



# Extract from Register of Indigenous Land Use Agreements

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<b>NNTT number</b>	QI2020/014
<b>Short name</b>	Moa Infrastructure and Housing ILUA
<b>ILUA type</b>	Body Corporate
<b>Date registered</b>	01/12/2020
<b>State/territory</b>	Queensland
<b>Local government region</b>	Torres Strait Island Regional Council

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## Description of the area covered by the agreement

"**ILUA Area**" means the area described in writing in Schedule 2 being all of the land and waters shown on the maps in Schedule 3.

*[A written description of the ILUA area is contained in Schedule 2. Maps of the ILUA area are contained in Schedule 3. Copies of Schedules 2 and 3 are attached to this register extract. The following general description has been provided by the National Native Title Tribunal to assist people to understand the location of the agreement area. It is provided for information only and should not be considered part of the Register of ILUAs:*

*The agreement area covers approx. 167 sq km on Moa (Banks Island) in the Torres Strait.]*

## Parties to agreement

### Applicant

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<b>Party name</b>	State of Queensland, acting through the Department of Aboriginal and Torres Strait Islander Partnerships
<b>Contact address</b>	c/- Remote Indigenous Land and Infrastructure Program Office Department of Aboriginal and Torres Strait Islander Partnerships Level 9, 15 Lake Street Cairns QLD 4870

### Other Parties

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<b>Party name</b>	Mualgal Torres Strait Islanders Corporation RNTBC, ICN 3369
<b>Contact address</b>	c/- Marrawah Law Pty Ltd PO Box 74 Edge Hill QLD 4870

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<b>Party name</b>	Torres Strait Island Regional Council
<b>Contact address</b>	PO Box 7336 Cairns QLD 4870

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<b>Party name</b>	Torres Strait Regional Authority
<b>Contact address</b>	Level 1, Torres Strait Haus 46 Victoria Parade Thursday Island QLD 4875

## Period in which the agreement will operate

Start date	not specified
End Date	not specified

3.1 This *Agreement* commences:- (a) from the *Execution Date* in relation to Parts 1, 3 and 4 of the *Agreement*; and (b) from the *Registration Date* in relation to Part 2 of the *Agreement*.

3.2 Subject to it being earlier *Terminated*, this *Agreement* continues on an indefinite basis.

3.3 This *Agreement* may be *Terminated* at any time by agreement in writing between the *Parties*.

## Statements of the kind mentioned in ss. 24EB(1) or 24EBA(1) or (4)

6.2 Part 2 Division 3 Subdivision P of the *Native Title Act* (which relates to the right to negotiate), does not apply to any *Future Acts* covered by this *Agreement*.

8.2 The *Parties* agree that the classes of *Future Acts* are as follows:

(a) *Class 1 MIP Future Acts* are *Future Acts* which meet all of the following criteria:

(i) they are undertaken by a *Proponent*;

(ii) they are completely or substantially funded through the joint State and Commonwealth of Australia program known as the Major Infrastructure Program and/or any successor program of the same intent; and

(iii) they are undertaken in a *Project Area* of up to 30,000m<sup>2</sup> in size, not including any *Ancillary Project Area* and;

(iv) they permit, require or consist of the construction, operation, use, maintenance or repair of an *Infrastructure Facility* in the *Project Area*;

(v) they may involve access being gained to the *Project Area* by the *Proponent* through one or more *Ancillary Project Area*;

(vi) they may involve the construction, operation, use, maintenance or repair by the *Proponent* of *Ancillary Project Area Infrastructure* in one or more *Ancillary Project Area*; and

(vii) they do not involve the grant of *Freehold Title*.

(b) *Class 2 Non-MIP Future Acts* are *Future Acts* which meet all of the following criteria:

(i) they are undertaken by a *Proponent*;

(ii) they are not *Future Acts* covered by clauses 8.2(a), 8.2(c), 8.2(d), or 8.2(e);

(iii) they are undertaken in a *Project Area* of up to 30,000m<sup>2</sup> in size, not including any *Ancillary Project Area*;

(iv) they permit, require or consist of the construction, operation, use, maintenance or repair of an *Infrastructure Facility* in the *Project Area*;

(v) they may involve access being gained to the *Project Area* by the *Proponent* through one or more *Ancillary Project Areas*;

(vi) they may involve the construction operation, use, maintenance or repair by the *Proponent* of *Ancillary Project Area Infrastructure* in one or more *Ancillary Project Areas*; and

(vii) they do not involve the grant of *Freehold Title*.

(c) *Class 3 Housing – Home Ownership Future Acts* are *Future Acts* which meet all of the following criteria:

(i) they are undertaken by a *Proponent*;

(ii) they are undertaken in a *Project Area* of up to 30,000m<sup>2</sup> in size; and

(iii) they involve the grant of one or more leases for a term of more than 30 years but not more than 99 years for private residential purposes.

