

## AGISTMENT OF STOCK MAITLAND LOCAL GOVERNMENT AREA - OAKHAMPTON

Maitland City Council is seeking Expressions of Interest (EOI's) for a 2 year licence to agist stock on parcels of land in the Maitland Local Government Area.

The EOI is encompassing parcels of land at 53 Scobies Lane Oakhampton. This is made up of:

Lot 851/DP 557637	10.29 ha
Lot 853/DP 6000081	5.583 ha
Lot 1/DP 1063517	11.22 ha
Lot 1/DP 1063520	607 sqm
Lot 2/DP 1063520	4186 sqm
Lot 12/DP 1088435	2074 sqm
Part 3/ DP 37838	251 sqm



Note: Parcel areas are approximate only. Council reserves the right to reduce the area of land subject to the proposals received.

The approved Licensee will:

- Be required to supply water to these parcels of land as there is no water supply
- Be required to produce evidence of a current public liability insurance policy of \$20 Million listing Maitland City Council as an interested party. A copy of the insurance policy is to be supplied to Council before the commencement date of the licence. A copy of the renewed policy is to be supplied to Council on the anniversary date of every subsequent term of the licence.
- Be responsible for any new fencing required to enclose animals from adjoining parcels of land.
- Be responsible for the general maintenance of the land including weed control, animal pest control and the upkeep of existing fencing and gates.
- Agree to lodge with the Local Land Services and Council any necessary Returns in respect of the land held under licence and will pay any rates assessed by the Local Land Service which will be separate to the weekly rental under the agistment Licence with Council.

In the Expression of Interest the applicant must provide all relevant details as below:

- Full name, address, contact numbers and email address.
- Proposed agistment area required.
- The weekly licence fee the applicant is willing to pay to occupy the land over a one year period with a one year option for renewal. The licence fee will be subject to GST and Consumer Price Index increase the second year of the term.
- Identify the types and number of stock intended to be agisted on the land.
- Outline previous agistment experience and care of stock. The provision of two references is desirable.
- The applicant's acceptance of, and methodology of, land management, weed control, and fence installation and maintenance.
- The applicant's methodology in providing water to the agisted stock.
- Written acceptance to obtain Public Liability Insurance to the value of \$20Million.
- Written acceptance in the submission of the attached licence agreement (Annexure 1).

Council is not bound to shortlist any EOI submitted. Council, in its discretion, will accept an EOI that it determines is likely to provide the most advantageous result. Submissions will be assessed on financial and non-financial criteria;

- Previous agistment experience
- References from previous agistment arrangements or previous care of stock
- Weekly licence fee
- The applicant's acceptance of, and methodology of, land management, weed control, and fencing
- The applicant's written acceptance of obtaining Public Liability Insurance to the value of \$20Million
- Written acceptance in the submission of the attached licence agreement

In considering the applications Maitland Council will conduct an assessment and will select the applicant/s that Council considers offers the best outcome for the management of this area. It should be noted that the intention of this agreement is that the agistment does not result in significant and substantial commercial gain for the Licensee.

Expressions of Interest with reference '84/13' to be forwarded to:

General Manager  
Maitland City Council  
PO Box 220  
MAITLAND 2320  
Attn: Property Management

Expressions of Interest close 4pm Thursday 16<sup>th</sup> July 2020.



ANNEXURE 1 – PROPOSED LICENCE AGREEMENT

THIS LICENCE is made on the ..... day of ..... BETWEEN MAITLAND CITY COUNCIL of Administration Centre 285 High St Maitland (the Licensor) of the one part and ..... (The Licensee) of ..... of the other part.

1 Recitals

- 1.1 The Licensor is the owner of the Property referred to in Item 1 of the Schedule (the "Property").
- 1.2 The Licensee wishes to agist ..... on the Property known as 53 Scobies Lane Oakhampton and being the land parcels referred to in Item 1 of the Schedule ("the Property) and as shown on the Plan attached and marked "Annexure A".
- 1.3 The Licensor and the Licensee agree to the agistment on terms as set out in this agreement.

