

541 SYDNEY ROAD COBURG

JANUARY 2019

REQUEST FOR EXPRESSION OF INTEREST



SOCIAL/AFFORDABLE HOUSING PROJECT



DISCLAIMER

DV has prepared this EOI to give prospective Respondents background information on the Project.

DV gives notice that (and by lodging a submission, each Respondent acknowledges and accepts that):

- a. by replying to this EOI, that it has read, understood and accepted the terms and conditions of this EOI and of this disclaimer;
- b. all descriptions, dimensions, references to conditions, statements, estimates and projections contained in this EOI (Information) are given in good faith and, although believed to be correct at the time of issue, may or may not be correct and are subject to final surveys and designs. This EOI does not purport to contain all the information each Respondent may require;
- c. it must conduct its own independent investigation, due diligence and analysis in respect of the information in this EOI, fully inform itself in relation to all matters arising from the Invitation, including all matters regarding DV's requirements for the provision of goods and/or services and rely solely on its own enquiries and inspections as to the significance, adequacy, accuracy, currency, reliability and completeness of the Information and obtain independent advice from appropriate sources;
- d. it will be deemed to have made its own enquiries and assessed all risks regarding the EOI, and to have fully incorporated the impact of any unknown risks into its Submission;
- e. neither DV nor its employees, contractors or consultants have verified the significance, adequacy, accuracy, currency, reliability or completeness of any of the Information, including any estimates or projections. Accordingly, DV and its employees, contractors and consultants make no representation or warranty expressed or implied, as to the significance, adequacy, accuracy, currency, reliability or completeness of the Information or any information which may be provided in connection with it;
- f. to the extent permitted by law, neither the DV nor its Associates shall be liable to any Registrant, Respondent's participants, or any other person under the law of contract, tort (including negligence), the principles of restitution or unjust enrichment or otherwise for any loss, expense, damage or other liability which may arise from or be incurred or suffered as a result of anything contained in [or omitted from] the Information; and
- g. DV expressly disclaims any and all liability relating to or resulting from the use of such information by any Respondent's Participant in the preparation of a Submission.
- h. Images property of Ari Hatziz.

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ABOUT DEVELOPMENT VICTORIA

Development Victoria was established in April 2017 to help make Victoria a great place to live. Development Victoria is a valued partner delivering government policy through property development and urban renewal to achieve social and economic outcomes for Victorians.

DEVELOPMENT VICTORIA UNDERTAKES

- property development
- civic, social and economic projects for government entities on a fee for service basis
- management of project transactions, including the procurement of joint venture partners
- provision of technical and commercial advice to government, departments and agencies
- provision of technical and commercial advice to Land Use Victoria.

POLICY PILLARS

Development Victoria's approach is underpinned by five policy pillars.



CORPORATE GOVERNANCE

Development Victoria is a statutory authority governed by a Board of Directors that reports to the Minister for Priority Precincts.

Development Victoria is currently delivering projects of state significance, including the Ballarat West Employment Zone and Parkville Gardens developments. Our 30+ residential developments provide a diverse range of housing options for Victoria.



DEFINITIONS

AFFORDABLE HOUSING – as described in the *Planning and Environment Act 1987* – Affordable housing is housing including social housing, that is appropriate for housing needs of any of the following:

- a) Very low income households
- b) Low income households
- c) Moderate income household.

Specification of income ranges in the *Planning and Environment Act 1987* (as at 2018).

HOUSEHOLD TYPES	VERY LOW INCOME (P.A)	LOW INCOME (P.A)	MODERATE INCOME (P.A)
Single adult	<\$25,220	<\$40,340	<\$60,510
Couple no dependants	<\$37,820	<\$60,520	<\$90,770
Family with one or two parents and dependent children	<\$52,940	<\$84,720	<\$127,080

AFFORDABLE PURCHASE – a maximum of 30% of a Household's income is required to service a mortgage with an assumed 10% deposit, 25 year principal and interest loan term and 5% per annum interest rate over the life of the loan (10 year average standard).

AFFORDABLE RENTAL – a maximum of 30% of a Household's income is required for rent.

DV – Development Victoria.

EOI – means this Expression of Interest document.

EOI DOCUMENTATION – means this Expression of Interest document and any other documentation issued by the State to the Respondent.

EOI PHASE – means DV's process of inviting, receiving, evaluating and short-listing Submissions to this EOI.

HOUSING ASSOCIATION – any organisation registered under the *Housing Act 1983* (Vic).

KEY WORKER HOUSING - is housing provided for employees who provide an essential service.

MARKET HOUSING - housing that is sold or leased at market rates above the Affordable Purchase or Affordable Rental thresholds.

PROJECT [SITE] - means the development of the site known as 541 Sydney Road, Coburg.

PUBLIC HOUSING - non-profit housing in the public sector.

RESPONDENT - a party that received this EOI Document and provides an EOI submission. A Respondent must be a Housing Association or include a Housing Association in the structure of their bid.

