



PART 1

Expression of Interest Conditions

Expression of Interest (EOI):	Purchase or Lease of Lot 2 on RP190451 Inglewood Community Recreation Centre (78 Albert Street, Inglewood)
EOI Number:	EOI-2425/65
Closing Date & Time	12 Noon (AEST) WEDNESDAY, 23rd OCTOBER 2024

Contents

1.	DEFINITIONS.....	3
2.	STRUCTURE OF EXPRESSION OF INTEREST	4
3.	OBTAINING INFORMATION	4
4.	RESPONSIBILITIES OF RESPONDENT	5
5.	FORMAL REQUIREMENTS	6
6.	CONFORMING AND NON-CONFORMING SUBMISSIONS	6
7.	LODGEMENT OF SUBMISSION.....	7
8.	OPENING OF SUBMISSIONS	7
9.	SUBMISSION EVALUATION PROCESS.....	7
10.	CLARIFICATIONS AND VARIATIONS.....	7
11.	COMMISSIONS AND INCENTIVES.....	8
12.	CONFIDENTIALITY	8
13.	SHORTLISTING.....	8
14.	RIGHT TO INFORMATION AND DISCLOSURE	9
15.	OWNERSHIP OF SUBMISSIONS.....	9
16.	INFORMATION PRIVACY	9
17.	GENERAL DISCRETIONS	10
18.	CONFLICT OF INTEREST	10
19.	CHANGE OF CONTROL	11
20.	NO PUBLICITY OR ADVERTISEMENT	11
21.	NO FETTER.....	11
22.	GOVERNING LAW	11

1. DEFINITIONS

1.1 In this Expression of Interest, except where the context otherwise requires:

‘Change of Control’ means in relation to the Respondent:

- (a) if the Respondent is a corporation:
 - (i) a change in the shareholding of the Respondent such that a change in control (as defined in the *Corporations Act 2001* (Cth)) of the Respondent occurs (whether occurring at the one time or through a series of transfers or issues of securities); or
 - (ii) (any other event (including a change or alteration occurs in the corporate structure of the Respondent or the group of companies of which the Respondent is a member) occurs which results in a person other than the shareholders of the Respondent at the date of issue of this Expression of Interest controlling the composition of the board of the Respondent or the voting power of the board or any class of shareholders, or both, of the Respondent, other than where shares or other equity interests in an entity are listed on any recognised Australian or overseas stock exchange and a Change of Control occurs due to any change in the legal or beneficial ownership of any such listed shares or interests;
- (b) if the Respondent is a unit trust:
 - (i) a change affecting the trustee of that unit trust as described in paragraph (a) above (if the trustee is a corporation) or a change in the identity of the trustee itself; or
 - (ii) a change in the beneficial ownership of at least 50% of the units comprising the trust; or
- (c) if the Respondent is a discretionary trust:
 - (i) a change affecting the trustee of that trust as described in paragraph (a) of this definition (if the trustee is a corporation) or a change in the identity of the trustee itself; or
 - (ii) the addition of any new class of beneficiaries or the modification of any classes of beneficiaries under that discretionary trust.

‘Closing Time’ means the closing time for Submissions as set out at the start of this document.

‘Confidential Information’ means any technical, commercial or other information, ideas, concepts, know-how, data, drawings, specifications or designs of any kind:

- (a) owned by the Principal and supplied or made available by the Principal to the Respondent; or
- (b) created by the Respondent, from the material supplied or made available to the Respondent by the Principal for the purposes of submitting the Tender.

‘Contact Person’ means Nominated Council Contact.

‘Contract’ means (if the Principal prepares a short list from persons who respond to the Expression of Interest and invites tenders from the persons on the short list) the document which constitutes or evidences or, as the case may be, all the documents which constitute or evidence the final and concluded agreement for the purchase or lease of the Property between the Principal and the successful tenderer (if any).

‘Expression of Interest’ or **‘EOI’** see Clause 2.1.

‘Expression of Interest Conditions’ means the conditions set out in this document.

‘GST’ has the meaning given in the General Conditions of Contract.

‘Information Memorandum’ means the Information Memorandum comprising Part 2 of the Expression of Interest, including any amendment or addition to the Information Memorandum.