2 Licence Period

- 2.1 The Licence is for one year, commencing ..... and ending on .....
- 2.2 The Licensee has the option to renew this Lease for one (1) year but can only exercise the option if:-
  - 2.2.1 The Licensee serves on the Licensor a notice exercising the option not earlier than ..... and not later than .....
  - 2.2.2 At the time the Licensee serves the notice the rent is fully paid and the Licensee has fully performed all their obligations contained in this Licence.
  - 2.2.3 After exercising the option the Licensee must continue to pay all rents on time and continue to comply with all its obligations under this Licence. If they do not do so the Licensor may treat any breach as being a breach of both this Licence and of the new Licence.
  - 2.2.4 The new Licence will contain the same terms and conditions as this Licence except for
    - 2.2.4.1 The commencement date which shall be .....
    - 2.2.4.2 The rent for the term of the renewal which will be calculated under the following formula  
  
N = A divided by B x R where  
N equals the rent for the term of the renewal  
A equals the Index Number of the Consumer Price Index (All Groups Sydney) published by the Australian Bureau of Statistics or its successor for the ..... quarter in the same calendar year  
B = the Consumer Price Index (All Groups Sydney) published by the Australian Bureau of Statistics or its successor for the ..... quarter  
R = the rent under this Lease
    - 2.2.4.3 the deletion of clause and sub-clauses 2.2.

### 3 Nature and Rights Granted

- 3.1 The Licensor and the Licensee agree and declare as follows;
- 3.1.1 That it is not the intention of either of them to create between them the relationship of landlord and tenant.
- 3.1.2 That the legal possession and control of the land shall at all times remain vested in the Licensor and the Licensee shall not hereby acquire any estate or interest therein.
- 3.1.3 That the Licence shall not in any way confer or impose on either of them any of the rights or obligations of a landlord or tenant or any other rights or obligations saved those expressed or implied by law in this Licence.

### 4 Operative Part

- 4.1 As from the date of this Licence the Licensee may agist ..... on the land at any time.
- 4.2 The Licensee shall pay the Licensor a fee which will be ..... per week (excl. GST).
- 4.3 The Licensor does not provide a water supply to the properties and the water used for agistment on these paddocks must be supplied by the Licensee.
- 4.4 The Licensee ensures that the livestock agisted on the Property have no illness or disease and has not shown any signs of illness or disease within the 30 days preceding this agreement.
- 4.5 The Licensee shall not overstock the Property in excess of the number of stock as detailed in clause 6.
- 4.6 The Licensee agrees to comply with all requirements of the Local Land Services Act 2013 and agrees to lodge, or provide Council with the information to lodge, the Local Land Services Annual Return and will pay any rates assessed by the Local Land Service which will be separate to the weekly rental under the agistment Licence with Council.
- 4.7 The License must not result in the Licensee making significant commercial gains.
- 4.8 The Licensor is not liable for any damage or injury that:
- a) either the Licensee or any person whom the Licensee allows onto the Property suffers and which;
  - b) arises either from any defect in the gas, electricity or water supply to the Property or the connections, fittings or appliances used in connection with those services or from the actions of any independent contractor who performs work on the Property (regardless of whether that independent contractor is engaged by the Licensor, the Licensee or some third person).

The Licensee's Public Risk Insurance must insure the Licensee and persons the Licensee allows onto the Property against such damage or injury.

- 4.9 The Licensee will indemnify and keep the Licensor indemnified from and against all actions, proceedings, costs, claims and demands by third parties in respect of any damage or liability caused by or arising from the use or occupation of the land by the Licensee or the Licensee's servants, agents, employees or invitees on the premises except to the extent caused or contributed to by the Licensor, its servants, agents, employees or invitees.
- 4.10 Licensee's obligation to reimburse the Licensor for GST
- (i) In this Clause  
"GST" refers to goods and services tax under A New Tax System (Goods and Services Tax) Act 1999 ("GST Act") and the terms used have the meanings as defined in the GST Act.
  - (ii) It is agreed that fee and all other amounts agreed to be paid by the Licensee to the Licensor, being the consideration for the supply expressed in this Licence, are exclusive of GST.
  - (iii) In respect of any liability of the Licensee for GST under this Licence for fee received the Licensee covenants to pay to the Licensor, at the same time as any payment is made involving the Licensor in GST liability, the additional amount of GST, together with the payment to which it relates.
  - (iv) The Licensee's liability under (iii) is to reimburse the full amount of GST, disregarding and excluding the Licensor's entitlement to input tax credits or other credits or reimbursements for GST.
  - (v) In respect of each payment by the Licensee under (iii), the Licensor agrees to deliver to the Licensee, as required under the GST Act, tax invoices in a form which complies with the GST Act and the regulations, to enable the Licensee to claim input tax credits in respect of the taxable supply.