RESPONDENT'S PARTICIPANTS - means the officers, employees, consultants and advisers of a Respondent, any named participant in the Respondent's submission and the officers and employees of those consultants and advisers and participants.

RETURNABLE SCHEDULES - means the documents set out in Appendix A which are to be completed by the Respondent and included in their Submission.

SHARED EQUITY HOUSING - involves the State, or another entity, taking part ownership or equity in a dwelling in partnership with the home buyer. By allowing the home buyer to pay less than 100 percent of the property, the home owner requires a smaller loan and deposit - thereby allowing them to enter the market earlier.

SOCIAL HOUSING

- a) Public housing that is owned and operated by a public sector body; and
- b) Housing owned, controlled or managed by a participating registered agency.

STATE - means the Crown in right of the State of Victoria.

SUBMISSION - means a document lodged with DV by or on behalf of a Respondent in response to this EOI which contains a submission and any information provided on behalf of a Respondent to DV arising from connection with the EOI Phase.

VISION

Development Victoria seeks to facilitate the delivery of an social and/or affordable housing outcome through the sale of the site at 541 Sydney Road, Coburg, which offers excellent linkages to services and amenities including transport, jobs, leisure facilities, schools and retail services in the Coburg Activity Centre and the CBD.





OBJECTIVES

State and local government policy frameworks emphasise the importance of improving housing affordability, access and choice across Victoria. 541 Sydney Road, Coburg is an outstanding affordable housing development site that is appropriately zoned and strategically located in one of Melbourne's most diverse and inclusive communities.

Development Victoria is offering the well-positioned site at 541 Sydney Road, Coburg for sale to enable a social/affordable housing development with a retail or commercial component at ground floor level.

In order to achieve Development Victoria's vision, respondents must consider the following objectives to deliver the best social and/or affordable housing outcome for the site:



DELIVERY OF SOCIAL AND AFFORDABLE HOUSING OUTCOMES

Respondents need to ensure their offer includes the provision of social and/or affordable housing. Development Victoria's primary objective is to maximise both the amount of social and/or affordable housing that is delivered and the duration that social and/or affordable housing will be maintained on site.



DURATION OF SOCIAL AND OR AFFORDABLE HOUSING

Respondents must specify the duration that housing will be maintained as social and/or affordable accommodation.



VALUE FOR MONEY

Respondents need to make a financial offer inclusive of the proposed purchase price, risk allocation, transaction structure and any other key financial elements of the Respondent's proposal for the site which will be measured against internal Development Victoria hurdle rates and independent valuations provided by the Valuer-General Victoria.







THE SITE



TRAIN LINE

TRAM 19



MORELAND CITY COUNCIL

COBURG PRIMARY SCHOOL

COMMUNITY CENTRE



COLES



COBURG NIGHT MARKET

LIBRARY



WOOLWORTHS

COBURG LEISURE CENTRE

SYDNEY ROAD

CHEMIST

MUNRO STREET

RETAIL AREA

CBD 9KM

TRAIN LINE

TRAM 19

OPPORTUNITY

541 Sydney Road, Coburg is ideally located for the purposes of providing social and/or affordable housing with strong linkages to jobs, public transport, retail outlets, schools and a wide range of public and private services.

The site has an 'Activity Centre' zone which allows for and encourages affordable housing, car free transport and integrated mixed use developments.

Major employment precincts, including the Coburg-Fawkner industrial district, Parkville-Carlton health precinct and Melbourne CBD are readily accessed from the site.



COBURG
HIGH
SCHOOL

TENNIS
CLUB

BELL STREET

HARDING STREET



Area of 1,923m²

3058

City of Moreland



Route 19



500m walk to
Coburg Train Station



Bell Street,
180 metres south



MELBOURNE CBD

OPEN SPACE/
RESERVE

MARKET



BANKS

BELL STREET

SYDNEY ROAD

CHEMIST



TRAM 19 - 35 MINUTES TO CBD





RETAIL AREA



WOOLWORTHS



TRAIN LINE
30 MINUTES TO CBD



COLES

LIBRARY

ROSS STREET

THE SITE



EOI SUBMISSIONS

Respondents interested in purchasing and developing the site are required to complete the five Returnable Schedules contained in this document. These schedules will be used to address the evaluation criteria:

- Declaration
- Returnable Schedule 1 – Respondent company information
- Returnable Schedule 2 – Mandatory criteria checklist
- Returnable Schedule 3 – Affordable Housing Outcomes
- Returnable Schedule 4 – Organisational experience, capability and expertise
- Returnable Schedule 5 – Financial Offer and Development Funding
- Respondents may include in their Submissions any other information considered relevant.

To register as a Respondent, interested parties must provide a completed **Returnable Schedule 1 by 5pm Friday 15 March 2019** via: **Coburg.EOI@development.vic.gov.au** This will ensure the Respondent receives any further information that is provided as an Addendum.