(d) *Class 4 Housing – Renovation Acts* are acts which meet all of the following criteria:

(i) they are undertaken by a *Proponent*;

(ii) they are undertaken in a *Project Area* of up to 30,000m<sup>2</sup> in size; and

(iii) they involve the maintenance, repair, renovation, refurbishment or *Extension* of one or more dwelling houses in the *Project Area* – (iii) they involve the maintenance, repair, renovation, refurbishment or *Extension* of one or more dwelling houses in the *Project Area* –

A. that is or are *Social Houses*; or

B. that has or have been the subject of a project involving *Class 3 Housing - Home Ownership Future Acts* consented to under this *Agreement*.

(e) *Class 5 Transfer-Related Future* are *Future Acts* which meet all of the following criteria:-

(i) they are undertaken by a *Proponent*;

(ii) they are undertaken in a *Project Area* of any size (it being acknowledged that the *Project Area* must be wholly within the *Agreement Area*);

(iii) they permit, require or consist of the construction, operation, use, maintenance or repair of one or more *Infrastructure Facility* in the *Project Area*;

(iv) they are undertaken in connection with a proposed grant of transferable land in fee simple to the *Body Corporate* under *TSILA*;

(v) they are undertaken for the purpose of satisfying the Minister under *TSILA* in respect of the proposed grant of transferable land in fee simple to the *Body Corporate* under *TSILA* that arrangements are in place to ensure *TS/RC* can continue to provide local government services to communities on the land after it is granted; and

(vi) they do not involve the grant of *Freehold Title*.

8.3 Subject to the issue of a *Project Consent Certificate* under clause 9.1(d), the *Parties* consent to the doing of any

Class 1 Non-MIP Future Acts to which this Agreement applies.

**8.4** Subject to the issue of of a *Project Consent Certificate* under clause 9.1(d), the *Parties* consent to the doing of any *Class 2 Non-MIP Future Acts* to which this Agreement applies.

**8.5** Subject to the issue of a *Project Consent Certificate* under clause 9.1(d), the *Parties* consent to the doing of any *Class 3 Housing - Home Ownership Future Acts* to which this Agreement applies.

**8.6** Subject to the issue of a *Final Project Notice* under clause 9.1(c), the *Parties* consent to the doing of any *Class 4 Housing - Renovation Acts* to which this Agreement applies to the extent that those acts are *Future Acts*.

**8.8** Subject to the issue of a *Project Consent Certificate* under clause 9.1(d), the *Parties* consent to the doing any *Class 5 Transfer-Related Future Acts Class* to which this Agreement applies.

**8.10** The *Parties* agree to the validating under clause 8.11 of any *Future Act* covered by this Agreement, where that *Future Act* is done by a *Proponent*:-

- (a) prior to the *Registration Date*; and
- (b) after the date the *Proponent* gives an *Initial Project Notice* under clause 9.1(a) but prior to the *Body Corporate* giving a *Project Consent Certificate* under 9.1(d).

**8.11** A *Future Act* of the kind referred to in clause 8.10 is validated for *Native Title* purposes (even if already done invalidly for *Native Title* purposes) on the condition that:-

- (a) *Registration* occurs; and
- (b) the *Project Consent Certificate* for the *Future Act* is given.

**"Ancillary Project Area"** means any area shown as such on a *Project Plan* and which is one or more of the following:-

- (a) an area on which an access route to a Project Area will be located for the purpose of construction relating to a particular project involving *Class 1 MIP Future Acts* or *Class 2 Non-MIP Future Acts*;
- (b) an area on which *Ancillary Project Area Infrastructure* will be constructed, operated, used, maintained or replaced for the purpose of providing services in connection a particular project involving *Class 1 MIP Future Acts* or *Class 2 Non-MIP Future Acts*; or
- (c) any other area which a *Proponent* and the *Body Corporate* agree in writing is an *Ancillary Project Area*.

**"Ancillary Project Area Infrastructure"** means reticulation or distribution infrastructure generally located above the surface of the ground (such as overhead power lines and/or power poles/towers, street and public place lighting and/or the poles/towers for such lighting, telephone lines and/or telephone poles/towers and data cables and/or data poles/towers) or located below the surface of the ground (such as buried power lines, telephone lines, data cables, gas pipelines, water pipelines, sewers and drains), that does not prevent the common law native title holders in relation to the land or waters where the infrastructure is to be located from having reasonable access to such land or waters in the vicinity of the infrastructure except:-

- (a) while the infrastructure is being constructed; or
- (b) for reasons of health and safety.

**"Freehold Title"** means an estate in fee simple other than any estate in fee simple which coexists with *Native Title*.

**"Housing Future Acts"** depending on the context in which it is used, means *Class 3 Housing - Home Ownership Future Acts* and *Class 4 Housing - Renovation Acts*.

**"IBIS Store"** means any existing or proposed retail outlet operated by Community Enterprise Queensland (which trades as the Islanders Board of Industry and Service) under the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984* (Qld).

