

Expressions of Interest – Supporting Inner City Living

Section A - Overview of Expression Of Interest

1. Background and Overview

- 1.1. On 8 July 2021, Council approved extending the role for Rotorua Economic Development Ltd (RED) to support the delivery of transformational placemaking projects. The core focus of the extended role was to allow Council to use RED as a vehicle for supporting projects (TPPs) aimed at achieving the aspirations outlined in the Long Term Plan 2021-2031 and Draft Economic Development Strategy.
- 1.2. The extension of REDs role also acknowledged that new approaches were required by Council to support the private sector to deliver large-scale projects that support inner city living and drive positive transformation in the CBD.
- 1.3. This Expressions of Interest (EOI) is issued by Rotorua Economic Development Ltd (RED), and seeks landowners and developers / investors who are seeking to undertake a project in the inner city which supports inner city living.
- 1.4. RED are particularly interested in Transformational Placemaking Projects (TPP) which are
 - Ideally with a scale of at least four storeys,
 - Can be constructed and completed within 3 – 3.5 years,
 - Support a volume of residential units appropriate to the strategic location of the project.
- 1.5. RED will support suitable projects by:
 - Matching land development opportunities with investors and developers.
 - Undertaking Project Feasibility.
 - Providing partnership funding and or Council land.
 - Other enabling assistance / investment considered appropriate.
- 1.6. In supporting projects:
 - Any RED/RLC financial contribution will seek to have those costs recouped where possible and on a case-by-case basis. Should the proposed partnership result in a Joint Venture then these costs could be capitalised into the development subject to negotiations.
 - The project must be located within either the City Centre 1 or City Centre 2 zones.
- 1.7. RED and RLC are not seeking to support inner city living by providing ad-hoc funding for landowners or investors / developers who don't have a 'real' opportunity which can be reasonably delivered as soon as possible.

2. Submission of Expressions of Interest

- 2.1. Each Participant's Expression of Interest must be submitted in the format specified in section B of this EOI, together with any other supporting information.
- 2.2. Section B includes two sets of questions targeted at Land Owners and Developers/Investors. You are only required to answer the questions that are relevant to your intended project and or situation.
- 2.3. Each Expression of Interest must be submitted to the RED by email to investment@rotoruanz.com **on or before 4.00pm on Wednesday, 29 September 2021 (Closing Date)**. RED is not liable for any failure by a Participant to submit an Expression of Interest before the Closing Date.
- 2.4. RED's policy is not to consider late Expressions of Interest. However, RED retains the right to consider and/ or accept late Expressions of Interest where there is no material prejudice to other Participants.
- 2.5. The Expression of Interest validity period is 30 days from the Closing Date. The parties may agree to extend the Expression of Interest validity period. By submitting an Expression of Interest, the Participant will be deemed to represent that the offer contained in their Expression of Interest remains open for acceptance, and will not be withdrawn, for the duration of this validity period.

1. Joint Expressions of Interest

- 2.6. Joint Expressions of Interest may be submitted. Where a joint Expression of Interest is submitted, Participants must provide full details of each party submitting the Expression of Interest and name one party as the single contact point for all communications relating to the Expression of Interest.

2. Acceptance of Conditions

- 2.7. Participants acknowledge that, when submitting its Expression of Interest, each Participant must advise RED in its covering letter if it wishes to question and/or negotiate any of the terms or conditions in this EOI, or wishes to negotiate any new terms and/or conditions. If Participants do not state otherwise, a Participant will be deemed to have accepted the terms and conditions in this EOI in full.