If making a submission as part of a consortium, Respondents must ensure each member of the consortium completes the Declaration in the Returnable Schedules, and in doing so agrees to be bound by the evaluation process.

All information fields in the Returnable Schedules must be completed and contain the information requested. DV may in its absolute discretion reject a submission that does not include the information requested.

The indicative timetable for the Procurement Process will be as follows:

STEP	DATES
Release of EOI	31 January 2019
Respondent registration close date	5pm 15 March 2019
Enquiries from Respondents close date	5pm 22 March 2019
EOI Close Date	3pm 29 March 2019
Obtain VGV valuations	July 2019
Evaluate Bids	July 2019
Conduct negotiations	July/August 2019
Selection of the preferred Respondent	August 2019
Agreement on terms and conditions	August/October 2019

- DV intends to move directly from the bid evaluation phase to negotiations with the preferred respondent.
- Submissions shall be made by 29 March 2019 and will close at 3pm.
- Late submissions will not be assessed.

EVALUATION CRITERIA

Submissions will be assessed against the following Evaluation Criteria:

MANDATORY

- 1 Respondents must complete and sign the declaration in Appendix A.
- 2 Respondents must be a Housing Association or structure their bid to include at least **one** Housing Association.
- 3 Respondents must agree to enter into an agreement with DV to acquire the site.

WEIGHTED CRITERIA

- 4 Capability & Capacity 40%.
- 5 Policy Outcomes 60%
 - The amount of social housing to be included. Evaluation of submissions will be weighted higher based on the number of social housing dwellings to be delivered. Social housing dwellings delivered will be weighted higher than other types of affordable housing.
 - The minimum number of affordable housing, excluding social housing, to be included - Evaluation of submissions will be weighted higher based on a higher number of affordable housing dwellings delivered. Affordable housing dwellings delivered will be weighted higher than market housing.
 - The duration for which the dwellings will remain as social and or affordable dwellings - the longer the time that the dwellings will remain social and or affordable housing the higher the weighting.

FINANCIAL EVALUATION

- 6 The proposed financial offer and associated financial structure requires approval through various Government bodies including but not limited to the Valuer General of Victoria (VGV) and the Victorian Government Land Monitor (VGLM).
- 7 All offers which comply with the mandatory criteria will be referred to the VGV to assess fair market value with respect to social and affordable housing outcomes proposed in the bid.
- 8 Each offer considered by the VGV to represent fair market value will be shortlisted to be assessed against the weighted criteria set out above.
- 9 Subsequent to selection of preferred respondent, all other Government approvals will be sought.

PART B

RETURNABLE
SCHEDULES

APPENDICES

A – SITE DETAILS

B – TECHNICAL/SITE
INFORMATION

C – PROCESS

D – GENERAL TERMS
AND CONDITIONS





This Returnable Schedule must be completed for **each member** of the proposed bidding consortium.

DECLARATION

This Returnable Schedule should be executed by either two directors or one director and one company secretary (or a sole director, where relevant) of the Respondent.

If the Respondent is not incorporated in Australia, this Returnable Schedule should be signed in accordance with the laws of the Respondent’s relevant jurisdiction.

Assuming the Respondent is incorporated in Australia, an appropriate attestation clause to be used for these purposes is set out below.

The Respondent declares that the information set out in its Submission is true and correct

Executed by

.....
Pty Ltd in accordance with section 127 of the
Corporations Act 2001 (Cth) by or in the presence of:

Signature of Director or Sole Director

Signature of Secretary/other Director

Name of Director or Sole Director

Name of Secretary/other Director

RETURNABLE SCHEDULE 1

RESPONDENT COMPANY INFORMATION

This Returnable Schedule must be completed for each member of the proposed bidding consortium.

TABLE A - RESPONDENT COMPANY INFORMATION
1. Precise legal entity [or entities]
2. ABN or ACN
3. Address of registered office
4. Company directors
5. Date established/incorporated
6. Telephone
7. Email

Respondents shall provide details regarding the identity of the Respondent including the following:

TABLE B - RESPONDENT CONTACT PERSON
1. Name
2. Position/title
3. Telephone
4. Email

Where a respondent comprises a consortium, Table A information is required for each consortium member outlining who is the lead entity and the role each entity undertakes as part of this invitation. It is mandatory that one of the members is a Housing Association.

RETURNABLE SCHEDULE 2

MANDATORY CRITERIA CHECKLIST

	INDICATE IF MET	REFERENCE SECTION OF EOI SUBMISSION
Respondents must be: <ul style="list-style-type: none"> • a Housing Association • include a Housing Association 		
Respondents must agree to enter into an agreement with DV to acquire the site and commit to agreed Social and or Affordable Housing outcomes.		