**"Infrastructure Facility"** means any works, structures or improvements to land or waters other than *Ancillary Project Area Infrastructure* which directly or indirectly provide a service or any other benefit to:-

- (a) the general public; or
  - (b) the Island community, including –
  - (c) offices, depots and staff housing by or for the benefit of the Commonwealth of Australia, the State, any local government, statutory authority or government owned corporation,
  - (d) any electricity generation, distribution or transmission facility;
  - (e) public education facilities;
  - (f) public health facilities;
  - (g) police facilities;
  - (h) emergency facilities;
  - (i) transport facilities (including pedestrian paths, cycle ways, transfer facilities, freight storage and logistic areas, bus stops and layovers, ferry stops, taxi stops);
  - (j) sewage pump stations and sewerage treatments facilities;
  - (k) solid waste transfer and treatment facilities;
  - (l) water supply pump stations, raw water storage, clear water storage, dams, weirs, bore field infrastructure;
  - n) any *IBIS Store*;
- but not including –
- (o) *Social Housing*.

**"Opt-in Party"** means any person who:

- (a) has been determined in writing by the *Body Corporate* in its absolute discretion to be accepted by it as an *Opt-In Party* for a particular project involving *Class 1 MIP Future Acts, Class 2 Non-MIP Future Acts, Class 3 Housing – Home Ownership Future Acts, Class 4 Housing - Renovation Acts* or *Class 5 Transfer-Related Future Acts*; and
- (b) has executed a deed in the form of Schedule 13; and
- (c) has provided a copy of the executed deed to the *Parties*.

**"Project Area"** means an area shown as such on a *Project Plan* and which is an area where one or more of the following are proposed to take place:-

- (a) there is to be the grant of a lease over any land or waters for the purposes of a particular project involving *Class 1 MIP Future Acts, Class 2 Non-MIP Future Acts, Housing Future Acts* or *Class 5 Transfer-Related Future Acts*;
- (b) any building, structure or other thing that is a fixture (other than fencing or a gate and other than *Ancillary Project Infrastructure*) is to be constructed, for the purposes of a particular project involving *Class 1 MIP Future Acts, Class 2 Non-MIP Future Acts, Housing Future Acts* or *Class 5 Transfer-Related Future Acts*; or
- (c) a road reserve is to be dedicated or a permanent publically accessible road is to be constructed for purposes of a particular project involving *Class 1 MIP Future Acts, Class 2 Non-MIP Future Acts, Housing Future Acts* or *Class 5 Transfer-Related Future Acts*.

**"Project Plan"** means a written plan of an area proposed for a particular project involving *Class 1 MIP Future Acts, Class 2 Non-MIP Future Acts, Housing Future Acts* or *Class 5 Transfer-Related Future Acts* which shows:-

- (a) the general location where the particular *Class 1 MIP Future Acts, Class 2 Non-MIP Future Acts, Housing Future Acts* or *Class 5 Transfer-Related Future Acts* will be undertaken;
- (b) the boundaries of the *Project Area* where the particular *Class 1 MIP Future Acts, Class 2 Non-MIP Future Acts, Housing Future Acts* or *Class 5 Transfer-Related Future Acts* will be undertaken and the total area in square metres of that *Project Area*; and
- (c) the boundaries of any *Ancillary Project Area* for the particular project and the total area in square metres of such area or areas.

**"Proponent"** means:-

- (a) *TSIRC* where it is acting as the proponent of a particular project involving *Class 1 MIP Future Acts, Class 2 Non-MIP Future Acts, Housing Future Acts* or *Class 5 Transfer-Related Future Acts*, or where *TSIRC* is the lessor (seller) of a lease for home ownership purposes (including any improvements on the lease area) of the kind involving *Class 3 Housing - Home Ownership Future Acts*; or
- (b) the *State* where it is acting as the proponent of a particular project involving *Class 1 MIP Future Acts, Class 2 Non-MIP Future Acts, Housing Future Acts* or *Class 5 Transfer-Related Future Acts*; or
- (c) *TSIRC* and the *State* where they are acting jointly as the proponent of a particular project involving *Class 1 MIP Future Acts, Class 2 Non-MIP Future Acts, Housing Future Acts* or *Class 5 Transfer-Related Future Acts*; or
- (d) any *Opt-in Party* where it is acting as the proponent of particular project involving *Class 1 MIP Future Acts, Class 2 Non-MIP Future Acts, Housing Future Acts* or *Class 5 Transfer-Related Future Acts*.

**"Social Housing"** means housing –

- (a) funded or provided by the Queensland Government; or
- (b) funded or provided by the Australian Government; or
- (c) jointly funded or provided by the Queensland Government and the Australian Government;
- (d) funded or provided -
  - (i) directly or indirectly; or
  - (ii) in whole or in part,by the *Body Corporate*,  
and includes housing provided under the *Housing Act 2003* (Qld).

**"TSILA"** means the Torres Strait Islander Land Act 1991 (Qld).

**"TSIRC"** means the Torres Strait Island Regional Council in its capacity as a local government under the *Local Government Act* and in its capacity as the trustee of any Deed of Grant in Trust.

## Attachments to the entry

[QI2020\\_014 Schedule 2 Written description of the ILUA Area.pdf](#)

[QI2020\\_014 Schedule 3 Maps of ILUA Area.pdf](#)