



TSIRC **Trustee** Meeting

Agenda

Date: 22 March 2023

Time: 9.00am

Venue: Aka Gingin Multipurpose Stadium, Warraber

Agenda

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- **Welcome (Chair)**
- **Purpose of Meeting**
- **Attendance**
- **Deputations**
- **Acknowledgement of Country**
- **Opening Prayer**
- **Apologies**
- **Declaration of Prescribed and Declarable Conflicts of Interest**

1 CONFIRMATION OF PREVIOUS MINUTES

1.1 Draft Minutes of the Trustee Meeting held on 21 February 2023.

2 ACTIONS ARISING FROM PREVIOUS MEETING

Verbal Updates

3 TSIRC CHIEF EXECUTIVE OFFICER REPORT

Verbal Update

4 CORPORATE SERVICES

4.1 TCHHS leases St Pauls and Kubin

5 DEPUTATIONS

Nil

6 CLOSED BUSINESS

Nil

Agenda

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7 BUSINESS ARISING/OTHER BUSINESS

7.1

8 NEXT MEETING

✓ 18-19 April 2023 (VC) – 9.00am

15-26 May 2023 – Cairns (Workshop + Council Meeting)

25-26 May 2023 – Cairns – 9.00am

27-28 June 2023 (VC) – 9.00am

18-19 July 2023 – Mabuiag Community – 9.00am

15-16 August 2023 (VC) – 9.00am

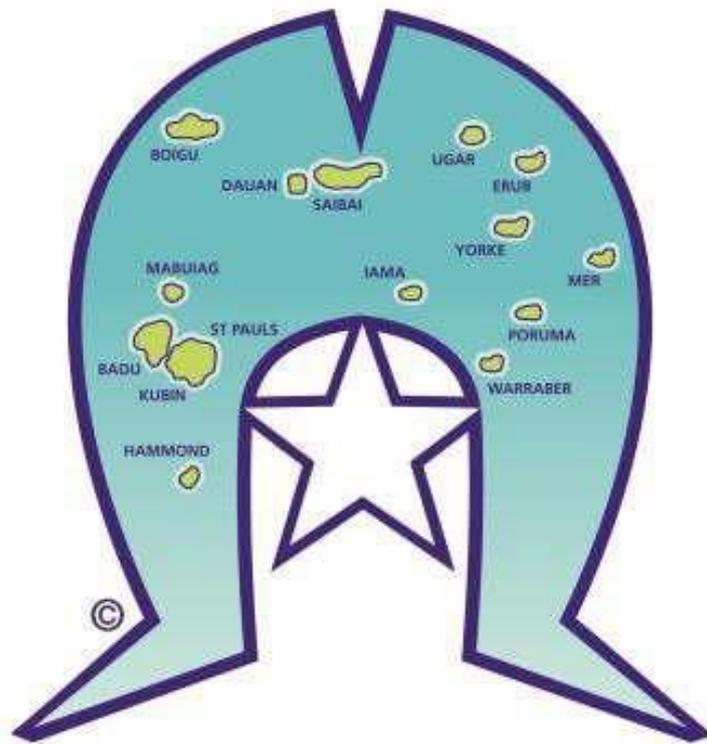
19-20 September 2023 – Saibai Community – 9.00am

24-25 October 2023 (VC) – 9.00am

16-17 November 2023 – Cairns – 9.00am

12-13 December 2023 – (VC)/Erub – 9.00am

9 CLOSE & PRAYER



Torres Strait Island
REGIONAL COUNCIL

TRUSTEE MINUTES

TORRES STRAIT ISLAND REGIONAL COUNCIL

Tuesday 21 February 2023

PRESENT:

Cr Phillemon Mosby, Mayor
Cr Torenzo Elisala, Division 2 – Dauan (Mt Cornwallis)
Cr Keith Fell, Division 4 – Mabuiag (Jervis)
Cr Laurie Nona, Division 5 – Badu (Mulgrave)
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 Getano Lui Jnr, Deputy Mayor, Division 9 – Iama (Yam)
Cr Kabay Tamu, Division 10 – Warraber (Sue)
Cr Francis Pearson, Division 11 – Poruma (Coconut)
Cr Hilda Mosby, Division 12 – Masig (Yorke)
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
Ms Noleen Selke, Executive Director Corporate Services
Ms Hollie Faithfull Executive Director, Financial Services
Mrs Julia Mauris, (Senior Legal Officer)
Ms Julie Marino, Executive Assistant to the CEO
Ms Trudy Lui, Executive Assistant to the Mayor
Mr Darryl Brooks, Secretariat

