

## ANNEXURE TO POLICY

### DAUAN DECISION-MAKING PROCESS

1. This process applies when TSIRC (as Trustee) makes decisions to lease land in the Dauan Deed of Grant in Trust (DOGIT). This includes decisions to give a person a 99 year home ownership lease or a lease for a business after a person has submitted an Expression of Interest (EOI) for a lease.
2. This part of the Policy must be read along with the other parts of the Policy. If there is any inconsistency between other parts of the Policy and this part of the Policy, this part of the Policy takes priority.

#### Community Engagement

3. TSIRC engaged with the Dauan community about this decision-making process:
  - (a) During the community consultation meeting on 24 September 2024, which was publicly notified; and
  - (b) A draft of this annexure was published on TSIRC's website (on date).
4. TSIRC:
  - (a) considers that the process set out in this Policy provides all community members with a fair and reasonable opportunity to have their say about EOIs;
  - (b) is satisfied that the decision-making process in this Policy reflects the Ailan Kastom applying to decisions to be made on Dauan, and/or is the agreed decision-making process for Torres Strait Islanders at Dauan.
5. This Policy is TSIRC's process of decision-making agreed to by the community and adopted by the Trustee for decisions of this kind.

#### Summary of Decision-Making Process

6. A summary of the decision-making process for Dauan is set out below:
  - (a) EOI submitted.
  - (b) Consultation with Divisional Councillor and the Dauanalgalw Torres Strait Islanders Corporation RNTBC (PBC) for at least 4 weeks, with conflicts of interest to be managed under the *Local Government Act 2009* (for TSIRC) and the PBC Rules (for the PBC).
  - (c) **No dispute** – TSIRC decision at the next opportunity.
  - (d) **Dispute** – TSIRC will not make a decision for 3 months (which can be extended). In the meantime:
    - (i) All people involved in the dispute will be given details of the dispute, including details of other people involved in the dispute.

- (ii) The PBC will assist in resolving the dispute.
- (iii) TSIRC decision on the disputed EOI can only occur after the PBC has given advice.
- (e) If the dispute is about a traditional owner or Native Title matter, instead of following the above steps, TSIRC will refer the dispute to the PBC to resolve.

## **Full Decision-Making Process**

### Receiving Expressions of Interest

- 7. TSIRC is prepared to receive and consider EOIs made by community members, or eligible people outside of the community, who want a home ownership lease or commercial lease anywhere in the Dauan DOGIT.
- 8. TSIRC has an approved form that must be used to apply for EOIs.
- 9. If the approved form is not used for EOIs, TSIRC may reject those EOIs.
- 10. After receiving an EOI, TSIRC can release the applicant's name and other information from the EOI to the public, so that TSIRC can carry out consultation.
- 11. At any point when considering the EOI, TSIRC may ask the Applicant to give further information about the EOI.

### Inconsistent interests

- 12. TSIRC will refuse any EOI over Land that has an existing registered or unregistered interest that is not compatible with the EOI. This includes any other EOI that has already been approved.
- 13. However, an Applicant can make an EOI over Land that contains a TSIRC social house or a social house that has a 40-year social housing lease with the State Government.

### Consultation with Divisional Councillor and PBC

- 14. TSIRC will send the EOI to the Divisional Councillor and the PBC for review and comment.
- 15. The PBC will be responsible for getting the views of the Traditional Owners about an EOI.
- 16. The Dauan community has specifically decided not to refer EOIs to broader public notification to protect confidentiality in EOIs. The Dauan community has decided that the PBC should have the role of providing comments on behalf of Traditional Owners.
- 17. The PBC must give comments to TSIRC about the EOI within 4 weeks.

### Steps after consultation

- 18. The next steps after public notification depend on whether an EOI Dispute has been raised.
- 19. An EOI Dispute is any disagreement about whether the EOI should be approved by TSIRC. That disagreement might be raised by another person who submitted or wants an EOI over the same land, or a person who thinks the Applicant is not the right person to have a Lease over the EOI area.

20. If an EOI Dispute is not raised by the PBC within the 4-week consultation period, then TSIRC can make a decision about the EOI at a TSIRC meeting after the 4 week consultation period has ended.
21. Any dispute about an EOI that is made after the 4-week consultation period has ended will not be considered by TSIRC, unless TSIRC decides that there is a reasonable basis for the dispute being raised at a late stage.
22. However, if an EOI Dispute is identified, then TSIRC will not make any decisions on the affected EOIs for at least 3 months.
23. TSIRC will give all people involved in the dispute details of the dispute, including details of other people involved in the dispute.
24. TSIRC will also advise the PBC of the dispute.
25. The PBC will be responsible for resolving the dispute.
26. If the dispute is not resolved after 3 months, TSIRC can extend the period for resolving the dispute.
27. TSIRC can only make a decision on the disputed EOIs after the PBC has given advice to TSIRC.
28. At any time, TSIRC can make its own enquiries about the EOI Dispute, including by contacting Traditional Owners, the PBC, the Native Title Representative Body, or any other people or organisations that TSIRC thinks might be able to provide information or other assistance to TSIRC to help resolve the EOI Dispute. TSIRC can ask for this information to help it make a properly informed, merit-based decision about the EOI.
29. The Dauan community thinks that this process provides a reasonable balance between airing public opinion and disputes about EOIs and allowing interested applicants to progress their EOIs in an efficient way.
30. After TSIRC has passed a resolution agreeing to grant a lease that was applied for under an EOI, no further disputes about the EOI will be considered by TSIRC.
31. A TSIRC resolution agreeing to grant a lease that was applied for under an EOI will usually have conditions, one of which is that the grant of the lease can only occur with Native Title consent.