Trustee Action Items	The Standing Committee, Cultural Arts, Land and Heritage Committee to review Action Item Island Custom under Provision under Legislation. Standing Committee to review prior to Secretariat sending information on to Mayor Mosby and Councillors information from Mrs Julia Mauro.	Executive Director Corporate Services		

TRUSTEE REPORT

ORDINARY MEETING:	February 2023
DATE:	21 February 2023
ITEM:	Agenda Item for Resolution by Trustee
SUBJECT:	Masig Lot 224 on SP331538 – LHA lease partial surrender
AUTHOR:	Julia Mauro, Senior Legal Officer

Recommendation:

That the Trustee accept the surrender of Lot 224 on SP331538 from *Land Holding Act* (Katter) Lease No. 715653389 held by Flora Mosby, and authorise the Mayor and Chief Executive Officer each to sign the Form 8 surrender acceptance.

Executive Summary:

This report seeks the Trustee's consent to a partial Katter lease surrender. The surrender is supported by Cr Hilda Mosby.



Background:

Council has received a request from ATSIP (Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships) on behalf of Flora Mosby, who holds Katter Lease No. 715653389.

At present, this registered Katter lease (715653389) is over Lots 224, 225 and 226 on SP331538. The lease commenced on 4 June 1987. The land was originally one land parcel (Lot 30 on SP277431), which was subdivided into the current three land parcels in 2022 at the request of Flora Mosby.

Flora Mosby would like to surrender Lot 224 on SP331538 from her Katter lease as Lot 224 is traditionally owned by someone else. This is a private house known as Lot 79 (SLUP & DOH) Lowatta Road, Masig.



Comment:

ATSIP engaged with the PBC Chair on 13 October 2020, who identified a portion of the Katter lease that was traditionally owned by a different Traditional Owner. ATSIP engaged with Flora Mosby on 13 October 2020 and discussed the issue of part of her lease being traditionally owned by someone other than herself. Flora Mosby advised that she would surrender the portion of the lease impacted by another Traditional Owner's ownership.

Lot 224 on SP331538 has been identified by Flora Mosby as the lot that she wishes to surrender. When the partial surrender over Lot 224 on SP331538 has taken effect, the wishes of the Lessee, Flora Mosby, will have been fulfilled, because the secondary encumbrance (the Katter lease) will no longer be registered over the rightful Traditional Owner's land.

Native title rights and interests have not been extinguished and they will survive in this case. This is because the Katter lease in question was granted under the 1985 Land Holding Act for the benefit of Torres Strait Islander inhabitants, a pre-*Mabo* action of the State that was consistent with the continued existence of native title. By contrast, a Katter lease registered after 2013 under the 2013 Land Holding Act extinguishes native title. This is because the registration of the lease is considered a Pre-Existing Rights-Based Act (PERBA) under the *Native Title Act* that grants exclusive, perpetual rights over the land, which is inconsistent with the continued existence of native title rights and interests.

Senior Legal Officer has reviewed the land title and Form 8 and all is in order.

Considerations

Risk Management

Compliance: Full or partial surrender of a registered Katter lease requires the leaseholder's signature.

Council Finance

Not applicable

Consultation:

- Supported by Cr Hilda Mosby. Cr Mosby has advised that Flora Mosby is her niece through marriage and that she has no conflict of interest.
- Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships
- TSIRC Legal Services

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 partial lease surrender.



Recommended & Endorsed:

Noeleen Selke

Executive Director, Corporate Services



Endorsed:

James William

Chief Executive Officer