APOLOGIES:

Cr Dimas Toby, Division 1 – Boigu (Talbot)
Cr Conwell Tabuai, Division 3 – Saibai
Cr Rocky Stephen, Division 13 – Ugar (Stephen)

OBSERVER:

Mr David Kempton

AGENDA ITEM 1: WELCOME AND OPENING REMARKS

Mayor Mosby opened the meeting at 10.45am and welcomed Councilors and Torres Strait Regional Council staff. He acknowledged that it has been a very busy past few months for

the Council and noted that it was approximately only 9 months or so before 'Caretaker' conventions came into effect prior to the next Local Government elections in 2024.

The Mayor reaffirmed that DOGIT remains a high priority to be sorted out for the region because of its adverse impact on the lives and livelihoods of residents across the Torres Strait.

The following attendances were confirmed:

Torres Strait Island Regional Council	
Mayor	Cr Phillemon Mosby
Division 1 – Boigu	Cr Dimas Toby
Division 2 – Dauan	Cr Torenzo Elisala
Division 4 – Mabuig	Cr Keith Fell
Division 5 - Badu	Cr Laurie Nona
Division 6 – Arkai	Cr Lama Trinkoon
Division 7 – Wug (St. Pauls), Mua Island	Cr John Levi
Division 8 – Kirirri (Hammond)	Cr Seriako Dorante
Division 9 – lama	Cr Getano Lui Jnr (Deputy Mayor)
Division 10 – Warraber	Cr Kabai Tamu
Division 11 – Poruma	Cr Francis Pearson
Division 12 – Masig	Cr Hilda Mosby <i>(Cr Mosby scheduled to attend around 11.00am)</i>
Division 13 – Ugar	Cr Rocky Stephen
Division 14 – Erub	Cr Jimmy Gela
Division 15 - Mer	Cr Aven S. Noah
Torres Strait Island Regional Council – Administrative Staff	
Chief Executive Officer	Mr James William
Executive Director Building Services	Mr Wayne Green
Executive Director Engineering Services	Mr David Baldwin
Executive Director Corporate Services	Ms Noeline Selke
Executive Director Financial Services	Ms Nicola Daniels
Senior Legal Officer	Mrs Julia Mauro
Senior Executive Assistant to the CEO	Ms Julie Marino
Executive Assistant to the Mayor	Ms Trudy Lui
TSIRC Secretariat	Mr Darryl Brooks
Observers	
N/A	Mr David Kempton

AGENDA ITEM 1: WELCOME AND OPENING REMARKS

Mayor Phillemon Mosby completed a roll call of committee members and staff and welcomed everyone to the Trustee meeting for February 2023. Mayor Mosby confirmed,

therefore, that the required quorum of Councillors were present for the meeting to proceed.

Mayor Phillemon Mosby also acknowledged the following:

- Our Heavenly Father for his awesome knowledge, wisdom, understanding, favour and blessing upon our lives. A blessing on our families, our organisation and our people.
- Mayor Mosby acknowledged, the traditional owners on behalf of Council across the length and breadth of Zenadth Kes including, where our Torres Strait Regional Council footprint is on TI and here in Cairns office. The Mayor also gave an acknowledgement of the Aboriginal traditional custodians across Australia and acknowledged their connection to these lands.
- Acknowledge our family members who are in Sorry Business at this time. Our thoughts and prayers are with them.

Chief Executive Officer, Mr James William confirmed the attendance of staff present at Council.

Mr James William asked our Mayor Mosby for his approval for an observer at Council today. Mayor Mosby agreed.

Mr James William introduced Mr David Kempton as an observer today. Mr David Kempton will be our Legal Counsel thus filling a significant gap in our capability. We are very fortunate to have him to provide support to Council.

