



**Shire of Derby /
West Kimberley**

**Business Opportunity at
Historic Derby Jetty –**

Water Frontage Restaurant/Casual Dining



Derby

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Expression of Interest

Restaurant/Casual Dining – Derby Jetty

The Shire is inviting registrations of interest from businesses wishing to build and operate a new Restaurant or a Casual Dining facility at the Derby Jetty.

The Derby Jetty has housed a restaurant for many years and the opportunity now exists for a new operator to “build/lease/operate” a new restaurant or casual dining facility on the existing site.

The Derby Jetty site enjoys unparalleled tidal and sunset views, and being adjacent to the historic Derby Jetty, is at one of the most popular sites in the district for tourists and locals to visit.

Derby townsite has a population of over 3,000 people, and is the major local supply centre for over 118,000km² of largely pastoral hinterland.

Derby has strong tourism links, being “*the land of the boab trees and the largest tidal movements in the southern hemisphere*”. Derby enjoys annual visits from some 113,000 tourists (58% intrastate, 32% interstate, and 10% international) who stay 643,000 nights and spend \$15m per year. They come because the district is unique, Derby it is the western gateway to the legendary Gibb River Road (Australia's unique four wheel drive experience); has ancient canyons and caves like Tunnel Creek and Windjana Gorge; and boasts the Horizontal Waterfalls of Talbot Bay and the islands of the Buccaneer Archipelago.

The Shire is inviting registrations of interest from businesses wishing to build and operate a new restaurant facility at the Derby Jetty, in exchange for a long term lease over the site.

Registrations of Interest should be submitted by email to Neil.Hartley@SDWK.wa.gov.au before **4.00pm on Friday 5 March 2021**.

Amanda O’Halloran
Chief Executive Officer

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Café/Restaurant History

The currently existing building in which the Café/Restaurant was housed, was built some 60 years ago by the State Government as part of its Derby Port operations.

In 1996 the Shire of Derby/West Kimberley became the Port Lessee, and the port Head-Lease area included the *Wharf Cafe* building. Since then, the building has operated (under a sub-lease lease) as a successful café/restaurant. The café/restaurant area is an iconic location to view the Derby wharf and its surroundings, while watching the tide ebb and flow, and the sunsets.

The building has now reached the end of its useful life and so a new lease opportunity now exists for commercial providers of restaurant/café services to take over the site.



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Derby Jetty History

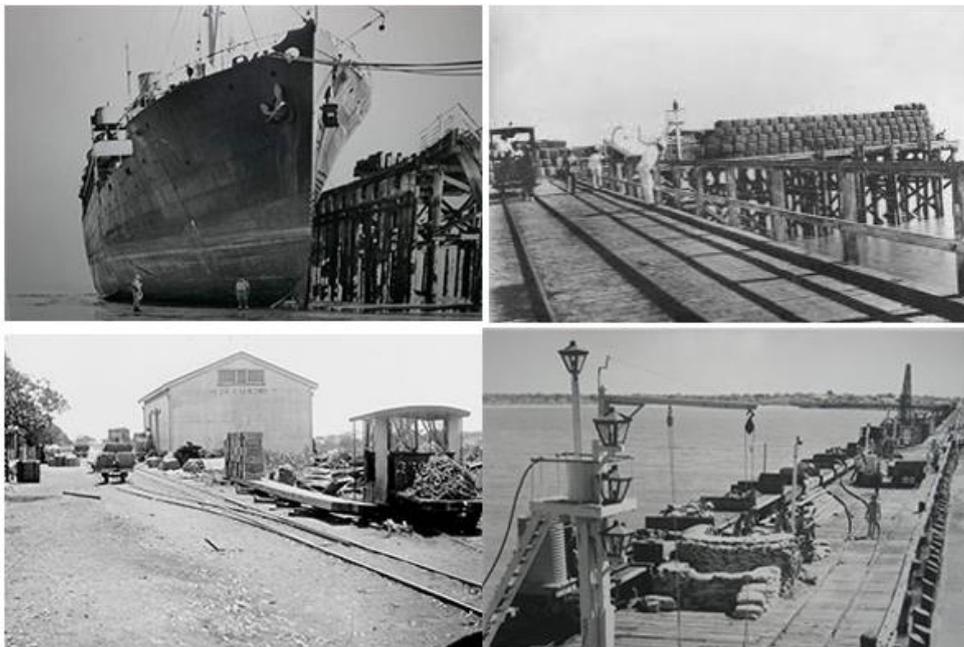
The Derby Jetty is located in one of the highest tidal range precincts in the world, with tides in the vicinity of 11metres on occasion.

