

Vol 2 - EVALUATION CRITERIA AND RETURNABLE SCHEDULES EVALUATION OF RESPONSES

COMMERCIAL HOSPITALITY AND TOURISM OPPORTUNITY INVITATION FOR EXPRESSIONS OF INTEREST

To Develop, Market, Operate and Manage Functions, Short Stay Visitor
Accommodation, Hospitality and Visitor
Services/Experiences

SYDNEY HARBOUR NATIONAL PARK
Volume 1 The Offer EOI 11-1860

EVALUATION OF RESPONSES

Through this EoI OEI aims to identify a successful proponent(s) to enter into a commercial arrangement to develop, market, operate and manage function, accommodation, hospitality and visitor services/experiences in some or all of the subject premises and precincts in order to:

- provide environmentally, socially, culturally and economically sustainable visitor experiences;
- provide high quality and diverse visitor experiences;
- ensure that the operations conducted are economically and financially viable and sustainable, and that OEI obtains an appropriate financial return.

Responses will be assessed in line with these objectives. The evaluation criteria are not listed in any special order and may not be given equal weightings. Additional information may be sought to clarify aspects of submissions received.

Respondents may be invited to make a presentation to the Evaluation Panel.

The ranking of respondents will not be disclosed at any time during or after the EoI process.

The following evaluation criteria will be used in the evaluation of all EoI responses. The criteria is not listed in any particular order and may not be given equal weightings.

The ranking of respondents will not be disclosed at any time during or after the EoI process.

EVALUATION CRITERIA

Respondents must address each of the criteria below and demonstrate how their proposal will contribute to OEI's objectives for the buildings and precincts.

CRITERIA

EVIDENCE

Outline of proposal

A description that outlines the vision, implementation strategy and commercial aspects of the proposal including how the proposal accords with vision, aims and objectives as outlined above.
An overview of the physical and operational concepts for the project including outline adaptation plans for particular buildings where relevant.

Viability of Proposed Use(s)

Description of the commercial activity and proposed services and use(s).

Indicative potential outcomes for NSW taxpayers.

Compatibility with the site's environmental and listed heritage values

The preferred structure of the proposal eg lease, licence, management contract etc

Record of financial capacity to deliver

A description of financial strength and relevant anticipated funding sources or funding model.

Details of the financial offer to OEH.

Indicative capital investment and timing.

Demonstrated capacity to take full financial responsibility for the assets nominated and if, required, evidence of the capacity and experience in providing or obtaining the necessary finance to cover any necessary capital, management and operating costs and deliver a suitable financial return and value for money.

Recent annual reports and balance sheet (if applicable).

Track Record

Summary of experience and success of the respondent and partner entities with similar ventures including details of similar commercial projects managed, developed and/or operated by the respondent.

Details of experience in the adaptation and use of heritage buildings and the design of new facilities within heritage precincts.

Details of experience in providing and operating high quality visitor services.

References of key stakeholders, if available, in support of the track record.

Sustainability

A description of the capability, experience and expertise in sustainable development and operation of visitor facilities.

A description of how the proposal will be compatible with the natural, cultural and recreational values of the precinct; be environmentally sustainable and demonstrate efficient use of resources and be compliant with relevant legislation

RESPONDENT'S AUTHORISATION

A completed Schedule A must be submitted as part of the Proposal. Where a consortium is proposed the full details of each participant and the consortium structure including organisation chart must be attached to this Schedule together with a declaration that the Respondent's authorized Representative in this Schedule represents the consortium.

RESPONDENT DETAILS AND AUTHORISATION

Responses must be lodged in a file format that can be read and searched by Adobe Reader or Microsoft Office 2003. Executable files should not be submitted as the website may treat them as viruses. The prefix of the file name should include the Respondent's name. No security features are to be enabled. Diagrams should be provided in medium to high resolution.

PERIOD RESPONSE REMAINS VALID

The Respondent specifically agrees that the information in its Response will remain valid for a period of 90 days from the date of closure of this EoI.

RETURNABLE SCHEDULES

Respondent Name (in full)

Address of Registered Office

Suburb:

State:

Post Code:

Postal Address

Suburb:

State:

Post Code:

Australian Business Number (ABN)

hereby submits a Response to the Gap Bluff Precinct - Request for Expressions of Interest and agrees to be bound by all conditions contained herein.

Authorised on behalf of the Proponent by: (authorised person's signature)

Name	Position	Date
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RESPONDENT'S REPRESENTATIVE

The Respondent's point of contact during the Eol evaluation period. Note the results of the Eol assessment will be posted to this address.