Mr James William also welcomed new staff member, Mr Darryl Brooks in his capacity as Secretariat.

Opening Prayer

Mayor Mosby invited our Cr Keith Fell, to open the meeting in a word of prayer at 9:06am.

Mayor Mosby requested for us to be upstanding to observe one minute silence for those families who are in Sorry Business. May their souls rest in peace.

AGENDA ITEM 2: APOLOGIES

The following apologies were noted:

TSIRC	
Division 1 – Boigu	Cr Dimas Toby <i>(attending World Recreational Fishing Conference in Melbourne on 20-22 February 2023) *</i>
Division 3 – Saibai	Cr Conwell Tabuai
Division 13 – Ugar	Cr Rocky Stephen <i>(attending World Recreational Fishing Conference in Melbourne on 20-22 February 2023) *</i>

() The TSIRC Chief Executive Officer requested that the Council note that a later paper will be submitted to the Council's Ordinary Meeting on 21 February 2023 seeking Council's approval for the attendance of Cr Dimas Toby and Cr Rocky Stephen as the Council's representatives at the World Recreational Fishing Conference being held in Melbourne on 20-22 February 2023.*

MOTION MOVED:	Cr Dimas Toby
MOTION SECONDED:	Cr Torenzo Elisala
THOSE IN FAVOUR OF MOTION:	Unanimous
THOSE NOT IN FAVOUR OF MOTION:	N/A
OUTCOME:	MOTION CARRIED

ACTION ITEM

Ms Julia Mauro to investigate Torres Strait Island Regional Council's sitting fee obligations with regard to Councilors not attending Council meetings.

Council also noted and supported a verbal request by Cr. Nona for a short absence from part of the afternoon meeting to attend to 'Sorry Business' on Badu.

AGENDA ITEM 3: DECLARATION OF CONFLICT OF INTEREST (PRESCRIBED AND DECLARABLE)

Mayor Mosby requested that members make any relevant conflict of interest declarations and advise if any relevant legal proceedings were current pertaining to Council business to be considered at the meeting. Cr. Keith Fell commented on the issue of a Register for the

Council in relation to Conflict of Interest (Prescribed and Declarable). Mayor Mosby advised that this matter may need to be explored further off-camera.

Cr Jimmy Gela, declared his brother is the General Manager for SeaSwift (as we are going to be discussing leases). Mayor Mosby declared he is a member of the board for CB for Poruma. Ms Julia Mauro checked our Policy for compliance and the outcome was noted.

No other declarations were made by members. Mayor Mosby encouraged Councillors to be mindful of making relevant declarations if other matters arose throughout the duration of the meeting.

AGENDA ITEM 4: CONFIRMATION OF PREVIOUS COUNCIL ORDINARY MEETING MINUTES Resolution

That the Minutes for the Council Trustee Meeting held on 24 January 2023 be accepted to be a true and correct account of the meeting.

<i>MOTION MOVED:</i>	<i>Division 11 (Cr. Pearson)</i>
<i>MOTION SECONDED:</i>	<i>Division 14 (Cr. Jimmy Gela)</i>
<i>THOSE IN FAVOUR OF MOTION:</i>	<i>Unanimous</i>
<i>THOSE NOT IN FAVOUR OF MOTION</i>	<i>N/A</i>
<i>OUTCOME</i>	<i>MOTION CARRIED</i>

AGENDA ITEM 5: TRUSTEE OUTSTANDING ACTION ITEMS

Councillors **NOTED** that the list outstanding action items had dropped off and **REQUESTED** that a review of that listing be undertaken prior to the next Council meeting to ensure that it is updated. The Chief Executive Officer and our Mayor Mosby to review action items listing prior to each Trustee and Council meeting.

Minutes of January 2023 reported an Action Item - Cr Aven Noah will needed to align with appropriate Executive Directors re: Priority Listing.

