



**South Burnett**  
Regional Council

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Request for Tender No. SBRC-20/21-08

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Lease for the management and operation of Ringsfield  
Cairns Street, Nanango  
described as Lot 9 on SP307587 and Lot 5 SP156194

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## Request for Tender No. SBRC-20/21-08

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This Request for Tender (**RFT**) has been prepared by:

Name: Rebecca Bayntun

Position: Senior Lease and Property Management Officer, South Burnett Regional Council

Signature: 

Date: 21/10/2020

### Revision history

Version No.	Date issued	Author
1.0	22/10/2020	Rebecca Bayntun

## Part 1 - Background information

### Background

Council, as Principal under this RFT, is offering by tender to interested parties (**Tenderers**), a lease for the operation and management of the historically significant house in Nanango, known as Ringsfield House, and associated grounds and buildings (Ringsfield).

The Principal is offering to enter into an agreement for a two (2) year period with an option of additional three (3) by one (1) years to manage and operate Ringsfield. The lease agreement will include clauses and conditions to govern the management and operation of the property, identify roles and responsibilities, and outline expenses and income.

There are a several opportunities that Ringsfield provides to prospective Tenderers. The Principal expects that all Ringsfield buildings be open to the public as a community destination with the main opportunities at Ringsfield being as a historical display with tours, functions and weddings, café and commercial kitchen.

The Principal is looking for a thoughtful and considered approach to management and operation of Ringsfield.

The Principal will evaluate each Tender Submission to identify and select the Successful Tenderer that is suited to, qualified for and financially prepared to manage and operate Ringsfield.

The Principal suggests interested parties should consider in their proposal to manage and operate Ringsfield:

- Marketing and promotion for Ringsfield as a destination offering a variety of opportunities for use;
- Communication plan considering what groups or members you are working with, how you will engage the community and involve other community groups.
- Maintenance and Servicing at Ringsfield including:
  - mowing and grounds maintenance,
  - building maintenance,
  - garbage and waste collection,
  - servicing and maintenance of the commercial kitchen including Combi Oven, Stovetop oven, Grease Trap
  - Trade Waste Permit
  - Food Business Licence
  - water supply and testing of water tanks
  - pest control
  - Financials including ability to undertake the management and operation of Ringsfield, funding sources, income and expenses.
- Work Place Health and Safety including risk management and Insurance

The facilities are being offered in its current operational condition and Respondents are required to undertake their own investigations as to the quality and fitness for use of the facilities and improvements for their intended purposes.

#### 1.1 Description of Ringsfield

The Ringsfield property was built as a private residence in 1908 as a 14 room villa. Ringsfield remained as a private residence until 1942 when it was opened as a maternity hospital. The maternity hospital closed in 1969 but was reopened as a women's refuge in 1973.

Since 1995 the Nanango and District Historical Society, in corporation with the Principal, has managed and improved the Ringsfield property, with the addition of many outbuildings, including the relocation of the Nanango Presbyterian Church and Nanango Primary School building.

*a) Ringsfield House*

Ringsfield house is a large historically significant residence which now houses historical displays, has a large kitchen capable of being used commercially, and a verandah café overlooking the gardens.

*b) Gardens*

Extensive established gardens complement the house and are often used for weddings, special occasions, marquee receptions and photographs.

*c) Nanango State School building*

This school building was relocated to the Ringsfield property and restored as a conference and meeting room catering for up to 30 people. Known as the Pat Lee Meeting Room it houses historical displays and items which complement the building but do not impede the functionality of the space.

*d) Nanango Presbyterian Church*

The church was relocated to the Ringsfield property and has been fully restored as a church. It is air-conditioned, and once had video equipment installed for regular movie nights.

*e) Various outbuildings*

Outbuildings have been constructed on the property in keeping with the heritage value of the house including the Coach Shed, Sheppard's hut, and accessible toilet. Other structures around the grounds include shade sails, picnic tables, raised timber garden beds and a garden shed.

**1.2 Brighthaven residential units**

Please note that the residential units, known as Brighthaven, located at the western boundary of Ringsfield **ARE NOT** included in this tender. Any lease offered to the Successful Tenderer will exclude the units and surrounds.

**1.3 Shared driveway**

The driveway which is located adjacent to Brighthaven units is a shared driveway and not for the exclusive use of Ringsfield. The driveway is used for access to and parking for the Brighthaven units.

**1.4 Ancillary improvements and contents**

A full inventory of historical items and artefacts will be included as part of any agreement offered to the Successful Tenderer.

## Part 2 - Procurement Details

<b>Procurement Process:</b>	
<b>Action</b>	<b>Date (and time if applicable)</b>
Issue RFT	Thursday 22 October 2020
Tender Closing Date	Friday 20 November 2020
Tender award	Upon Council decision

<b>Tender</b>	SBRC - SBRC-20/21-08
<b>Tender Validity Period</b>	120 days from RFT Closing Time
<b>Tender Delivery Requirements</b>	<p>Tender submissions must be lodged by hardcopy <b>OR</b> by email.</p> <p><u>Lodgement by hardcopy</u> is to be delivered to South Burnett Regional Council Customer Service Centres at Nanango or Kingaroy by the tender closing date and time.</p> <p><u>Lodgement by email</u> is to be sent to <a href="mailto:info@southburnett.qld.gov.au">info@southburnett.qld.gov.au</a> with "Tender No. SBRC-20/21-08" in the subject title.</p>
<b>Page Limit</b>	Not applicable
<b>Tender Closing Time</b>	<b>2pm</b> Australian Eastern Standard Time.
<b>Contact Officer</b>	<p>Name: Rebecca Bayntun            Address: PO Box 336, Kingaroy            Telephone: 07 4189 9100            Email: RBayntun@southburnett.qld.gov.au</p>
<b>Principal's representative for handling Tenderer complaints</b>	Chief Executive Officer
<b>Tender briefing</b>	Inspection by appointment only
<b>Evaluation Criteria</b>	<ol style="list-style-type: none"> <li>1. Tenderer's proposal               <ul style="list-style-type: none"> <li>• Operation and management of Ringsfield</li> <li>• Other community group involvement</li> <li>• marketing and promotion</li> <li>• communication plan</li> <li>• maintenance and servicing</li> <li>• financial sustainability</li> </ul> </li> <li>2. Community Organisation Structure and Management</li> </ol>

