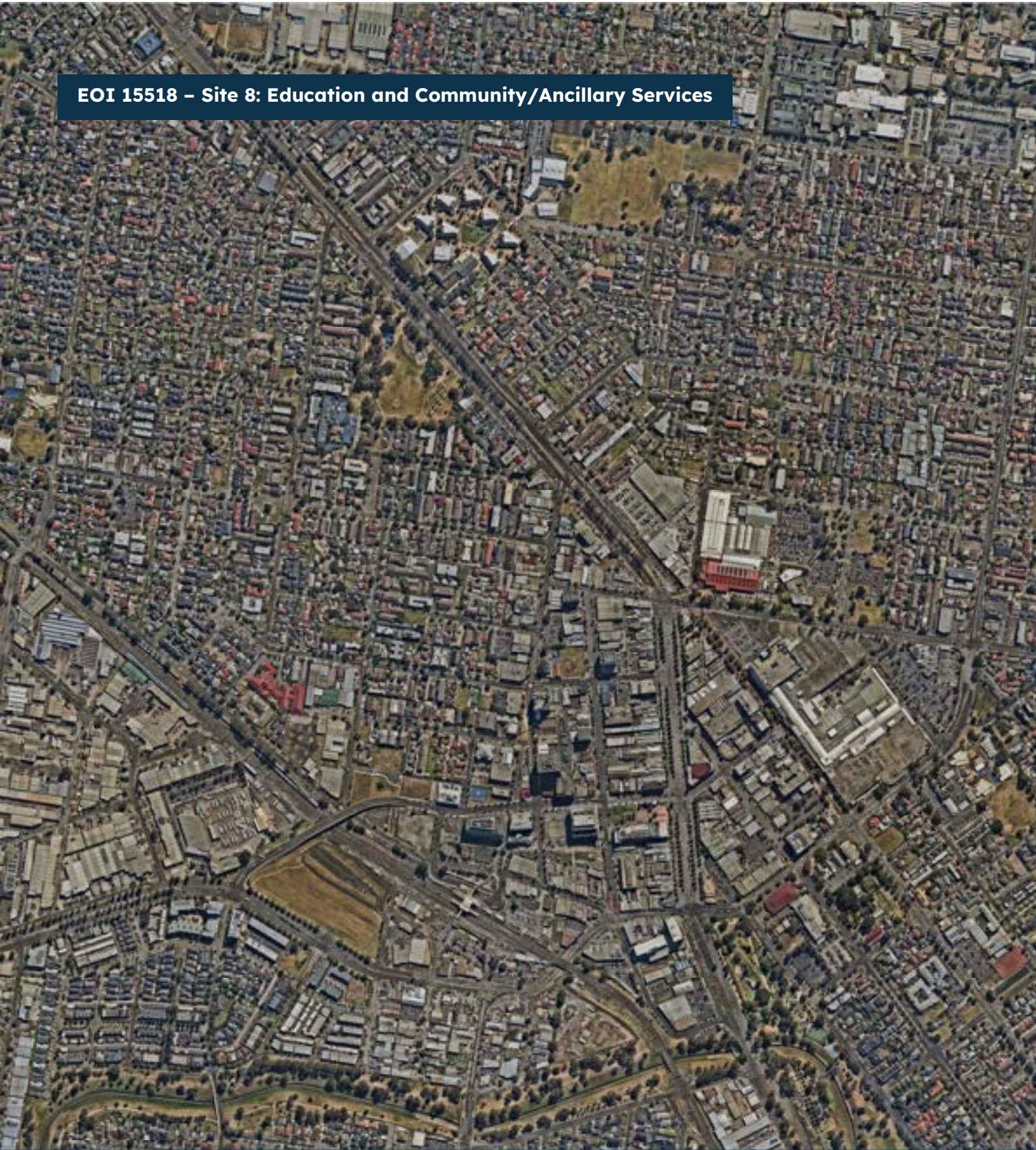


EOI 15518 – Site 8: Education and Community/Ancillary Services



Revitalising Central Dandenong

EOI Conditions of Tendering

PART A



PART A – EOI Conditions

1. EOI

1.1. Status of EOI

This Expression of Interest (EOI) is not an offer and the lodgement of a Response or any other action in relation to this EOI process does not create any legal rights or obligations (including any process contract) unless and until any formal contractual documents are executed with the successful Bidder.

1.2. Status of RFP

This EOI and the information contained in it are provided on the basis that it is not binding on Development Victoria.

Development Victoria does not give any warranty or make any representation as to the completeness or accuracy of the information contained in this document or any information that may be provided in connection with it.

Bidders should not rely on any information contained in this EOI. Bidder must make their own inquiries as to the adequacy and completeness of any information contained in it.

1.3. Confidentiality and Use of EOI

All persons (including Bidders) that obtain or receive this EOI and any other information in connection with this EOI must keep the contents of this EOI and such other information in relation to the Project confidential and must not use the information other than for the purpose of preparing and submitting a Response.

1.4. Privacy

Bidders are bound by the Information Privacy Principles set out in the Privacy and Data Protection Act 2014 (Vic) and any applicable code of practice with respect to any act done or practice engaged in by the Bidder in connection with this EOI in the same way and to the same extent as Development Victoria would have been bound in respect of that act or practice had it been directly done or engaged in by Development Victoria.

1.5. Intellectual Property Rights

Any intellectual property rights as may exist in this EOI and any other documents provided to Bidders by or on behalf of Development Victoria in connection with this EOI are owned by (and will remain the property of) Development Victoria.

1.6. Costs

Development Victoria will not be responsible for, nor pay for, any expense or loss that may be incurred by Bidders directly or indirectly in the preparation of any Response or participation in this EOI process.

