



EXPRESSION of INTEREST

REDEVELOPMENT OF 1 BROKEN HEAD ROAD, BYRON BAY

2017-0050
19 MARCH 2018



Deadline for lodgement of EOIs:

2:00pm, Friday 27 April 2018

Method of addressing EOIs:

EOIs should be addressed:
2017-0050 1 Broken Head Road, Byron Bay, Redevelopment

Submit EOIs to:

The Tender Box
Byron Shire Council, 70-90 Station Street, Mullumbimby

or

www.tendersonline.com.au/byron

Council's nominated contact person:

Name: David Gordon
Email: david.gordon@raywhite.com
Phone: 0418 856 222

Details of EOI briefing/site visit:

Date: 2-3pm on Wednesday 28 March, Wednesday 4 April and
Wednesday 11 April 2018
Location: 1 Broken Head Road, Byron Bay
Mandatory: No
RSVP to contact person above

Site Location





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PART A1: BACKGROUND

1. Overview of EOI Process

1.1 Proponent to inform itself

- Read EOI Documents and any related documents;
- Attend any briefing or site visit;
- Request clarification of any queries or doubts from the Contact; and
- Rely on own knowledge and enquiries in submitting an EOI.

1.2 Completion of EOI

- Complete Returnable Schedules in accordance with the EOI Documents.

1.3 Submission of EOI

- Submit EOI by the Closing Time either electronically or in hard copy in accordance with the EOI Documents;
- EOI will remain open for acceptance during the Validity Period; and
- Proponent must provide any further information in connection with an EOI on request of Council.

1.4 Opening of EOIs

- EOIs will be opened in public after the Closing Time.

1.5 Consideration of EOIs

- The Evaluation Panel will assess EOIs against consistent predetermined criteria as set out in Part F.

1.6 Invitation to Proceed

- Depending on the outcome of the EOI process, any or no Proponents may be invited to either:
 - respond to a Selective Request for Tender; or
 - enter into a form of partnership with Council.
- Both successful and unsuccessful Proponents will be notified in writing of the results of this EOI.

2. Key Information About This Invitation

NAME OF PROJECT:	1 Broken Head Road, Byron Bay
EOI NUMBER:	2017-0050
VALIDITY PERIOD:	120 days
HOW TO SUBMIT AN EOI:	<p>Either</p> <ol style="list-style-type: none">Electronic lodgement:<ul style="list-style-type: none">- Response Schedules- All attachments to be in separate files- Each file uploaded should be clearly labelled as to its contents <p>Or</p> <ol style="list-style-type: none">Hardcopy lodgement:<ul style="list-style-type: none">- 1 original hardcopy; and- 1 electronic copy replicating the original hardcopy
EOI DOCUMENTS:	<p>Part A – Information for Proponents (read and keep this Part)</p> <ol style="list-style-type: none">BackgroundInvitation for Expressions of InterestStandard Conditions of Responding <p>Part B – Returnable Schedules</p> <ol style="list-style-type: none">Returnable Schedules ChecklistCompliance AssessmentCapability Assessment

3. Dictionary

3.1 DEFINITIONS

Business Day	means a day which is not a Saturday, Sunday or bank or public holiday in New South Wales;
Closing Time	means the time and date by which submissions of EOIs need to be made, as specified in the Key Information About This EOI, or another time or date notified in writing to the Proponents by the Contact;
Conditions of Responding	means the Key Information about this EOI and the Standard Conditions of Responding;
Conforming EOI	means an EOI which complies with clause C.1 of EOI Document A3;
Contact	means the person to who all enquiries relating to this EOI are to be directed, as identified on the cover page of this document;
Council	means Byron Shire Council;
EOI	means any EOI lodged by a Proponent in response to this Invitation for EOI;
EOI Documents	means the documents described in clause 1.1 of EOI Document A3;
Evaluation Panel	means the body responsible for assessing EOIs received and recommending successful Proponent(s);
Invitation for EOI	means this Invitation for EOI;
Key Information	about this EOI means the key information about this EOI process, as set out in clause 2 of EOI Document A1;
Local Government Act	means the Local Government Act 1993 (NSW);
Local Government Regulation	means the Local Government (General) Regulation 2005 (NSW);
Nominated Website	means https://www.tendersonline.com.au/byron
Proponent	means a legal entity who lodges an EOI in accordance with this Invitation for EOI.
Returnable Schedules	means the schedules which must be completed and returned by the Proponent as part of its EOI, as set out in EOI Document B1;
Standard Conditions of EOI	means the standard conditions of the EOI process, as set out in EOI Document A3;
Validity Period	means the period commencing from the Closing Time and proceeding for the period identified in Key Information About This EOI.

3.2 INTERPRETATION

Headings are for convenience only and do not affect interpretation. The following rules of interpretation apply unless the context requires otherwise:

- The singular include the plural and vice versa;
- Where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- A reference to a person includes a firm, a body corporate, an unincorporated association or an authority and vice versa and includes the person's successors and permitted assigns;
- A reference to this Invitation for EOI or another document includes any variation, novation, replacement or supplement to any of them from time to time;
- A reference to a part, clause, exhibit, appendix or schedule is a reference to a part of, clause of, exhibit, appendix or schedule to this Invitation for EOI;
- A reference to a right or obligation of two or more persons confers that right, or imposes that obligation, as the case may be, jointly and severally;
- A reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it and any regulations and statutory instruments issued under it;
- A reference to conduct includes any omission, representation, statement of undertaking, whether or not in writing;
- Specifying anything in this Invitation for EOI with the words including, includes, or for example or similar expressions does not limit what else might be included unless there is express wording to the contrary;
- No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of a document; and
- A reference to any thing (including any amount) is a reference to the whole or each part of it and a reference to a group of persons is a reference to any one or more of them.

PART A2: INVITATION FOR EX

1. Vision, Aims and Objectives

1.1 Vision

Delivering better services and results for the Community is a key priority for Byron Shire Council (Council). When it comes to tackling our most pressing issues, we recognise that Council may not be able to solve them alone. The opportunity exists for Council to harness the innovation and capital of the private and non-government sectors (private organisations, not-for-profits, philanthropists and others) to deliver better outcomes for the Community.

Council has a vision to innovatively transform under-utilised land into assets that deliver greater value and benefit to the community. 1 Broken Head Road, Byron Bay (the Site) is strategically located and presents a significant opportunity for Council and the private/non-government sector to establish a partnership to unlock the potential of the site and deliver a range of social, environmental, economic and civic leadership outcomes. Council has a particular vision for this site to yield community and social benefits.

1.2 Purpose

The purpose of this EOI is to:

- Invite proposals from capable and experienced Proponents to enable Council to gauge the level of preliminary interest in the development of the Site for community and social benefit; and
- Based on the level of interest, allow Council to consider proceeding with the project and, if so, to develop a short-list of proponents who will be invited to participate in a Stage 2 formal procurement process.

1.3 Community Strategic Plan Aims

The strategic aims and desired outcomes of the Byron Shire community are captured in the Byron Shire Community Strategic Plan 2022.