## Part 3 - Conditions of Tendering

### 1 Definitions and interpretation

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#### 1.1 Definitions

Tenderers should note the following defined terms:

<b>Term</b>	<b>Definition</b>
<b>Addendum or Addenda</b>	means a notice (or notices) to Tenderers issued by or on behalf of the Principal in accordance with clause 4.2.
<b>Business Day</b>	means a day that is not: <ol style="list-style-type: none"> <li>(a) a public holiday, special holiday or bank holiday in the South Burnett;</li> <li>(b) Saturday or Sunday; or</li> <li>(c) 27 to 31 December (inclusive).</li> </ol>
<b>Claim</b>	includes any claim (whether known or unknown, actual or contingent, fixed or unascertained), demand, action, proceeding or suit, for: <ol style="list-style-type: none"> <li>(a) the payment of money (including damages and Special Loss);</li> <li>(b) relief from liability or from the performance of any obligation; or</li> <li>(c) the enforcement or performance of any right, whether arising by way of indemnity, under contract, in equity, for restitution, under statute (to the maximum extent possible), in tort (including negligence) or otherwise.</li> </ol>
<b>Conditions of Tendering</b>	means the conditions of tendering set out in this Part 3 of the Request for Tender.
<b>Conforming Tender</b>	means a Tender that: <ol style="list-style-type: none"> <li>(a) contains all of the information required by, and is in the form required by, the Returnable Schedules, except for any inconsequential omissions and discrepancies that the Principal chooses to accept;</li> <li>(b) complies with the Conditions of Tendering and the Tender Delivery Requirements;</li> <li>(c) does not exceed the Page Limit; and</li> <li>(d) does not contain any alternatives, qualifications, amendments to, or departures from, the Scope and Specification, Drawings or the Contract.</li> </ol>
<b>Contact Officer</b>	means the person described as the contact officer in the Procurement Details.
<b>Lease</b>	means the lease document, including all attachments and annexures, to be entered into by the Principal and the successful Tenderer.
<b>Contract Documents</b>	means any other legal documents such as a Lease, Contract or Deed required for the lease of the Premises to the Successful



<b>Term</b>	<b>Definition</b>
	Tenderer.
<b>Evaluation Criteria</b>	means the evaluation criteria described in the Procurement Details.
<b>Information</b>	<p>means:</p> <ul style="list-style-type: none"> <li>(a) any information provided by Council to prospective Tenderers including all parts of the Tender Documents; and</li> <li>(b) any other information communicated (by any means) by or on behalf of the Principal to any Tenderer, whether before, during or after this RFT, that relates to the RFT, the Procurement Process, Lease of Premises or the Contract Documentation,</li> </ul> <p>except the documents and information that are intended to constitute the Contract.</p>
<b>Insolvency Event</b>	<p>means any of the following events:</p> <ul style="list-style-type: none"> <li>(a) a party makes a statement, or conducts itself in a manner from which it may reasonably be deduced that the person is insolvent or a person stops or suspends payment of all or a class of its debts, or threatens to stop or suspend payment of all or a class of its debts;</li> <li>(b) a liquidator, receiver, receiver and manager, administrator, official manager or other controller (as defined in the Corporations Act 2001 (Cth)), trustee or controlling trustee or similar official is appointed over any of the property or undertaking of the party;</li> <li>(c) the party or the party's property or undertaking becomes subject to a personal insolvency arrangement under part X of the Bankruptcy Act 1966 (Cth) or a debt agreement under part IX of the Bankruptcy Act 1966 (Cth);</li> <li>(d) the party is unable to pay its debts when they fall due or is unable to pay its debts within the meaning of the Corporations Act 2001 (Cth), or is presumed to be insolvent under the Corporations Act 2001 (Cth);</li> <li>(e) the party ceases to carry on business; or</li> <li>(f) an application or order is made for the liquidation of the party or a resolution is passed or any steps are taken to liquidate or pass a resolution for the liquidation of the party, otherwise than for the purpose of an amalgamation or reconstruction,</li> <li>(g) or anything analogous to any of the above events.</li> </ul>
<b>Premises</b>	Means that part of Lot 9 on SP307587 and Lot 5 on SP156194 (as per the attached plan at Part 5) being offered for Lease by tender the subject of this Request for Tender.
<b>Lease of Premises</b>	means the lease of the Premises resulting from this Request for Tender.
<b>Non-Conforming Tender</b>	means a Tender that is not a Conforming Tender.
<b>Page Limit</b>	means the limit, if any, to the number of pages of a Conforming Tender, if every part of that Conforming Tender