Name of Respondent's Representative

Postal Address

Suburb:

State:

Post Code:

Business Telephone Number

Facsimile Number (if applicable)

Mobile Telephone

Number

E-mail Address

Respondents should attach:

If a consortium is proposed, attach details of each participant and the consortium structure.

By submitting this Eol, the Respondent confirms that:

- issued Addenda have been incorporated in the Response
- it agrees to be bound by and abide by the terms and conditions of this Eol
- the Response complies with the NSW Government Code of Practice for Procurement and the Respondent will conduct itself in accordance with the code
- the Respondent does not have any actual or potential conflicts of interest and is not aware of any such conflicts which may arise.
- the Respondent is not a Related Respondent
- the Response relies entirely upon the Respondent's own investigations
- the information provided in the Response is complete and correct and contains all of the information required by the Eol
- the Respondent and its entities are willing to:

- sign confidentiality undertakings and a probity and process deed;
- provide the necessary human and financial resources to participate in the process.

SCHEDULE B: PROPOSED BUILDING(S) USAGE

Respondents are required to indicate which building(s) their proposal relates to. The information provided here by respondents will be considered indicative only and will be discussed with short-listed respondents.

- The Officer's Mess**
- The Armoury**
- Gap Cottage**
- The Head Lighthouse Keeper's Cottage**
- The Assistant Lighthouse Keepers' Cottages**
- Constable's Cottage**
- Green Point Cottage**
- 33 Cliff Street**

SCHEDULE C: RESPONSE TO THE EVALUATION CRITERIA

In no more than 5 pages, respondents are required to address the selection criteria as listed in Appendix 3 (and repeated below) paying particular attention to how the proposal will contribute to OEH's objectives. These are:

- providing environmentally, socially, culturally and economically sustainable visitor experiences;
- providing high quality and diverse visitor experiences ;
- ensuring that the operations conducted are economically and financially viable and sustainable, and that OEH obtains an appropriate financial return;
- ensure that the operation, management and marketing of the operations are consistent with and satisfy the objectives of the National Parks and Wildlife Act 1974 and the Sydney Harbour National Park Plan of Management 2012 and relevant Conservation Management Plans.

CRITERIA	EVIDENCE
Outline of proposal	<p>A description that outlines the vision, implementation strategy and commercial aspects of the proposal including how the proposal accords with vision, aims and objectives as outlined above.</p> <p>An overview of the physical and operational concepts for the project including outline adaptation plans for particular buildings where relevant.</p>
Viability of Proposed Use(s)	<p>Description of the commercial activity and proposed services and use(s).</p> <p>Indicative potential outcomes for NSW taxpayers.</p> <p>Compatibility with the site's environmental and listed heritage values</p> <p>The preferred structure of the proposal eg lease, licence, management contract etc</p>
Record of financial capacity to deliver	<p>A description of financial strength and relevant anticipated funding sources or funding model.</p> <p>Details of the financial offer to OEH.</p> <p>Indicative capital investment and timing.</p> <p>Demonstrated capacity to take full financial responsibility for the assets nominated and if, required, evidence of the capacity and experience in providing or obtaining the necessary finance to cover any necessary capital, management and operating costs and deliver a suitable financial return and value for money.</p> <p>Recent annual reports and balance sheet (if applicable).</p>
Track Record	<p>Summary of experience and success of the respondent and partner entities with similar ventures including details of similar commercial projects managed, developed and/or operated by the respondent.</p> <p>Details of experience in the adaptation and use of heritage buildings and the design of new facilities within heritage precincts.</p> <p>Details of experience in providing and operating high quality visitor services.</p> <p>References of key stakeholders, if available, in support of the track record.</p>
Sustainability	<p>A description of the capability, experience and expertise in sustainable development and operation of visitor facilities.</p> <p>A description of how the proposal will be compatible with the natural, cultural and recreational values of the precinct; be environmentally sustainable and demonstrate efficient use of resources and be compliant with relevant legislation</p>

Respondents should attach, if available, copies of annual financial reports or the past three financial years

APPENDIX 4 – GENERAL CONDITIONS

Overview

In lodging a response Respondents acknowledge their acceptance of the terms and conditions defined in this section.

Governing Law

This EoI is governed by and must be construed according to the laws of New South Wales.

Legal Status of Responses

Proposals submitted electronically will be treated in accordance with the Electronic Transaction Act 2000 (NSW), and given no lesser level of confidentiality, probity and attention than if Proposals had been submitted by other means.

Signatures are not required for a proposal submitted electronically. A Respondent must ensure that the proposal is appropriately authorised by a responsible officer for electronic lodgement.