‘Local Government’ means a local government for a local government area described by regulation under the *Local Government Act 2009* (Qld).

‘Personal Information’ has the meaning given in the *Information Privacy Act 2009* (Qld).

‘Principal’ means Goondiwindi Regional Council.

‘Property’ means the land the subject of this EOI as further described in the Information Memorandum that shortlisted Respondent(s) may be invited by the Principal to submit a tender for.

‘Relevant Person’ means the Respondent and each person engaged in the preparation of a Submission on behalf of the Respondent.

‘Respondent’ means any person lodging a Submission.

‘Respondent’s Submission Form’ means the Respondent’s Submission Form comprising Part 3 of the Expression of Interest.

‘RTI Act’ means the *Right to Information Act 2009* (Qld).

‘Submission’ means a Respondent’s Submission Form duly completed by the Respondent, including any templates or attachments to be completed and included in the Submission, and lodged in response to this Expression of Interest.

2. STRUCTURE OF EXPRESSION OF INTEREST

- 2.1 The documents comprising the Expression of Interest are, collectively:
- Part 1 – Expression of Interest (read and keep this part); and
 - Part 2 – Information Memorandum (read and keep this part); and
 - Part 3 – Respondent’s Submission Forms which, when completed by the Respondent, comprises the Submission of the Respondent (complete and return this part).
- 2.2 All parts of the Expression of Interest must be read and construed together so that all parts are as far as possible consistent. Where the documents are inconsistent, the documents should be read and construed in the order of priority from document (a) to (c) as follows:
- Expression of Interest;
 - Information Memorandum; and
 - Respondent’s Submission Form.
- 2.3 This is an Expression of Interest for the purchase or lease of the Property. The Principal may invite Expressions of Interest under Section 228 of the *Local Government Regulation 2012* (Qld) before inviting tenders. This Expression of Interest invites Respondents to lodge a Submission with the Principal by the Closing Time.
- 2.4 After the Closing Time the Principal may prepare a short list from the persons who responded to the Expression of Interest and invite tenders from the persons on the short list.
- 2.5 The issue of the Expression of Interest is not an offer and does not commit the Principal to:
- prepare a short list from the persons who responded to the Expression of Interest; or
 - if the Principal prepares a short list from the persons who responded to the Expression of Interest, invite tenders from the persons on the short list.
- 2.6 The Principal may, in its absolute discretion, decide whether to proceed to tender for the Property.
- 2.7 Eligibility to participate in post Closing Time negotiations and any invitation to tender issued to persons on the short list (if any) will be restricted to Respondent’s who:
- comply with the provisions of the Expression of Interest;
and
 - are identified on the short list prepared by the Principal from the persons who responded to the Expression of Interest.
- 2.8 The issue of the Expression of Interest does not commit the Principal to include any party on the short list in the event that the project identified in the Expression of Interest proceeds.

3. OBTAINING INFORMATION

- 3.1 The Principal will provide the Respondent with the Expression of Interest. No fee is payable for the supply of the Expression of Interest.
- 3.2 Any additional information required by a Respondent may be obtained from the Contact Person.

- 3.3 Respondents must not direct requests for information to, or seek to discuss the Expression of Interest process with, any Councillor or officer of the Principal other than the Contact Person.
- 3.4 The Principal will not be bound by any advice or information furnished by a Councillor or officer of the Principal with respect to the Expression of Interest.
- 3.5 Information provided to the Respondent by or on behalf of the Principal:
- a) will be provided for the convenience of the Respondent only, and, unless expressly incorporated into the Contract (if any), will not form part of the Contract; and
 - b) is not warranted or represented by the Principal as accurate, correct or adequate.
- 3.6 If the Principal makes information available to a Respondent, the Principal reserves the right to distribute the information to each Respondent who has obtained a copy of the Expression of Interest from the Principal.
- 3.7 If requested by the Principal, the Respondent must:
- a) provide further information relating to the Submission; and
 - b) give a presentation at a time and place nominated by the Principal:
 - (i) to demonstrate the Respondent's financial substance; and
 - (ii) to demonstrate its proposed use for the Property; and
 - (iii) in relation to anything else relative to the Submission; and
 - c) authorise the Principal and its agents (in writing, if required) to contact any referee nominated by the Respondent; and
 - d) authorise the Principal (in writing, if required) to obtain information about the Respondent, particularly information relevant to the Respondent's proposed use for the Property, from any third party the Principal considers may be able to provide that information.
- 3.8 The Principal may provide information to Respondents in electronic format.

