



BROADWATER

MARINE PROJECT

Gold Coast, Queensland, Australia



INVITATION FOR EXPRESSIONS OF INTEREST



Important Notice

Interpretation and application: Capitalised terms used in this EOI Invitation are defined in Appendix F of this document. This Important Notice applies to all Proponents, regardless of whether they participate in the EOI process.

No reliance and no claim: The information in this EOI Invitation has been compiled on behalf of the State for the guidance of organisations or consortia interested in participating in the EOI process for the Project. Neither this EOI Invitation nor any other documentation relating to the Project constitutes an offer or recommendation by the State in relation to the EOI process or the Project. Except to the extent of obligations accepted by a Proponent in executing a Deed of Acceptance, neither the provision of these documents by the State, nor the lodgement of any EOI by any Proponent, is intended to, nor will constitute, any contractual or other legal relationship between the State and any Proponent (whether about the carrying out of the Project or the process for the selection of Proponents, Shortlisted Proponents or Preferred Proponents).

This EOI Invitation does not purport to contain all the information that Proponents may require in assessing the Project or whether to participate in the procurement process.

To the maximum extent permitted by law, no Proponent has any claim of any kind whatsoever against the State, other Government Parties or the Council (whether in contract, tort (including negligence), equity, under statute or otherwise) arising from or in connection with the Project.

Participation at Proponent's cost and risk: The State is not liable for any costs incurred by a Proponent in reviewing this EOI Invitation or preparing or submitting an EOI or any other bid, proposal or offer. Participation in the EOI process is at the sole cost and risk of Proponents.

No legal or other obligation will arise between any Proponent and the State in connection with the carrying out of the Project unless and until formal project contractual documentation has been signed by both parties.

Proponents must not make any public statement in relation to this EOI Invitation, the EOI process, the Project or any other matter referred to in this EOI Invitation without the prior written consent of the State.

Other conditions: This Important Notice must be read in conjunction with the 'Conditions applying to the EOI Process' set out in Appendix A of this EOI Invitation.

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1. Purpose of this document

The purpose of this EOI Invitation is to invite qualified organisations or consortia who are interested in expressing an interest in the Project to submit an EOI. The State and Council will evaluate each EOI with a view to shortlisting Proponents to participate in future stages of the procurement process.

This EOI Invitation seeks to:

- outline the background to the Project;
- detail the State's requirements for the Project;
- define terms, conditions and arrangements for the submission of an EOI and participation in the EOI process;
- inform Proponents of the proposed process and timeline for Shortlisted Proponents to proceed to the Request for Detailed Proposal stage; and
- specify the information required from Proponents and the Evaluation Criteria which will be used to evaluate the EOIs.

Proponents should be aware that, depending on the EOIs received, the State may reassess whether and how the State will proceed with, and participate in, the Project.

2. Introduction

Governance

The Office of Major Projects, within the Department, has been tasked with leading the competitive process for the offer of the opportunity to develop the Project on all or part of the Site. The competitive process is being run in collaboration with Council.

The State will secure control of the Site and enter into contractual arrangements with the Preferred Proponent.

An Evaluation Panel will be formed to assess the EOIs submitted in response to this EOI Invitation. The Evaluation Panel will include representatives from both the State and Council. However, the State will be the final decision maker in relation to all matters concerning the EOI stage and future stages of the procurement process.

The unique opportunity

The State and the Council see this Project as a catalyst for the tourism, marine and construction industries to strengthen the Queensland economy. In particular, the Project presents an opportunity to reinvigorate the Gold Coast tourism sector by delivering major new tourism infrastructure. The State's requirements for the Project include an open access cruise ship terminal. Other complementary uses that may be considered as part of an integrated tourism development include marina (including super yacht facilities), casino (subject to a casino licence and other State approvals being obtained), tourism and leisure attractions, hotels, retail, commercial, community open space, recreation and a mix of residential.

The Site is made up of a number of parcels of land shown as Development Opportunity Zones in Appendix B, including Wave Break Island, other land north and south of Sea World on the Spit and the waters of the Gold Coast Harbour. The State will consider proposals within the Cruise Ship Terminal Zone and associated development within the Development Opportunity Zone as shown in Appendix B. The State will also consider rights to develop associated marine infrastructure over the water. Appendix C provides further details of the Site and its ownership and contains relevant considerations.

The Preferred Proponent will be required to commence work on the Project as soon as reasonably practicable and not unreasonably delay commencing, continuing or completing the development of the Site in accordance with the agreed development timeframes.

The Project is to be fully funded by the Preferred Proponent. The State will not contribute funding or accept any risk associated with the Project. The State is not prepared to accept any post-contractual contingent liability, cumulative, residual or other risk associated with the development or operation of the Project.

Proponents who can demonstrate design and construction experience, capacity to commit to a timely development program and the financial capacity to take on this scale of project are encouraged to express their interest in this opportunity.

Information regarding the Gold Coast can be accessed at:

www.broadwatermarineproject.com.au; and
www.businessgoldcoast.com.au.

3. Objectives of the Project

The State and Council see the development of the Project on the Site as critical to achieve the following objectives:

- Create a high quality sustainable integrated tourism development on the Site, including an open access cruise ship terminal.
- Timely and coordinated delivery of major tourism infrastructure as part of the State's priority to boost the State's economy.
- Strengthen the economic base of the Gold Coast and support long term job creation.
- Enhance the Gold Coast's reputation as a leading tourist destination.