A Respondent, in lodging electronically, is taken to have accepted the conditions on the NSW Government eTendering web site and deemed to have authorised the submission of the proposal.

Response to questions

Respondents should note the following;

- (i) All enquiries or clarification requests are to be made in writing (e-mail is acceptable) to the Contact Person;
- (ii) Enquiries and requests may be made up to five (5) business days before the Closing Date;
- (iii) Responses to enquiries will be provided to all parties as an addenda to the EoI except where:
 - (a) a party nominates that the enquiry relates to proprietary aspects of a proposal, and;
 - (b) OEH is of the opinion that the enquiry does relate to proprietary aspects and non-disclosure of the enquiry and the response will not adversely affect the integrity of the process.

Changes to the process and EoI document

OEH reserves the right at its absolute discretion to change any aspect of the process detailed in the EoI. Any changes will be advised before the closing date and issued in the form of an addendum. All addenda will be posted on the NSW eTendering website

Changes to EoI Response

A Respondent must inform the Contact Person in writing of any material change to the information in the EoI Response occurring after the time of lodgement and up to 90 days after the closing date, including but not limited to:

- any aspect the Respondent can no longer commit to or deliver;
- changes to consortium arrangements.

Related Respondents

OEH intends to ensure that the probity, competitiveness and cost of the EoI and any subsequent procurement stages are not materially impacted by relationships between Respondents or between the parties that comprise Respondents. OEH may require Respondents to:

- provide relevant clarifying information;
- put internal governance arrangements and procedures in place to address any probity and competitiveness concerns and comply with such arrangements and procedures;
- provide certifications of compliance with all such arrangements and procedures.

In determining the number and identity of Short-listed Respondents, OEH reserves the right to take into account whether any Respondents are related ("Related Respondents"). OEH may:

- increase the number of Short-listed Respondents to ensure that two or more are not Related Respondents;
- decline to short-list a Respondent if probity and competitiveness concerns cannot be adequately addressed.

Ownership of Responses

Upon submission, all Responses become the property of OEH and will not be returned.

Any intellectual property rights that may exist in a Response remains the property of the Respondent. Intellectual property is to be distinguished from confidential information.

In submitting a Response, a Respondent grants a licence to the Agencies, their officers, employees, agents, advisers, a licence to copy, adapt, modify, disclose or do anything else necessary to all material (including material containing intellectual property) contained in the Proposal, for the purposes of evaluating and clarifying the Response.

Media Announcements

The Government may make media announcements in relation to this EoI. OEH will not release the names or identifying details of respondents who are not short listed and will only do so with the agreement of those respondents. Respondents are not to make any media announcements without the prior written agreement of OEH. Any unauthorised release may result in the Respondent being excluded from the remainder of the procurement process.

Costs to be borne by Respondents

OEH will not be responsible for, or pay or reimburse, any costs expenses or loss which may be incurred by any respondent in the development of a response, any clarifications or presentations to the evaluation panel, or as a result of the modification or termination of the EoI process.

Standards of Conduct

This EoI is conducted in accordance with government procurement policies and guidelines, including the NSW Code of Practice for Procurement, and NSW Government Procurement Guidelines – Tendering Guidelines, which are available at www.procurepoint.nsw.gov.au

(a) Confidentiality, Disclosure of Document and Privacy

Details of all Responses will be treated as ‘commercial-in- confidence’. However, the level of confidentiality is subject to legislative reporting requirements and parliamentary obligations of disclosure.

Third parties have legal rights, under the Government Information (Public Access) Act 2009, to require information from the Government.

OEH may disclose details of the Response to its technical advisers and representatives of other Government agencies to assist it during the evaluation process. All advisers will be required to sign confidentiality agreements.

(b) Canvassing

All enquiries concerning this EoI must be made to the Contact Person

(c) Collusion

Respondents must not engage in collusive tendering, anti- competitive conduct or any similar conduct with another Respondent or any other person in relation to this EoI. Evidence of such contact may lead to the rejection of the response(s) of all respondents involved.

(d) Conflict of Interest

Respondents, participants and their respective officers, employees, agents and advisors must not have any relationship, whether financial or not, with anyone working for or on behalf of the NSW Government on this Project that may be seen to confer an unfair advantage. Respondents must inform the Contact Person of any actual or perceived conflict of interest.

No Legal Relationship

This EoI is not an offer. OEH, is not legally bound in any way to a Respondent or obliged to proceed any further with the EoI or related processes detailed in this document.

OEH is not required to comment on or explain its decisions relating to the EoI process.