4. RESPONSIBILITIES OF RESPONDENT

- 4.1 Before submitting its Submission, each Respondent must:
- a) carefully read and consider the Expression of Interest and any other information made available by the Principal with respect to the Expression of Interest and any future process for tendering for the Contract (if any); and
 - b) read and consider all information relevant to the risks and other circumstances relevant to the Expression of Interest; and
 - c) not rely upon information provided by or on behalf of the Principal; and
 - d) independently verify any information provided by or on behalf of the Principal, and satisfy itself that the information is adequate and accurate; and
 - e) satisfy itself that the information in its Submission is accurate and complete; and
 - f) satisfy itself that its Submission complies in all respects with the requirements of the Expression of Interest.
- 4.2 In evaluating Submission, the Principal will rely upon Respondents having complied with the requirements of Clause 4.1.
- 4.4 The Principal will not be liable for the payment of any expenses or losses incurred by the Respondent in connection with:
- a) preparing and lodging its Submission;
 - b) participating in any post Submission activities; or
 - c) otherwise participating in this EOI process.
- 4.5 A Submission will not be considered if the Respondent or anybody on its behalf offers or gives anything to:
- a) any Councillor of the Principal; or

- b) any officer or agent of the Principal, as an inducement or reward that could influence the actions of the person in relation to the Submission.

5. FORMAL REQUIREMENTS

- 5.1 The Submission must be submitted electronically in writing in the form of the Respondent's Submission Form.
- 5.2 The Submission must be fully completed, and include all supporting documents and materials required by the Expression of Interest.
- 5.3 The Submission must contain the Respondent's:
 - a) full name; and
 - b) Australian Business Number (if applicable); and
 - c) postal address and email for the service of notices.
- 5.4 If the Respondent operates as a firm, the Submission must contain:
 - a) full names and addresses of each member of the firm; and
 - b) business name under which the firm trades; and
 - c) firm's postal address and email for the service of notices; and
 - d) the firm's Australian Business Number.
- 5.5 If the Respondent is a corporation, the Submission must contain details of the corporation's:
 - a) name; and
 - b) business name (if applicable); and
 - c) Australian Business Number; and
 - d) registered office; and
 - e) postal address and email for the service of notices; and
 - f) the name, telephone number and address (if different from the address for service of notices) of a natural person who is authorised by the corporation to represent it in relation to the Submission.
- 5.6 If the Respondent is a consortium or a joint venture, the Submission must contain details of:
 - a) the name of each member; and
 - b) the structure of the consortium or joint venture; and
 - c) the role to be played by each member in complying with the terms and conditions of any Contract.
- 5.7 A Respondent must provide an electronic copy via VendorPanel.

6. CONFORMING AND NON-CONFORMING SUBMISSIONS

- 6.1 A Respondent may lodge non-conforming Submissions (being submissions that do not comply with the Submission requirements) only if it has lodged a conforming Submission.
- 6.2 Each non-conforming Submission must be accompanied by a clear summary of all points of difference between the non-conforming Submission and the conforming Submission.
- 6.3 Each non-conforming Submission must be submitted on a separate Respondent's Submission Form.
- 6.4 A Submission may be considered as non-conforming if the Respondent has failed to supply any of the information required by the Expression of Interest, does not comply with any of the requirements of the Expression of Interest or has been lodged subject to any condition or qualification.
- 6.5 If more than one conforming Submission is lodged, each Submission must be accompanied by a clear summary of all points of difference between each conforming Submission.

6.6 The Principal will not be obliged to consider any Submission that does not comply with the requirements of the Expression of Interest.

7. LODGEMENT OF SUBMISSION

7.1 Submissions must be in digital form via the email address: tenders@grc.qld.gov.au by the Closing Time. A Submission will not be considered if it is not lodged via the above email address.

