

**Statement of reasons (obstacles)**  
**Aboriginal and Torres Strait Islander Land Holding Act 2013**

This statement of reasons (obstacles) regarding the entitlement to lease for lease application **41/86 by Daniel Mosby (deceased)** made pursuant to section 31 of the *Aboriginal and Torres Strait Islander Land Holding Act 2013* (“the *Land Holding Act*”) is made on **7 July 2021**.

**DECISION**

There is no practical obstacle to the grant of a lease to satisfy the lease entitlement.

**DECISION-MAKER**

Peter Lawrence, Principal Land Officer, Land and Native Title Operations, Department of Resources.

**DELEGATION**

Section 88(1) of the *Land Holding Act* provides that the Minister may delegate the Minister's powers under the *Land Holding Act* to the chief executive. Section 88(2) of the *Land Holding Act* provides that a delegation of the Minister's power to the chief executive may permit the subdelegation of the power to an appropriately qualified public service officer. I am authorised to prepare and give this Statement of Reasons (Obstacles) as delegate of the chief executive in accordance with the *Aboriginal and Torres Strait Islander Land Holding (Ministerial) Delegation (No 1) 2021* and the *Aboriginal and Torres Strait Islander Land Holding (Chief Executive) Subdelegation (No 1) 2021*.

**RELEVANT LEGISLATION**

Part 4 of the *Land Holding Act* establishes a process for examining each lease entitlement to identify practical obstacles that need to be resolved before a lease can be granted to satisfy the lease entitlement.

Section 29 of the *Land Holding Act* provides for what are practical obstacles –

- (1) *Without limiting what practical obstacles to satisfying a lease entitlement may be identified under this Act, the following could be expected to be identified as obstacles—*
  - (a) *that the location of the area of the lease entitlement land cannot be clearly identified;*
  - (b) *that the ownership of improvements on the lease entitlement land needs to be resolved;*
  - (c) *that competing interests in the lease entitlement land need to be dealt with.*
- (2) *However, the identification, or the need to obtain the agreement, of an interested person in the estate of a deceased holder of a lease entitlement is not a practical obstacle under this Act.*

Section 30 of the *Land Holding Act* requires the Minister to refer the lease entitlement notice to the Land Holding stakeholder reference panel for the trust area or the reference entity.

Section 31(1) of the *Land Holding Act* requires that the Minister to consider any information, advice or recommendation given to the Minister by the Land Holding Act stakeholder reference panel or reference entity under section 30 of the *Land Holding Act* and prepare a statement of reasons (obstacles) about satisfying the lease entitlement.

Section 31(2) of the *Land Holding Act* provides that the statement of reasons (obstacles) must -

- (a) *identify, to the extent known –*
  - i. *the practical obstacles that exist to the granting of a lease to satisfy the lease entitlement; and*
  - ii. *the affected persons for the obstacles; and*
- (b) *explain the Minister's reasons for identifying the obstacles and affected persons.*

Section 31(3) of the *Land Holding Act* provides that a statement of reasons (obstacles) may, if appropriate, state that no practical obstacles exist to satisfying the lease entitlement.

**RELEVANT EVIDENCE**

In making my decision, I took into consideration the following material –

- Lease application (Form 1) dated 6 August 1986.
- Lease Entitlement Notice dated 24 May 2019.
- Survey Plan SP277431.
- Advice and Recommendation Report signed 7 July 2021.
- Death Certificate of Daniel Mosby.
- Beneficiary Certificate (Certificate of Entitlement) of Daniel Mosby.
- *Aboriginal and Torres Strait Islander Land Holding Act 2013 – Part 4 – Identification of Practical Obstacles*

**FINDINGS ON QUESTIONS OF FACT**

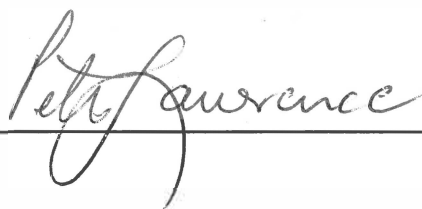
In arriving at my decision, I followed the legislative process in the *Land Holding Act* under Part 4 to identify practical obstacles that need to be resolved before the lease can be granted to satisfy the entitlement and made the following findings of fact –

- a. The location of the area of the lease entitlement can be clearly identified as surveyed Lot 152 on SP277431, Masig Island which is suitable for the issue of a lease;
- b. The ownership of improvements does not need to be resolved as the lease entitlement land is vacant;
- c. There are no competing interests in the lease entitlement land that need to be dealt with; and
- d. There is no practical obstacle to the grant of a lease to satisfy the lease entitlement.

**DECISION**

I have considered the evidence identified in this statement and I am satisfied that no practical obstacle exists to satisfying the lease entitlement.

**Approved by:**



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**NAME OF DECISION-MAKER  
POSITION**

Peter Lawrence  
Principal Land Officer  
Land and Native Title Operations  
Department of Resources

**DATED**

7 July 2021