RETURNABLE SCHEDULE 3

SOCIAL/AFFORDABLE HOUSING OUTCOMES

Respondents must nominate the following:

Social Housing Dwellings to be provided	
Duration that these dwellings will remain Social Housing Dwellings	
Affordable Housing Dwellings* to be provided.	
Duration that these dwellings will remain Affordable Housing Dwellings	

*Provide further detail in relation to proposed type and extent of Affordable Housing sub-sets. i.e. Affordable Rental, Affordable Purchase, Key Worker Housing and Shared Equity Housing.

RETURNABLE SCHEDULE 4

ORGANISATIONAL EXPERIENCE, CAPABILITY AND EXPERTISE

Respondent to provide examples detailing up to three development projects that demonstrate capability to deliver this project including the details of key staff and their experience delivering these types of projects:

PROJECT ADDRESS	NUMBER OF DWELLINGS INCLUDING SOCIAL/AFFORDABLE	DATE COMPLETED

RETURNABLE SCHEDULE 5

FINANCIAL OFFER

Respondents should provide a summary of their proposed financial offer and financing structures (including partnership structures) debt/equity allocations, project staging, risk allocation strategies, proposed commercial terms, sales assumptions and revenue flows that support social and affordable housing retention.

Describe the amount, terms and condition the proponent is offering through Bank Guarantee or other appropriate

security arrangement should the respondent fail to develop the project at the site.

Respondents may provide several Financial Offer Options. Each offer must respond to the following information.

Purchase price including GST	
Terms of payment of the purchase price, including deposit amount, settlement period and any conditions precedent	
Details of land ownership structure upon settlement	
Details of land ownership structure upon completed development	
Proposed contract terms relating to deposit	
Proposed contract terms relating to effective commencement date	
Proposed contract terms nominating project time line milestones including Planning Approval, construction commencement and completion	
Proposed contract terms relating to reversion right of land to DV in the event the development does not commence or is not completed in accordance with the agreement struck with DV	
Respondents should indicate any material terms and conditions that attach to their indicative offer	
Respondents should indicate any key assumptions underlying the indicative offer	
Respondents must declare any matter or issue which is, may be perceived to be, or may lead to a conflict of interest regarding their proposal or participation in the EOI process	

APPENDIX A

SITE DETAILS

541 Sydney Road, Coburg is part of the Coburg Activity Centre on Sydney Road and presents a very high level of residential amenity.

The site has:

- Strong linkages to a wide range of public and private services, shops and employment in the immediate Sydney Road retail strip and is well connected to the Coburg/Fawkner industrial precincts and the CBD.
- Good access to primary and secondary schools, medical facilities, places of worship and open space.
- An area of 1,923 square metres and is located approximately 8 kilometres north of the Melbourne CBD within the municipality of Moreland.

The site is:

- Less than a 10 minute walk to the Coburg Railway Station and the Route 19 tram is at its doorstep. Both transport modes offer about 30 minutes travel time to the CBD. The Bell Street bus routes are less than a 5 minute walk from the site providing access to suburbs to the east and west.
- Within walking distance of several open space and recreation facilities and several public and private schools including Coburg Primary and High School.
- The former Commonwealth Dyers' Association plant. Contaminated ground water has been identified on the site (refer below).



APPENDIX B

TECHNICAL/SITE INFORMATION

SITE/PROJECT INFORMATION

The following site preparation works and investigations have been completed to prepare the site. A list of the documents made available to Respondents through this EOI Phase is set out in **Figure 1**.

PRELIMINARY ASSESSMENTS

The technical reports contained in this Appendix (Reports) are intended to give prospective Respondents additional background information on the Project. All descriptions, dimensions, references to conditions, statements, estimates and projections contained in the reports, are given in good faith and, although believed to be correct at the time of issue, may or may not be correct and are subject to final surveys and designs.

Respondents must conduct their own independent investigation and analysis in respect of the information in the Appendices and rely solely on their own enquiries as to the significance, accuracy and completeness of the Reports. Neither DV nor its Employees have verified the significance, accuracy and completeness of any of the Reports, including any estimates or projections. Accordingly, DV and its Associates make no representation or warranty expressed or implied, as to the significance, accuracy or completeness of the reports or any information which may be provided in connection with it.

To the extent permitted by law, neither DV nor its Employees shall be liable to any Respondent or Respondent's Participant or any other person for any loss, expense, damage or other liability which may arise from or be incurred or suffered as a result of anything contained in (or omitted from) the Reports, and DV expressly disclaims any and all liability relating to or resulting from the use of such information by any Respondent in the preparation of a Submission.

PLANNING SCHEME REQUIREMENTS

The following is a DV Summary of the Planning Scheme requirements. Respondents should refer in more detail to the Planning Scheme Provisions provided at <http://planning-schemes.delwp.vic.gov.au/schemes/moreland>

The site is subject to the requirements of the Moreland Planning Scheme and is Zoned Activity Centre Zone 1 (ACZ1) which supports car free transport, housing affordability and integrated mixed-use developments.

