

Tenders close:
17 August 2021

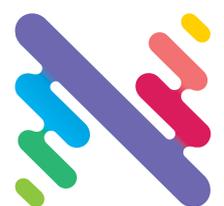
Expressions of Interest

Lease, fit-out and operation of Shepherds Hill Cottage, The Hill

Contract: 2022/005E



newcastle.nsw.gov.au



**City of
Newcastle**

Acknowledgment

City of Newcastle acknowledges that the site is on the traditional country of the Awabakal and Worimi peoples.

We recognise and respect their cultural heritage, beliefs and continuing relationship with the land, and that they are the proud survivors of more than two hundred years of dispossession.

City of Newcastle reiterates its commitment to address disadvantages and attain justice for Aboriginal and Torres Strait Islander peoples of this community.



For information about this document contact:

City of Newcastle

Post: PO Box 489 Newcastle NSW 2300 Australia

Phone: 02 4974 2000

Fax: 02 4974 2222

E-mail: mail@ncc.nsw.gov.au

Web: www.newcastle.nsw.gov.au

May © 2021 City of Newcastle

Authorisation: Chief Executive Officer

Contents

1.0 The Opportunity	3
1.1 Expression of Interest Objectives	4
1.2 Operational matters	6
2.0 The Process	11
2.1 Inspection of the site	11
2.2 Prepare and submit your proposal before the closing date	11
2.3 EOI evaluation	11
2.4 Tenderer to inform itself	11
2.5 Questions and clarifications	11
2.6 EOI assessment criteria	12
2.7 Acknowledgement	12
2.8 Approvals	12
3.0 EOI Submission	13
3.1 Lodgment	13
3.2 Disclaimer	14
3.3 Privacy and personal information protection notice	14
3.4 Presentations	14
3.5 Clarifications	14
3.6 Absence of obligation	14
3.7 Reservation of rights	14
3.8 Conditions of submission	14
4.0 Timeframes	15
Attachments	17
Attachment A: Plans	
Attachment B: Draft Lease	
Attachment C: Retail Lease Disclosure Statement	
Attachment D: Conditions of Registration	
Attachment E: Expression Of Interest Response Schedules	



1.0

The Opportunity

City of Newcastle (CN) invites Expressions of Interest (EOI) from persons, businesses and the Community interested in leasing Shepherds Hill Cottage. The Cottage forms part of the wider Shepherds Hill historic Defence Group site at 41 The Terrace, Newcastle.

The Cottage, battery observation post and gun emplacement were designed to defend Newcastle's burgeoning coal port after the 1878 Royal Commission into Colonial Defences. The Cottage was originally a quarters for personnel who manned the adjacent eight-inch gun and later a mess hall for officers. The military site served as an integral command position up to the end of World War Two.

The site is listed as a heritage item of State significance under the NSW Heritage Act 1977. A draft Conservation Management Plan for Shepherds Hill Defence Group applies to the site and CN is the reserve Trust manager for the Crown under the Newcastle Coastal and Estuary Reserve Trust.

The site is generally located adjacent to King Edward Park and approximately midway on Bathers Way coastal walk, a 6 kilometer shared pathway between Nobbys and Merewether Beaches. It is also located close to the Anzac Memorial Walk.

The lease area and buildings, per Attachment A, is indicative only. Council reserves the right to restrict a future leaseholder's exclusive use to a specific area and/or assign specific grounds maintenance responsibilities in the final lease. No structures are to be erected or placed on the curtilage to the cottage. Temporary seating, etc. removed on a daily basis would be considered.

The lease term offered is for five (5) years only. The Lessee will be required to secure its own Development Consent for the fit out and operation of the site in accordance with the submission and final agreement between the parties.

Statement of Heritage Significance

The following statement of significance has been extracted from the State Heritage Register (SHR) form for the Shepherds Hill Defence Group Military Installations;

"The Shepherds Hill Group is historically significant at a State and possibly a national level, because its history forms an important part of the story of Australian coastal defences, spanning a six-decade period from the late 19th, to the mid 20th century. During this time, the site was a key defence post.

