

ANNEXURE TO POLICY

MABUIAG DECISION-MAKING PROCESS

1. This process applies when TSIRC (as Trustee) makes decisions to lease land in the Mabuiag 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 Mabuiag community about this decision-making process:
 - (a) During community consultation sessions on 28 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 Mabuiag, and/or is the agreed decision-making process for Torres Strait Islanders at Mabuiag.
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 Mabuiag is set out below:
 - (a) EOI submitted.
 - (b) Consultation with Divisional Councillor and public notification of EOI (for at least 4 weeks).
 - (c) No dispute – TSIRC decision at the next opportunity.
 - (d) Dispute – TSIRC will not make a decision for 3 months. 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 parties will try to resolve their dispute, or decide on a dispute resolution process.

- (iii) If there is no resolution after 3 months, the Divisional Councillor will put together a community group of representatives who the Divisional Councillor thinks can help resolve the dispute. The community group must meet to provide recommendations within 4 weeks.
- (iv) TSIRC decision can occur after the community group has met (or earlier if the parties have agreed on a resolution).

Full Decision-Making Process

Receiving Expressions of Interest

- 7. TSIRC is prepared to receive and consider EOIs made by community members, or people outside of the community, who want a home ownership lease or commercial lease anywhere in the Mabuiag 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 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

- 14. TSIRC will send the EOI to the Divisional Councillor for review and comment.
- 15. Public notification will also go ahead so that the community generally has an opportunity to comment.
- 16. TSIRC will prepare a notice releasing the name of the Applicant and the address of the land proposed to be leased and will invite comments from the community about the EOI (**Consultation Notice**).
- 17. The Consultation Notice will be published on TSIRC's physical and digital community noticeboard and on TSIRC's website. TSIRC may also decide to publish the notice in other places.
- 18. The community will have 4 weeks to comment.

19. 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.
20. The public notification process will close after the end of the 3 weeks and no further comments will be accepted after that.

Steps after Public Notification

21. The next steps after public notification depend on whether an EOI Dispute has been raised.
22. 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.
23. 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 ended.
24. Any dispute about an EOI that is made after a public notification process 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.
25. However, if an EOI Dispute is identified, then TSIRC will not make any decisions on the affected EOIs for at least 3 months.
26. TSIRC will give all people involved in the dispute details of the dispute, including details of other people involved in the dispute. The people involved in the dispute are responsible to try resolve it.
27. If the dispute is not resolved after 3 months, the Divisional Councillor will form a community group with suitable people on the group to help Council make a decision. The Divisional Councillor will form that group as soon as possible after the 3-month period has ended.
28. Within 4 weeks of the date the community group is formed, the community group must meet to consider the dispute. The community group will form its own process for considering the dispute and providing recommendations to Council.
29. A specific dispute resolution process may not be able to be developed without knowing exactly what the dispute is about. The establishment of the community group might help to work out the best way to resolve the dispute.
30. At any time, TSIRC can make its own enquiries about the EOI Dispute, including by contacting traditional owners, the Goemulgaw Torres Strait Islanders RNTBC (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.
31. If the EOI Dispute has not been resolved, but if more than 4 weeks has passed since the community group was formed, then TSIRC can:

- (a) decide to proceed 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.
- 32. TSIRC can make a decision about an EOI Dispute even if the community group has not yet given advice, provided that 4 weeks has passed since the community group was formed.
- 33. The Mabuiag 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.
- 34. After TSIRC has passed a resolution granting an EOI, no further disputes about the EOI will be considered by TSIRC.
- 35. 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.

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