A supporting objective for the proposed project in the Planning Scheme is:

To encourage and facilitate the provision of affordable housing choices for people in the lowest 40% of income groups.

Within Precinct 2 – Bell Street North. The Planning Scheme shows a proposed new street running along the south of the site with a width of 10.5 metres, comprising an off-road bike path green link. Preferred vehicle access to 541 Sydney Road is in the middle of the new road which is to be located on the property adjacent to the southern boundary being land owned by 'a private party'.

Complementary commercial uses are encouraged at ground level with residential above.

Height and built form – The preferred building height is 36 metres but can be increased where the development will facilitate benefits to the community, such as the provision of affordable housing.

Public Acquisition Overlay – Sydney Road – affects the frontage of the site.

Environmental Audit Overlay – Residential use requires a certificate of Environmental Audit or statement.

Certificate or statement of Environment Audit – Requires an approved development contribution plan for construction of a building and subdivision of:

- Approximately \$1,500 per dwelling
- Commercial – \$4,239 per 100 square metres

The City of Moreland can exempt certain land or types of development, such as Affordable Housing from the community infrastructure levy.

DV has met with the Moreland City Council Planning department who are supportive of a high density social and or affordable housing development on this site.

The supply of social and affordable housing is embedded firmly into the Moreland Planning Scheme and also has significant support from Councillors. This commitment to encourage social and or affordable housing has led Moreland to work with DELWP in providing a specialist Affordable Housing Advisor to help facilitate such outcomes. The Affordable Housing Advisor and Moreland Council officers welcome the opportunity to meet and discuss how a social and or affordable housing project can be facilitated on this site.

COBURG ACTIVITY CENTRE

The site is within Activity Centre Zone 1 (ACZ1) which supports car-free transport and diverse housing options. There is support for affordable housing choices for people in the lowest 40% of income groups within the zone.

The site is located between the Batman Market retail centre and the Coburg shopping strip and is well suited for an affordable/ social housing development.

The site is part of the former Commonwealth Dyers' Association (CDA) property and it offers a very high level of amenity in terms of access to retail outlets, services, open space and public transport.

Coburg is strategically located with the following bus routes that are within walking distance of the site:

- Eltham/Glenroy (route 513)
- Northland Shopping Centre/Gowrie (route 527)
- Glenroy (route 534)
- Macleod/Pascoe Vale (route 561)
- Mordialloc/Altona (Smart Bus route 903).

CONTAMINATION

The site requires environmental remediation prior to occupation. Details of the issues affecting the site are contained within the reports prepared by Golders Associates Pty. Ltd.

DV has appointed an Environmental Auditor to assess the site and develop a Remediation Action Plan that provides a strategy to clean the site such that CUTEP (clean up to extent practical) can be achieved. It is proposed that DV will carry the risk for the contamination, however, subject to negotiation, there may be practicalities in the successful respondent undertaking removal of contaminated material as envisaged will be required under the Audit.

Figure 1 – Reports/Design 541-543 Sydney Road, Coburg

Genton	Architectural Concepts, July 2018
Golder	Further Environmental Assessment Report, May 2018
Collie	Planning Briefing Paper, January 2018
Oliver Hume	Market Research Report, November 2017
Golder Associates	Remediation Strategy and Cost Estimate Report, October 2017
GTA Consultants	Vehicle Access Report, October 2017

To obtain a copy of the following supporting reports access the link on the project website:
www.development.vic.gov.au/sydney-road

APPENDIX C

PROCESS

INTERNET LODGEMENT

Submissions must be lodged electronically, as set out in the table below, by the closing time on the EOI Close Date **3pm, 29 March 2019**.

Submission email address	tenders@development.vic.gov.au
Requirements	A Respondent is responsible for ensuring submissions submitted electronically are lodged with sufficient time to allow receipt by DV by closing time. DV recommends submission at least 2 hours prior to closing.

The EOI Closing Time may be extended by DV in its absolute discretion by providing written notice to Respondents by way of an addendum.

A Respondent accepts all responsibility for delivery of its Submission by closing time on the EOI Close Date.

LATE SUBMISSIONS

Late submissions will not be assessed.

NOMINATED CONTACT

All questions and clarifications concerning this EOI, should be directed in writing to:

Marcelle Ganly,
Development Manager,
Development Victoria
Coburg.EOI@development.vic.gov.au

All enquiries are to be submitted in writing via email.

Enquiries are to be provided no later than 5pm on 22 March 2019.

All communications regarding this EOI are to be directed to the Nominated Contact. Communications with any other person in relation to the EOI may result in the Respondent's Submission being excluded from the Procurement Process at DV's absolute discretion.

QUESTIONS AND CLARIFICATION

Respondents may seek clarification from DV regarding any aspect of this EOI. Clarification must be sought in writing from the Nominated Contact no later than seven days prior to the EOI Close Date.

