

Expression of Interest Conditions

1 Definitions and Interpretation

1.1 Interpretation

These Expression of Interest (EOI) Conditions may be used where the City of Mandurah (City) is seeking expressions of interest from prospective Commercial and Aquatic Operators (Applicants) with an intention of issuing a Trading Permit, at the City's discretion.

1.2 Defined Terms

Below is a summary of some of the important defined terms used in this Expression of Interest:

Application or **Submission** means the completed Expression of Interest Form, response to the Selection Criteria and Attachments.

Applicant / Operator means a commercial and/or aquatic operator who has or intends to submit an Expression of Interest to the City.

Attachments means the documents you attach as part of your Submission.

Contact Person means the City Officer identified in the Section 2 below.

City means the City of Mandurah

Deadline means the deadline for lodgement of your submission, as detailed in the Public Advertisement displayed on the City of Mandurah Website for this EOI.

Location Map means the 2024/25 [City Centre Trading Permit Location Map](#)

Operation means the Commercial and/or Aquatic Operation proposed by the Applicant

Relevant Considerations means the matters that the City may have regard to in evaluating your submission.

Site means a location identified on the Location Map.

Trading Permit means a permit issued by the City of Mandurah for a period of three, six or twelve months setting out the Conditions of Operation for the Commercial and Aquatic Operator

2 Contact Person

Applicants must not rely on any information provided or request information from any person with respect to this EOI other than the person listed below unless that person has been identified as a member of the City's Property Services Team:

Name	Louise Collins
Position:	Property Leasing Officer
Organisation:	City of Mandurah
Telephone:	(08) 9550 3246
Email:	property@mandurah.wa.gov.au

3 Submission acceptance

By submitting and Expression of Interest, the Applicant:

- a) accepts these EOI Conditions;

- b) accepts the requirement to complete a Trading Permit Application and pay the relevant fee if notified that their EOI is successful.

4 Applicants Cost

Participation in the EOI process is at the Applicant's cost. The City is not required to pay compensation to the Applicant in relation to this Stage 1 of the EOI process in any circumstances.

A further Application for a Trading Permit must be made at the Applicant's cost. Fees for Trading Permits are set out in the City's [2024/2025 Schedule of Fees and Charges](#).

5 Confidentiality and Intellectual Property

5.1 Confidentiality

- a) The City will keep all confidential information of the Applicant which it obtains as part of the EOI process. The City may use Applicant confidential information for the purposes of the EOI process.
- b) The Applicant must not discuss this EOI with any other person except as required to prepare its proposal.
- c) The Applicant must keep confidential all confidential information which it obtains as part of the EOI process, not use it except for the purpose of responding to the EOI, and not disclose it except to its Personnel on a need-to-know basis for the purpose of responding to the EOI, or with the City's consent, or to the extent required by Law, or to its professional advisors.
- d) The Applicant must not make any public announcements or advertisements relating to the EOI requirements.

5.2 Disclosure

The City may disclose Applicant confidential information externally:

- a) as required by law;
- b) to its professional advisors.

Documents and other information relevant to a resulting Contract may be disclosed when required by law under the *Freedom of Information Act 1992* or under a Court Order.

A Council report determining the successful Applicant(s) may be published on the City's website and include all information material to evaluating the Submission.

6 Preparing and Lodging a Response

6.1 How to Prepare your Submission

- a) Carefully read all parts of this document.
- b) Complete the Expression of Interest Form and attach to your Attachments.
- c) Make sure you have signed the Expression of Interest Form and responded to all of the requirements.
- d) Lodge your Submission before the Deadline.

6.2 Applicant to Inform Themselves

By submitting a Expression of Interest, Applicants will be deemed to have:

- a) Accepted these EOI Conditions;

- b) examined this EOI and any other information available in writing to Applicant's for the purpose of submitting a Expression of Interest;
- c) examined all further information relevant to the risks, contingencies and other circumstances having an effect on their Submission which is obtainable by the making of reasonable enquiries;
- d) satisfied themselves as to the correctness and sufficiency of their Submission;
- e) satisfied themselves they have a full set of the EOI documents and all relevant attachments.

6.3 Identity of the Applicant

The identity of the Applicant is fundamental to the City. The Applicant will be the person, persons, corporation or corporations named as the Applicant the EOI Application Form.

6.4 Submission Deadline

Submissions must be lodged by the Deadline. **Late submissions will not be considered in accordance with the Timeline set out in the request, and subject to assessment against all Trading Permits issued by the City in the first round of Applications.**

6.5 Place for Submission

Submissions are to be submitted electronically via **City of Mandurah ASANA Portal**

It is recommended that electronic submission commence at least sixty minutes prior to the Deadline. Applicants must ensure that their electronic Application is submitted in its entirety before the Deadline.

Submissions that are hand delivered, received by post, email or facsimile will not be accepted.