Development of the site needs to make a positive contribution to delivering the Byron Shire communities' aims and desired outcomes. The themes, and each of their aims, of the Community Strategic Plan are to deliver:

- **Corporate Management** – effective leadership and ethical and accountable decision making;
- **Economy** – a sustainable and diverse economy which provides innovative employment and investment opportunities in harmony with our ecological and social aims;
- **Society and Culture** – resilient, creative and active communities with a strong sense of local identity and place;
- **Environment** – a natural and built environment that is improved for each generation; and
- **Community Infrastructure** – services and infrastructure that sustains, connects and integrates our communities and environment.

Particular to this site, Council is keen to consider developments achieving the goals of the latter three themes: Society and Culture; Environment; and Community Infrastructure.

A complete version of the Byron Shire Community Strategic Plan can be viewed at:

<http://www.byron.nsw.gov.au/publications/community-strategic-plan-2022>

EXPRESSIONS OF INTEREST

1.4 Strategic Objectives for this Site

Council's strategic objectives for development of the Site are to:

- Deliver a range of social and community benefits, and environmental outcomes which respond to the needs of the community;
- Deliver infrastructure and services to community that may not otherwise be possible, or an income source to fund this;
- Provide accelerated delivery of priority infrastructure projects, or an income source to fund this;
- Retain this valuable land in community ownership;
- Develop the site to deliver quadruple bottom line outcomes and provide best value* to the Byron Shire Community; and
- Be a leader in sustainable design, acting as an exemplar for others in the region to follow.

** 'Best Value' does not mean just best monetary value. A proposal will be Best Value if it achieves Council's objectives and delivers the best outcomes for community (environmental, social, community economic and civic leadership outcomes) with appropriate regard to the allocation, management and mitigation of risk.*

1.5 Objectives for this EOI

The objectives of this Invitation for Expressions of Interest (the Invitation) are to:

- Invite proponents to submit an EOI for the opportunity to participate in the possible future development of the Site;
- Provide background information and details regarding the Site;
- Outline the Stages of the process and applicable timetable; and
- Assess the ability of proponents to fulfil Council's requirements for development of the site.

This invitation for EOI does not constitute an offer by Council to enter into any agreement.

Council may or may not proceed further with this EOI process.

2. The Opportunity and Council Requirement

2.1 The Opportunity

Council is seeking Expressions of Interest from suitably qualified and experienced companies/consortia (Proponents) who would like to partner with Council in the master planning and development of this strategically located site in South Byron.

Council has a preference for 25 years lease term, noting that alternative lease duration will be considered. Key terms include:

- Lease term – 25 years or as negotiated with successful Proponent; and
- Lease amount – subject to conclusion of the procurement process.

2.2 Council Requirement and Anticipated Development

Council has no specific land use or development requirements for the Site. However, some envisaged land use examples which could deliver on the stated strategic objectives include:

- Education;
- Living and active community (affordable housing and childcare);
- Aged care; and
- Environmental/biodiversity/cultural areas.

Given the strategic location of the Site at the southern entrance to Byron Bay, the Site has the potential to host a landmark development that will be a catalyst to stimulate social, community and environmental benefits in particular, but also economic and civic leadership benefits for the Byron Shire.

The development should be sympathetic to neighbouring land uses and complement the Byron Bay Town Centre Master Plan (BBTCMP) 2016 which sets a vision and strategy to guide the future form of Byron Bay's Town Centre. The vision statement for the Byron Bay town centre is 'Connect the centre of Byron Bay with the spirit of its community'. The development at the Site should likewise reflect the spirit of the Byron Bay and Suffolk Park communities.

The BBTCMP can be viewed at:

<http://www.byron.nsw.gov.au/byron-bay-masterplan>

A public access way extends along the northern boundary of the Site providing pedestrian and cycle access between Suffolk Park and Byron Bay. This access way will be retained and operated by Council, though its location is negotiable. Through the proposed partnership, Proponents should outline other aspects of the development proposed to be controlled and operated by Council. These may include:

- Public infrastructure (car parking, roads, cycleways, boardwalks);
- Environmental reserves;
- Public buildings; and
- Recreational areas (sports fields, passive recreation).



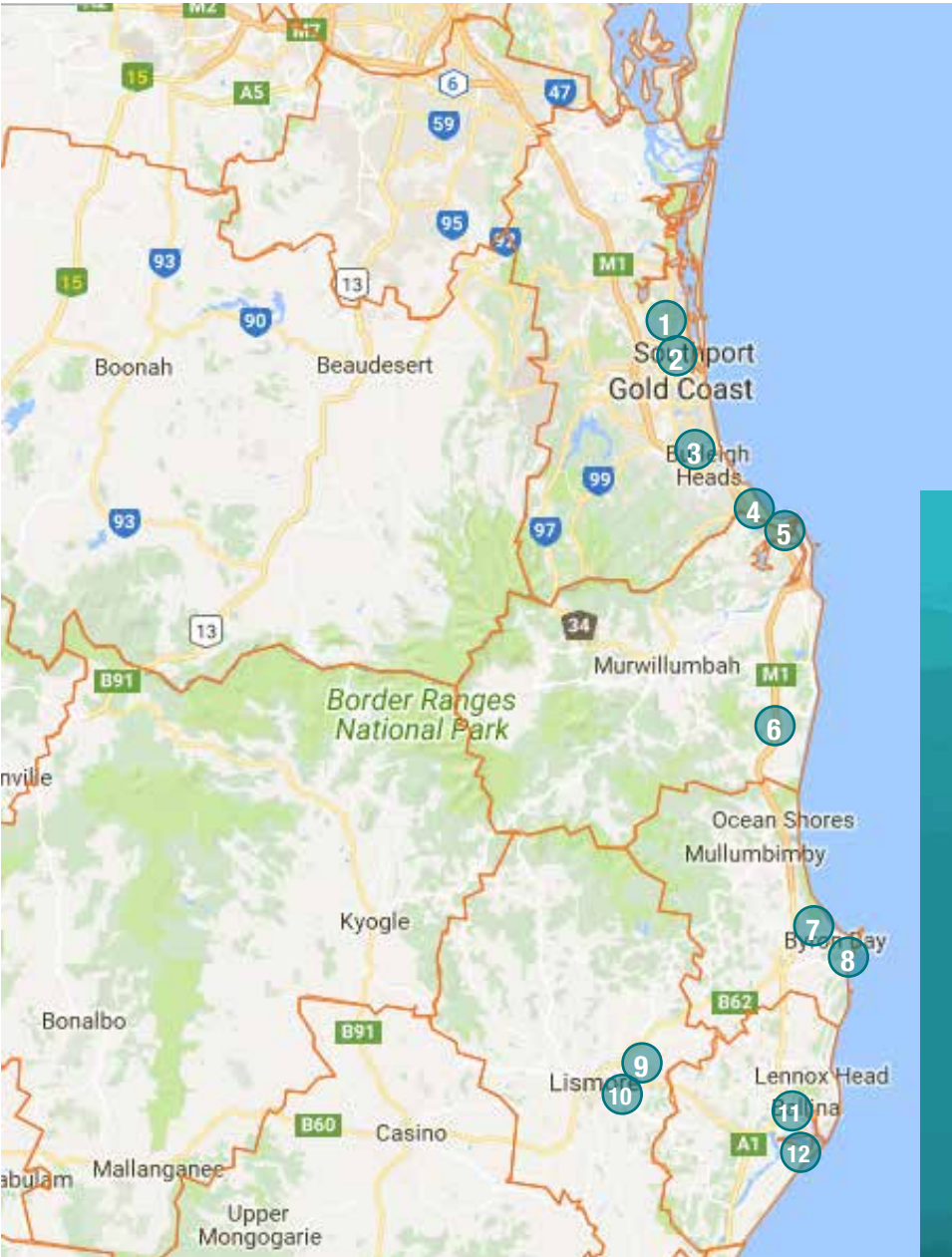
3. The Location

3.1 Byron Bay

Byron Bay is located within Byron Shire on the Far North Coast of New South Wales, about 800 kilometres north of Sydney and 200 kilometres south of Brisbane.

