

Expression of Interest

Expression of Interest (EOI):	<i>Lease of Town Beach Café Town Beach Reserve 31340</i>
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Deadline:	<i>4:00PM WST 03 February 2023</i>
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Address for Delivery:	<i>Electronic Delivery ONLY to <u>shire@broome.wa.gov.au</u></i>
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1 Conditions of Responding

1.1 Definitions

Below is a summary of some of the important defined terms used in this Expression of Interest:

Attachments:	The documents you attach as part of your Submission.
Deadline:	The Deadline shown on the front cover of this Expression of Interest for lodgement of your Submission.
Expression of Interest or EOI:	This document.
Principal:	Shire of Broome
Respondent:	The person or persons, corporation or corporations who intends to submit a Submission in response to an Expression of Interest.
Requirement:	The Principal requires a suitable organisation to undertake the lease of the Town Beach Café
Selection Criteria:	The Criteria used by the Principal in evaluating your Submission.
Specification:	The Statement of Requirements for the Lease of the Town Beach Café that the Principal's Expression of Interest may request you to provide if selected as an acceptable Expression of Interest through the Expression of Interest process.
Submission:	Completed Expression of Interest, response to Selection Criteria and Attachments.

1.2 Expression of Interest Documents

This Expression of Interest is comprised of the following parts:

- Part 1 – Conditions of Responding (*read and keep this part*).
- Part 2 – Specification (*read and keep this part*).
- Part 3 – Respondent's Submission (*complete and return this part*).

1.3 How to Prepare Your Submission

- a) Carefully read all parts of this document;
- b) Ensure you understand the Requirements (Part 2);
- c) Complete and sign the Response Form and your response to the Selection Criteria (Part 3) and attach your Attachments; and
- d) Lodge your Submission before the Deadline.

1.4 Contact Persons

Respondents must not rely on any information provided by any person other than the person listed below:

Name:	Kristin Martin, Senior Property and Leasing Officer
Email:	Kristin.martin@broome.wa.gov.au

1.5 Briefing/Site Inspection

Attendance at this meeting not mandatory.

Respondents are welcome to attend a Site Inspection with Kristin Martin at the Site by appointment. Please contact Kristin to arrange a Site Inspection.

1.6 Evaluation Process

This is an Expression of Interest (EOI).

Following the close of the EOI, Submissions will be evaluated, and an evaluation report will be prepared for approval of the Shire of Broome Council. Following approval by Council, the Principal will commence direct negotiations of the lease with the preferred Respondent at the Principal's sole discretion.

Your Submission will be evaluated using information provided in your EOI and on your response to the Selection Criteria.

The following Evaluation Methodology will be used in respect of this Expression of Interest:

- a) Submissions are checked for completeness and compliance. Submission that do not contain all information requested (eg completed Submission Form and Attachments) may be excluded from evaluation;
- b) Submissions will be assessed against the Compliance and eligibility Criteria prior to the Qualitative Assessment Criteria
- c) Submissions are then assessed against the Qualitative Assessment Criteria.

1.7 Statutory Processes Required to Dispose of Land

The successful leasing opportunity will be required to meet statutory requirements of the Local Government Act 1995 (the Act). Pursuant to section 3.58 of the Act, subject to some exceptions the Shire of Broome can sell or lease its land only –

- a) To the highest bidder at public auction
- b) To the person who at public auction called by the Shire, makes what is, in the opinion of the Shire, the most acceptable tender, whether or not it is the highest tender; or

- c) By giving local public notice of the details of the proposed disposition and complying with the requirements of section 3.58 (3) and (4) and of the Local Government Act.

The Shire of Broome will advertise its intentions to dispose of its interest in the land (Town Beach Cafe) by leasehold tenure by giving public notice of the proposed disposition, including an invitation for public submissions.

1.8 Selection Criteria

A scoring system of 1 to 10 will be used as part of the assessment of the qualitative criteria set out in Part 3. Unless otherwise stated, a response to one of these criteria which provides all the information requested in the Expression of Interest will be assessed as satisfactory and will, in the first instance, attract an average score.

The extent to which the Submission demonstrates greater or lesser satisfaction of each of these criteria will result in a score greater or lesser than the average. The aggregate score of each Submission will be used as one of the factors in the final assessment of the qualitative criteria and in the overall assessment of value for money.

1.9 Compliance Criteria

These criteria are detailed within Part 3 of this document and will not be point scored. Each Submission will be assessed on a "Yes/No" basis as to whether the criterion is satisfactorily met. An assessment of "No" against any criterion may eliminate the Submission from consideration.