Its history provides an insight into the way that NSW defence policy reacted to changing technologies, threats and types of warfare. During WWII, the fortifications

at Shepherds Hill played a coordinating role in the defence of Newcastle.

Defence of Newcastle during this time was of high significance to the state, because Newcastle had become an area of great strategic and industrial importance in NSW, with its steelworks and operational port. The majority of the state's shells were produced in Newcastle and it was also the site of the NSW Dockyards.

In order to protect these productions, a new system of defence was undertaken, which included the strengthening of Fort Wallis and the construction of two new close defence batteries - Shepherds Hill and Fort Scratchley.

The defence system proved its worth when in June 1942, Newcastle was fired on by cruising Japanese submarines, and Newcastle gained the distinction of being the only place in Australia that returned enemy fire with the launching of guns from Fort Scratchley.

The fact that the Shepherds Hill fortification was simultaneously manned by members of the Navy, Army and the Airforce for a variety of functions is rare, and possibly unique in Australia."

1.1 Expression of Interest Objectives

Complying EOIs will nominate acceptable proposals for leasing and management of the site. Submissions will include a proposed business plan with examples of the range of food and beverage products offered and parameters for service delivery being proposed.

The following objectives form the basis for criteria against which respondents will be assessed. Respondents shall provide a range of information as part of their submission to develop and manage the site. Respondents are required to provide information which will be assessed against the following criteria:

1. Optimal revenue return on leased assets for reinvestment in Newcastle Coastal Reserve facilities (refer Schedule Indicative Pricing). CN will consider any rental structure, be it a base annual rental plus a turnover percentage, annual rental with fixed rental increases or similar hybrid models.

CN proposes to recover statutory outgoings from the Lessee (on a proportional basis). The Lessee will also be liable for utilities consumed on the site including water, sewer, electricity, and telecommunications.

2. Demonstrated commitment to providing a diverse range of food and beverage products, including healthy and affordable product options. Demonstrate that a consistent and high level of service delivery will be maintained (refer Schedule – Product Lines & Pricing, Schedule – Methodology). This criterion is further defined as:

- Providing an indicative menu that demonstrates the diverse range of affordable healthy food and beverage product options offered to the community;
- Appropriate allocation and management of staff resources to ensure delivery of service to the community consistent with the required opening hours in the draft lease; and
- Providing a business plan that includes specifying proposed hours of operation to illustrate how consistent delivery of service will be maintained.

3. Identify and recommend a respondent with demonstrated financial capacity and the expertise to deliver on the objectives of their submission stated herein (refer Schedule – Financial Details and Schedule – Previous Experience). This criterion refers to the respondents ability to provide independent or verifiable evidence of:

- Financial capacity to meet contractual obligations over the term of the lease; and
- Expertise and previous experience demonstrating capability to meet all commitments outlined in this Expression of Interest (EOI).

4. Consistency of the proposed service with CN strategic and community objectives (refer Schedule – Alignment with Objectives). This criterion is further defined as the extent to which the respondents proposal is well aligned with adopted CN policy documents and complies with the following relevant legislation:

- Newcastle Coastal Plan of Management 2015 (which is to be superseded by the yet to be adopted Community Land Plan of Management 2021);
- Newcastle 2030 Community Strategic Plan (City of Newcastle);
- Local Government Act 1993;

(* Note: the above listed documents are publicly available. Respondents must rely on their own enquiries to ensure that all relevant reference material required for preparing their response is obtained. Any reliance placed by a respondent on information provided by a CN resource or referred to within this document shall be solely at the recipient's own risk.)

1.2 Operational matters

Respondents will be required to enter into a lease with CN. A copy of the draft lease (Attachment B) and the Retail Lease Disclosure Statement (Attachment C) is provided for information purposes and will be negotiated between the parties.

It is the intention of CN to offer the site in its current condition. The draft lease does not specify a particular standard of fit-out, however heritage issues must be taken into account during the works and operations on the site.

It is entirely the responsibility of the respondent to undertake the necessary due diligence and assessments to determine suitability of the site for the proposed purpose.