Byron Shire is an internationally recognised destination for tourism and attracts approximately 1.5 million visitors annually. With a population of approximately 32,000, Byron Shire is forecast to grow to 38,000 by 2036.

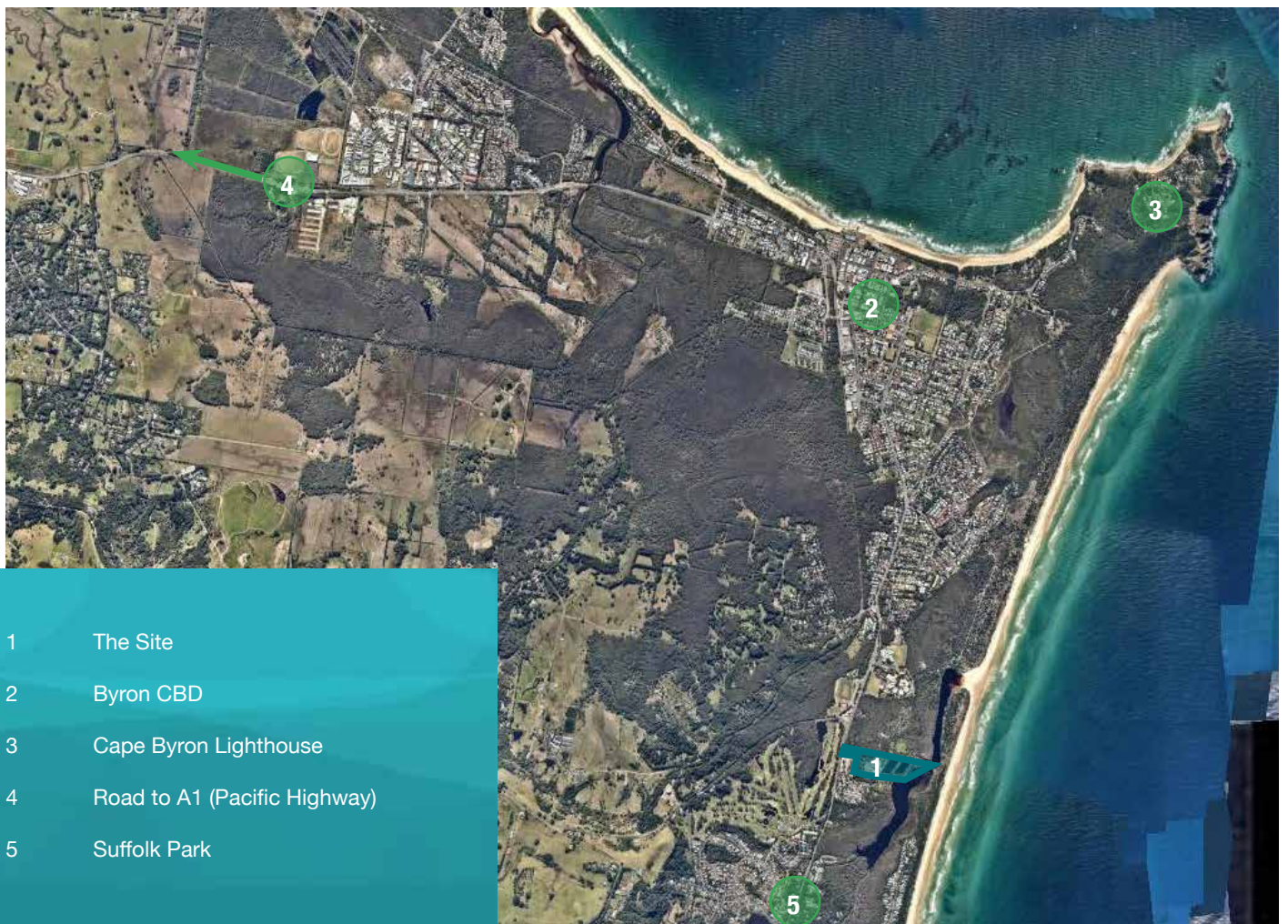
Byron Bay and the wider region is well served by significant soft and hard infrastructure.



- 1 Griffith University, Gold Coast
- 2 Gold Coast University Hospital
- 3 Bond University
- 4 Coolangatta Airport
- 5 Southern Cross University, Gold Coast
- 6 A1 (Pacific Highway)
- 7 Byron Central Hospital
- 8 The Site
- 9 Southern Cross University, Lismore
- 10 Lismore Base Hospital
- 11 Ballina Airport
- 12 Ballina District Hospital

3.2 Site Location

The Site is located in South Byron, between the communities of Byron Bay and Suffolk Park.