1.10 Qualitative Assessment Criteria

In determining the most advantageous Submission, the Evaluation Panel will score each Respondent against the qualitative criteria as detailed within Part 3 of this document. Each criterion will be weighted to indicate the relative degree of importance that the Principal places on the technical aspects of the goods or services being purchased.

Note: It is essential that Respondents address each qualitative criterion.

Information that you provide addressing each qualitative criterion will be point scored by the Evaluation Panel.

Failure to provide the specified information may result in elimination from the evaluation process or a low score.

1.11 Lodgement of Submissions and Delivery Method

The Submission must be lodged by the Deadline. The deadline for this Expression of Interest is **4.00pm WST on Friday 03 February 2023**.

The Submission is to be submitted by electronic mail. Submissions will be accepted at **shire@broome.wa.gov.au**

Submissions submitted by **post, facsimile or hand delivered will not** be accepted.

1.12 Rejection of Submissions

A Submission will be rejected without consideration of its merits in the event that:

- a) it is not submitted before the Deadline; or
- b) it may be rejected if it fails to comply with any other requirements of the Expression of Interest.

1.13 Late Submissions

A Submission received after the Deadline may not be accepted for evaluation.

1.14 Disclosure of Contract Information and Documents

Documents and other information relevant to the contract may be disclosed when required by law under the Freedom of Information Act 1992 or under a Court Order.

1.15 Respondents to Inform Themselves

Respondents shall be deemed to have:

- a) examined the Expression of Interest and any other information available in writing to Respondents for the purpose of submitting an EOI;
- b) examined all further information relevant to the risks, contingencies and other circumstances having an effect on their Submission which is obtainable by the making of reasonable enquiries;
- c) satisfied themselves as to the correctness and sufficiency of their Submissions including submitted indicative prices which shall be deemed to cover the cost of complying with all the conditions of responding and of all matters and things necessary for the due and proper performance and completion of the work described therein; and
- d) satisfied themselves they have a full set of the EOI documents and all relevant attachments.

1.16 Alterations

The Respondent shall not alter or add to the Expression of Interest documents unless required by these General Conditions of Responding.

The Principal will issue an addendum to all registered Respondents where matters of significance make it necessary to amend the issued Expression of Interest documents before the Deadline.

1.17 Ownership of Submissions

All documents, materials, articles and information submitted by the Respondent as part of or in support of a Submission shall become upon submission the absolute property of the Principal and will not be returned to the Respondent at the conclusion of the Submission Process PROVIDED that the Respondent shall be entitled to retain copyright and other intellectual property rights therein, unless otherwise provided by the Contract.

1.18 Canvassing of Officials

If a Respondent, whether personally or by agent, canvasses any of the Principal's Commissioners or Councillors (as the case may be) or Officers with a view to influencing the acceptance of any Respondent, then regardless of such canvassing having any influence on the acceptance of such Submission, the Principal may at its discretion omit the Respondent from consideration.

1.19 Costs

Costs and expenses incurred by Respondents in any way associated with the preparation and submission of their EOI, will be entirely borne by the Respondent.

1.20 Conflict of Interest

Respondents and their respective officers, employees, agents and advisors must not place themselves in a position that may or does give rise to a conflict of interest (or potential conflict of interest) between the interests of the Principal (on the one hand) and other interests (on the other hand) during the EOI process.

1.21 Responsibility for Information

All the information that the Principal provides to a Respondent, whether in documents or not, is provided in good faith to assist Respondents. None of the information is guaranteed. It is the Respondent's responsibility to interpret and assess the relevance of the information provided. The Principal is not liable for any loss, damage or expense suffered by a Respondent as a result of any inaccuracy in the information provided.

1.22 Absence of Obligations

No legal or other obligation will arise between a proponent and the Principal unless or until formal documentation has been signed. In this regard the Principal is not obliged to proceed with any EOI submissions in whole or in part.

1.23 No Lease

This document does not constitute an offer to lease.

If the Principal enters into negotiations with the Respondent, the Respondent must negotiate in good faith with the Principal to agree and finalise the Lease, which will be based on the Key Lease terms and any other terms required by the Principal.

If the Principal enters into negotiations with the Respondent, this does not constitute an acceptance of the submission received by the Respondent or otherwise confer any rights on a Respondent and is without prejudice to the right of the Principal to decline to enter into the final Lease, or to enter into the final Lease with the Respondent or a competing Respondent.

The Principal may choose to negotiate any aspect of a submission.