<i>MOTION MOVED:</i>	<i>Division 12 (Cr. Mosby)</i>
<i>MOTION SECONDED:</i>	<i>Division 8 (Cr. Dorante)</i>
<i>THOSE IN FAVOUR OF MOTION:</i>	<i>Unanimous</i>
<i>THOSE NOT IN FAVOUR OF MOTION</i>	<i>N/A</i>
<i>OUTCOME:</i>	<i>MOTION CARRIED</i>

ACTIONS ARISING:

1. Secretariat to audit and list action items and outcomes of the last three months for information of Mayor Mosby and our Chief Executive Officer.
2. The Chief Executive Officer and Mayor Mosby to review action items listing prior to each Trustee and Council meeting.

AGENDA ITEM 6: STANDING AGENDA ITEMS (VERBAL UPDATE)

- Undocumented commercial land occupation project

Ms Julia Mauro, provided a verbal update on the undocumented commercial land occupation project. In particular the Masig facility which Ms Mauro is preparing a report for Council.

- DOGIT Transfers

Ms Julia Mauro, provided a verbal update of the DOGIT Transfers.

Mr James William reported that he, Mr Andrew Kerr (Preston Law) and Ms Emma Fenby (Native Title and Indigenous Land Services), held a video conference with Minister.

Cr Getano Lui, Deputy Mayor, advised Mr James William strongly to approach the Premier. Draft a letter as a matter of urgency to the Minister. Remind Minister that in December 2021 Minister stated they would not move on DOGIT until they were directed by Torres Strait Island Regional Council. The Premier must be contacted, DOGIT has to be on our timing this must be stopped.

ACTION

The Chief Executive Officer to draft a letter as a matter of urgency to the Premier. Remind Minister that in December 2021 Minister stated they would not move on DOGIT until they were directed by Torres Strait Island Regional Council.

AGENDA ITEM 7. TRUSTEE MOVE INTO CLOSED BUSINESS

Chief Executive Officer sought advice from Ms Julia Marus regarding conflict of interest pertaining to the following Closed Business discussion:

- Cr Jimmy Gela's brother is manager of SeaSwift. Chief Executive Officer asked Cr Jimmy Gela if he wanted to stay in the Closed Meeting.
- Cr Francis Pearson declared he is a board member of the CB.

- Councillor Aven S Noah has a conflict of interest with the following discussion of Closed Business.
- Mayor Mosby is on the board of CB.

9:50am Note: in accordance and compliance with Torres Strait Island Policies and Procedures – Legal, Mayor Mosby, Cr Aven S Noah and Cr Francis Pearson left the meeting maintaining compliance.

RESOLUTION:

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

<i>MOTION MOVED:</i>	<i>Division 10 Cr Aven Noah</i>
<i>MOTION SECONDED:</i>	<i>Division 15 Cr Kabay Tamu</i>
<i>THOSE IN FAVOUR OF MOTION:</i>	<i>Unanimous</i>
<i>THOSE NOT IN FAVOUR OF MOTION:</i>	<i>N/A</i>
<i>OUTCOME:</i>	<i>MOTION CARRIED</i>

AGENDA ITEM 8. Legal – CB – CEQ Leases

Chief Executive Officer conferred with our Senior Legal Officer if Mayor Mosby had a conflict of interest in the following Closed Business discussions. The result was negative.

10:00am Agenda 9. COUNCIL MOVE OUT OF CLOSED BUSINESS AND RESUME IN OPEN COUNCIL

<i>MOTION MOVED:</i>	<i>Division 15 (Cr.Aven Noah)</i>
<i>MOTION SECONDED:</i>	<i>Division14 (Cr. Jimmy Gela)</i>
<i>THOSE IN FAVOUR OF MOTION:</i>	<i>Unanimous</i>
<i>THOSE NOT IN FAVOUR OF MOTION</i>	<i>N/A</i>
<i>OUTCOME</i>	<i>MOTION CARRIED</i>

AGENDA ITEM 10: LEGAL - TR MASIG LOT 224 ON SP331538-LHA LEASE PARTIAL SURRENDER

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.