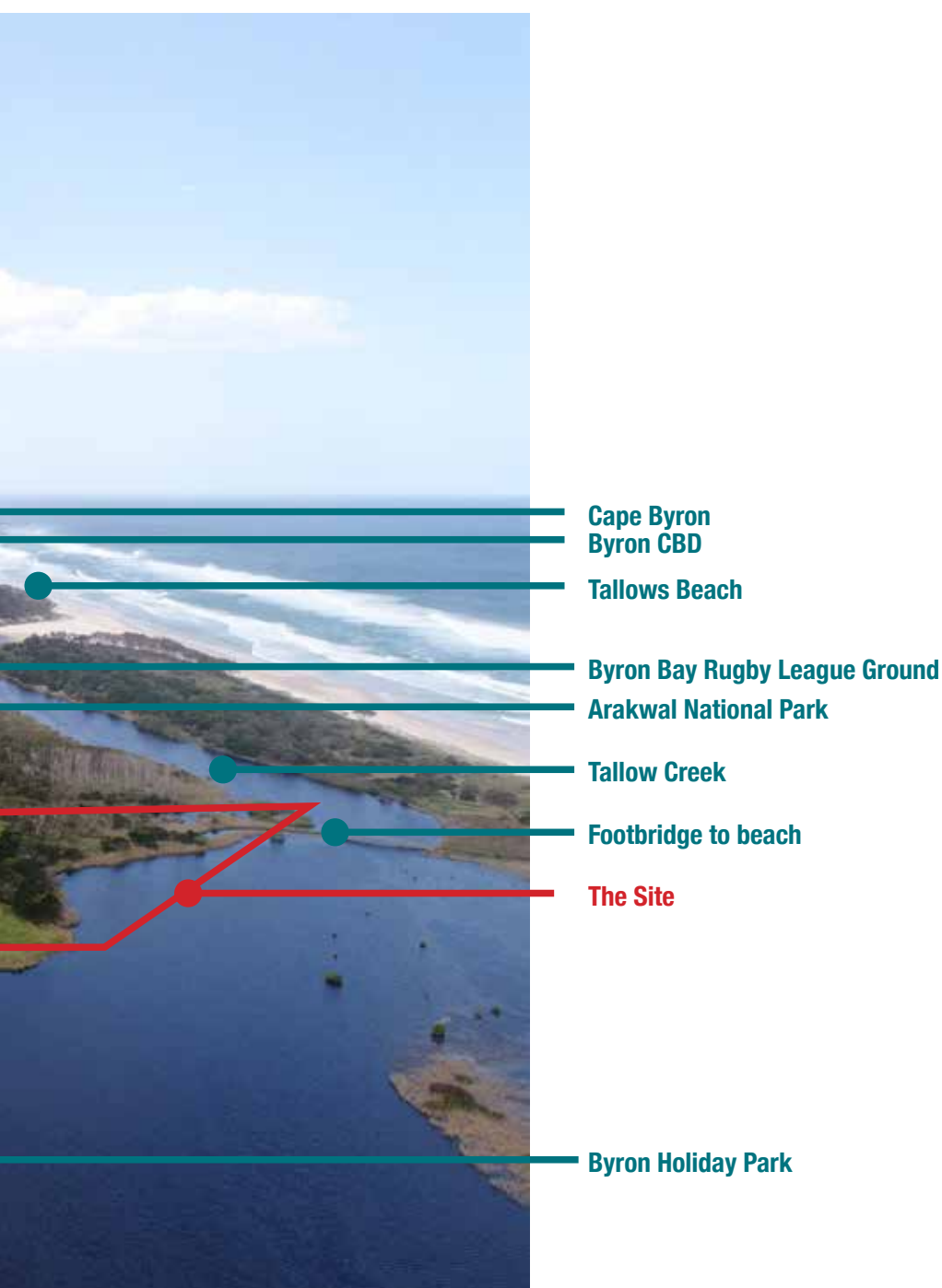


- 1 The Site
- 2 Byron CBD
- 3 Cape Byron Lighthouse
- 4 Road to A1 (Pacific Highway)
- 5 Suffolk Park

The immediate surrounding locality is diverse in nature. The Arakwal National Park is located opposite the Site to the north and east. Tallow Creek forms the eastern boundary. Tallows Beach is located on the eastern side of the coastal reserve and is accessed via a footbridge. The 'Byron Holiday Park' caravan park adjoins part of the western and southern boundary.



Surrounding locality includes the Byron Bay Golf Club opposite to the west and the Byron Bay Rugby League ground to the north-west. Nearby developments range from conventional detached houses, more modern residential developments, semi rural residential properties on above average sized allotments (to the west), The Byron at Byron Resort to the south, a nursing home as well as the nearby local Suffolk Park commercial centre which includes hotel/motel and neighbourhood shopping centre.







Suffolk Park Commercial Centre

Byron Bay Golf Course

The Byron at Byron Resort

The Site



4. The Site

4.1 Summary Details

Address 1 Broken Head Road, Byron Bay NSW 2481

Title Lot 1 DP573835
Lot 2 DP573835
Lot 7 DP580423



Site Area	Lot 1	Lot 1 DP573835	4.8910
	Lot 2	Lot 2 DP573835	2.5930
	Lot 7	Lot 7 DP580423	0.2761
	TOTAL		7.76 ha

Indicative Developable Area 1.99ha

Street Frontage and Access The Site has single road access to Broken Head Road. This road is one of Byron Bay's main arterial roads, servicing the southern section of Byron Bay and Suffolk Park to the towns CBD and Lennox Head and Ballina to the south.

A pedestrian and cycleway currently traverses the northern edge of Lot 1 DP573835, and is a popular and important route connecting Byron Bay and beachside Suffolk Park.

Topography The Site is slightly undulating over the western section and rises to an elevated hill located within the mid-section of the Site. The land then falls to the eastern section of the Site which includes two man made sewerage ponds. The rear eastern boundary of the Site is formed by Tallow Creek.

Services The Site is serviced by water, sewerage, telephone and electric power

LGA Byron Shire Council

Zoning	<p>Byron Local Environmental Plan 2014:</p> <ul style="list-style-type: none"> • RU2 Rural Landscape • W1 Recreational Waterways • DM – Deferred Matter <p>Byron Local Environmental Plan 1988</p> <ul style="list-style-type: none"> • 1(d) Investigation Zone • 5(a) Special Uses • 7(a) Wetlands • 7(f1) Coastal Lands
Existing Improvements:	None
Encumbrances	<p>Existing: a variable width Right of Carriageway runs along the eastern boundary of Lot 1 (see Deposited Plan at right)</p> <p>Future: an easement will be created over the public access way once the final redeveloped location is determined</p>
Constraints	<ul style="list-style-type: none"> • Acid Sulfate Soils (Classes 2 & 3) • Bush Fire Prone Land • Flood Prone Land • High Environmental Value Vegetation
Inspections	By appointment only

4.2 Site Description

The Site is the former South Byron Sewage Treatment Plant (STP). Demolition works were undertaken in 2016 resulting in the removal of infrastructure relating to the treatment plant (comprising holding tanks, sheds and storage buildings and a separate shed that was located on the eastern side of the treatment ponds).

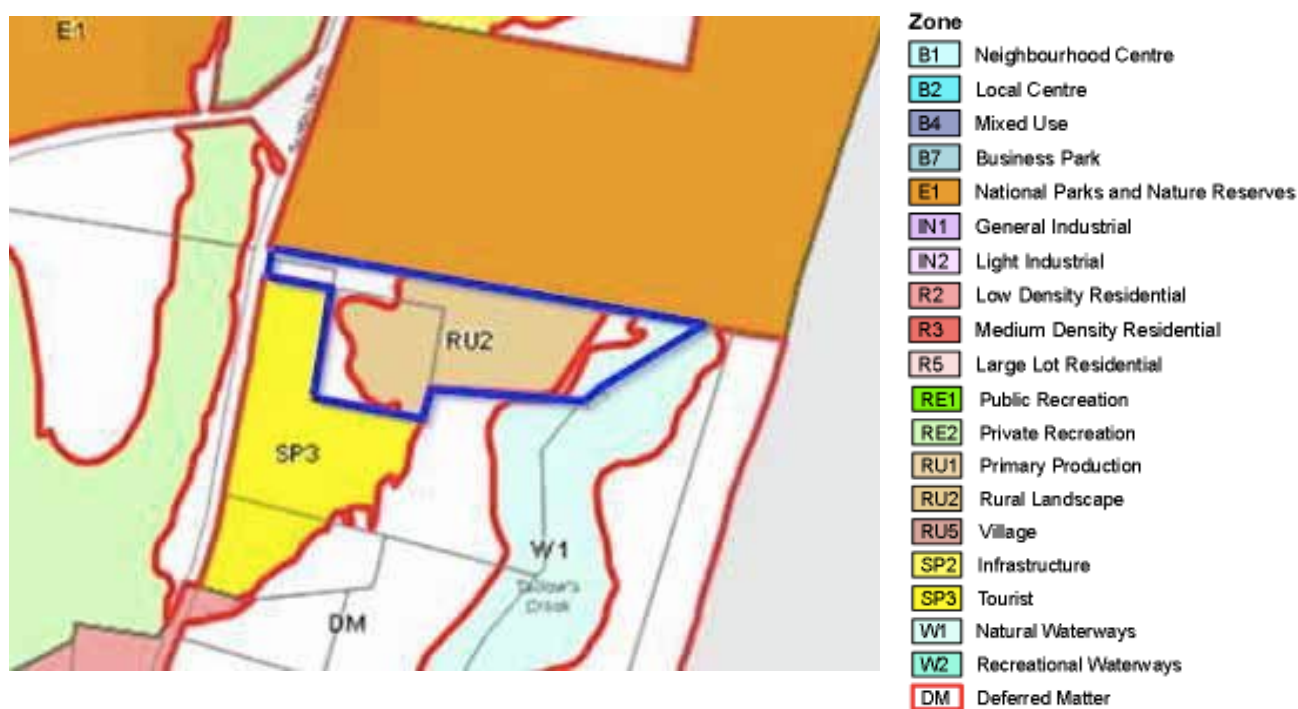
Remediation of the site by Council is underway and completion is anticipated in mid-2018. The site will be remediated to an NEHF A level which allows for the most sensitive receptors using the site in future developments. The remediation is being undertaken in accordance with the NSW site auditor scheme to achieve the requirements of the NSW Contaminated Land Management Act 1997.