7.2 The Principal may extend the Closing Time at its discretion.

7.3 A Submission is irrevocable for 90 days after the Closing Time. This period may be extended by mutual agreement between the Respondent and the Principal.

7.4 A Respondent must not alter or add to the Respondent's Submission Form unless required by the expression of Interest.

8. OPENING OF SUBMISSIONS

8.1 Submissions will be opened after the Closing Time.

8.2 Submissions will not be opened publicly.

9. SUBMISSION EVALUATION PROCESS

9.1 Respondents will be evaluated by reference to the sound contracting principles in section 104(3) of the *Local Government Act 2009* (Qld), namely:

- a) value for money; and
- b) open and effective competition; and
- c) the development of competitive local business and industry; and
- d) environmental protection; and
- e) ethical behaviour and fair dealing.

And specific evaluation criteria as detailed in Part 3.

9.2 Each Submission will be evaluated using the information provided in the Respondent's Submission Form.

9.3 If a Respondent's Submission Form for a Submission is not fully completed or does not include all supporting documents and materials required by the Expression of Interest, the Submission may be rejected.

9.4 In evaluating Submission, the Principal may:

- a) require presentations from Respondents; and
- b) conduct interviews with Respondent's staff and subcontractors; and
- c) contact Respondents' referees; and
- d) verify that the Respondent holds all necessary permits, licences, approvals and certifications necessary to enable it lawfully to fulfil any proposed use for the Property.

9.5 Respondents must give the members of the evaluation panel of the Principal any cooperation and assistance reasonably requested of them to facilitate consideration of their Submission.

9.6 Compliance criteria for the Expression of Interest are specified in section 3 of the Respondent's Submission Form. Each Submission will be assessed on a Yes/No basis as to whether each of the compliance criterion is satisfied by the Respondent or not. If a Respondent's Submission Form is assessed as "No" in respect of a criterion, the Submission may be rejected.

10. CLARIFICATIONS AND VARIATIONS

10.1 The Principal may issue to Respondents before the Closing Time:

- a) additional information; and

- b) information clarifying or correcting information previously provided, to assist them in preparing their Submissions.

10.2 If the Principal issues information to Respondents under Clause 10.1, each Respondent must take the information into account in the preparation of its Submission.

10.3 After the Closing Time, the Principal may (without limiting its options):

- a) request clarification or further information from any Respondent; and
- b) invite all Respondents to change their Submissions in response to an alteration to the Expression of Interest; and
- c) negotiate with one or more Respondents upon any aspect of their Submission.

11. COMMISSIONS AND INCENTIVES

11.1 A Submission will not be considered if anybody offers or gives anything to a Councillor of the Principal, or any officer or agent of the Principal, as an inducement for the purpose of seeking to influence the manner in which the Submission is evaluated.

12. CONFIDENTIALITY

12.1 The Respondent:

- a) acknowledges that the Confidential Information is sensitive and valuable, and will remain at all times the property of the Principal; and
- b) must not use the Confidential Information for any purpose other than preparing its Submission; and
- c) must not copy any material comprising or containing Confidential Information, other than where (and then only to the extent that) copying is necessary to enable it to prepare its Submission; and
- d) must allow access to the Confidential Information by Relevant Persons only to the extent necessary to enable the Submission to be prepared; and
- e) must obtain the Principal's written consent before disclosing Confidential Information to a person other than a Relevant Person.

12.2 The consent of the Principal to disclosure of the Confidential Information by the Respondent may be given or withheld on such terms and conditions as the Principal considers appropriate.

12.3 The Respondent's obligation under this Clause 12 continues after closure of the Expression of Interest.

12.4 The Principal reserves the right to retrieve from a Relevant Person any Confidential Information held by that person, subject to the Principal having given written notice to the Respondent in writing that the Relevant Person is to be denied access to the Confidential Information.

12.5 Failure or delay by the Principal in enforcing strict compliance with this Clause 12 or pursuing a remedy under this Clause 12 will not constitute a waiver or implied variation of the entitlement or remedy.