Covenant

When the Commonwealth of Australia transferred the site to Crown Lands on 19 July 1988, a covenant was placed on the site and stated the following:

1. *The transferee shall not demolish, damage, alter or change the essential historic character of the said land and the improvements thereon or permit same and shall maintain the land and the improvements thereon in good order and condition having regard to their essential historic character;*
2. *The transferee shall not use or permit to be used on the land and any improvements thereon for any*

purpose other than as an historical and recreational site provided however that the cottage on the said land (being the cottage known as 41 The Terrace, Shepherds Hill), may be occupied as a home for an artist in residence or for any similar purposes not inconsistent with the said historical character.

3. *The transferee shall not permit any new buildings or structures to be erected on the said land which adversely affects the historic character of the cottage, battery or King Edward Park; and*
4. *These covenants shall run with the land.*

Repair of the Cottage

The Cottage at Shepherds Hill was significantly damaged during a severe storm in April 2015 which resulted in damage to the roof and interiors along with water ingress. It also caused the collapse of the only surviving chimney above roof level and damaged the metal roof. Marine Rescue NSW (whom leased part of the cottage) were subsequently relocated as a result of the damage which made the cottage uninhabitable.

The cottage is now being restored in accordance with The Heritage Act 1977 under the supervision of a heritage architect and archeologist, with the aim for the cottage to be restored to its former heritage glory by the third quarter of 2021 or earlier.

Alterations to the cottage are currently being considered, including:

- extension of the verandah
- inclusion of accessible toilet within the laundry of the cottage
- two new external toilets and a store room adjacent to the cottage but connected via a covered walkway

Potential site uses

Shortlisted EOI submissions will be progressed for assessment against weighted selection criteria.

Depending on the type of use or business activity proposed, it is noted that development consent and approval under s.57 (2) NSW Heritage Act from the Office of Environment and Heritage for change of use may be required.

In these circumstances, the successful respondent would be required to enter into an Agreement for Lease, subject to being able to obtain all necessary approvals.

Adaptive reuse of the building

Any proposed refurbishment or other capital improvement may require development consent and approval under s.57(2) NSW Heritage Act from the Office of Environment and Heritage. In these circumstances, the successful respondent would be required to enter into an Agreement for Lease, subject to being able to obtain all necessary approvals.

This EOI is for lease of cottage only.

Conservation Management Plan

The draft Shepherds Hill Defence Group Conservation Management Plan (CMP), has been publicly exhibited and amendments have been made ahead of the document's finalisation. It is currently being reviewed by the Office of Environment and Heritage (OEH) but has not yet been endorsed by OEH. A full copy of the draft CMP can be viewed at Council's Customer Contact Centre in the City Administration Centre at 12 Stewart Ave, Newcastle.

Any final lease agreement for the cottage is unlikely to be issued until the draft CMP is endorsed by OEH.

The draft CMP outlines the following potential uses for the site and cottage:

Entire site

- wedding venue
- film set
- educational and entertainment purposes
- commemorative events
- incorporation into the Bathers Way/ Heritage interpretation
- exercise classes

Cottage

- low-key café/kiosk in association with community room/local artists
- community use organisation
- accommodation

Cottage/Battery Observation Post

- community organisation
- museum and art space

Tunnels

- selective guided tours

Lease operating models

Council proposes the following operating model:

- the successful respondent will have a lease over (part) Lot: 3116 DP: 755247 (Indicative 'Lease Area' and building as per Attachment A).
- the term of lease is expected to be a maximum of five years, however, subject to legislative restrictions and Crown Lands approval, a longer term may be considered where significant capital investment is proposed.
- annual net rent reviews to CPI and, if applicable, five yearly market rent reviews.

- the tenant will be responsible for all outgoings (statutory charges, insurances, repairs and maintenance and utilities).

Any proposed variations to the above Operating Model should be outlined in the EOI submission.

Planning considerations

The following information is provided as background information only. Proponents are required to inform themselves through their own independent investigations of the relevant planning controls for the proposed adaptive reuse of the site.

1. Heritage

The land is listed as a heritage item of state significance under the Heritage Act 1977 and the Newcastle Local Environmental Plan 2012. Respondents should refer to both the Heritage Act and the Newcastle LEP 2012 for provisions relating to development involving a heritage item.