[illegible]

4.3 Planning Requirements

The majority of the Site is mapped within the RU2 Rural Landscape zone under the Byron Local Environmental Plan (LEP) 2014. The far eastern section of the property is classified W1 – Recreational Waterways. The balance of the Site is designated as a ‘Deferred Matter’ under the new LEP 2014. The zonings for the Site designated ‘Deferred Matter’ are 1(d) Investigation; 5(a) Special Uses; 7(a) Wetlands and 7(f1) Coastal Lands as per the Byron LEP 1988.

An extract of the combined Byron Local Environmental Plans 2014 and 1988 zoning plan relating to the Site is as follows:



Council is currently progressing a review of ‘deferred areas’. At this time, the suggested zoning for the deferred parts of the land is a combination of E2 Environmental Conservation and E3 Environmental Management.

The E2 Environmental Conservation Zoning is suggested to apply to the part of the Site that forms the access into the property. The provision of vehicular access to any future development of the land may, therefore, require some level of vegetation removal within this area. It is likely, therefore, that impacts associated with that vegetation removal would need to be offset through the use of the NSW Government’s Biodiversity Banking and Offsets Scheme (BioBanking).



5. The Procurement Process

5.1 The Procurement Process

Council has elected to adopt a two stage procurement process. This process comprises two separate stages:

- Stage One – Expression of Interest (EOI)
- Stage Two – Request for Tender (RFT)

This Invitation represents commencement of Stage One of the procurement process. At the conclusion of this Invitation process, Council intends to determine a shortlist of Proponents to be invited to participate in the Stage Two - RFT. It is anticipated that at the end of Stage Two, a Successful Proponent will enter into legally binding documentation pursuant to which the Successful Proponent will deliver the Works on agreed terms (this information will be requested during Stage Two and may include the granting of development rights, project delivery agreement and associated contracts (including a long term lease)).

5.2 Outline Timeline

The indicative timeframe to apply to this Invitation process (Stage One) is detailed below. This timeframe is subject to amendment or variation by Council at its discretion.

19/03/2018	Release of EOI
27/04/2018	Close of EOI
May 2018	Evaluation of EOI submissions
July 2018	Council confirmation of shortlist proponents or determination not to proceed further with procurement process

5.3 Evaluation Criteria

EOI submissions will be evaluated against a number of mandatory and qualitative criteria as set out in Part F.

Any submission that does not meet the mandatory criteria will not be evaluated further.

PART A3: STANDARD CONDITIONS

A. Invitation For Expressions Of Interest

A.1 EOI DOCUMENTS

The EOI Documents are:

- (a) The documents listed in Key Information About This EOI; and
- (b) Any annexure, addendum or amendment to those documents issued by Byron Shire Council before the Closing Time.

The EOI Documents must be read and construed together. To the extent that there is any inconsistency between the documents listed in the Key Information about This EOI and any annexure, addendum or amendment to these, the annexure, addendum or amendment will prevail. When more than one annexure, addendum or amendment is issued with respect to the same subject matter, the latest will prevail.

The EOI Documents must be used solely for the purpose of responding to the Invitation for Expressions of Interest and for no other purpose.

A.2 AMENDMENTS

The EOI Documents may be amended at any time prior to the Closing Time. An amendment may be made by addendum issued to Proponents. No explanation, elaboration of or amendment to the EOI Documents will be binding on Council unless it is in writing and issued as an addendum or amendment to the EOI Documents.

Proponents may be informed of amendments and other information by notices posted on the Nominated Website. To ensure Proponents are notified of any addenda issued, they should visit the Nominated Website, register as a user and download the EOI documentation for this EOI. It is in the Proponent's interest to ensure they have correctly recorded their contact details prior to downloading the EOI documentation.

A.3 INFORMATION PURPOSES ONLY

Any information provided to a Proponent by or on behalf of Council (including as part of the EOI Documents) is:

- (a) Provided for the convenience of the Proponent only and unless expressly incorporated into the Contract will not form part of the Contract; and
- (b) Not warranted or held out by Council as accurate, correct or adequate.

B. Proponent To Inform Itself

B.1 REVIEW OF EOI DOCUMENTS

Each Proponent will, by submitting its EOI, be taken to have fully acquainted itself with the contents of all of the EOI Documents and any documents which are referred to in the EOI Documents.

B.2 INFORMATION AND ENQUIRIES

If a Proponent has any queries or doubts about the meaning of the EOI Documents, it must make a written Invitation to the Contact for clarification.

TIONS OF RESPONDING

B.3 PROPONENT TO RELY ON OWN ENQUIRIES

All information in the EOI Documents and in the pre-EOI briefing/site visit (if any) is provided for the convenience of Proponents only. Proponents acknowledge in receiving this Invitation for EOI and in submitting any EOI that they have relied entirely on their own knowledge and enquiries and they do not rely on any warranties or representations made or purportedly made to them by or on behalf of Council.

Council will not be liable for any representations or warranties made or purportedly made by Council, or their representatives or agents or any other person or company on their behalf, whether in the EOI Documents, any pre-EOI briefing or otherwise.

B.4 PROPONENT NOT TO SOLICIT COUNCIL PERSONNEL

Proponents must not at any time before the Evaluation Panel makes a final decision to accept an EOI, interview or attempt to interview or to discuss or to attempt to discuss any matter about this Invitation for EOI with Council's officials or personnel, other than the Contact. Any EOI submitted by a Proponent that contravenes this clause B.4 will be rejected.