<b>Term</b>	<b>Definition</b>
	was printed in hard copy, as set out in the Procurement Details.
<b>Personnel</b>	means: <ul style="list-style-type: none"> <li>(a) in respect of the Principal, its officers, councillors, employees, agents, representatives, contractors and professional advisors; and</li> <li>(b) in respect of the Tenderer, its officers, members, employees, agents, representatives, contractors and professional advisors.</li> </ul>
<b>Principal</b>	means South Burnett Regional Council and includes where relevant any of its officers, agents or employees.
<b>Procurement Details</b>	means the information set out in Part 2 of this Request for Tender.
<b>Procurement Process</b>	means the procurement process for the Lease of Premises described in the Procurement Details.
<b>Returnable Schedules</b>	means the returnable schedules set out in Part 4 of the Request for Tender.
<b>Request for Tender or RFT</b>	means this request for tender, including all of its Parts, and all documents incorporated by reference in, or attached to, this request for tender.
<b>Site</b>	means the Premises which is being offered for Lease by way of this Tender.
<b>Tender</b>	means: <ul style="list-style-type: none"> <li>(a) the tender, and all documents and information that it includes, irrespective of their format, submitted in response to this Request for Tender; and</li> <li>(b) if a Tenderer has submitted more than one tender, as described in paragraph (a) of this definition, then it may mean all such tenders submitted by the Tenderer, according to the context of the RFT.</li> </ul>
<b>Tender Closing Time</b>	means the date and time set out in the Procurement Details as may be amended by the Principal.
<b>Tender Delivery Location</b>	means the location at which the Tenderer must submit its Tender, as set out in the Procurement Details.
<b>Tender Delivery Requirements</b>	means the requirements relating to the delivery of Tenders, set out in the Procurement Details.
<b>Tender Documents</b>	means: <ul style="list-style-type: none"> <li>(a) this Request for Tender;</li> <li>(b) all Addenda; and</li> <li>(c) the documents incorporated by reference in, or attached to, the above documents.</li> </ul>
<b>Tender Form</b>	means the document set out at Returnable Schedule 1.
<b>Tenderer</b>	means the person, company or other entity submitting a Tender.

## **2 Extent of legal relationship in connection with Procurement Process**

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### **2.1 Formation and content of relationship**

- (a) In consideration of the Tenderer agreeing to be bound by the terms and conditions of this RFT, the Principal agrees to permit the Tenderer to participate in the Procurement Process, subject to and in accordance with the terms of the RFT.
- (b) The Tenderer agrees that the Principal's obligations in clause 2.1(a) constitute valuable consideration for the Tenderer's agreement to be bound by the RFT.
- (c) The Principal's obligations to the Tenderer in relation to this RFT or the Procurement Process:
  - (i) are limited those expressly set out in the RFT; and
  - (ii) exclude (to the maximum extent permitted by law) any obligations which may otherwise be implied or imposed on the Principal under contract, at law, in equity, by statute or otherwise.
- (d) The Principal may amend the RFT or any aspect of the RFT or Procurement Process, at any time by sending to the Tenderer an Addendum.

### **2.2 Duration of relationship**

- (a) Subject to clause 2.2(b), this RFT applies to all acts and omissions by or on behalf of the Tenderer in relation to the Procurement Process before, on and after the date that it submitted its Tender.
- (b) Except for those provisions of this RFT that are stated to survive termination, or by implication survive termination, a Tenderer will be bound by this RFT until the earlier of the date that:
  - (i) the Principal terminates the Procurement Process, except that, subject to clauses 2.2(b)(ii), 2.2(b)(iii) and 2.2(b)(iv), this RFT will continue to apply to any other process that the Principal undertakes to engage with a party for the Lease of Premises, unless the Principal expressly agrees otherwise;
  - (ii) the Principal notifies the Tenderer that the Principal has ceased considering the Tenderer's Tender, or all of the Tenderer's Tenders if more than one Tender was submitted;
  - (iii) the Principal notifies the Tenderer, or publishes any notice to the public, that another Tenderer has been awarded the Contract; or
  - (iv) the Principal and the Tenderer enter into the Lease.

### **2.3 No other legal relationship**

The Tenderer acknowledges that:

- (a) this Request for Tender does not constitute an offer by the Principal to enter into the Lease;
- (b) except as provided in clause 2.1 of this RFT:

- (i) no contract exists or will come into force between the Principal and the Tenderer in respect of the Lease of Premises unless and until the Contract is formed in accordance with clause 9.1; and
- (ii) neither the Principal nor the Tenderer intend to create any legal relationship; and
- (c) the RFT sets out the entire agreement between the Principal and the Tenderer in respect of the Procurement Process.

### **3 Principal's limitations of liability**

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#### **3.1 Tenderer accepts all risks and participates at its own expense**

Subject to clause 3.2, the Tenderer:

- (a) accepts all risk in relation to its and its Personnel's participation in any aspect of the Procurement Process, or other process derived from the Procurement Process; and
- (b) participates in the Procurement Process and any other process derived from the Procurement Process, and performs all obligations under the RFT, at its own risk and expense.

#### **3.2 Limitation of liability**

The maximum aggregate liability of the Principal to the Tenderer for any breach of the RFT, irrespective of how serious the breach or how important the term that is breached, is limited to \$10. This clause survives the expiry or termination (for any reason) of this RFT.

#### **3.3 Information**

The Tenderer agrees that:

- (a) the Principal and its Personnel do not warrant, guarantee or make any representation (express or implied), or assume any duty of care, or accept any liability, with respect to the completeness, accuracy, adequacy, suitability or correctness of any Information;
- (b) there may be other information relevant to the RFT, the Lease of Premises, the Procurement Process or the Lease in the knowledge or possession of the Principal or its Personnel that has not been provided to the Tenderer;
- (c) to the extent that the Principal is not the author or source of any Information that has been provided to the Tenderer or its Personnel, the Principal is only the conduit of that Information and does not adopt its contents; and
- (d) the Procurement Process and all Information reflect the Principal's current intention only, and may change at any time, and any such change is at the Tenderer's risk,

and the Tenderer represents and warrants that it has not relied, and will not rely, and will not allow its Personnel to rely, upon the Information for any purpose.