2. Land use zone

The lease area is zoned RE1 Public Recreation. The intended use and proposed provision of goods or services must be consistent with the zoning and land use objectives.

ZONE RE1 PUBLIC RECREATION

1. Objectives of zone

- to enable land to be used for public open space or recreational purposes.
- to provide a range of recreational settings and activities and compatible land uses.
- to protect and enhance the natural environment for recreational purposes.

2. Permitted without consent Environmental facilities; Environmental protection works

3. Permitted with consent

Boat launching ramps; Boat sheds; Camping grounds; Car parks; Caravan parks; Charter and tourism boating facilities; Child care centres; Community facilities; Emergency services facilities; Information and education facilities; Jetties; Kiosks; Marinas; Markets; Moorings; Passenger transport facilities; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Respite day care centres; Restaurants or cafes; Roads; Water recreation structures

4. Prohibited Any development not specified in item 2 or 3





Shepherds Hill Cottage



2.0

The Process

This EOI process will be conducted in accordance with the NSW Local Government (General) Regulations 2020. The Hunter Councils' "Conditions of Registration" shall apply (**Attachment D**).

2.1 Inspection of the site

Any interested person wishing to attend a pre-submission site inspection must contact Michael Rathborne by email at mrathborne@ncc.nsw.gov.au to pre-register and confirm their attendance at one of the following inspections:

- 1.00 pm to 2.00pm on Monday 26 July 2021
- 1.00 pm to 2.00pm on Monday 2 August 2021

Attendance is at the expense and discretion of the interested party.

2.2 Prepare and submit your proposal before the closing date

Your submission should meet all the requirements of this information package to be eligible for consideration during the evaluation process.

The submission lodged shall remain valid for acceptance until execution of the lease with the successful respondent.

Tender closing date is 2:00PM on Tuesday 17 August 2021.

2.3 EOI evaluation

An Assessment Panel will evaluate/review the submissions received against the criteria set out in Section 1.1 of this document.

The panel may decide to seek clarification from any or all submissions by requesting further information or require a preferred respondent to make a presentation.

2.4 Tenderer to inform itself

The documentation provided by CN on the Site and Lease Area is for information purposes only. Respondents are to make their own enquiries, investigations, measurements and assessments. The respondent shall be responsible for any interpretation, deduction and conclusion made from the information made available and accepts full responsibility for any such interpretation, deduction and conclusions.

2.5 Questions and clarifications

All enquiries relating to this EOI must be directed to the nominated Project Officer, Michael Rathborne via the online forum at www.tenderlink.com/newcastle. Alternatively, you can contact Michael Rathborne on telephone: (02) 4974 2719 or via email at mrathborne@ncc.nsw.gov.au. Any verbal enquiries are to be confirmed in writing.

2.6 EOI assessment criteria

Council, in its discretion, will accept an EOI that it determines is likely to provide the best outcome to Council. EOIs will be assessed on conformity to the documentation and the following criteria:

1. The extent to which the type, range and/or cost of services on offer will meet the needs of King Edward Park, Bathers Way and ANZAC Memorial Walk users, Newcastle visitors and the local community.
2. Compliance with the draft Shepherds Hill Defence Group Military Conservation Management Plan (November 2017) and the Newcastle Coastal Plan of Management (2015), and Newcastle LEP 2012.
3. The extent to which the intended use and any proposed building modifications would:
 - allow for history and interpretation of the site to be understood
 - allow visitors to appreciate the cottage in a new way
 - enhance public assets within the lease area;
 - complement the adjoining park amenities;
 - impact nearby businesses and neighbouring residences.
4. Potential for financial return to Council
5. Potential benefit to and access by the local community
6. Previous experience

CN is not bound to accept any EOI submitted.

2.7 Acknowledgement

Respondents must complete the EOI Schedules (Attachment E) and submit them with their proposal as acknowledgement of their understanding of the process and information requirements before the closing time and date.

2.8 Approvals

The successful respondent, as Lessee, will be required to secure its own Development Consent for the fit out and operation of the business including waste management and removal. CN will provide Landowner's consent to the Development Application. The Lessee will be responsible for the cost of its waste management and removal.