3. Communication between RED and Participants

- 2.8. A Participant shall not engage with RED or Council regarding this EOI other than on the terms set out in this EOI. Any unauthorised contact or any attempt to canvas, induce or reward may invalidate the Expression of Interest of the Participant.
- 2.9. Any questions in relation to this EOI shall be conveyed in writing to Investment@rotoruanz.com.
- 2.10. Where the EOI documents issued to prospective Participants are ambiguous or unclear, Participants may request the issue of an explanatory notice. If an explanatory notice is issued, it may also be sent to all Participants via email and shall upon issue become part of this REOI.
- 2.11. Expressions of Interest may be submitted subject to any reasonable interpretation of any ambiguity or uncertainty in this EOI. Any such interpretation and any assumptions made must be detailed in the cover letter or other separate document included with the Expression of Interest.
- 2.12. Requests for information or clarification that relate solely to a Participant's Expression of Interest and contain commercially sensitive information will be provided to the Participant requesting the information or clarification only.
- 2.13. Statements, written or verbal, made by RED or Council do not form part of the EOI unless made in writing by the authorised representative(s) of RED.

2.14. RED will endeavour to respond to all EOI received and have the sole discretion to progress on the basis of an EOIs being received or not.

3. Outcomes

3.1. Following evaluation of the EOIs received, RED may:

- short list some Participants and invite more detailed proposals;
- conduct negotiations with a Participant; or
- invite revised EOIs from Participants; or
- conclude or abandon the process.

Section B - Expression Of Interest Questions

EOI Questions for Landowners

Q1: Name / Entity and Contact Details: _____

Q2: Land / property proposed for the project: _____

Q3: Are there existing plans for a project that supports inner city living?

Yes

No (go to Question 7)

Q4: What is the estimated value of the project: _____

Q5: Please detail the relevant stage your project is at:

- | | | |
|--|-------------------------------|-----------------------------|
| - <u>Plans</u> – Concept Plans Complete | Detailed Plans Complete | Construction Plans Complete |
| - <u>Consents</u> – Pre consenting | Resource Consent approved | Building Consent approved |
| - <u>Financing</u> – No financing in place | Financing approved | Project is cash funded |
| - <u>Tenants and Pre-sales</u>
presales | No tenants secured / presales | Some tenants secured / |

Q6: Please describe your project and the work undertaken to date. Please attach any relevant plans and reports, which demonstrate progress:

Q7: What is your preferred delivery model?

Sell the land to developer

Joint Venture

Deliver alone

Q8: Do you have experience in property development?

Yes

No

Q9: If yes, please provide examples of previous projects you have delivered or participated in:

Q10: What barriers to delivering your project are you facing and what do you require to overcome them?

EOI Questions for Developers / Investors

Q1: Name / Entity and Contact Details: _____

Q2: Please outline why you are interested in delivering a project that supports inner city living in Rotorua:

Q3: Please outline what assistance you are interested in to support your investment:

Q4: Please provide examples of previous projects you have delivered or participated in:

Section C - General Conditions

4. Rights reserved by Rotorua Economic Development Ltd

4.1. Notwithstanding anything contained in this EOI, RED reserve the right to:

- a) vary this EOI or any policy or criteria relating to participation in this process or evaluation of Expressions of Interest;
- b) issue modified descriptions of service requirements, including innovations proposed by RED through this EOI process;
- c) deal separately with any of the divisible elements of any Expression of Interest received through this EOI process, unless the relevant Expression of Interest specifically states that those elements must be taken collectively;
- d) enter into discussions and/or negotiations with any one or more Participants relating to matters dealt with in this EOI;
- e) proceed directly to negotiations;
- f) negotiate with more than one Participant, and appoint more than one Participant, even though one Participant may be evaluated more highly than the other;
- g) not consider the lowest priced (or highest ranked) or any Expression of Interest or enter into any Service Level Agreement;
- h) not proceed to evaluation of Expressions of Interest;
- i) accept or reject in part or whole any Expressions of Interest at any time;
- j) limit or extend the list of potential respondents to a subsequent EOI, EOI process or negotiations beyond those who respond to this EOI;
- k) seek further information or clarifications from any Participant about any aspect or information provided in an Expression of Interest and not be obliged to seek the same or similar information or clarification from other Participants;
- l) liaise or negotiate with any Participant without disclosing this to, or involving, any other Participant (whether before, during or after the process) to amend its Expression of Interest so that the Expression of Interest is compliant with this EOI and in a form acceptable to RED;
- m) except to the extent required by law, withhold any information from any Participant for any reason and not be responsible to any person for any information so withheld;
- n) change its requirements or waive any irregularities or informalities in this EOI process;
- o) consider (or not consider) any Expression of Interest in part or whole;
- p) contact any third party who has previously engaged the Participant (or any person comprising or associated with the Participant) to discuss the work performed for that third party;
- q) amend the closing date for submission of Expressions of Interest or any other date referred to or implied in this EOI (e.g. extend or shorten time frames);
- r) suspend, modify, adapt or cancel (in whole or in part) this EOI process and/or the overall process at any time; and