Responses to any clarification questions in relation to the EOI may be provided to all Registrants. Where a Respondent is of the view that a clarification question is not of a general nature, but relates to proprietary aspects of its proposed Submission, the Respondent may identify that question as such. If DV agrees, the response will not be circulated to other Respondents.

However, if DV is of the view that the question is not proprietary, DV will advise the relevant Respondent, who will then have the option to withdraw the question. If the Respondent continues to request a response to that question, the question and the response will be circulated to all Respondents.

DV reserves the right, in its absolute discretion, to seek clarification or further information in relation to any Submission received.

CONSULTATION AND UNAUTHORISED COMMUNICATION

Respondents must not engage in any activities or obtain or provide improper assistance that may be perceived as, or that may have the effect of, influencing the outcome of this procurement process in any way. Such activities or assistance may, in the absolute discretion of DV, lead to the exclusion of a Respondent from the Procurement Process.

FURTHER MARKET ENGAGEMENT

The State and DV reserves the right to conduct further market engagement after the EOI Close Date, in any manner it sees fit including, but not limited to, extension of the EOI Close Date or conducting one or more further EOI phases.

APPENDIX D

GENERAL TERMS AND CONDITIONS

NO LEGAL RELATIONSHIP (EXCEPT AS SPECIFICALLY STATED)

Each Respondent acknowledges that:

- a) this EOI is not an offer nor an invitation to treat;
- b) except as specifically stated, no contract exists or will arise between DV or any Associate and any person in respect of the Project by reason of this EOI document, a Submission or any stage of the Procurement Process unless and until the Contract Documentation between DV and the successful Respondent/s is executed;
- c) the rights, powers and discretions given to DV in this EOI are not pursuant to any contract between DV and the Respondent, but rather are rights, powers and discretions which DV has as part of the EOI;
- d) despite the previous paragraph, by lodging a Submission, the Respondent and the Respondent's Participants (if applicable) are bound by the terms of this EOI and their respective Submission to this EOI; and
- e) DV has no contractual or other legal obligation to the Respondent arising out of this EOI with respect to the consideration, the evaluation, the acceptance or the rejection of any Submission or the failure to consider, evaluate or accept any Submission.

CONFIDENTIALITY AND PROPRIETARY INFORMATION IN AND USE OF EOI

Proprietary information

Copyright in this document vests in DV. A Respondent may copy, save electronically, or otherwise reproduce this EOI for the purpose only of preparing and submitting its Submission.

A Submission becomes the property of DV upon lodgement by the Respondent and will not be returned to the Respondent.

Personal information collected as part of the Procurement Process will be handled in accordance with the *Privacy and Data Protection Act 2014 (Vic)*.

Intellectual Property Rights that may exist in a Submission will remain the property of the Respondent, or any other person legally entitled and so identified within the Submission. Any element of a Submission considered to carry any Intellectual Property Rights should be clearly identified by the Respondent within the Submission. Where DV, in its absolute discretion, determines that such elements are subject to such a right, DV will treat that element as protected.

Confidentiality

Each Submission will, to the extent that it contains information that is not in the public domain, be held as Commercial-in-confidence and will be treated as confidential by DV. DV will not disclose the contents of a Submission, except:

- a) as required by law (including, for the avoidance of doubt, as required under the *Freedom of Information Act 1982 (Vic) (FOI Act)*;
- b) for the purpose of investigations by the Australian Competition and Consumer Commission or other government authorities having relevant jurisdiction;
- c) to satisfy the disclosure requirements of the Victorian Auditor-General;
- d) to satisfy the requirements of parliamentary accountability;
- e) to any Associate to the extent necessary in the pursuit of the Procurement Process or for the purpose of undertaking the Project; or
- f) general information from Respondents required to be disclosed by Government policy.

Freedom of Information

The *FOI Act* applies to the information provided by a Respondent in its Submission. Respondents should note that the *FOI Act* allows members of the public rights of access to documents of DV.

All or part of the information provided by a Respondent may be disclosed to third parties if there is a requirement to do so under the provisions of the *FOI Act*. Any information that is commercially sensitive or confidential must be marked 'commercial and confidential'. This special notation must not be used unless the information is genuinely confidential. Marking information as 'commercial and confidential' will not necessarily prevent disclosure of the information in accordance with the *FOI Act*. Any decision to release information will be determined by the requirements of the *FOI Act*. Respondents will not be entitled to make any claim in relation to any actions taken in relation to, or under, the *FOI Act*.

Use of EOI by DV or its Employees

By lodging a Submission, the Respondent and any Respondent's Participant authorise and consent to the use of the information in the Submission in the manner specified in this section. Any constraint which otherwise might arise under this section or otherwise at law does not apply to the use of the information in the manner specified in this section.