#### **3.4 Protection of Principal from claims by Tenderer or its Personnel**

Except for the limited extent of liability under clause 3.2, and without limiting any other provision of the Conditions of Tendering, the Tenderer:

- (a) releases the Principal and its Personnel (**Released Persons**) from; and
- (b) indemnifies the Released Persons against,  
any Claim of the Tenderer or its Personnel, in relation to:
  - (c) the Information;
  - (d) the matters described in clause 3.3; or
  - (e) the acts, defaults or omissions of any of:
    - (i) the Released Persons (including the Principal taking Corrective Action as a result of the acts, defaults or omissions of any person, including third parties);
    - (ii) the Tenderer; or
    - (iii) the Tenderer's Personnel,under or in relation to:
    - (iv) the RFT or the Information;
    - (v) the Procurement Process or any other process derived from the Procurement Process; or
    - (vi) the matters described in clause 3.3,

and this clause 3.4 may be pleaded by the Released Persons as a bar to any proceedings commenced by the Tenderer against the Released Persons in relation to the things described in clauses 3.4(e)(iv) to 3.4(e)(v) (inclusive). This clause survives the expiry or termination (for any reason) of this RFT.

## **4 Tender Documents, correspondence and complaints handling**

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### **4.1 Status of Tender Documents**

- (a) The Tender Documents:
  - (i) at all times remain the property of the Principal; and
  - (ii) should be read and construed together and are intended to be mutually explanatory of each other.
- (b) As between the Principal and the Tenderer, all Intellectual Property Rights in the Information are the property of the Principal.

### **4.2 Contact Officer and method for correspondence**

Except to the extent that the Tender Documents expressly allows to the contrary, or the Contact Officer expressly permits otherwise, all correspondence and notices between the Principal and the Tenderer relating to the Information, the Procurement Process or the RFT are to be communicated via the Contact Officer.

#### **4.3 Treatment of Tenderer's correspondence**

Any correspondence submitted by a Tenderer to the Contact Officer is submitted on the basis that the Principal may circulate it, and the Principal's response, to all Tenderers in the form of an Addendum, provided that the identity of the Tenderer is not communicated. The Principal reserves the right to not respond to any correspondence it receives from a Tenderer.

#### **4.4 Tenderer's complaints**

If the Tenderer has any complaint regarding any aspect of the conduct of the Procurement Process, it should promptly notify the Principal's representative identified in the Procurement Details in writing of the reason for the complaint, its desired resolution, and any other information reasonably requested of it, in sufficient detail to enable that person to investigate the complaint.

### **5 Site inspections and tender briefings**

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#### **5.1 Site inspection**

- (a) This clause 5.1 only applies if the Procurement Details indicate that a Site inspection is to be held.
- (b) An inspection of those parts of the Site will be held at the time and date specified in the Procurement Details.
- (c) Any Tenderer wishing to attend the inspection must provide details of the name, address and position of persons attending and notify those details to the Contact Officer by no later than the time specified in the Procurement Details.
- (d) No more than the number of persons specified in the Procurement Details may attend the inspection from any Tenderer.
- (e) If the Tenderer fails to attend the Site inspection without a valid excuse (as judged by the Principal), the Tenderer's Tender may be rejected.
- (f) The Tenderer's licence to access the Site at that inspection is conditional on:
  - (i) the Tenderer complying with all rules regarding access to the Site that are notified to it by the Principal;
  - (ii) the Tenderer ensuring its Personnel comply with all lawful and reasonable directions given by the Principal's representative while on the Site, and complying with all relevant laws, regulations, by laws, and the like;
  - (iii) the Tenderer holding workers' compensation insurance in accordance with relevant law, and third party comprehensive motor vehicle insurance in respect to any vehicles of the Tenderer brought on to Site; and
  - (iv) the Tenderer indemnifying the Principal against any claims for personal injury, death or loss of or damage to property, made by the Tenderer or its Personnel, except to the extent directly caused by the negligence of the Principal.

## **5.2 Tender briefing**

- (a) If the Procurement Details so indicate, the Principal will hold a Tender briefing at the place and time set out in the Procurement Details. The Principal may refuse to convey any of the information provided at the Tender briefing to the Tenderer if it fails to attend.
- (b) The Tenderer's failure to attend the Tender briefing does not relieve it of any of its obligations under the RFT.

## **6 Tender requirements**

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### **6.1 Lodging Tenders**

The Tenderer is requested to lodge its Tender:

- (a) at the Tender Delivery Location;
- (b) in accordance with the Tender Delivery Requirements; and
- (c) by the Tender Closing Time.

### **6.2 Lateness**

The Principal may reject, or admit for consideration, any Tender that is not received at the Tender Delivery Location by the Tender Closing Time. The Principal may consider any reasons given by the Tenderer in deciding whether to reject or admit the Tender.

### **6.3 Signing Tender**

If the Tenderer:

- (a) is a corporation, it is requested to have its Tender Form, and each Returnable Schedule, signed by person or persons who have authority to enter into contracts on its behalf; and
- (b) is comprised of more than one person, a representative of each person, with the authority described in clause 6.3(a), is requested to sign the Tender Form and Returnable Schedules.

### **6.4 Pricing**

All prices in the Tender Price should be inclusive of GST.

### **6.5 Tender Validity Period**

- (a) Subject to clause 6.5(b), the Tenderer is requested to keep their Tender open for acceptance at all times during the Tender Validity Period.
- (b) The Principal may at any time, by notice to the Tenderer, request an extension to the Tender Validity Period. If the Tenderer does not agree to the extension as requested, the Principal may reject the Tenderer's Tender.

### **6.6 Ownership of Tender**

- (a) All Tenders become the property of the Principal and will not be returned to the Tenderer.

- (b) The Tenderer should note that the Principal may make copies of Tenders for the purposes of evaluating them and for its general governance requirements, and the Principal does not intend to return any copies to the Tenderer.

### **6.7 Tenderer acknowledges Principal's reliance**

The Principal may rely on all of the information contained, and all of the representations made, in the Tender and any subsequent clarifications, whether written, verbal or both, of that Tender for the purposes of evaluating a Tender against Tenders received from other Tenderers and ultimately deciding whether, and if so with whom, to enter into the Lease.