s) re-advertise the EOI.

3.2. RED shall not be bound to give reasons for any decision made under this clause.

5. Canvassing

5.1. Any Participant who indirectly or directly canvasses, or provides any form of inducement or reward to, any officer, employee or advisor of RED, or Council concerning any aspect of this EOI process may, at the discretion of RED, be disqualified.

5.2. Any contact by a Participant's representatives with any representative of RED or Council other than RED's authorised representative(s) must be with the prior authorisation of RED.

6. No warranties or representations

6.1. Any information provided by RED in relation to this REOI is released on the following basis:

- a) Such information provides a background only;
- b) RED makes no representation or warranty to any Participant in relation to such information; and
- c) Reliance on any information provided by RED is at a Participant's own risk.

6.2. Each Participant acknowledges that:

- a) it has made its own independent enquiry and investigations in relation to the Services and provides its Expression of Interest in reliance solely on its own judgment and not in reliance on any representations of RED, including, without limitation, any representation as to any financial projections or forecasts in respect of the Services, or the future prospects of the Services;
- b) all express or (to the extent permitted by law) implied, or other representations or warranties of RED in relation to the Services are expressly excluded;
- c) any Service Level Agreement provided by RED is being supplied and acquired in trade within the meaning of the Fair Trading Act 1986, that sections 9, 12A and 13 of the Fair Trading Act 1986 will not apply to the agreement between the parties, and that it is fair and reasonable to exclude their application;
- d) any Service Level Agreement provided by RED is being supplied for the purposes of a business and the provisions of the Consumer Guarantees Act 1993 will not apply to those services to the fullest extent possible; and
- e) neither RED, nor RED's officers, employees, agents or other representatives have made or make any representation, or have given or give any warranty (express or implied), as to the accuracy, content, completeness, value or otherwise of, nor have or accept any liability in respect of, any information (written, oral or otherwise) directly or indirectly provided, or made available to, or used by the Participant in connection with, the transactions evidenced by this REOI, and the Participant unconditionally waives any claim (whether arising in tort, in contract, by operation of law or otherwise) it may have against any of them in respect of such information.

7. Information complete and accurate

- 7.1. All information provided by a Participant in its Expression of Interest is warranted by the Participant to be complete and accurate in all material respects.
- 7.2. The Participant also warrants to RED that the provision of information to RED, and the use of it by RED for the evaluation of Expressions of Interest and for the negotiation of any resulting contract or agreement, will not breach any third party intellectual property rights.
- 7.3. RED are under no obligation to check Expressions of Interest for errors and omissions. Acceptance of an Expression of Interest that contains errors will not invalidate the contract formed by that acceptance, unless RED determines otherwise.
- 7.4. If RED discovers errors and/or omissions in any Expression of Interest (this may include price) RED may, at its discretion, allow the Participant to correct such error and/or omission so long as by the correction of such error and/or omission there would not materially prejudice any other Participant.

8. Conflicts of interest

- 8.1. Where any Participant (if an individual) is also an employee of RED, or (if a company) has an employee of RED as a shareholder or director, RED reserves the right not to proceed with evaluation of the Participant's Expression of Interest.
- 8.2. Each Participant shall provide details of all actual, perceived or potential conflicts of interest in their Expression of Interest which are known to exist at the time of submission of the Expression of Interest or which may possibly come into existence during the term of the Service Level Agreement.
- 8.3. If RED considers that any Participant has a perceived, potential or real conflict of interest then RED may, at its sole discretion, elect not to consider or evaluate the Expression of Interest any further or may require the Participant to overcome its conflict of interest.