1.24 Disclaimer

Respondents must rely on their own investigations and should satisfy themselves in relation to all aspects of their proposal and the information set out in this document or any document attached or related to it. The lessor and its respective employees, officer, consultants and professional advisors are not liable for any incorrect, incomplete or misleading information or failure to disclose information, whether in connection with this document or any document attached or related to it. This document or any document attached or related to it may be subject to review or change at any time without notice.

2 Specification

2.1 Introduction Town Beach Café

The Shire of Broome is offering for lease the café located at Town Beach Reserve 31340 currently known as the Town Beach Cafe. Expressions of Interest are being sought from experienced café operators interested in leasing the premises for a short-term lease.

The café enjoys direct ocean frontage, ideally located at the Town Beach Foreshore, a highly visited coastal location for locals and tourists. The area is a popular swimming and fishing spot for locals and tourists and is a favoured venue for viewing the newly constructed 112m Town Beach Jetty as well as the Staircase to the Moon phenomenon, which is accompanied by the popular Staircase to the Moon night markets. The area is used by the local community and visitors for a wide range of recreational, community and commercial activities.

The area is also rich in cultural and heritage value. Town Beach is home to a wide range of significant Indigenous and non-Indigenous cultural and historical sites, including the heritage listed Pioneer Cemetery, Old Jetty, the old tramline, the former Customs House, the CWA building and Sailmaker's Shed. The area is also home to the Aboriginal Middens, a site of significant cultural value to the Nyamba Buru Yawuru people.

The Café borders a water playground frequented by local children and families. There is ample parking for patrons adjacent to the playground which services the Café and Reserve.

2.2 Background Information

The Shire of Broome owned Café was constructed in 1990/1991 and has been successfully operating in its current location for 29 years.

The Gross Lettable Area of the Building is approximately 92m² together with a paved shaded Alfresco area of 95m².

Tenders are encouraged to present options in their Expression of Interest for expanded patron seating on the Northern and/or Southern area of the existing alfresco area. This option may permit a pet friendly option for the Café.

A market valuation was conducted of the Premises building on 1 November 2022 which determined a fair and reasonable commencement rent of \$69,000 PA plus GST, excluding normal property outgoings.

All existing fixtures and fittings and equipment are the property of the previous lessee and will not be provided by Council. Applicants could negotiate the purchase of existing fixtures, fittings

and equipment with the previous lessee. Applicants should take into account the cost of fit out in their Submissions.

2.3 Short Term Lease

This is a short-term lease, with a minimum term being 2 years, and a maximum term being 5 years.

This lease falls under the *Commercial Tenancy (Retail Shops) Agreements Act 1985* ('the Act'). Ordinarily, the minimum term prescribed under the Act is 5 years unless a shorter term is agreed by the parties and approved by the State Administrative Tribunal. Any prospective tenant will need to acknowledge that they accept the reduced term at their own free will, and that they will agree to make an application to the State Administrative Tribunal to approve the reduced term of the lease.

Additionally, a further EOI process for the development and long-term lease of the site is being considered. This is being sought as a separate process as it is not likely that any preferred responses for redevelopment would be delivered within the next two years.

2.4 Site Description

Portion of Lot 555 on Deposited Plan 77711 comprising a building café area of approximately 92m² and a shaded eating area of approximately 95m².

The public toilet block at the Town Beach Reserve services the patrons of the café.

2.5 Land Tenure

The Premises are situated on Crown Reserve 31340 being the whole of the land comprised in Certificate of Crown Land Title Volume LR3164 Folio 464, administered under the Land Administration Act 1997 WA.

The Reserve is vested to the Shire of Broome under Management Order to be used for the purpose of Drainage, Recreation, Historical and Cultural Display, Caravan Park and Café.

2.6 Site Constraints and Opportunities

a. CHARMAP

The site enjoys direct ocean frontage which offers the successful proponent substantial opportunities and challenges. The proponent should consider the relevant Coastal Hazard Risk Management and Adaption Plan (CHARMAP) documentation available on the Shire of Broome Website. <http://www.broome.wa.gov.au/Building-Development/Planning/Local-Planning-Policies-Strategies>

2.7 Key Lease Terms

The following key terms will form part of the lease contract:

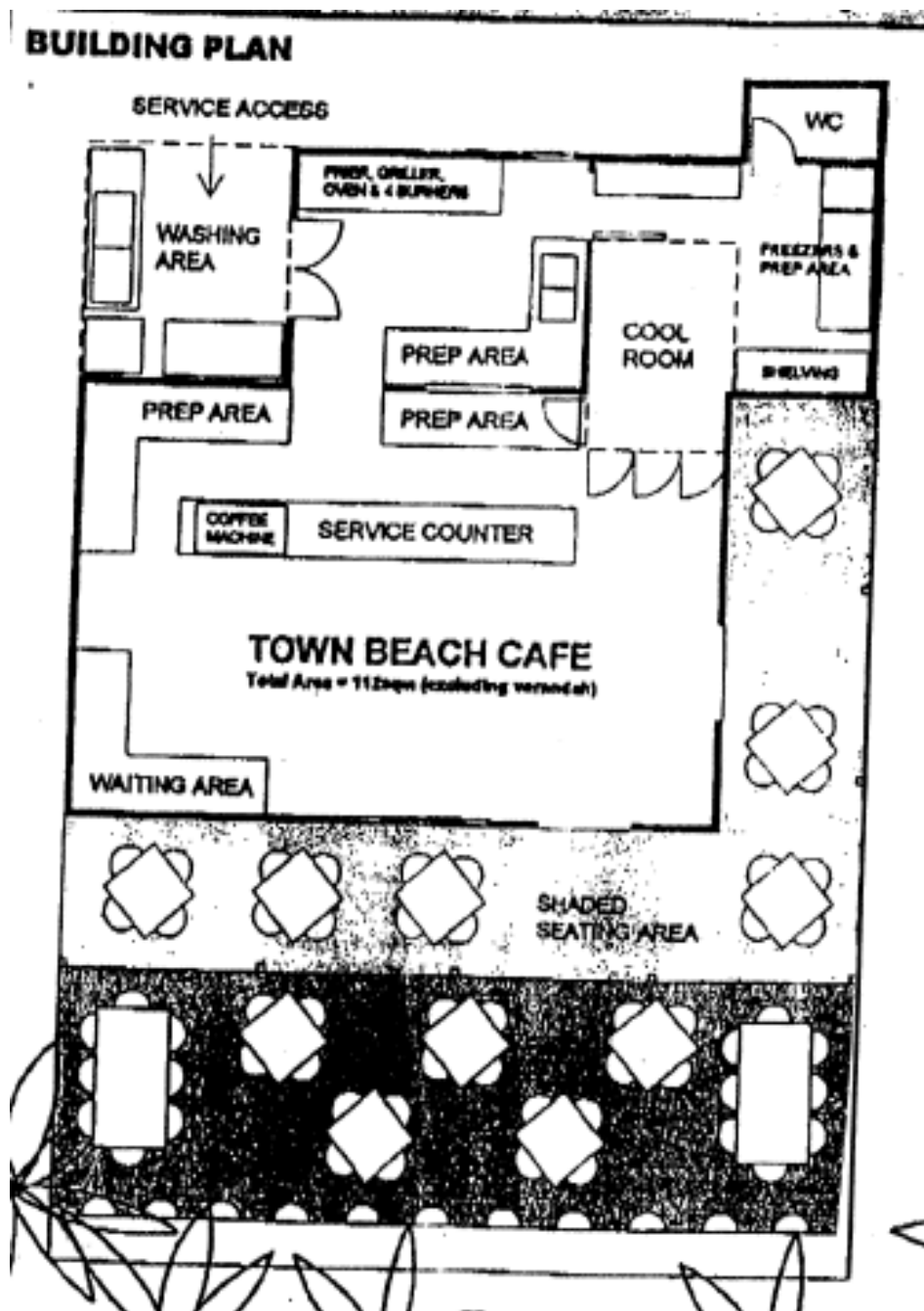
- The lease is subject to Minister for Lands Approval
- Term of the lease will be a minimum of a 2 years, with options included to extend to 5 years (by mutual agreeance of both parties)
- Tenant to acknowledge that the lease term is less than the minimum of 5 years in accordance with *Commercial Tenancy (Retail Shops) Agreements Act 1985* and that they accept the reduced term at their own free will. The Tenant will be required to make an application with the Landlord to the State Administrative Tribunal to approve the reduced term of the lease.
- Commencement Rent at Market Rent at \$69,000 PA plus GST
- Tenant to take property on an 'as is' basis
- Tenant Responsible for fit out
- Tenant Responsible for all operational maintenance and repair costs associated with the Premises
- Tenant Responsible for all outgoing to Premises
- CPI rent review upon the anniversary of the commencement date

2.8 Estimate Outgoings Issued by Shire of Broome

The following is an estimate of outgoing issued by the Shire of Broome (only).