### **6.8 Conforming Tenders and Non-Conforming Tenders**

- (a) If the Tenderer submits a Conforming Tender, it will be deemed to have made an unconditional offer to enter into the Lease, that may be accepted by the Principal in accordance with clause 9.1.
- (b) The Principal may:
  - (i) refuse to consider a Non-Conforming Tender; or
  - (ii) commence to consider it, and to do all of the things described in clause 6.8, but subsequently cease to consider it.

## **7 Principal's handling and assessment of Tender**

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### **7.1 Opening of Tenders**

Tenders will neither be opened in public, nor in the presence of the Tenderer.

### **7.2 No representation**

Any letter or other form of written or oral acknowledgment by the Principal of receipt of the Tender does not imply that the Tender has been admitted for consideration or accepted as a Conforming Tender.

### **7.3 Principal's due diligence enquiries**

The Principal may itself or through its Personnel:

- (a) perform security, probity, financial and other due diligence enquiries of the Tenderer's Tender, the Tenderer, and any third parties that the Tenderer proposes to engage to effect the Lease of Premises; and
- (b) without limiting clause 7.3(a), contact Tenderer referees and conduct discussions with, and visits to, customers of a Tenderer and subcontractors (whether or not listed as referees in the Tenderer's Tender),

and the Tenderer is requested to provide reasonable assistance, and to have its Personnel do likewise, in regards to all such enquiries, discussions and visits.

### **7.4 Negotiations**

- (a) The Principal may engage in detailed discussions and negotiations with the goal of maximising the benefits of a Tender. As part of this process, the Tenderer may be asked



to improve the content of its Tender, including the technical, financial, corporate or legal risk allocation.

- (b) Notwithstanding the possibility of negotiations, the Principal's preference is to select a Tenderer on the basis of Tenders submitted (assuming that they sufficiently meet the Principal's requirements) rather than on the basis of negotiations. Accordingly, the Tenderer is encouraged to submit its most attractive offer in its Tender and to not assume that there will be any further negotiations with the Principal.

## **7.5 Mandatory Criteria**

Subject to the Principal's other rights under the RFT, the Tender will:

- (a) first be assessed against the Mandatory Criteria (if any); and
- (b) if the Tender satisfies the Mandatory Criteria, then it will be evaluated according to the Evaluation Criteria in accordance with clause 7.6.

## **7.6 Evaluation Process**

- (a) If the Principal accepts a Tender, it will accept the Tender that is most advantageous to it, having regard to the sound contracting principles in s.104 *Local Government Act 2009* (Qld).
- (b) Subject to clause 7.5 and the Principal's other rights under the RFT, the Principal will evaluate the Tender against the Evaluation Criteria, and in accordance with this clause 7.
- (c) In evaluating the Tender, the Principal may ignore any aspect of a Tender that it considers to be ambiguous, uncertain, vague or illegible, without requesting the Tenderer to clarify that aspect of the Tender.
- (d) In evaluating the Tender, the Principal may consider, among other things:
  - (i) information contained in the Tender;
  - (ii) its conclusions from its due diligence enquiries;
  - (iii) anything known to the Principal or its Personnel regarding either the Tenderer or those of its Personnel that it proposes to use in effecting the Lease of Premises, whether that information has been communicated by the Tenderer or not, and irrespective of whether the Tenderer is aware that the Principal is taking into account that information;
  - (iv) any relevant laws, regulations, by laws, Codes, industry standards and the like; and
  - (v) the outcome of any negotiations with the Tenderer.
- (e) The Principal may seek information or assistance from third parties or other persons if the Principal considers it necessary or desirable to do so to assist it to evaluate any aspect of a Tender or a Tenderer's organisation.
- (f) The Tenderer may have its Tender excluded from further consideration if it or its Personnel fail to provide all cooperation requested of them.

## **7.7 Principal's discretions as to Tender evaluations**

- (a) The Principal is under no obligation to:
  - (i) accept the highest, or any, Tender; or
  - (ii) accept any amendment or clarification to a Tender.
- (b) The Principal may, in its evaluation and assessment of Tenders:
  - (i) apply such criteria and weightings as it sees fit; or
  - (ii) if the Principal considers any Tender to be ambiguous, incorrect or incomplete:
    - (A) consider, or refuse to consider, the Tender;
    - (B) request further information from the Tenderer; or
    - (C) request the Tenderer to amend its Tender.
- (c) Without limiting the Principal's rights or discretions the Principal may accept or reject:
  - (i) a late Tender, Alternative Tender or Non-Conforming Tender;
  - (ii) a Tender that does not satisfy the Mandatory Criteria, or that achieves an inadequate score against the Evaluation Criteria; or
  - (iii) a Tender submitted by a Tenderer that has breached this RFT.

## **8 Principal's general discretions**

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### **8.1 Principal may act in its sole and unfettered discretion**

Any right, discretion, power, assessment, determination or decision that the Principal has under the RFT may be exercised or made:

- (a) in its sole and unfettered discretion;
- (b) conditionally or unconditionally;
- (c) without being required to give reasons; and
- (d) without the need to act reasonably, or to act for the benefit of the Tenderer.

### **8.2 Principal may terminate Procurement Process for its convenience**

Without limiting the Principal's rights or discretions the Principal may:

- (a) either by Addendum, or by public notice, immediately terminate the Procurement Process at any time before entering into a Lease; and
- (b) either:
  - (i) commence a new procurement process for the Lease of Premises after terminating this Procurement Process under this clause; or

- (ii) subsequently carry out all or any part of the operation and management of the Site in a manner that the Principal sees fit, either itself or by engaging another to do so,

and the Tenderer will have no entitlement to Claim in connection with either of those actions.