9. Verification and credit check

- 9.1. The Participant confirms to RED, on its behalf and on behalf of each of the individual Participant's personnel referred to in the Expression of Interest, that RED is authorised to:
 - a) verify with any third person any information included in the Expression of Interest or disclosed to RED in connection with the Expression of Interest (whether that information relates to such personnel or otherwise); and
 - b) carry out a credit check on the Participant or any such personnel,and each Participant waives any rights it may have whether under the Privacy Act 1993 or otherwise in relation to such verifications or checks.

- 9.2. RED is not obliged to contact referees provided by Participants and may seek further information on any issue from sources other than the referees provided. RED may also take into account knowledge of the Participant it already has.

10. Confidentiality

- 10.1. The information supplied by RED (either itself or through its consultants or advisors) in connection with this EOI or any contract or agreement that may arise out of it, is confidential to RED (as the case may be). Each Participant must not release or disclose any of the information to any other person (other than its employees or advisors on a need to know basis) without the prior written consent of RED (as the case may be), and such information must only be used by the Participant for the purpose of preparation, submission and subsequent negotiation of its Expression of Interest. Despite the above, RED may make public the names of any Participant.
- 10.2. Before releasing any confidential or commercially sensitive information to a Participant, RED may require the Participant (and employees, subcontractors or agents of the Participant, as appropriate) to sign a deed of confidentiality.
- 10.3. All Expressions of Interest provided to RED shall be retained by RED and shall be treated as confidential by RED. However, RED is subject to the Local Government Official Information and Meetings Act 1987, and information provided by Participants may be required to be disclosed under that Act or under any other law or by any Court. RED shall not be liable in any way whatsoever to a Participant for any disclosure it believes (acting reasonably) it is required to make.
- 10.4. No advertisement or other information relating to this EOI process or any contract or agreement that may arise out of it shall be published by a Participant in any newspaper, magazine, journal or other advertising medium, or broadcast/disseminated by radio, television or other electronic media without the prior written approval of RED.

11. Expression of Interest costs

- 11.1. All costs incurred by a Participant in connection with its Expression of Interest are the sole responsibility of the Participant, including (without limitation) any costs relating to:
- a) preparation of the Expression of Interest;
 - b) any communication and/or negotiation with RED (including relating to any contract or agreement); and/or
 - c) any presentations, meetings or interviews with RED.

12. Ownership / return of Expressions of Interest

12.1. All documents under the EOI are property of RED and may not be copied or reproduced in any way (other than for the purposes of preparing and submitting an Expression of Interest) without the prior written approval of RED.

12.2. The Expressions of Interest submitted to RED in response to this EOI shall be retained by RED.

13. Governing law

13.1. This REOI is governed by New Zealand law. The New Zealand courts have exclusive jurisdiction as to all matters relating to this REOI.

14. Liability limitation

14.1. Notwithstanding any other provision in this EOI or any documentation relating to this EOI, RED and its agents or advisors will not be liable (whether in contract, tort, equity or in any other way) for any direct or indirect damage, loss, expense, cost or liability incurred or sustained at any time by any Participant or any other person (directly or indirectly) under or in respect of this EOI.

14.2. By participating in this EOI, each Participant waives any rights that it may have to make any claim against RED. To the extent that legal relations between RED and any Participant cannot be excluded as a matter of law, the liability of RED is limited to NZ\$1. Nothing contained or implied in or arising out of this EOI or any other communications to any Participant shall be construed as legal, financial or other advice of any kind.

15. Indemnity

15.1. If a Participant breaches any of the obligations set out in this EOI and, as a direct or indirect result of that breach, RED incurs costs, loss, liability or damages (including, without limitation, the cost of any investigations, procedural impairment, repetition of all or part of the EOI process and enforcement of intellectual property rights or confidentiality obligations), then the Participant indemnifies RED against all such costs, loss, liability or damages.