

ANNEXURE TO POLICY

SAIBAI DECISION-MAKING PROCESS

1. This process applies when TSIRC (as Trustee) makes decisions to lease land in Saibai Deed of Grant on 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 Saibai community about this decision-making process:
 - (a) During a community consultation session on 3 December 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 Saibai, and/or is the agreed decision-making process for Torres Strait Islanders at Saibai.
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 Saibai is set out below:
 - (a) EOI submitted.
 - (b) Consultation with Divisional Councillor and the Saibai Mura Buway (Torres Strait Islanders) Corporation RNTBC (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 4 weeks).
 - (e) No dispute – TSIRC decision at the next opportunity.
 - (f) Dispute – TSIRC will not make a 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 invite the people involved in the dispute to provide their heritage information to the PBC.
- (iii) TSIRC will not make a decision until the PBC has provided direction. The PBC must provide direction within 3 months (which can be extended by another 3 months if necessary).

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 Saibai.
- 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 the subject of executed Formal Documentation.
- 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 make decisions about the EOI, 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 (and, in the PBC's case, in accordance with its PBC Rules). Comments from the PBC must be received within 4 weeks.
- 17. The PBC's response at this stage is an "in principle" response, and separately to this Policy, the PBC is required to make a Native Title decision about the grant of the lease. 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 (as Trustee) 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. The public notification is for the community to comment on the EOI.
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 comments from the community about the EOI (**Consultation Notice**).
21. 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.
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 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.
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 ended.
28. 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.
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. TSIRC will invite those people to give detailed heritage information to the PBC to assist the PBC in resolving the dispute.

31. The Saibai people think that the PBC is the best party to be involved in resolving EOI disputes. Council will not make a decision about an EOI dispute until it has the direction of the PBC. The PBC must respond to Council within 3 months (which can be extended by another 3 months if circumstances require, for example during sorry business).
32. After TSIRC has passed a resolution approving an EOI, no further disputes about the EOI will be considered by TSIRC.
33. 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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