The Respondent and any Respondent's Participant:

- a) licenses DV and each Employee to copy, adapt, modify, disclose or do anything else necessary, in DV's sole discretion, to all material and information (including that material which contains any Intellectual Property Rights of the Respondent or any other person so identified within the Submission), contained in the Submission, for the purposes of evaluating and clarifying the Submission, in relation to the risk allocation, risk management issues and any additional information provided in response to this EOI document and for the development of the Contract Documentation; and
- b) Consent to DV making use of, and disclosing to other participants in the Procurement Process any request for further information.

PROBITY

Probity principles

This process will be governed by the following essential principles of probity:

- a) Acting with integrity and impartiality;
- b) Ensuring market equality;
- c) Consistent and transparent processes;
- d) Secure and confidential market engagement information;
- e) Identifying and managing conflicts of interest;
- f) Allocating appropriate capability;
- g) Engaging probity practitioner/s where warranted

Probity Adviser

DV has engaged an independent Probity Adviser to ensure fairness and probity of the process.

Should Respondents wish to raise any concerns in regard to the conduct of the process, such concerns should be set out in writing to the Probity Adviser.

The Probity Adviser's details are as follows:

Pitcher Partners Consulting Pty Ltd
Level 13, 664 Collins Street
Docklands Vic 3008

The Probity Adviser is directly accountable to DV.

Respondents must immediately advise the Probity Adviser via DV of any concerns about the probity or integrity of this EOI Phase, so that the matter may be considered and remedied where appropriate. Respondents must detail their concerns and clearly set out the issue in question and how it impacts on the Respondent's interest and any relevant background information. Because any delay in notifying DV and the Probity Adviser may prejudice the rights of other Respondents, each Respondent agrees that unreasonable delay in notification of any concerns precludes the Respondent taking action, legal or otherwise, based on those concerns.

Conflict of interest

Any Respondent or Respondent's Participant with any actual or potential conflict of interest in relation to its potential involvement in the Project must declare that interest to DV in its Submission as soon as the conflict is identified, and whether identified before or after lodgement of its Submission.

Probity checks

By lodging a Submission, the Respondent and Respondent's Participants (if applicable), including its directors and key personnel, are deemed to consent to probity checks being conducted prior to any evaluation being finalised.

Such probity checks may include investigations into commercial structure, business and credit history, prior contract compliance and any criminal records or pending charges. They may also include interviews with any professional referees nominated and research into any relevant activity that is or might reasonably be expected to be the subject of criminal investigation.

The Respondent and Respondent's Participants agree if requested by DV to obtain such consents from individuals as are required by law to be obtained for such probity checks and criminal investigations.

Collusive tendering

A Respondent or a Respondent's Participant must not engage in any collusive tendering, anti-competitive conduct or any other similar conduct with any other Respondent or any other person in relation to the preparation or lodgement of a Submission.

If DV determines in its absolute discretion that a Respondent or a Respondent's Participant has violated this condition, the relevant Respondent may be disqualified from the Procurement Process.

Related parties

Respondents must identify any Respondent's Participant that is a Related Party of a Respondent's Participant within another prospective Respondent. Failure to do so may result in a short-listed Respondent being disqualified from the Procurement Process.

Not to influence or offer incentives

A Respondent or a Respondent's Participant must not offer any incentive to, or otherwise attempt to, influence any of the persons who are either directly or indirectly involved in the evaluation process for any stage of the Procurement Process, or in the awarding of any subsequent contract. If DV determines in its absolute discretion that a Respondent or a Respondent's Participant has violated this condition, the relevant Respondent may be disqualified from the Procurement Process.

CHANGE IN CIRCUMSTANCE

A Respondent or a Respondent's Participant must not offer any incentive to, or otherwise attempt to, influence any of the persons who are either directly or indirectly involved in the evaluation process for any stage of the Procurement Process, or in the awarding of any subsequent contract. If DV determines in its absolute discretion that a Respondent or a Respondent's Participant has violated this condition, the relevant Respondent may be disqualified from the Procurement Process.

SUBMISSIONS

Declaration

As part of their Submission, Respondents must complete, execute and submit a declaration in the form contained in Returnable Schedule A.

Illegible content, alteration and erasures

Incomplete Submissions may be disqualified or evaluated solely on the information contained in the Submission.

DV may disregard any content in a Submission that is illegible and will be under no obligation whatsoever to seek clarification from the Respondent.

DV may permit a Respondent to correct an unintentional error in its Submission where that error becomes known or apparent after the EOI Closing Time, but in no event will any correction be permitted if DV reasonably considers that the correction would materially alter the substance of the Respondent's Submission.

Obligation to notify errors

If, after a Submission has been submitted, the Respondent becomes aware of an error in the Submission (excluding clerical errors which would have no bearing on the evaluation of the Submission) the Respondent must promptly notify DV of such an error.

Withdrawal of Submission

A Respondent who wishes to withdraw a Submission previously submitted by it must immediately notify DV's Nominated Contact of that fact. Upon receipt of such notification, DV will cease to consider that Submission.

Status of Submission

Each Submission constitutes a non-binding proposal by the Respondent to DV to satisfy the requirements of this EOI.