### **8.3 Principal's discretions**

Without limiting its rights or discretions under the RFT or otherwise at law, the Principal may at any time do any of the following:

- (a) before the Tender Closing Time, issue to all Tenderers any addendum to the RFT (including in response to an RFT);
- (b) cancel the Procurement Process by notice in writing to the Tenderers;
- (c) carry out any other procurement process for the Lease of Premises;
- (d) if a Tenderer suffers an Insolvency Event, do any one or more of cease considering the Tenderer's participation in the Procurement Process, cease considering that Tenderer's Tender, or suspend or terminate the Procurement Process;
- (e) accept portions of the Tender, and of any other Tender;
- (f) by notice invite one or more Tenderers to:
  - (i) change their Tender to take account of a change in the Tender Documents or the Procurement Process; or
  - (ii) submit an Alternative Tender of a similar kind to another Tenderer's Alternative Tender;
- (g) pre-qualify, shortlist or proceed to negotiate with one or more Tenderers or other persons, or enter into discussions with one or more Tenderers or other persons, in respect of the Lease of Premises, and without any obligation to notify other Tenderers that it is so proceeding;
- (h) cease negotiations or discussions with any Tenderer at any time;
- (i) by notice, change any of the Tender Documents, Procurement Process, the Lease of Premises or any other aspect of the RFT in any way;
- (j) provide additional information to any or all Tenderers;
- (k) by notice, suspend the Procurement Process for a reasonable period;
- (l) refuse to consider or accept any Tender or to shortlist any Tender received, if the Tenderer has failed to comply with the RFT or the Procurement Process;
- (m) seek additional tenders from (on the same or different terms), or re-tender the Lease of Premises with, all or any of the Tenderers who have submitted a tender, or any other person (whether or not they were invited to submit or did submit a Tender);
- (n) before the end of the Procurement Process:

- (i) invite any other person to participate as a Tenderer in the Procurement Process;  
or
- (ii) accept a substitution of, withdrawal of, or addition to any of the entities comprising a Tenderer, with the approved entities together comprising the Tenderer for the purpose of this RFT.

#### **8.4 Principal's statutory rights and duties**

Despite anything in this RFT to the contrary:

- (a) the Principal is not obliged to exercise any executive or statutory right or duty, or to influence, over-ride, interfere with or direct any other Government Agency in the proper exercise and performance of any of its executive or statutory rights or duties;
- (b) nothing in this RFT 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; and
- (c) the Tenderer 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.

## **9 Principal's acceptance of Tender and entry into Contract**

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### **9.1 Method and effect of acceptance**

- (a) A Tender is accepted by the Principal only when the Principal or its Contact Officer notifies the Tenderer in writing that its Tender has been accepted. Notification that the Tender has been accepted does not authorise the Tenderer to effect the Lease of Premises.
- (b) Subject to clause 9.1(c), no contract for the Lease of Premises will come into force between the Principal and the Tenderer unless and until the Principal and the Tenderer execute the Contract Documents.
- (c) The successful Tenderer must execute the Contract Documents as instructed and return the original signed documents to the Principal within ten (10) Business Days of being requested in writing to do so (or any lesser period set out in the notice), and if it fails to do so within that time, it will be deemed to have executed the Contract.

### **9.2 Tender debriefings**

The Principal may, if requested, give feedback to Tenderers whose Tenders have been considered by the Principal.

## **10 Right to Information and other disclosures**

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### **10.1 Right to information**

- (a) The *Right to Information Act 2009* (Qld) (**RTI Act**) provides members of the public with a legally enforceable right to access documents held by Queensland Government agencies (including local governments).

- (b) Information given by the Tenderer is potentially subject to disclosure to third parties under the RTI Act.
- (c) 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 contractor, a description of the relevant goods and services, the commencement date of the Contract, the contract price or value, the method of procurement, and in limited circumstances, the contract itself or a summary of information in regards to the contract.

## **10.2 Disclosure under Local Government Act**

If s.237 *Local Government Regulation 2012* (Qld) applies to the Contract, the Principal will be required to disclose the information required by that section concerning the Contract.

## **11 Building Code 2016**

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### **11.1 Application of Building Code**

- (a) This clause 11 applies only if the Procurement Details state that the Code for the Tendering and Performance of Building Work 2016 (**Building Code**) is to apply.
- (b) The Tenderer's attention is drawn to the Building Code and the Supporting Guidelines to Commonwealth Funding Entities (**Supporting Guidelines**). Copies of the Building Code and Supporting Guidelines are available at [www.jobs.gov.au/abcc-and-building-code](http://www.jobs.gov.au/abcc-and-building-code).

### **11.2 Compliance with Building Code**

- (a) By submitting a Tender, the Tenderer is deemed to have:
  - (i) read the Building Code; and
  - (ii) agreed to comply with the Building Code.
- (b) Notwithstanding any other provisions of the Tender Documents, the Tenderer hereby consents to the disclosure of information concerning compliance with the Building Code, including details of whether or not a sanction (see Section 8.2 of the Supporting Guidelines) has been imposed. This consent extends to disclosure by the Commonwealth, its agencies and ministers, and disclosure to others for the purposes of facilitating compliance with the Building Code and the exercise of their statutory and portfolio responsibilities. The Tenderer must ensure that its proposed workforce are also aware of, and agree to comply with, these rights of use and disclosure.
- (c) The Tenderer should be aware that the Building Code applies to:
  - (i) the Project; and
  - (ii) all construction and building work undertaken by the Tenderer and its related entities (see section 8 Building Code) thereafter as defined in the Building Code, including work on all new privately funded construction projects in Australia.
- (d) The Tenderer must comply with the Building Code, and it agrees that compliance with the Building Code is a condition of participation in this Procurement Process.