<i>MOTION MOVED:</i>	<i>Division 15 (Cr.Aven Noah)</i>
<i>MOTION SECONDED:</i>	<i>Division14 (Cr. Jimmy Gela)</i>
<i>THOSE IN FAVOUR OF MOTION:</i>	<i>Unanimous</i>

<i>THOSE NOT IN FAVOUR OF MOTION</i>	<i>N/A</i>
<i>OUTCOME</i>	<i>MOTION CARRIED</i>

AGENDA ITEM 11 NEXT MEETING – WARRABER- changed from original date of 21-22 March to 22-23 March 2023 due to cost of living summit on Thursday Island (Council Ordinary Meeting Agenda Item 12)

Mayor Mosby advised Councillors that he is currently finalizing arrangements for the Council’s meeting on Warraber.

ACTION

Cr Noah to liaise with the Executive Director Corporate Services to clarify the status of correspondence he received on 3 February 2023 in relation to a power of veto matter.

AGENDA ITEM 12: CLOSING REMARKS

Our Mayor Mosby thanked the Council Trustee members, Chief Executive Officer and Executive Staff for their attendance and participation at the meeting.

MEETING CLOSED AT 10:30am

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

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



TORRES STRAIT ISLAND REGIONAL COUNCIL

TRUSTEE AGENDA REPORT

ORDINARY MEETING:	March
DATE:	22 March 2023
ITEM:	Trustee Agenda Item for Resolution by Council
SUBJECT:	TCHHS leases St Pauls and Kubin
AUTHOR:	Julia Maurus, Senior Legal Officer

Recommendation:

- 1. That the Trustee resolve, pursuant to the Torres Strait Islander Land Act 1991 (Qld), to grant Torres and Cape Hospital and Health Service (TCHHS) a further extension to 17 May 2023 of the date for the satisfaction of the native title and works approval requirements in relation to the proposed lease of **St Pauls** Lot 36 on SP256048, on the proviso that if consent-based future-act validation is not achieved by 17 May 2023 then the Trustee endorses the use of section 24JAA of the Native Title Act 1993 (Cth) to satisfy the native title condition, and subject to continued payment of a monthly land occupation fee (pro rata at the same rate as the starting rent under the proposed lease) until the commencement of the lease (or until TCHHS ceases occupying the land, whichever is earlier), and delegate to the Chief Executive Officer the power to negotiate, sign and discharge the Deed of Variation and lease.*
- 2. That the Trustee resolve, pursuant to the Torres Strait Islander Land Act 1991 (Qld), to grant Torres and Cape Hospital and Health Service (TCHHS) a further extension to 17 May 2023 of the date for the satisfaction of the native title requirements in relation to the proposed lease of **Kubin** lot 134 on SP271019, subject to continued payment of a monthly land occupation fee (pro rata at the same rate as the starting rent under the proposed lease) until the commencement of the lease (or until TCHHS ceases occupying the land, whichever is earlier), and delegate to the Chief Executive Officer the power to negotiate the terms of the Deed of Variation and lease, sign and discharge the Deed of Variation and lease.*

Executive Summary:

Torres and Cape Hospital and Health Service (TCHHS) has sought an extension of time to 17 May 2023 to allow time for TCHHS to address the native title requirements for the proposed lease at St Pauls through the use of the Moa Housing and Infrastructure ILUA. This request has Councillor support.

TCHHS has also sought an extension of time to 17 May 2023 to address the native title requirements for the proposed lease at Kubin. This request has Councillor support.

Background:

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.

In 2018, Council made resolutions supporting the grant of standard trustee leases to TCHHS, including for its sites at Kubin and St Pauls. In May 2018, Council as Trustee for the various Deeds of Grant in Trust (including Kubin and St Pauls) set a rent methodology of \$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. This rent methodology applies to the proposed leases at St Pauls and Kubin.

The original Deed of Agreement to Lease for **Kubin** dated 1 June 2018 provides for a lease term of 40 years at a starting rent of \$18,014 per annum (starting rent subject to CPI). Council has previously consented to several Deeds of Variation to extend the native title condition deadline (from 1 June 2020 to 31 December 2020, then to 31 December 2021, then to 30 September 2022, and most recently to 30 March 2023).

The original Conditional Agreement to Lease for **St Pauls** dated 1 June 2018 provides for a lease term of 40 years at a starting rent of \$22,313 per annum (starting rent subject to CPI). Council has previously consented to several Deeds of Variation to extend the native title condition and works condition deadlines (from 1 June 2020 to 31 December 2020, then to 31 December 2021, then to 30 April 2022, then 30 August 2022, and most recently to 28 February 2023). The CEO has granted an interim extension to 31 March 2023 to allow Council time to formally consider the requested extension.