Costs of preparation of Submission

Under no circumstances will DV or any Associate, be responsible for any costs or expenses incurred by a Respondent, any Respondent's Participant, or any other third party (or any of their respective officers, employees, agents, affiliates or advisers) in the preparation and lodgement of a Submission.

EVALUATION PROCESS

DV is not required, and does not intend, to release any details regarding the evaluation process beyond what is included in this document.

A Respondent that is not selected to proceed to the negotiation phase may make a formal request to the Nominated Contact for a debrief meeting. The nature and extent of the debrief meeting allowed will be at the absolute discretion of DV.

RELIANCE ON INFORMATION

By lodging a Submission, the Respondent:

- a) warrants to DV that the information contained in its Submission is true, accurate and complete as at the date on which it is lodged, and may be relied upon by DV in its selection of Respondents short-listed to participate in the negotiation phase of the Procurement Process; and
- b) acknowledges that DV will rely on the above warranty and undertaking when evaluating the Submission.

VARIATIONS AND ADDENDA

Variations to this EOI

DV reserves its rights, in its absolute discretion and at any stage, to cancel, add to, or amend the information, terms, procedures, evaluation process timetable or protocols set out in this EOI document, without giving any reasons or notice to any Respondent.

Addenda

DV may issue addenda to this EOI to modify or clarify the EOI in any manner and all such addenda shall become part of this EOI document.

DV'S RIGHT TO SUSPEND, END PROCESS, ETC.

Notwithstanding anything else in this EOI, DV may, in its sole and absolute discretion and at any time, amend, suspend, defer, terminate, abandon or reinstate this Procurement Process.

OTHER DV RIGHTS

DV reserves its rights in its absolute discretion and at any time during the Procurement Process to:

- a) require additional information from a Respondent and/or Respondent's Participants (if applicable);
- b) perform security, probity and/or financial checks and procedures in relation to the Respondent or Respondent's Participants (if applicable) and each party with an interest in the Respondent;
- c) terminate further participation in the Procurement Process by any Respondent;
- d) change the basis on which Respondents may, or are required to, participate in the Procurement Process;
- e) accept or reject any Submission(s) at any time for any reason;

- f) record and transcribe the proceedings or any individual or industry briefing session with one or more Respondents and circulate or not circulate that material as it thinks fit;
- g) publish the names of any Respondent or Respondents short-listed to participate in the negotiation phase of the Procurement Process;
- h) change the identity of the entity which will enter into the Contract Documentation with the Respondent or be responsible for management and administration of the Procurement Process and the evaluation of a Submission;
- i) not proceed with the Project.

DISCLAIMER

DV has prepared this EOI to give prospective Respondents background information on the Project.

DV gives notice that (and by lodging a submission, each Respondent acknowledges and accepts that):

- a) by replying to this EOI, that it has read, understood and accepted the terms and conditions of this EOI and of this disclaimer;
- b) all descriptions, dimensions, references to conditions, statements, estimates and projections contained in this EOI (**Information**) are given in good faith and, although believed to be correct at the time of issue, may or may not be correct and are subject to final surveys and designs. This EOI does not purport to contain all the information each Respondent may require;
- c) it must conduct its own independent investigation, due diligence and analysis in respect of the information in this EOI, fully inform itself in relation to all matters arising from the Invitation, including all matters regarding DV's requirements for the provision of goods and/or services and rely solely on its own enquiries and inspections as to the significance, adequacy, accuracy, currency, reliability and completeness of the Information and obtain independent advice from appropriate sources;
- d) it will be deemed to have made its own enquiries and assessed all risks regarding the EOI, and to have fully incorporated the impact of any unknown risks into its Submission;
- e) neither DV nor its employees, contractors or consultants have verified the significance, adequacy, accuracy, currency, reliability or completeness of any of the Information, including any estimates or projections. Accordingly, DV and its employees, contractors and consultants make no representation or warranty expressed or implied, as to the significance, adequacy, accuracy, currency, reliability or completeness of the Information or any information which may be provided in connection with it;
- f) to the extent permitted by law, neither the DV or its Employees shall be liable to any Respondent's Participants, or any other person under the law of contract, tort (including negligence), the principles of restitution or unjust enrichment or otherwise for any loss, expense, damage or other liability which may arise from or be incurred or suffered as a result of anything contained in (or omitted from) the Information; and
- g) DV expressly disclaims any and all liability relating to or resulting from the use of such information by any Respondent's Participant in the preparation of a Submission.

JURISDICTION OF VICTORIAN COURTS

This EOI will be governed by the laws of Victoria and by accepting the EOI and submitting a submission, each Respondent irrevocably submits to the non-exclusive jurisdiction of the courts of Victoria.

L9, 8 Exhibition Street
Melbourne 3000
VIC Australia

GPO Box 2428
Melbourne 3001
VIC Australia

+61 3 8317 3400
development.vic.gov.au