- (e) Consistent with section 4.2.2 of the Supporting Guidelines, the Principal will not enter into a contract with a Tenderer if the Tenderer:
  - (i) has had an adverse Court or Tribunal decision (not including decisions under appeal) for a breach of workplace relations law, work health and safety law, or workers' compensation law; and
  - (ii) has not fully complied, or is not fully complying, with the order.
- (f) At the time of submitting its Tender, the Tenderer must not be precluded from tendering for Australian government funded building and construction work.
- (g) As part of their Tender, Tenderers must submit a signed Declaration of Compliance as set out in Returnable Schedule 14.
- (h) While acknowledging that value for money is the core principle underpinning decisions on Government procurement, Tenderers should note that when assessing Tenders, preference may be given to Tenders that demonstrate a commitment to:
  - (i) adding and retaining trainees and apprentices;
  - (ii) increasing the participation of women in all aspects of the industry; or
  - (iii) promoting employment and training opportunities for Indigenous Australians in regions where significant indigenous populations exist.
- (i) The Tenderer must indicate in its Tender:
  - (i) whether the Tenderer or a related entity of the Tenderer has ever been subject to a sanction imposed under the Building Code and Supporting Guidelines;
  - (ii) whether the Tenderer has had an adverse Court or Tribunal decision (not including decisions under appeal) for a breach of workplace relations law, work health and safety law, or workers' compensation law and the Tenderer has not fully complied, or is not fully complying, with the order;
  - (iii) how the Tenderer intends to comply with the Building Code in performing the Contract, should it be the successful Tenderer; and
  - (iv) if the Tenderer proposes to subcontract any development, how the Tenderer intends to ensure each subcontractor complies with the Building Code.

## Part 4 - Returnable Schedules

### **Annexure to Tender for Tender no. SBRC-20/21-08**

The Tenderer acknowledges that the Returnable Schedules and additional information identified below are mandatory for its Tender to be Conforming. The Tenderer has included with this Tender Form the following of those documents:

<b>Name of Returnable Schedule / document that is required to be provided</b>	<b>Tenderer has included?</b>
Returnable Schedule 1 – Tender Form	Yes / No
Returnable Schedule 2 – Response to evaluation criteria	Yes / No
Returnable Schedule 3 – Company/Entity Profile	Yes / No

## Returnable Schedule 1

Tender Form

[TO BE PLACED ON TENDERER LETTERHEAD]

TENDER FORM FOR TENDER NO: SBRC-20/21-08

### **A. Tenderer details**

***If Tenderer is a partnership or an individual, complete these details:***

If an individual, full name:	
If a partnership, full names of each member of partnership:	
ABN:	
Business address:	
Contact person:	Name: Telephone number: Email: Facsimile:

***If Tenderer is incorporated, complete these details:***

Complete company name (i.e. include whether 'Limited' or 'Proprietary Limited'):	
Is company a trustee?	Yes/No
If company is a trustee, full name of trust is:	
ACN:	
ABN:	
Names of all company directors:	
Names of all company secretaries:	
Name of ultimate parent company:	



Names of all shareholders:	
Address of registered office:	
Address of principal place of business:	
Address of business nearest to Kingaroy:	
Contact person:	Name:  Telephone number:  Email:  Facsimile:

### **B. Tenderer's declarations and warranties**

The signatory below makes the following declarations for and on behalf of the Tenderer to South Burnett Regional Council:

1. The Tenderer has examined all of the Tender Documents, including, without limitation, the following Addenda issued during the Procurement Process:
  - (a) Addendum no. [INSERT NUMBER IF ANY];
  - (b) Addendum no. [INSERT NUMBER IF ANY];
  - (c) [ANY FURTHER ADVICES FROM PRINCIPAL]

*Initialed on behalf of Tenderer:* \_\_\_\_\_

2. The Tenderer warrants:
  - (a) that its Tender is a genuine attempt for the award of the Lease;
  - (b) that all of the contents of its Tender are accurate;
  - (c) that the Tenderer has read, understood and complied with its obligations under the Tender Documents;
  - (d) that it has understood clause 3.3 of the Conditions of Tendering, communicated that clause to its Personnel, and that the Tenderer and its Personnel have taken all appropriate precautions with regards to all Tender Documents, in particular with regards to any Information, when preparing the Tender and determining the Tender Price;
  - (e) that it has sufficient financial resources to carry out and supply the goods, services and works in accordance with the Tender Documents;
  - (f) that it has sufficient financial resources to fulfil all warranty and defect rectification obligations under the Contract;
  - (g) that it is not subject to any current or impending legal action of any kind which could impact on the financial viability of the Tenderer or its ability to carry out and supply the goods, services and works in accordance with the Tender Documents; and

- (h) that it has, or that it will have before entering into the Lease, all insurance cover required by the Tender Documents, except to the extent that its Tender expressly states that it both does not have, and does not intend to procure, any given insurance cover.

*Initialed on behalf of Tenderer:* \_\_\_\_\_

Signature: \_\_\_\_\_ Name: \_\_\_\_\_

Date: \_\_\_\_\_ Position: \_\_\_\_\_

Who warrants that s/he is duly authorised to sign for, and enter into contracts on behalf of, the Tenderer.

## Returnable Schedule 2

Evaluation Criteria

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### **1. Tenderer's proposal**

- marketing and promotion
- communication plan
- maintenance and servicing
- financial sustainability

### **2. Community Organisation Structure and Management**

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Signature: \_\_\_\_\_ Name: \_\_\_\_\_

Date: \_\_\_\_\_ Position: \_\_\_\_\_

Who warrants that s/he is duly authorised to sign for, and enter into contracts on behalf of, the Tenderer.