1.7. Complaints about EOI Process

Any complaint about this EOI or the EOI process must be submitted to the General Counsel, Level 9, 8 Exhibition Street, Melbourne, Victoria, 3000 in writing immediately upon the cause of the complaint arising or becoming known to the Bidder. The written complaint must set out:

- (a) the basis for the complaint (specifying the issues involved);
- (b) how the subject of the complaint (and the specific issues) affects the person or organisation making the complaint;

PART A – EOI Conditions of Tendering

- (c) any relevant background information; and
- (d) the outcome desired by the person or organisation making the complaint.

1.8. Disclosure of Response

Development Victoria will not disclose the contents of a Response, except:

- (a) as required by law (including under the Freedom of Information Act 1982 (Vic));
- (b) for the purpose of investigations by the Australian Competition and Consumer Commission or other government authorities having relevant jurisdiction;
- (c) to external consultants and advisers of Development Victoria engaged to assist with this EOI process or any engagement resulting from this EOI process;
- (d) as required to gain approval to proceed with any engagement resulting from this EOI process; or
- (e) to the extent that general information from Bidders is required to be disclosed by government policy.

1.9. Use of Response

All Responses submitted in accordance with this EOI will become the property of Development Victoria.

Bidders will retain ownership of all intellectual property contained in the Response that has been produced by the Bidder.

Each Bidder, by submission of its Response, is deemed to have licensed Development Victoria to use and reproduce the whole, or any portion, of its Response for the purposes of enabling Development Victoria to evaluate the Response.

1.10. Period of Validity

All Responses must remain valid for a minimum of 120 days from the Closing Date. The period of validity of a Response may be extended by mutual agreement in writing between Development Victoria and the Bidder.

1.11. Status of Response

Each Response constitutes and must be presented in a form which constitutes a non-binding proposal by the Bidder to Development Victoria to provide the Works or Services required under this EOI.

1.12. Each Bidder is bound by its Response

A Response must not be conditional. Development Victoria may, in its discretion, disregard any Response that is, or is stated to be, subject to any condition.

1.13. Notice of Non-Compliance

Bidders must state if they will not comply with any of the requirements of this EOI. Full details of the non-compliance (including the nature and extent of the non-compliance and any reasons for such non-compliance) must be stated in the Response.

The Bidder will be deemed to comply with all parts of this EOI unless the Bidder states otherwise.

1.14. Alternative Response

Bidders may submit an alternative Response(s). An alternative Response will only be considered if the alternative Response is clearly identified as an “Alternative Response”.

The alternative Response may depart from the requirements of this EOI or provide the works or services in a manner different to that specified in this EOI. Any alternative Response must set out full details of any non-compliance.

An alternative Response should offer options or solutions which may, in an innovative and value for money way, contribute to Development Victoria’s ability to deliver the Project in a more cost-effective manner. Development Victoria may, in its discretion elect to consider any alternative Response.

PART A – EOI Conditions of Tendering

2. Selection Process

Development Victoria may, in its discretion and at any stage of the evaluation process, give notice to one or more Bidders that it wishes to:

- (a) shortlist one or more Bidders and invite tenders from those Bidders for the Works or Services, part thereof or any similar or related Works or Services;
- (b) elect to engage in detailed discussions and negotiations with any one or more Bidder (with or without short listing any);
- (c) invite one or more Bidders to give a presentation to Development Victoria in relation to their Response;
- (d) reject any or all of the Response(s) or disqualify a Bidder (without giving reasons for so doing);
- (e) accept a Response (or any part or parts thereof) received after the Closing Date;
- (f) cease, suspend or defer this EOI process or any other procurement process for the Works or Services;
- (g) terminate the participation of any Bidder in the tender process the subject of this EOI;
- (h) proceed with the procurement of the works or services (as the context requires) by an arrangement other than that proposed by this EOI.

Development Victoria may rely on any and all information submitted by a Bidder (including earlier submissions and information provided as the result of any of the processes set out above). No additional weighting will be given in the evaluation process to any information provided by a Bidder as a result of any of the processes set out above.

3. Development Victoria's Reservation of Rights

Development Victoria reserves the right in its discretion to:

- (a) accept, reject or refuse to consider any Response;
- (b) negotiate with any person who is not a Bidder and enter into an agreement with any person on such terms as Development Victoria in its discretion accepts (without notifying any Bidder);
- (c) withdraw, suspend or terminate this EOI or part of this EOI;
- (d) change the structure and timing of this EOI and notify Bidders of such changes;

Development Victoria reserves the right to terminate this EOI at any time and, following termination of this EOI process, Development Victoria may negotiate directly with any party it chooses at its discretion. Development Victoria may also undertake the Project or any aspect of the Project that forms the subject of this EOI itself.

4. Employment of Development Victoria's Employees and Internal Contractors

Each Bidder agrees that it will not, without the Bidder first obtaining Development Victoria's prior written consent, allow any person who had been an employee or internal contractor of Development Victoria (Former Employee) within 12 months before the commencement of this EOI to be involved in any way in any aspect of this EOI including the preparation of its Response.

In considering a request for consent Development Victoria may require a Bidder to demonstrate to Development Victoria's satisfaction that the Bidder has implemented measures to ensure that the Bidder will not be provided with an unfair advantage in this EOI by the involvement of the Former Employee and to implement separation protocols.

Development Victoria reserves the right to exclude any Bidder from participation in this EOI for any breach of this condition.

5. Governing Law

PART A - EOI Conditions of Tendering

The Bidder must comply with all relevant laws in preparing and lodging its Response and in taking part in this EOI.

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

Development Victoria

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