B.5 PROPONENT WARRANTIES

The Proponent warrants to Council that by submitting an EOI:

- (a) It has carefully examined the contents of the EOI Documents and any other information made available by or on behalf of Council for the purposes of Responding;
- (b) It has examined all information relevant to the risks, contingencies, and other circumstances having an effect on the EOI;
- (c) It has informed itself of the nature of the obligations to be performed under the Contract, including the labour, plant, materials, mechanical plant and other resources necessary, suitable or desirable to perform these obligations;
- (d) It has satisfied itself to the sufficiency of its EOI for the supply of the Requirements and obligations in the EOI Documents;
- (e) It has not relied on information provided, or represented to be provided, by or on behalf of Council without independently verifying that information and independently satisfying itself of the adequacy, accuracy and correctness of the information;
- (f) It has not approached Council officials or personnel, other than the Contact, in respect of this EOI;
- (g) Information included in the EOI is accurate complies with all applicable laws; and
- (h) It is acknowledging that it has a firm intention to proceed, should its EOI be successful.

The Proponent acknowledges that the Evaluation Panel will rely on the warranties given in this clause B.5 in considering the EOI. Failure by the Proponent to do any or all of the things it warrants to have done will not relieve the Proponent of its obligations set out in the EOI documents and its EOI.

B.6 NO BUSINESS IN ABUSE

Byron Shire Council is committed to not supporting and/or contracting with companies, institutions, and organisations that profit from practices which abuse the human rights of asylum seekers. Council will only contract with organisations that:

- (i) Have zero tolerance for child abuse, in policy and practice;
- (ii) Respect people's fundamental rights to freedom from arbitrary and indefinite detention;
- (iii) Don't treat people in a cruel, inhumane, or degrading manner; and
- (iv) Commit to transparency and independent monitoring to ensure these principles are upheld.

Additionally, Byron Shire Council will not contract with organisations who gain financial benefit from Australia's offshore detention centres.

B.7 TENDERER'S ASSOCIATION WITH THE ADANI GROUP

In 2017, Byron Shire Council resolved (Resolution 17-585) to not award contracts to organisations that are involved with Adani or the construction of the Carmichael mine.

C. Completion of EOI

C.1 CONFORMING EOIS

Unless indicated otherwise in this Invitation for EOI, an EOI must:

- (a) Be completed (in every detail) and submitted in the form of Part B;
- (b) Include all information required by the EOI Documents;
- (c) Not contain any conditions or qualifications;
- (d) Meet the mandatory criteria as set out in Part F; and
- (e) Comply with this Invitation for EOI, including these Standard Conditions of EOI and the Requirements set out in Part A4.

Any EOI which does not comply with the requirements of this clause C.1 may be rejected or, at the discretion of the Evaluation Panel, be considered as a "non-conforming" EOI.

C.2 OPTIONS AND PARTS

If the EOI Documents indicate that the Proponent may lodge an EOI in respect of any optional or individual part of the specified requirements, a Proponent must:

- (a) Clearly state which options or parts of the requirements are included in the EOI; and
- (b) Compile its EOI so that the information pertaining to each option or part is clearly differentiated.

D. Submission of EOI

D.1 LODGEMENT OF EOI

EOIs must be submitted in writing:

- (a) By the Closing Time;
- (b) Including the number of copies of the EOI identified in the Key Information about this EOI. Note: EOIs must be completely self-contained and not include any hyperlinked or other material incorporated by reference; and
- (c) Either by:
 - (i) Electronic lodgement at <https://www.tendersonline.com.au/byron> in accordance with clause D.2 below and any terms of use of the Nominated Website; or
 - (i) Delivery to the address for submission identified on the cover page of this EOI in accordance with clause D.3 below.

Proponents must familiarise themselves with, and ensure they understand, the processes for lodgement, including any terms of use of the Nominated Website. It is the Proponent's responsibility to submit an EOI in accordance with the conditions of EOI, in a legible form and, in the case of electronic submission, in an uncorrupted format and by secure means. Unless clauses D.2(d) or D.3(b) (as applicable) or the Local Government Regulation otherwise provides, any EOIs received after the Closing Time will NOT be considered.

Proponents should only provide the information requested in this EOI. Marketing materials should not be submitted.

All EOIs lodged will become the property of Council and on no account will they be returned to the Proponent.

D.2 ELECTRONIC LODGEMENT

The following conditions apply to EOIs lodged electronically:

- (a) Each file submitted should be no greater than 8 megabytes in size;
- (b) Proponents must ensure that transmission of all files is completed and receipted before the Closing Time;
- (c) The time displayed on the Nominated Website is deemed to be the correct time and will be the means by which the Evaluation Panel will determine that EOIs have been lodged by the Closing Time;
- (d) EOIs received after the Closing Time will not be accepted unless the delay in receipt is caused by an error with the Nominated Website (eg a system outage) as confirmed by the operators of the Nominated Website;
- (e) The judgement of the Evaluation Panel as to the time an EOI has been lodged will be final; and
- (f) Late EOIs, incomplete EOIs, including those with electronic files that cannot be read or decrypted or otherwise in an incompatible format, EOIs which the Evaluation Panel believes to potentially contain any virus, malicious code or anything else that might compromise the integrity or security of the Nominated Website and/or the recipient's computing environment, will be excluded from evaluation.

D.3 HARD COPY LODGEMENT

The following conditions apply to EOIs lodged in hard copy:

- (a) EOIs lodged in hard copy must be enclosed in a sealed envelope with the number of the EOI and the project name clearly marked;
- (b) All hard copy EOIs must be accompanied by a replica copy on USB drive or similar. The electronic replica is provided for Council's convenience and, if there is any difference between the hard copy original and electronic replica, the hard copy original will prevail;
- (c) Hard copy EOIs are not to be bound; and
- (d) EOIs sent by post and received at Council's address after the Closing Time will be deemed to have been received before the Closing Time only if:
 - (i) The envelope bears a postal authority post mark clearly indicating that the time and date of posting were before the Closing Time; and
 - (i) The EOI would otherwise have been able to be received by the Closing Time in the usual course of business.

D.4 EXTENSION OF CLOSING TIME

Council may, at its absolute discretion, extend the Closing Time for the submission of EOIs. Proponents may also request to extend the Closing Time by written application to the Contact. Any such request must be received by the Contact at least 3 Business Days before the Closing Time, and must provide sufficient reasons to support the request. Note: a request does NOT GUARANTEE an extension of time.

D.5 VALIDITY PERIOD

All EOIs submitted will remain open for acceptance during the Validity Period. The Proponent may not withdraw or, unless permitted by the Local Government Regulation, amend an EOI during the Validity Period.

D.6 FURTHER INFORMATION TO BE PROVIDED BY PROPONENTS

The Proponent must if requested by Council:

- (a) Provide further information in relation to the EOI, or the Proponent's performance or financial capabilities;
- (b) Allow representatives from Council to inspect any facility or equipment proposed for use in the performance of the Contract;
- (c) Allow representatives from Council to contact any referee nominated by the Proponent and to obtain information about the Proponent from any third party who Council reasonably considers may be able to provide information about the Proponent or which is pertinent to the EOI; and
- (d) Attend an interview to discuss its EOI.

The Proponent must provide any further information requested by or on behalf of Council within the time nominated by Council.

Any information supplied by the Proponent in response to a request for information or at an interview, under this clause D.6 will, if required by Council, form part of the Proponent's EOI.