## 5 Land Management and Maintenance

- 5.1 The Licensee must maintain the Property in a good state of repair and must not cause any rubbish to be placed or stored on the Property.
- 5.2 The Licensee shall satisfactorily maintain fences and gates during the term of this agreement. Any new fencing required is at the cost of the Licensee to install and maintain. The Licensee will have no recourse to the Licensor for the repair, alteration or construction of any fencing and gateways on the Property.
- 5.3 The Licensee is responsible for all pasture improvement to the Property and the management and removal of noxious weeds.
- 5.4 The Licensee must not at any time erect any structures on the Property.
- 5.5 If requested to do so by the Licensor the Licensee must remove any fixtures, fittings and furnishings erected or placed on the Property by the Licensee upon the Licence coming to the expiry date.
- 5.6 Any fixtures, including fences and gates erected or placed on the Property by the Licensee, or any items not removed from the Property upon notification become the property of the Licensor upon the Licence coming to the expiry date.
- 5.6 The Licensor may enter the Property and view the state of repair of the Property at any time without notice to the Licensee and that the Licensee will carry out

repairs in accordance with any notice served in writing upon the Licensee by the Licensor.

- 5.7 The Licensor may enter the Property and carry out necessary works of any public authority that may demand such action under or during the term of the agreement.
- 5.8 The Licensee must keep current an insurance policy covering liability to the public in an amount of at least \$20,000,000.00 with Maitland City Council noted on the policy as an interested party.

## **6 Personal Nature of Licence and Termination**

- 6.1 This Licence is personal to the Licensee and shall not be capable of being assigned or otherwise disposed of other than by way of surrender to the Licensor.
- 6.2 The Licensor may terminate this Licence on giving 60 days written notice to the Licensee.
- 6.3 The Licensee may terminate this Licence on giving 30 days written notice to the Licensor. The Licence will be considered at an end on the expiry of the notice provided that the obligations of the Licence have been complied with.
- 6.4 Should the Licensee be in breach of any of the obligations of this Licence, or any reasonable direction of the Licensor then the Licensor may give the Licensee notice in writing requiring the remedy of such breach within a reasonable period of time specified in that notice and if such breach remains unremedied after such period of time then the Licensor may terminate this Licence on giving 7 days written notice to the Licensee,
- 6.4 Upon the Expiry Date of this Licence if the Licensor and Licensee mutually agree in writing to extend the Licence the occupation shall continue as a monthly licence only and at the fee as then determined by the Licensor.

## **7 Service**

- 7.1 A document under or relating to this Licence is served if it is served in any manner provided in section 170 of the Conveyancing Act 1919 and is also served on the Licensee if it is left at the land.

ANNEXURE 1 – PROPOSED LICENCE AGREEMENT

Executed as a Licence Agreement on .....

**Executed by Maitland City Council** )  
ABN 11 596 310 805 by its authorised )  
Delegate pursuant to Section 377 of the ) .....  
Local Government Act 1993. David John Evans – General Manager

I certify that I am an eligible witness and  
that the Delegate signed in my presence.

.....  
Name of Witness

.....  
Signature of Witness

.....  
Address of Witness

**SIGNED AND DELIVERED by the Licensee** )  
**(enter Licensee details)** in the presence )  
of: )

.....  
Signature of Witness

.....  
Signature of Licensee

.....  
Name of Witness

.....  
Name and Title of Licensee

.....  
Address of Witness



SCHEDULE

Item 1	The Property	
Item 2	The Licensor	
Item 3	The Licensee	
Item 4	Commencement Date	
Item 5	Expiry Date	
Item 6	Term	One year
Item 6a	Option	
Item 7	Rent	
Item 8	Interest	The rate fixed by the Uniform Civil Procedure Code for interest on Judgment Debts
Item 9	Permitted Use	Grazing/Agistment of Stock
Item 10	Insurance	Public Liability Insurance Twenty Million Dollars (\$20,000,000.00)