As the lease will be over Community Land for a period of no more than five (5) years, the lease shall be in accordance with Section 47A of the Local Government Act 1993. Public notice of the proposed lease is to be given and CN will be required to consider any written submissions. The costs of advertising such notice will be borne by CN.

3.0 EOI Submission

In the preparation of a submission, and without limiting the respondents obligations, the respondent shall:

- submit an EOI which includes all Schedules including the EOI Response Schedules Declaration and any other declaration required completely filled in and signed, together with any other documents, information and details necessary to make the submission complete;
- not submit an interest without a firm intention to proceed;
- not engage in any form of collusive practice;
- not directly or indirectly canvass support from an elected member or employee of CN at any time.

3.1 Lodgment

(Refer to the detailed requirements of Clause 11 of the Conditions of Registration)

Electronic (preferred): Submissions must be lodged in the electronic Tender Box at www.tenderlink.com/newcastle by the time and date nominated. (Respondents will receive a Successful Submission Receipt upon completion.)

Hardcopy or fax tenders: Formal (hardcopy) submissions must be lodged in the Tender Box, by the date and time nominated, and must be enclosed in a sealed envelope or package and clearly endorsed:

2022/005E: Shepherds Hill EOI
The Tender Box – City of Newcastle
Ground Floor, City Administration Centre
12 Stewart Avenue
NEWCASTLE WEST NSW 2302

NOTE: Lodgement of late submissions will NOT be accepted.

**EOI Closing Date:
2:00pm on Tuesday 17 August 2021**

3.2 Disclaimer

CN and its officers, employees and consultants make no representation or warranty, express or implied, to any respondent or any of its employees, agents or consultants:

- a) that any information of any nature whatsoever in relation to this EOI including the accompany documents, whether provided in this EOI or otherwise and whether provided on, before or after the date of this EOI, is or will be, accurate or complete, and
- b) that reasonable care has been or will be taken in completing, preparing or providing such information.

3.3 Privacy and personal information protection notice

Respondents are advised that all (if any) personal information required to be provided with their submission is intended only for use by CN staff. The purpose being for the assessment of submissions (in accordance with the Local Government (General) Regulations 2005). The information will be stored at the City Administration Centre in accordance with the requirements of the State Records Act 1998.

3.4 Presentations

A respondent may be requested to make oral presentations of its submitted proposal to the EOI Assessment Panel.

3.5 Clarifications

Following receipt of the submissions and prior to awarding the lease, CN reserves the right to seek clarification with respondents where appropriate.

3.6 Absence of obligation

No legal or other obligation shall arise between a respondent and CN unless and until formal documentation has been signed and all necessary approvals and consents have been obtained.

3.7 Reservation of rights

In addition to any reserved rights set out elsewhere in this EOI, CN reserves the right, without assigning any reasons, to:

- negotiate with one or more respondents at any time without prior notice to any other recipient of this EOI;
- terminate at any time further participation in this process by any party;
- proceed with the EOI process on a basis or on terms different to those described in this EOI;
- cancel, vary, supplement or supersede this EOI or any of the matters set out in it at any time;
- postpone, delay, suspend or cancel the process;
- test community reaction to proposals prior to making any decision on the future use of the site.

3.8 Conditions of submission

CN's Conditions of Registration Edition 6 April 2020 (**Attachment D**) govern this process.



4.0 Timeframes

Anticipated timeframes for each of the stages are outlined below. In the event of unforeseen delays, these timeframes may be subject to change, but are indicated below.

EOI Process

Stage	Anticipated Date
EOI opens	19 July 2021
EOI closes	17 August 2021
First inspection opportunity	26 July 2021
Second inspection opportunity	2 August 2021
Shortlist and assess EOI submissions	30 August 2021
If required, seek clarification from Respondents and negotiate Lease	6 September 2021

Lease Agreement

Stage	Anticipated Date
Publicly advertise the proposed lease (28 days required for public submissions) and consider any submissions	21 September 2021 to 19 October 2021
Enter into lease agreement	20 October 2021



Shepherds Hill Cottage

newcastle.nsw.gov.au