The construction of the first Derby Jetty (102 foot long and built of wood) was completed in 1885 to partially overcome difficulties presented by a 11-metre tidal range. It was replaced with the unusual horse-shoe shaped concrete and iron, piled “above water” jetty (costing £1m) in 1964 to provide facilities for the export of cattle.

The Derby port has enjoyed numerous significant local development initiatives over many years, like the Kimberley gold rush, iron ore mining, pastoral imports and exports, fish farming and tourism. For example, beef cattle from the Fitzroy River valley and Wunaamin Miliwundi Ranges were transported to abattoirs in Derby and then shipped along the coast from the Derby port, which was then the major port for the cattle of West Kimberley. It was closed in the 1980’s before being reopened in 1997 for the export for lead and zinc concentrates, via barges that would berth at the jetty.

The Shire of Derby/West Kimberley has more recently assumed responsibility for the port and barge ramp facilities, to ensure they remained open to commercial use, tourism, and local recreational pursuits, by taking out Head-Leases with the WA Department of Transport. The jetty lease runs until 29 July 2040.

It is rare for a local government to operate a port facility and no other local governments in Western Australia are known to have such a business unit within their operations.



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Tourism and Recreational Pursuits

The Derby Port Precinct is an iconic tourism draw card and this includes the significant tidal movements that the area experiences – often referred to as the “*King of all Tides*”, these are significant tourist attractions given that the King tide experienced at the end of April each year is the second biggest in the world. Many local and international travellers visit the town to see this natural wonder.

The area is also a regular attraction for local residents, to fish, watch the sunset, enjoy with their friends, or gain some respite in the evening on hot and humid days, and the café/restaurant area is in an iconic location to view the Derby wharf and its surroundings, while watching the tide ebb and flow, and the renowned sunsets.

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Land Use and Head Lease

The land in the Derby Port precinct is Crown Land. The Shire of Derby/West Kimberley holds two current Head Leases with the WA State Department of Transport (to be transferred to the Kimberley Port Authority on 1 July 2021) for the Wharf and Barge Ramp (these two head leases expire in 2040 and 2038 respectively). The Shire therefore only has the ability to offer sub-leases out to 2040 (vis. sub-leases cannot exceed the term of the head-lease).

The Head Lease provides a broad usage potential by stating that the facility's Permitted Use is for *"the business of operating a port facility and associated uses, including any commercial use which is complementary to the operation of the Port and which does not endanger marine safety, or any other use which the Lessor may, from time to time, approve"*. This is further refined by stating that facilities can be used for any purpose, *"except for any purpose other than that for which they were constructed"* and that the Shire *"cannot use, or permit the use of the Premises, for any purpose other than the Permitted Use or for any purpose which is not permitted under any Act or by any Authority without the consent of the relevant Authority."*

The portion of Reserve 26818 associated with the existing café/restaurant is included under the Shire of Derby West Kimberley Interim Development Order No. 9 (IDO No. 9) - Gazetted on 17 November 2020. The use and development of the land for the purpose of café/restaurant is permitted under IDO No. 9. It is considered likely that the future Local District Planning Scheme No. 8 (that will replace IDO No. 9) would zone the land to reflect the general port use.



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Key Issues and Requirements for this Restaurant/Casual Dining Opportunity

Whilst the Shire is open to a range of options and make-ups, its preferred outcomes are listed below (in priority order):

Priority	Desired Outcome
First	Construction and operation of a Café/Restaurant.
Second	Construction and operation of a “casual dining” area supported by itinerate/semi-permanent food vendors servicing the area.
Third	Operation of a Shire constructed Café/Restaurant.
Fourth	Operation of a Shire constructed “casual dining” area supported by itinerate/semi-permanent food vendors servicing the area.
Fifth	Nomination for inclusion on a Register of Itinerate Food Vendors, to service a casual dining area constructed by the Shire.

Selection Criteria - Proponents should give due consideration in their submission, to the Selection Criteria set by the Shire. The percentage scores and topic headings provide a good indicator as to the priorities sought by the Shire from bidders. A high degree of relevance is given to the professional capacity and quality management systems of the operator; the quality of the service provided to customers; and the service’s availability across the calendar year.

Selection Criteria	Percentage
<i>Demonstrated Understanding of this Invitation to Bid</i>	5%
<i>Structure, Style, and Extent of Development</i>	10%
<i>Opening Hours across the Calendar Year</i>	10%
<i>Company/Proponent History and Experience/Reputation of Operator</i>	15%
<i>Key Personnel Skills & Experience</i>	10%
<i>Capacity and Resources of Proponent</i>	15%
<i>Quality Management Systems/Services Quality and Offering</i>	15%
<i>Local Supplier Details</i>	10%
<i>Lease Term and Price</i>	10%

Head-Lease impacts/compliance – The Shire has a Head-Lease with the State Government for the entire Port Precinct, the Wharf Café/Restaurant Lease site is subject to these Head Lease requirements.