7 Expression of Interest Process

7.1 Submission acceptance

By submitting a proposal, the Applicant:

- a) Accepts these EOI Conditions;
- b) Accepts the requirement to submit a Trading Permit Application with the City prior to commencing the Operation.

7.2 Evaluation Process

The Expression of Interest is the first of a two stage process.

Submissions will be evaluated using information provided in the Submission and in response to the Relevant Considerations.

The following evaluation methodology will be used in respect of this EOI:

- a) Submissions are checked for completeness and compliance. Submissions that do not contain all information requested (e.g. completed Expression of Interest Form and Attachments) may be excluded from evaluation.
- b) Submissions are assessed against the Relevant Considerations.
- c) Referees may be contacted in support of the responses against the Relevant Considerations.
- d) The most suitable Applicants will be invited to submit a Trading Permit Application.

7.3 Compliance Criteria

These criteria are detailed within the Expression of Interest Form are not evaluated. Each Submission will be assessed on a Yes/No basis as to whether the criterion is satisfactorily met. An assessment of “No” against any criterion may eliminate the Submission from consideration.

7.4 Relevant Considerations

The City will consider each Application against the Relevant Considerations to rank the Operators in order of preference for each Site. **It is essential that Applicants address the information requested in the EOI Form.** Failure to provide the specified information may result in the Application being unsuccessful.

7.5 Order of Selection

Submissions will be considered in the order that they are received. The City will proceed to evaluate submissions prior to the closing date and time in the following order:

- Submissions received on or before 5:00pm Friday, 13 September 2024 evaluated in the week commencing 16 September 2024;
- Submissions received on or before 5:00pm Friday, 20 September 2024 evaluated in the week commencing 23 September 2024;
- Submissions received on or before 5:00pm Friday, 27 September 2024 evaluated in the week commencing 30 September 2024.

Submissions will be ranked by the City in order of suitability. First preferences for each Site will be considered in order of ranking. If an Applicant is not selected for their preferred Site, they will be reconsidered for their second and third preferred Site.

The City may select one or more operators per Site.

7.6 Policies that May Affect Selection

The following City policies and guidelines may affect the selection of a preferred Applicant:

- [Trading Permit Guidelines](#)

7.7 Reference Checks

Referees may be contacted prior to the selection of a shortlisted Applicant, at the sole discretion of the City.

Applicants should provide the contact details of referees who can advise on the performance standards of previous relevant projects or contracts undertaken. Written references will be accepted as long as the contact details of the referee are included in the letter or email.

Applicants should ensure that referees have been notified that they have been nominated in the Applicant's submission.

7.8 Risk Assessment

The City reserves the right to reject any shortlisted Applicant on the basis of presenting an unacceptable risk to the City, which may have resulted from any of the assessment methods or tools described in this EOI.

7.9 Rejection of Submissions

A Submission will be rejected without consideration of its merits in the event that:

- a) the Submission is not submitted before the Deadline;

- b) the Submission is not submitted at the place specified in the Expression of Interest;
or
- c) the Submission fails to comply with any other requirements in this Request or breaches any warranty made under these EOI Conditions.

7.10 Shortlisting of Submissions

Unless otherwise stated in this Expression of Interest, Submissions may be for one or more Site and may be shortlisted by the City either wholly or in part. The City is not bound to shortlist the Submission with the highest score and may reject any or all Submissions received. The shortlisting of a Submission does not oblige the City to proceed to issuing a Trading Permit.

7.11 Right to Cease or Suspend

The City may discontinue or suspend the EOI process at its sole discretion.

7.12 Notification of Outcome

All Applicants will be provided with notification of the outcome of their Application.

8 Applicant Conduct

8.1 Anti-competitive Conduct

The Applicant warrants that neither it, nor its Personnel have engaged in any collusive, anti-competitive or similar conduct in connection with the EOI process.

8.2 Conflicts of Interest

The Applicant warrants that it and its Personnel do not hold any office or possess any property, are not engaged in any business or activity and do not have any obligations whereby a Conflict of interest is created, or may appear to be created, in conflict with its obligations under these EOI Conditions or the proposed contractual arrangements, except as disclosed in the Submission.

8.3 Canvassing of Councillors or Officers

If a Applicant, whether personally or by an agent, canvasses any of the City's Councillors or Officers with a view to influencing the acceptance of a Submission made by it or by any other Applicant, then regardless of whether the canvassing had or may have had any influence on the acceptance of such Submission, the City may at its discretion omit the Submission from further consideration.

8.4 Warranties are ongoing

The warranties in this section are provided as at the date of the Applicant's response to the EOI and on an ongoing basis until the later of the City notifying the Applicant that its proposal has been rejected and expiry or termination of any Contract entered pursuant to the EOI process.

The Applicant warrants that it will immediately notify the City if it becomes aware that any warranty made in this section was inaccurate, incomplete, out-of-date or misleading in any way when made, or becomes inaccurate, incomplete, out-of-date or misleading in any way, during the relevant period.