To the extent permitted by law, Respondents will have no claim against OEH arising from the Government’s exercise, or failure to exercise, any rights under the EoI, including as a result of delays, nor in relation to any matters arising out of or in connection with the EoI.

Disclaimer

To the extent permitted by law, the Respondents will have no claim or right to appeal against the Agencies or the State of New South Wales arising out of the exercise, or failure to exercise, by the Agencies of any rights under this EoI, including as a result of delays to the EoI process, not in relation to any matters arising out or in connection with the EoI or latter stages of the procurement process.

This EoI does not purport to contain all the information that interested parties and their advisers would desire or require in reaching decisions as to whether to lodge a Response. Respondents should prepare their Responses based on their own investigations and determinations and should not rely on the information contained in the EoI document.

OEH, its officers, employees, agents and advisers:

- a) Are not, and will not be, responsible or liable for the accuracy, currency, reliability or completeness of any information provided to the Respondents
- b) Do not make an express or implied representation or warranty that any estimate or forecast will be achieved or that any statement as to future matters will prove correct
- c) Expressly disclaim any and all liability arising from all information provided to Respondents including, without limitation, errors in, or omissions from the Eol, information provided to Respondents or arising from the negligence of OEH
- d) Except so far as liability under statute cannot be excluded, accept no responsibility arising in any way from errors, or omissions from the Eol, any information provided to Respondents or arising from the negligence of OEH
- e) Do not represent that they apply any expertise which can be relied upon by a Respondent or any other interested party
- f) Have no responsibility to inform Respondents of any matter arising, or to which they become aware, which may affect or qualify any information provided to the Respondents in any way
- g) Accept no liability for any loss or damage suffered by Respondents or any other person as a result of a Respondent or other person, placing any reliance on the content of this Eol or any information provided to Respondents, and
- h) Assume no duty of care or disclosure of fiduciary duty to Respondents or other interested party.

These requirements are in addition to, and do not limit obligations defined elsewhere in this Eol.

APPENDIX 5 - DEFINITIONS

“Closing Date” means (insert), or a later time and date nominated by OEH

“EIS” means Environmental Impact Statement

“Eol” means this invitation for Expressions of Interest

“Evaluation Panel” means the evaluation panel established by OEH that will evaluate responses to this Eol

“Government” means the Government of NSW

“OEH” means Office of Environment and Heritage, Department of Premier and Cabinet

“Plan of Management” means the Sydney Harbour National Park Plan of Management 2012

“Probity Auditor” means the probity auditor identified at Section 2 - Probity

“REF” means Review of Environmental Factors

“Respondent” means a person that submits a response under this Eol

“Response” means a proposal submitted by a respondent under this Eol

“Short-listed Respondents” means a shortlist of respondents identified by OEH

INTERPRETATION

In this Eol:

Headings are for convenience only and do not affect interpretation and unless the context indicates a contrary intention:

- a) “person” includes an individual, the estate of an individual, a corporation, authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a Trust;

- b) a reference to a person includes that person's executors, administrators, successors and permitted assigns, including persons taking by way of novation and in the case of a Trustee, includes a substitute or an additional Trustee;
- c) if more than one person is identified as a Respondent, that expression refers to them and the obligations of a Respondent under this Eol and bind them jointly and severally;
- d) a reference to any document (including this Eol) is to that document as varied, novated, ratified or replaced from time to time;
- e) a reference to a statute or statutory provision includes a statutory modification or re enactment of it or a statutory provision substituted for it, and each ordinance, by law, regulation, rule and statutory instrument (however described) issued under it;
- f) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every gender;
- g) a reference to a clause, schedule, exhibit, attachment or annexure is a reference to a clause, schedule, exhibit, attachment or annexure to or of this Eol, and a reference to this Eol includes all schedules, exhibits, attachments and annexure to them;
- h) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- i) "includes" in any form is not a word of limitation; and
- j) a reference to "\$" or "dollar" is to Australian currency.

APPENDIX 6 – ADDITIONAL INFORMATION

National Parks and Wildlife Act 1974

<http://www.legislation.nsw.gov.au/viewtop/inforce/act+80+1974+FIRST+0+N>

Sydney Harbour National Park (SHNP) Plan of Management 2012

The South Head SHNP Conservation Management Plan 2010

OEH sustainability guidelines and sustainability assessments

<http://www.environment.nsw.gov.au/resources/protectedareas/20100987SustainabilityAssessmentCriteria.pdf>

<http://www.environment.nsw.gov.au/resources/protectedareas/20100980SustainabilityGuidelines.pdf>