- Water Service and Consumption Charges 21/22 Financial Year approximately \$1,202.94
- Building Insurance 21/22 \$2,015.00
- Biannual Pest Inspection 21/22 \$200.00
- Shire Rates & ESL 22/23 \$7,772.01

2.9 Indicative Floor Plan



3 Respondent's Submission

3.1 Response Form

The Chief Executive Officer
Shire of Broome
27 Weld Street, Broome WA 6725

I/We (Registered Entity Name): _____
(BLOCK LETTERS)

of: _____
(REGISTERED STREET ADDRESS)

ABN _____ ACN (if any) _____

Telephone No: _____ Facsimile No: _____

E-mail: _____

In response to Expression of Interest (EOI) for Lease of Town Beach Café

I/We agree that I am/We are bound by and will comply with this Expression of Interest and its associated schedules, attachments, all in accordance with the Conditions contained in this EOI signed and completed.

I/We agree that there will be no cost payable by the Principal towards the preparation or submission of this Submission irrespective of its outcome.

I/We agree of my/our own free will that the proposed term of this lease is less than prescribed term under the *Commercial Tenancy (Retail Shops) Agreements Act 1985* and that if the submission is accepted an application for approval of the reduced term to the State Administrative Tribunal.

The consideration is as provided under the schedule of rates of prices in the prescribed format and submitted with this Submission.

Dated this _____ day of _____ 20____

Signature of authorised signatory of Respondent: _____

Name of authorised signatory (BLOCK LETTERS): _____

Position: _____

Telephone Number: _____

Authorised signatory Postal address: _____

Email Address: _____

<p><i>documents); and if there is no trust deed, provide the names and addresses of beneficiaries.</i></p> <p><i>viii. Do you intend to subcontract any of the Requirements? If Yes provide details of the subcontractor(s) including; the name, address and the number of people employed; and the Requirements that will be subcontracted.</i></p> <p><i>ix. If you are intending on responding as a separate entity do you agree to provide a Personal Guarantee for the Lease</i></p>	<p>Yes / No</p> <p>Yes / No</p>
<p>d) Financial Capacity</p> <p><i>i. Are you presently able to pay all your debts in full as and when they fall due?</i></p> <p><i>ii. Are you currently engaged in litigation as a result of which you may be liable for \$50,000 or more? If Yes please provide details.</i></p> <p><i>iii. In order to demonstrate your financial ability to undertake this contract, include a profit and loss statement and the latest financial return for you and each of the other proposed contracting entities, together with a list of financial referees from your bank and/or accountant.</i></p>	<p>Yes / No</p> <p>Yes / No</p> <p>Yes / No</p>
<p>e) Insurance Requirements</p> <p><i>i. Respondents are to provide their insurance for the leasing requirements of this Contract for the following:</i></p> <p><i>a. Public Liability (\$20M) for any one occurrence, unlimited occurrences</i></p> <p><i>b. Property, physical or accidental loss or damage for full value</i></p> <p><i>ii. If the Respondent does not currently meet the above minimum insurance requirements, does the Proponent agree to amend its insurance policies to meet these requirements at no additional cost to the Lessor prior to the award of the Lease?</i></p>	<p>Yes / No</p> <p>Yes / No</p>

3.3.2 Assessment Criteria

Before responding to the following qualitative criteria, Respondents must note the following:

- a) All information relevant to your answers to each criterion are to be contained within your Submission;
- b) Respondents are to assume that the Evaluation Panel has no previous knowledge of your organisation, its activities or experience;

- c) Respondents are to provide full details for any claims, statements or examples used to address the qualitative criteria; and
- d) Respondents are to address each issue outlined within a qualitative criterion.

Objective	Submission Requirements	Weighting	Tick If Attached
Reputable and Proven Operator	a) Demonstrate at least five (5) years experience in managing, owning, or operating a café or restaurant b) Demonstrate competency and proven track record in maintaining a viable business.	30%	<input type="checkbox"/>
Financial Capability & Resources	Respondent should demonstrate: <ul style="list-style-type: none"> a) the ability to supply and sustain the necessary: <ul style="list-style-type: none"> • Plant, equipment, materials and staff. • Any contingency measures or backup of resources including personnel, to support optimal opening hours, year-round. b) The financial capability to undertake the proposal and daily running of the café/restaurant to ensure its long-term sustainability 	25%	<input type="checkbox"/>
Proposal that Enhances Trade, and Complements Town Beach Precinct	<ul style="list-style-type: none"> a) Respondent should detail the processes they intend to use to achieve the requirements of the specification b) Respondent must be able to demonstrate how its development proposal will enhance trade, and complement the Town Beach Precinct and Redevelopment c) Respondents must be able to demonstrate how the development proposal will be undertaken including timeline schedules and supporting rationale 	45%	<input type="checkbox"/>