E. Opening of EOIs

EOIs will be opened in public immediately following the Closing Time.

F. Consideration of EOIs

F.1 ASSESSMENT CRITERIA

The Evaluation Panel will assess EOIs against consistent predetermined criteria. The following assessment criteria apply.

Mandatory Criteria

- (a) Valid Australian Business Number (ABN);
- (b) Evidence of financial capacity to develop the Site;
- (c) Commitment to ethical business practice principles;
- (d) Proponent does not gain financial benefit from Australia's offshore detention centres; and
- (e) Proponent is not involved in development or operation of the Carmichael mine and/or does not otherwise have ties to the Adani Group.

Qualitative Criteria

- (a) Profile and relevant experience of the Proponent;
- (b) Demonstration of the ability of the Project to address Council's strategic objectives of the site including economic, environmental, social/community, and civic leadership benefits;
- (c) Funding approach;
- (d) Proposed approach to the development; and
- (e) Proposed approach to the delivery of the project.

The qualitative criteria are not necessarily of equal weighting or presented in any particular order.

The Evaluation Panel will evaluate EOIs in accordance with a pre-determined EOI evaluation plan.

F.2 EVALUATION PROCESS

The Proponent may (without limitation to any other action that may be open to it):

- (a) Seek further information from Proponents for the purposes of clarification or explanation of their EOI; and
- (b) Decide not to proceed further with the EOI process.

G. Determination Of Proponents To Proceed To Next Stage

Council shall evaluate EOI submissions in accordance with this EOI Document. Following this evaluation, Council shall determine the Proponents to proceed to the next stage as follows:

- (a) Invite selected proponents to respond to a selective Invitation for Tender in accordance with the Local Government Regulations; or
- (b) Negotiate with a preferred proponent with the view to entering into a form of partnership; or
- (c) Not proceed further with this process; or
- (d) Any other course of action legally available to it.

Council specifically reserves the right not to accept any EOI to proceed to the next stage.

Council reserves the right, in its absolute discretion, to decline to accept the EOI of any or all Proponents. This Invitation for EOI will not oblige Council to proceed with any further action.

H. Confidentiality

Information provided in this Invitation for EOI or imparted to any Proponent as part of the EOI process must not be used by the Proponent for a purpose other than to allow the Proponent to prepare and lodge an EOI.

Information supplied to Council by a Proponent will not be treated as commercially confidential unless specifically requested by the Proponent.

By submitting an EOI, each Proponent acknowledges that:

- (a) Council is under statutory obligations concerning the management and public release of information held by it; and
- (b) The Proponent will not object to the release of any information contained in an EOI in accordance with those statutory requirements, or claim damages from Council arising from the release of such information.

I. Costs And Expenses

The Proponent must bear its own costs and expenses in preparing its EOI. The Proponent has no entitlement to make any claim for any costs, losses, expenses or damages it may suffer as a consequence of the EOI process.

J. Collusion

In consideration of being invited to EOI, the Proponent promises as a fundamental condition that it will not engage in any uncompetitive behaviour or other practice which denies legitimate business opportunities to other Proponents or other participants in the EOI process. In particular, the Proponent promises that:

- (a) It has, at the time of submission of its EOI:
 - (i) No knowledge of the details of the EOI of any other Proponent;
 - (ii) Not entered into any agreement with other Proponents as to who should be the successful Proponent;
 - (iii) Not been involved in any meetings of Proponents to discuss EOIs prior to the submission of the EOIs, if a representative of Council is not present; and
 - (iv) Not been involved in the exchange of information with other Proponents about the EOI.
- (b) Is not, at the time of submission of its EOI, a party to any contract arrangement or understanding:
 - (i) Pursuant to which there is or will be a payment or allowance of money or the securing of reward or benefit for unsuccessful Proponents by the successful Proponent;
 - (ii) Between it and any other Proponent pursuant to which prices or conditions relating to the EOI or the Requirements or any contract for the Requirements are fixed;
 - (iii) To pay or allow any money or secure any reward or benefit directly or indirectly to a trade or industry association (above the standard fees) in relation to this EOI (except as disclosed in the EOI); and
- (c) The Proponent will not submit a cover EOI (that is an EOI that purports to be genuine but which has been deliberately written in order not to win the Contract or commission) and will not provide any assistance to another Proponent to do so.

If a Proponent is in breach of this clause J, Council may:

- (a) Refuse to consider its EOI or EOIs; and
- (b) Take such other action as it is entitled to take at law, including referring any evidence of collusion to the Australian Competition and Consumer Commission.

K. No Business In Abuse

Byron Shire Council is committed to not supporting and/or contracting with companies, institutions, and organisations that profit from practices which abuse the human rights of asylum seekers. Council will only contract with organisations that:

- (a) Have zero tolerance for child abuse, in policy and practice;
- (b) Respect people's fundamental rights to freedom from arbitrary and indefinite detention;
- (c) Don't treat people in a cruel, inhumane, or degrading manner; and
- (d) Commit to transparency and independent monitoring to ensure these principles are upheld.

Additionally, Byron Shire Council will not contract with organisations who gain financial benefit from Australia's offshore detention centres.

L. Tenderer's Association with the Adani Group

In 2017, Byron Shire Council resolved (Resolution 17-585) to not award contracts to organisations that are involved with Adani or the construction of the Carmichael mine.

PART B: RETURNABLE SCHEDULES

B1: RETURNABLE SCHEDULES CHECKLIST

The Proponent, having read, understood and fully informed itself of the contents, requirements and obligations of the Invitation for EOI, submits this EOI to supply the Requirements to Byron Shire Council for the EOI Price in accordance with the EOI Documents and the Contract and confirms that each of the following documents which are required to be delivered as part of the EOI are attached.

SCHEDULE	DESCRIPTION OF DOCUMENT	COMPLETE (please initial)
B1	Returnable Schedules Checklist	
B2	Compliance Assessment B2.1 Proposal Form B2.2 Conflicts of Interest Declaration B2.3 Statement of Conformance B2.4 Financial Details B2.5 Civic Leadership B2.6 Environmental Sustainability	
B3	Capability Assessment B3.1 Profile and relevant experience B3.2 Proposal Vision and Approach	

This EOI remains open for acceptance for the Validity Period from the Closing Time.

Signed by or on behalf of the Proponent:

.....
Signature of authorised signatory

.....
Position of authorised signatory

.....
Name of authorised signatory

.....
Date

B2: COMPLIANCE ASSESSMENT

B2.1 PROPOSAL FORM

Legal Name of Proponent	<i>(Include full legal name)</i>
	<i>Note: if the EOI is on behalf of a trust, include the trustee's name as the Proponent with the words "as trustee for" in front of the name of the trust. The trustee must execute this EOI as trustee for the trust in accordance with the trust documents.</i>
Trading Name(s)	<i>(Include details of any trading name of the Proponent)</i>
Legal capacity of Proponent	<i>(Company/Partnership/Trust/Individual)</i>
ABN	
Street Address	
Postal Address	
Email	
Phone	
Contact	Name: Phone: Email:
License details/details of membership of professional bodies	<i>(Include current details of any license numbers or membership details which you are required to have by law or by the EOI Documents to provide the Requirements or which you propose to use to provide the Goods/ Services)</i>
Acknowledgement of Addenda.	<i>[include here a list of all addenda you received as part of the EOI process]</i> 1. 2. 3. By listing addenda here you acknowledge that you have incorporated the requirements of the addenda in your EOI.

