

ANNEXURE TO POLICY

KUBIN DECISION-MAKING PROCESS

1. This process applies when TSIRC (as Trustee) makes decisions to lease land in the Kubin 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.
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 Kubin community about this decision-making process:
 - (a) During community consultation sessions on 26 August 2024 and 27 August 2024, which were publicly notified;
 - (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 Kubin, and/or is the agreed decision-making process for Torres Strait Islander people at Kubin.
5. This Policy is TSIRC's process of decision-making agreed to and adopted by the Trustee for decisions of this kind.

Summary of Decision-Making Process

6. A summary of the decision-making process for Kubin is set out below:
 - (a) EOI made.
 - (b) Consultation with Divisional Councillor and the Mualgal Torres Strait Islanders Corporation RNTBC (PBC), with conflicts to be managed under the *Local Government Act 2009* (for TSIRC) and the PBC Rules (for the PBC).
 - (c) After Divisional Councillor and PBC consultation, the EOI will be presented to a TSIRC meeting for noting.
 - (d) Public notification of EOI (for at least 3 weeks).
 - (e) No dispute – TSIRC decision at the next opportunity
 - (f) Dispute – 3 month pause on TSIRC decision. 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) TSIRC will consult again with the Divisional Councillor and the PBC.
- (iii) TSIRC will make a decision after 3 months, after consultation.

Full Decision-Making Process

Receiving Expressions of Interest

- 7. TSIRC is prepared to receive and consider EOIs made by community members who want a lease anywhere in the Kubin DOGIT.
- 8. TSIRC has an approved form that must be used to make EOIs.
- 9. If the approved form is not used, for EOIs, TSIRC may reject any of those EOIs.
- 10. After receiving an EOI, TSIRC can release the applicant's name and other information from the EOI to the public, including 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 40 year social housing lease with the State Government, or a TSIRC social house.

Consultation with Divisional Councillor and PBC

- 14. TSIRC will send the EOI to the Divisional Councillor and the PBC for review and comment.
- 15. If the Divisional Councillor has a conflict of interest in the EOI, and the Divisional Councillor thinks that because of the conflict, they cannot do something under this Policy, then the Divisional Councillor may choose another Councillor or a member of TSIRC staff to take on the Divisional Councillor's role for all or part of this Policy.
- 16. The PBC will be required to carry out its own process for reviewing and commenting on EOIs and managing conflicts of interest in accordance with its PBC Rules.
- 17. The PBC's response will be an "in principle" response, and the PBC can still say no to any EOI proposal as part of making a Native Title Decision. The Native Title Decision must be made before a lease can be formally granted.

First TSIRC Meeting

- 18. Once comments have been provided by the Divisional Councillor and the PBC, the EOI will be considered at a TSIRC meeting for noting. This is not a final decision.

Public Notification

19. After the first TSIRC meeting, TSIRC will carry out public notification of the EOI. Public notification will go ahead even if the Divisional Councillor and the PBC have no issues with the EOI, so that the community generally has a chance to comment.
20. TSIRC will prepare a notice releasing the name of the Applicant and the address of the land proposed to be leased and will invite submissions from the community about the EOI (**Consultation Notice**).
21. The Consultation Notice will be published on TSIRC's physical community noticeboard at TSIRC's office, on social media, and on TSIRC's website. TSIRC may also decide to publish the notice in other places.
22. The community will have 4 weeks to comment.
23. TSIRC will not accept any comments that are frivolous, vexatious or directed towards preventing an EOI from proceeding without a proper reason. This means that if a submission against an EOI is not a genuine and proper submission, TSIRC can ignore it.
24. The public notification process will close after the end of the 4 weeks and no further comments will be accepted after that.

Steps after Public Notification

25. The next steps after public notification depend on whether an EOI Dispute has been raised.
26. An EOI Dispute is any argument about whether the EOI should be approved by TSIRC. That argument might be raised by another person who 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.
27. If an EOI Dispute is not raised before public notification closes, then TSIRC can make a decision about the EOI at a TSIRC meeting after the public notification period has closed.
28. Any dispute about an EOI that is made after a public notification process has closed will not be considered by TSIRC, unless TSIRC decides that there is a reasonable basis for the dispute being raised at a late stage.
29. However, if an EOI Dispute is identified, then TSIRC will not make any decisions on the affected EOIs for 3 months.
30. TSIRC will give all people involved in the dispute details of the dispute, including details of other people involved in the dispute.
31. During that 3-month period, TSIRC will consult again with the Divisional Councillor and the PBC.
32. A specific dispute resolution process may not be able to be developed without knowing exactly what the dispute is about. The further consultation with the Divisional Councillor and the PBC might help everyone work out the best way to resolve the dispute.

33. 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.
34. If the EOI Dispute has not been resolved, but more than 3 months has passed since any affected Applicants were notified of the EOI Dispute, then TSIRC can:
- (a) decide to consider an EOI affected by an EOI Dispute, if TSIRC thinks that it can make a decision about the EOI Dispute; or
 - (b) decide not to consider any EOIs affected by an EOI Dispute.
35. After TSIRC has passed a resolution granting an EOI, no further disputes about the EOI will be considered by TSIRC.
36. 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.