12.6 This Clause will not apply to an item of Confidential Information where the Respondent can establish that:

- a) the item has been transferred to the public domain through no fault of the Respondent; or
- b) the item was already in the Respondent's possession when it was supplied or made available by the Principal, and not acquired directly or indirectly from the Principal; or
- c) it has received from the Principal written notification that the Principal no longer requires the Respondent to keep the item confidential.

13. SHORTLISTING

13.1 The Principal may prepare a short list from the Respondents who responded to the Expression of Interest and invite tenders from the Respondents on the short list.

13.2 However, the Principal reserves the right to:

- a) invite tenders from person other than Respondents; and
- b) not to invite tenders from the Respondents, whether on the short list or otherwise.

- 13.3 The Principal does not make any representations, express, implied or inferred, or provide any undertakings to Respondents other than to invite them to lodge a Submission under this Expression of Interest.

14. RIGHT TO INFORMATION AND DISCLOSURE

- 14.1 The RTI Act provides members of the public with a legally enforceable right to access documents held by Queensland Government agencies (including Local Governments).
- 14.2 The RTI Act requires that documents be disclosed upon request, unless the documents are exempt or, on balance, disclosure is contrary to the public interest.
- 14.3 Information contained in a Submission is potentially subject to disclosure to third parties. In the assessment of any disclosure required by the Principal pursuant to the RTI Act, the Respondent accepts that any information provided in its Submission, including information marked as confidential, will be assessed for disclosure in accordance with the terms of the RTI Act.
- 14.4 The Respondent acknowledges that in accordance with the *Local Government Act 2009* (Qld) and *Local Government Regulations 2012* (Qld), the Principal may be required to disclose all, or any part of a Submission or subsequent tender in a report to a meeting of the Principal which is open to the public (**Tender Report**). The Tender Report may be published and disclosed to the public. The Respondent further acknowledges that the Principal may be required to discuss any information contained in a Submission and a Tender Report in an open meeting of the Principal.
- 14.5 The Respondent must familiarise itself with the relevant provisions of the RTI Act dealing with the requirements for disclosure of information by agencies, and the grounds on which access to information may be refused.
- 14.6 The Principal accepts no responsibility for the accuracy or adequacy of any information it provides to Respondents concerning the content or effect of the RTI Act.
- 14.7 The Principal reserves the right to disclose, by publication by means of media of its choosing upon award of any Contract details of the name and address of the successful tenderer, a description of the Property purchased or leased and purchase or lease price for the Property.

15. OWNERSHIP OF SUBMISSIONS

- 15.1 Each Submission (including all supporting documentation and materials submitted by a Respondent as part of, or in support of, a Submission) becomes the property of the Principal on lodgment and will not be returned to the Respondent.
- 15.2 However, the Respondent shall retain copyright and other intellectual property rights in respect of the Submission.
- 15.3 The Principal may reproduce the Submission for the purposes of evaluation and any subsequent tender process or Contract.

16. INFORMATION PRIVACY

- 16.1 The Principal is bound by the provisions of the *Information Privacy Act 2009* (Qld).
- 16.2 By lodging a Submission, the Respondent warrants that it has obtained the consent of each individual whose Personal Information is included in the Submission for:
- a) the inclusion of their Personal Information in the Submission; and
 - b) the use of the Personal Information by the Principal for the purpose of evaluating and awarding the Submission; and
 - c) the disclosure of the Personal Information to other parties (including professional advisors) as may be involved in assisting the Principal with the evaluation of the Submission.
- 16.3 The Respondent must indemnify the Principal against any claim, damage or loss (including legal costs and expenses) that the Principal may incur as a consequence of a breach by the Respondent of the warranty in Clause 16.2.

16.4 Any Personal Information exchanged between the Respondent and the Principal must be dealt with in accordance with the *Information Privacy Act 2009* (Qld).

16.5 The Respondent must immediately notify the Principal upon becoming aware of any breach of this Clause 16.

17. GENERAL DISCRETIONS

17.1 Notwithstanding anything else in this document, the Principal may accept or reject any Submission (whether conforming or non-conforming), cancel the Expression of Interest process, reject any or all Submissions, or carry out any other procurement process at any time prior to the issue of any request for tender, without incurring any liability for cost, expense, loss or damage to any Respondent. The Respondent shall have no claim or right or entitlement whatsoever for compensation or otherwise arising from such action or inaction or the exercise by the Principal of any other right, entitlement or discretion in connection with the Expression of Interest.