TCHHS and Crown Law have advised that TCHHS is still in the process of addressing native title for the proposed leases through the use of the Moa Housing and Infrastructure ILUA. Due to the length of time taken for consultation with the Body Corporate (PBC), the process is yet to be finalised. The Native Title and Resources Team that is assisting the Health Service with this process has advised that a further consultation meeting is required between the PBC and the Health Service before the parties can exchange the required notices and continue the required steps under the ILUA to finalise the process.

On 27 February 2023, Crown Law provided the following update:

- A TCHHS & RNTBC meeting that was booked for 31 January 2023 needed to be cancelled for Sad News in community (relating to two people passed);
- RNTBC has subsequently made efforts to agree on a new native title meeting date; and
- RNTBC has tentatively proposed a meeting occur on Friday 17 March 2023, which has been agreed by TCHHS.

TCHHS requests an extension of the native title condition and the works approval condition under the St Pauls Deed of Agreement for Lease for two months after this proposed meeting on 17 March 2023 (being 17 May 2023) to allow time for the meeting to occur and the issuing of the required notices under the Regional ILUA.

As the TCHHS are also seeking to address native title for the Moa Kubin Lease through the same process outlined above for Moa (St Pauls) pursuant to the Moa Housing and Infrastructure ILUA, TCHHS also requests an extension of the Native Title condition in clause 5 of the Deed of Agreement for Lease for Moa Kubin Island until 17 May 2023.

A development permit (formal development approval) is not required for St Pauls, but as a matter of practice the plans for the works are approved by Council through consultation with the divisional councillor.

Clause 3 of the Deed provides that Council must not unreasonably refuse a request for an extension of time to satisfy the conditions.

Comment:

Cr Trinkoon has no objection to the proposed extension, given that the Kubin health centre is up-to-date and operating.

Cr Levi is very concerned about the years of delays in the native title process that are preventing works for the provision of vital health services in the St Pauls community. Council has recently written to TCHHS and the RNTBC to request that the future act validation be expedited and that, if necessary, the Trustee supports the use of section 24JAA to ensure the timely roll-out of vital health services for the community of St Pauls.

Cr Levi supports the requested extension to 17 May 2023 on the proviso that if consent-based future-act validation is not achieved by 17 May 2023 then Council endorses the use of section 24JAA of the *Native Title Act 1993* (Cth) to satisfy the native title condition.

Considerations

Risk Management

Compliance (land titles)

Compliance (native title)

Council Finance

The Trustee is receiving commercial land occupation fees for these sites.

The proposed lease areas is currently occupied by TCHHS, with Health/TCHHS having had the benefit of the use of that land for many years.

Under the current Deed of Agreement to Lease, since 1 January 2021 TCHHS has been required to pay the trustee a commercial land occupation fee for its occupation of this land until the leases are eventually registered and commence. TCHHS was unable to agree to back-payment of licence fees. It is recommended that the Trustee agree to the requested extension of time for the St Pauls and Kubin Deeds of Agreement to Lease, provided TCHHS continues paying TSIRC a monthly licence fee (pro rata at the same rate as the starting rent under the proposed leases) until the commencement of the leases (or until TCHHS ceases occupying the land, whichever is earlier), and including this commitment in the proposed DOATL variation.

Consultation:

- Crown Law
- Cr Lama Trinkoon (Arkai/Kubin) has confirmed his support.
- Cr John Levi (Wug/St Pauls) has confirmed his support, on the proviso that if consent-based future-act validation is not achieved by 17 May 2023 then Council endorses the use of section 24JAA of the *Native Title Act 1993* (Cth) to satisfy the native title condition.

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

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

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 grant Torres and Cape Hospital and Health Service (TCHHS) the requested extensions of time subject to the conditions stipulated in the recommended resolutions.



Recommended & Endorsed:
Noeleen Selke
Executive Director, Corporate Services



Endorsed:
James William
Chief Executive Officer