B2.2 CONFLICTS OF INTEREST

Byron Shire Council's employees, suppliers and customers are bound by Council's Business Ethics Policy when conducting all interaction. A copy of Council's Business Ethics Policy is attached to this EOI. This requires probity in all dealings including those conducted with prospective or successful suppliers. Council has adopted the Business Ethics Policy to ensure that functions are undertaken efficiently, impartially and with integrity. Conniving or inducing a breach of the Business Ethics Policy may constitute grounds for termination of the Contract.

Proponents must

- (a) Disclose any affiliation or associated with Byron Shire Council that could be deemed to constitute a conflict of interest; and
- (b) Include any other circumstances or relationships that will constitute a conflict, potential conflict or perceived conflict of interest if their EOI is accepted.

If any conflict, whether actual, potential or perceived, exists, the EOI should advise how it proposed to address and eliminate this conflict.

Council may terminate the Contract if it is shown that a successful Proponent has failed to disclose as part of its EOI any conflict of interest. Council may reject any future EOIs from a Proponent who fails to disclose details of actual, potential or perceived conflicts of interest.

B2.3 STATEMENT OF CONFORMANCE

Compliance with this Invitation for EOI refers to all clauses in all Parts and means that, where applicable:

- The Proponent has noted and understood the clause;
- The EOI complies fully with the clause; and
- The Proponent has provided all information requested in the clause.

List in the table below all areas of non-conformance with the Invitation and the reason(s) for the non-conformance:

Area of non-conformance	Reason(s) for non-conformance

B2.4 FINANCIAL CAPACITY

Financial Capacity

- The demonstrated financial capacity of the Proponent to deliver a project of this scale, and the demonstrated experience of the Proponent in raising finance for similar projects (financial statements are not required to be provided at this stage, but Council reserves the right to require copies to be provided if necessary when evaluating Submissions).
- Outline the proposed strategy for procuring finance (debt and equity) and an indicative funding structure for the project.

Relevant details for the Proponent

Proponents must prepare and attach to this schedule a report detailing the following information:

- material regulatory or law enforcement agency investigations of the Proponent (or any of its Related Entities);
- material instances of contract termination for cause against the Proponent;
- liquidation or deregistration proceedings against the Proponent;
- recent or imminent mergers/acquisitions (as can be notified);
- legal proceedings for financial indebtedness of over \$2 million within the last 5 years;
- any other event or factor that could have a material impact on the financial capacity and standing of the Proponent;
- a statement confirming the solvency of the Proponent (and parent company where support is being provided); and
- details on any future or forecasted projects or commitments that may or may not affect the Proponent's financial capacity.

Funding Approach

Proponents must prepare and attach to this schedule a report detailing the following information:

- The proposed mix of debt and equity funding for the development, including description of any potential taxation benefits from the proposed funding instruments; and
- If known, details on the identity and type of entities supplying the proposed Project debt

B2.5 CIVIC LEADERSHIP

- (a) Does the Proponent gain any financial benefit from Australia's offshore detention centres?
- (b) Does the Proponent have any involvement with the construction or operation of the Carmichael mine or any other ties to the Adani Group?
- (c) Please confirm your commitment to the following ethical business practices:
 - Eradication of child labour from your supply chains
 - Eradication of slave or forced labour from your supply chains
 - Upholding of human rights of workers in your supply chains
 - Commitment to transparency and independent monitoring to ensure these principles are upheld
 - Ethical business practices
 - Community participation
 - Community ownership
- (d) Please attach copies of any accreditation the Proponent holds in relation to ethical supply chains and business practices

B2.6 ENVIRONMENTAL SUSTAINABILITY

Please complete the following questionnaire:

- Has the Proponent ever been found guilty of a breach of NSW environmental legislation? If yes, please provide details.

PART B3: CAPABILITY ASSESSMENT

B3.1 PROFILE AND RELEVANT EXPERIENCE

B3.1.1 PROPONENT PROFILE

Proponents must provide the following information (as applicable)

- (a) Details of the size of their organisation;
- (b) Details of their corporate structure;
- (c) Brief history of their organisation; and
- (d) Levels of expertise

Please limit answer to no more than 2 pages.

B3.1.2 PREVIOUS RELEVANT EXPERIENCE

Proponents must provide details of up to four recent projects (within the past five years) that demonstrate expertise applicable to the Opportunity and Council Requirements, and/or experience contracting with Local Government.

EXAMPLE 1
Project name and location
Contracting parties
Type of project
Description and key elements of the project including size and scope (construction cost in \$AUD, gross floor area, etc.)
Examples and evidence of leadership in environmentally sustainable design
Social/community benefits delivered
Environmental benefits delivered
Time frame for delivery

EXAMPLE 2

Project name and location

Contracting parties

Type of project

Description and key elements of the project including size and scope (construction cost in \$AUD, gross floor area, etc.)

Examples and evidence of leadership in environmentally sustainable design

Social/community benefits delivered

Environmental benefits delivered

Time frame for delivery

EXAMPLE 3

Project name and location

Contracting parties

Type of project

Description and key elements of the project including size and scope (construction cost in \$AUD, gross floor area, etc.)

Examples and evidence of leadership in environmentally sustainable design

Social/community benefits delivered

Environmental benefits delivered

Time frame for delivery

EXAMPLE 4

Project name and location

Contracting parties

Type of project

Description and key elements of the project including size and scope (construction cost in \$AUD, gross floor area, etc.)

Examples and evidence of leadership in environmentally sustainable design

Social/community benefits delivered

Environmental benefits delivered

Time frame for delivery

B3.1.3 REFEREES

Proponents must provide details of no fewer than three client or partner / joint venture referees:

Company Name	
Contact Name	
Phone	
Email	
Project Name	

Company Name	
Contact Name	
Phone	
Email	
Project Name	

Company Name	
Contact Name	
Phone	
Email	
Project Name	

B3.2 VISION AND APPROACH

Proponents are to prepare and attach to this schedule a report (max 8 A4 pages in length plus any concept plans that Proponents may wish to submit) outlining their innovative vision and approach to development on the Site. The report should cover the following:

- (a) Development proposition for the Site including details of how they will address Councils Strategic Objectives for the Site, particularly in relation to delivering social/community, environmental, economic and civic leadership outcomes and benefits
- (b) Proposed approach to development (high level summary only) including (as applicable):
 - Product typology and positioning
 - Development mix
 - Staging
 - Sustainable leadership and innovation
 - Integration of various uses
- (c) The delivery approach to the project should include consideration of the following key areas:
 - Project structure
 - Statutory planning
 - Stakeholder and community engagement
 - Design excellence
 - Construction
 - Sales and marketing
 - Management and long term ownership
 - Sustainability
 - Staging

Plans of detailed designs are not required at this stage. However, if desired Proponents may submit high level concept plans to support and clarify the information being provided as part of this schedule.

END OF RETURNABLE SCHEDULES