17.2 Without limiting the Principal's other rights under the Expression of Interest, the Principal may at any time in its absolute discretion:

- a) provide additional information to any or all Respondents;
- b) discontinue discussions with any Respondent;
- c) invite another person to participate as a Respondent in this Expression of Interest;
- d) enter into discussions with one or more Respondents and without any obligation to notify any other Respondents that it is so proceeding;
- e) by notice, change any of the Expression of Interest documents or any other aspect of the Expression of Interest process; and
- f) by notice, suspend the Expression of Interest process for a reasonable period.

18. CONFLICT OF INTEREST

18.1 The Respondent warrants that to the best of its knowledge, as at the date of its Submission, neither the Respondent nor any of its Personnel have, or are likely to have, any Conflict of Interest in any matters connected with the Expression of Interest process, except as expressly disclosed in its Submission.

18.2 If a Conflict of Interest or any potential or perceived Conflict of Interest arises during the Expression of Interest process, the Respondent must immediately give written notice to the Contact Person.

18.3 The Respondent must:

- a) address any actual, potential or perceived Conflict of Interest, to the Principal's satisfaction;
- b) sign any document (including any statutory declaration) and provide additional information required by the Principal in respect of any actual, potential or perceived Conflict of Interest;
- c) provide any further information requested by the Principal concerning the actual, potential or perceived Conflict of Interest; and
- d) comply with the Principal's probity and Conflict of Interest requirements, as notified in accordance with the Expression of Interest from time to time.

18.4 If a Respondent notifies the Principal of an actual, potential or perceived Conflict of Interest or the Principal becomes aware of the existence of an actual, potential or perceived Conflict of Interest, or the Respondent is connected to the Conflict of Interest of another Respondent, the Principal may, in its absolute discretion:

- a) enter into discussions to seek to resolve such actual, potential or perceived Conflict of Interest;
- b) cease further consideration of and disregard the Submission lodged by that Respondent; or
- c) take any other action, as it considers appropriate (including suspending or terminating the Expression of Interest process).

18.5 Any Respondent who directly or indirectly canvasses support from any Principal Personnel or elected members of the Principal may be immediately disqualified and any Submission submitted not considered.

19. CHANGE OF CONTROL

- 19.1 If the Respondent wishes to change the structure of its entity or entities lodging the Submission during the Expression of Interest process or is aware of any impending or proposed Change of Control during the Expression of Interest process, it must obtain the Principal's prior written consent. The Principal may request further information from the Respondent reasonably required by the Principal to make a decision regarding consent under this Clause 19.1.
- 19.2 If the Respondent effects a Change of Control other than in accordance with Clause 19.1 or is the other party in connection with the Change of Control of another Respondent, the Principal may cease further consideration of, and disregard, the Submission lodged by that Respondent.

20. NO PUBLICITY OR ADVERTISEMENT

- 20.1 The Principal will be solely responsible for all media communications in respect to the Expression of Interest process and any subsequent tender. A Respondent must not issue any advertisement, information, publication, document or article for publication or any statement to the media concerning the Expression of Interest process and any subsequent tender without the prior written consent of the Principal. The Respondent must refer to the Principal any media enquiries concerning the Expression of Interest process or tender.

21. NO FETTER

- 21.1 Despite anything in the Expression of Interest to the contrary:
- a) the Principal is not obliged to exercise any executive or statutory right or duty, or to influence, override, interfere with or direct any other government agency in the proper exercise and performance of any of its executive or statutory rights or duties; and
 - b) nothing in the Expression of Interest has the effect of constraining the Principal or placing any fetter on the Principal's discretion to exercise or not to exercise any of its executive or statutory rights or duties.
- 21.2 The Respondent will not be entitled to make any claim against the Principal relating to any exercise or failure of the Principal to exercise its executive or statutory rights or duties.

22. GOVERNING LAW

- 22.1 Queensland law governs the Expression of Interest. Each party irrevocably submits to the exclusive jurisdiction of the courts of Queensland and the courts of appeal from those courts.