## Part 5 – Proposed Lease Terms, Aerial Map of Premises

<b>Lessor</b>	South Burnett Regional Council
<b>Lessee</b>	TBA
<b>Premises</b>	That part of Lot 9 on SP307587 and the whole of Lot 5 SP156194 as shown on the attached map.
<b>Commencement</b>	TBA
<b>Term</b>	2 years
<b>Options</b>	3 x 12 months
<b>Rent</b>	\$75.00 plus GST per annum Due on anniversary of commencement date of each year of term (in advance)
<b>Maintenance</b>	<p>Lessee responsible for:</p> <ul style="list-style-type: none"> <li>– to keep the Premises in good condition</li> <li>– general maintenance including minor maintenance including, but not limited to, replacement of tap washers and light bulbs, minor repairs to toilets/bathrooms/kitchen, chimney sweep, driveway cleaning, cobwebbing, external cleaning including windows.</li> <li>– Thorough cleaning of the Premises including toilets, external buildings and toilets, all kitchen equipment, filters, fans and other equipment as required.</li> <li>– gardening (from 1 July 2021)</li> <li>– pest/vermin control</li> <li>– maintenance of fencing</li> </ul> <p>Lessor responsible for:</p> <ul style="list-style-type: none"> <li>– capital works as allocated in its annual budget</li> <li>– gutter cleaning</li> <li>– annual pest treatment</li> <li>– termite inspection and treatment</li> <li>– gardening up to 30 June 2021</li> </ul>
<b>Rates and Utilities and other Charges.</b>	<p><u>Lessee pays:</u></p> <ul style="list-style-type: none"> <li>– waste actual</li> <li>– Rubbish collection (other than Brighthaven units)</li> <li>– internet/data</li> <li>– telephone (less Lessor contribution as above)</li> <li>– potable tank water when required</li> </ul> <p><u>Lessor pays:</u></p> <ul style="list-style-type: none"> <li>– general rates</li> <li>– water access and charges</li> <li>– State Government levies</li> <li>– Rubbish collection for the Brighthaven units</li> <li>– waste levy</li> <li>– Sewerage access charges</li> <li>– Sewerage pedestal charges</li> </ul>

	<ul style="list-style-type: none"> <li>– Telephone contribution of \$100 per annum</li> <li>– Security costs</li> </ul>
<b>Waste/Wastewater</b>	Lessee to obtain Trade Waste Permit and ensure Grease Trap is serviced.
<b>Works and Alteration</b>	Lessee to seek prior consent from Lessor and include description of works, plans, drawings and project cost estimates. Costs borne by Lessee unless allocated in Lessor annual budget.
<b>Access</b>	Lessor can enter to inspect and order rectification of damage/maintenance issues or Lessor may enter and repair and recover costs from the Lessee.
<b>Trees</b>	Lessee not to cut down trees
<b>Sand, gravel and soil</b>	Lessee not to remove
<b>Offensive trade</b>	Lessee not carry out offensive trade or damage the reputation of Council.
<b>Statutes</b>	Lessee must comply with statutes
<b>Plumbing</b>	Lessor to ensure backflow prevention valves are serviced.
<b>Noxious weeds, plants and pests</b>	Lessee to keep free of weeds and pests and not knowingly introduce pests.
<b>Animals</b>	Not allowed unless certified assistance dogs.
<b>Fire hazard/rubbish</b>	Lessee prevent the accumulation of rubbish and fire hazards.
<b>Costs of Lease</b>	Lessee to pay costs of any actions relating to the lease including termination action by Lessor.
<b>Purpose</b>	<p>The Trustee Lessee must use the Premises for the community purpose of a historical building display and museum with food preparation, and may use the Premises for temporary displays, exhibitions and events. That the Lessee will not without consent use the Premises otherwise than for the permitted purposes.</p> <p>The Lessee must use the Premises only for the community purpose and to hold the Premises so that it may be used for that purpose in the future without undue interruption or obstruction.</p>
<b>Due Diligence</b>	Operate Ringsfield efficiently and effectively for the permitted purpose.
<b>Assignment/Sublet</b>	Not without prior written consent and approval granted if consistent with purpose of lease.
<b>Insurance</b>	<p><u>Lessee responsible for:</u></p> <ul style="list-style-type: none"> <li>– Public Liability \$20,000,000</li> <li>– Insurance for its own contents</li> </ul> <p><u>Lessor responsible for:</u></p> <ul style="list-style-type: none"> <li>– Insurance for Buildings and Council-owned contents</li> </ul>
<b>Historical Assets</b>	<p>Lessor remains owner of Historical assets as per the Asset list Lessor will undertake an annual audit of historical and built assets Lessee not to remove, alter or change any asset without prior approval from the Lessor.</p> <p><u>Accumulation of Historical Assets</u> Lessee to seek approval for the Lessor prior to the acceptance of a donation. Donations are to be of significance relating to the history of Nanango.</p>
<b>Use by Lessor</b>	Up to four occasions each financial year at no cost.

<b>Liquor/Gaming</b>	With consent by Lessor and adherence to statutes licences.
<b>Food Licence</b>	Lessee to: <ul style="list-style-type: none"> <li>– seek and keep updated any food licencing requirement</li> <li>– provide potable tank water</li> <li>– clean and maintenance of kitchen exhaust fans and flues</li> </ul>
<b>Lessors Covenants</b>	Lessee may remove fixtures it has installed with approval but must repair damage upon removal Lessor to provide quiet enjoyment
<b>Mutual Covenants</b>	Lessor’s right to take back on default
<b>Termination (interest of local government)</b>	Rent to acknowledge value to community. Lessee to provide audited copy of financial statements upon request Lessor may terminate if Lessor wants use of the Premises, greater community benefit, use no longer benefits the community, use is disadvantaging the community, lessee no longer uses the premises, cancellation is in community interest. Termination notice must state reason and date to vacate.
<b>Hours of Operation</b>	Ringsfield to be fully opened to the public at least 4 days per week for a minimum of 3 hours per day.
<b>Brighthaven Units</b>	Residential units not included in lease but share a common driveway.



**Proposed Lease Area**

- Area of lease for Ringsfield (yellow)
- Shared access driveway (red)
- Brighthaven units (blue)