Term (2040) – The Shire’s Head Lease with the State Government expires on 29 July 2040. The term of the Wharf Café/Restaurant Lease site cannot have an expiry date any longer than this date (approximately 19 years).

Port Area Operations – The Derby Port is a working port and so it will in the main provide a sought after and interesting “commercial tourism” backdrop to a restaurant/café experience. The Port’s operations will on occasion though, need to take priority and there may therefore be some short term impacts on the leased area whilst those port operations are undertaken.

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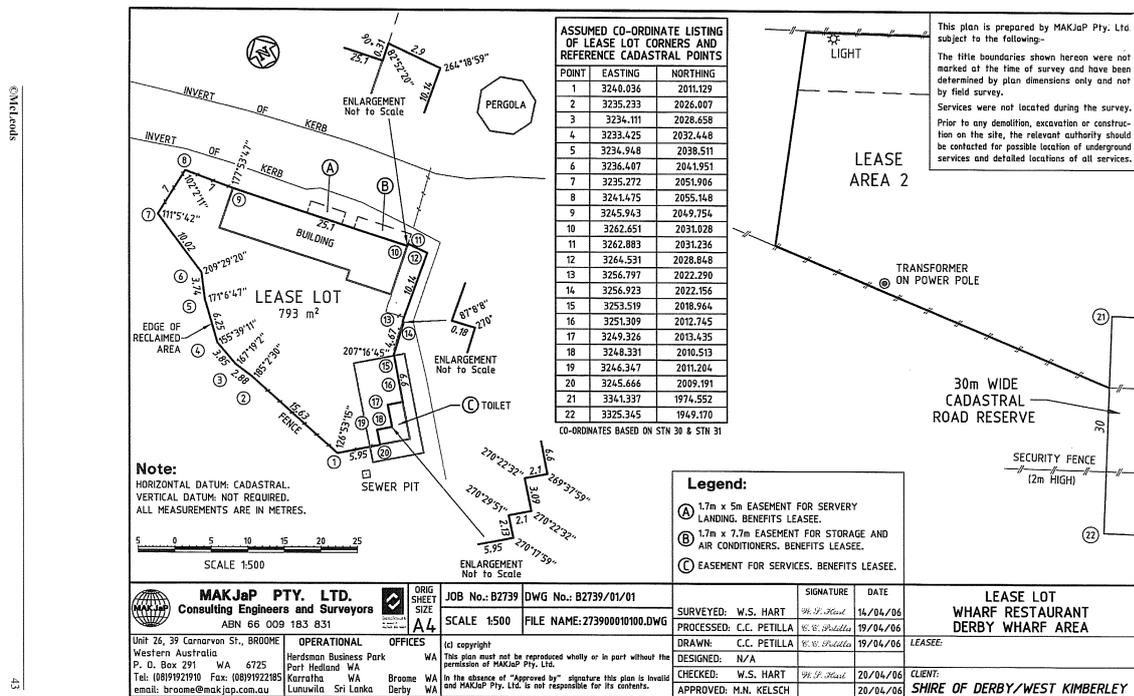
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Existing Building Demolition responsibilities – The preference is for the proponent to undertake the demolition and disposal of the existing structure as part of their lease offer.

Building ownership in 2040 – The ownership of any structures built on the site will on 29 July 2040, revert to the Shire or the State Government (vis. at the conclusion of the Head-Lease).

Ablutions – The Lease area includes the existing toilet block, which can be used by the lessee to offset the necessary ablation facilities for the restaurant/café (ablation requirements depend on commercial floor area).

Lease Documentation – A Lease document, including standard expectations around such matters as leased area (see below for “LEASE LOT” description), insurance requirements, disputes resolution, term of occupancy, and payments, etc. will be provided by the Shire in due course.



Local Government Act Legislative Compliances – The Shire must comply with Section 3.58 (Disposing of property) of the Local Government Act for this land transaction. These requirements (which revolve around public advertising and Council endorsements) will need to be undertaken by the Shire if a preferred provider is selected.

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Anticipated Decision Making Timeline –

Action	Timeline
Public invitations to lodge expression of interest proposals	December to March 2021
Assessment of submissions and confirmation of information within proposals	March 2021
Report to Council outlining proposals received and options available (including consideration of whether S3.59 is applicable - Commercial enterprises by local governments) which depends on the value and structure of the proposal received	March/April 2021
Council to select preferred proponent	March/April 2021
Proposal advertised (S3.58; and S3.59 compliance if applicable) for public comment	April/May 2021
Council to consider submissions received and confirm final position	May/June 2021
Lease to be signed	June/July 2021
Demolition/Construction Works to commence	July/August 2021



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