Other requirements of the Project are to:

- Ensure the Project is delivered at 'no cost' or risk to the State over the life of the Project.
- Maximise the public benefit and the financial outcome for the State in its dealings with the Site.

The State proposes to enter into a Development Lease with the Preferred Proponent and, following completion of construction, to enter into a Long Term Lease in relation to those parts of the Site that the Preferred Proponent will operate and maintain. While the Project may be delivered in stages, key tourism and public benefit components are required to be substantially delivered by 2018, with the earliest possible delivery of an open access cruise ship terminal preferred.

In addition to the negotiated rent associated with leases or subleases under the *Land Act 1994* (Qld), the State will be seeking an additional up front payment in exchange for this development opportunity. The Preferred Proponent will be required to commit to a timeframe for commencement and completion of development. Timely delivery of the Project is critical to meet the State's priority to boost the State's economy.

4. Invitation for Expressions of Interest

Organisations or consortia who are interested in bidding for the Project are invited to submit an EOI. The State, with the assistance of Council, intends to evaluate each EOI subject to the terms of this EOI Invitation.

The State and Council are committed to a procurement process that is transparent, accountable and compliant with proper probity requirements.

Details of the intended procurement process, including this EOI, are outlined in section 5 (Procurement process).

This EOI Invitation and subsequent procurement process is intended to prescribe only a targeted set of parameters. Shortlisted Proponents will have the opportunity to submit a Detailed Proposal with a high level of innovation and a broad range of development options for the Site.

The intention is to shortlist Proponents based on their demonstrated experience, capability and capacity via the process outlined at section 5 (Procurement process) of this EOI Invitation.

Whilst not part of the Evaluation Criteria, Proponents are required to articulate their visions for the Site and provide the State and Council with feedback on issues relating to the Project.

Proponents should refer to Appendix D for an outline of identified 'Project Risks' and Appendix E for Council's planning intent and infrastructure considerations. Proponents should satisfy themselves as to all risks associated with the Project and the matters outlined in Appendices D and E.

5. Procurement process

Overview

This EOI Invitation represents the first stage in the process for the selection of a Preferred Proponent. The State and Council will evaluate the EOIs, based on the Evaluation Criteria, to determine which of the Proponents are to be shortlisted and invited to enter into the second Request for Detailed Proposals stage of the procurement process.

The State and Council are acutely aware of the significant investment of time and resources of the private sector in preparing their EOIs for this new opportunity. In this EOI Invitation, the State has sought to minimise the financial and preparatory burdens on suitably qualified entities and consortia during the EOI stage and to allow sufficient time for Shortlisted Proponents to develop commercial offers and design proposals as part of the subsequent stages of the procurement process.

The EOI Invitation does not require interested organisations or consortia to formulate an indicative financial offer.

Procurement process

It is anticipated that the procurement process will be conducted in stages. The first two stages are intended to be:

Stage 1—Invitation for Expressions of Interest

Stage 2—Request for Detailed Proposals.

The subsequent stages will be determined at the conclusion of the EOI process and will be outlined in the Request for Detailed Proposals.

Without limiting any of its other rights, the State reserves the right to alter the proposed procurement process including suspending or terminating the procurement process, changing the nature of or omitting any stage or adding additional stages.

Depending on EOIs received and other matters, the State may reassess how and to what extent the State will continue with the procurement process or to otherwise facilitate the Project.

Stage 1 – Invitation for Expressions of Interest

The purpose of this stage is to:

- raise awareness of the Project;
- seek feedback on the Project and the State's and Council's proposed approach to delivery of the Project;
- seek EOIs from interested organisations or consortia with the necessary experience and capability to deliver the Project; and
- shortlist Proponents to proceed to the Request for Detailed Proposals stage of the procurement process. Proponents will be shortlisted based on the Evaluation Criteria.

The State and Council intend to shortlist up to five Proponents in this stage and will establish an evaluation panel to evaluate the EOIs on their merits against the Evaluation Criteria with a view to selecting the Shortlisted Proponents.

The evaluation panel may (in its absolute discretion) conduct an interactive process with Proponents where the State deems this necessary to assist in its evaluation and decision on shortlisting. This interaction may involve general enquiries with Proponents to discuss information provided in the EOIs. Any such interaction will be conducted within the framework of the probity arrangements for the Project.

Stage 2 – Request for Detailed Proposals

The purpose of the RFDP stage will be to seek binding bids from Shortlisted Proponents to deliver the Project and selection of the Preferred Proponent.

This stage is likely to involve:

- the State issuing its commercial principles and draft Development Agreement and Lease Documents for the Project;
- the submission of a Detailed Proposal by Proponents; and
- if the State decides to proceed with the selection of a Preferred Proponent, following the receipt of Detailed Proposals, the selection of the Preferred Proponent.

The State and Council recognise that an interactive process can assist by aiding the development of high quality, well considered Detailed Proposals.

The State may conduct a structured interactive process commencing from the release of the RFDP. This may include regular meetings with individual Shortlisted Proponents during the RFDP stage. This will include representatives of the Council and may include Government Parties and other stakeholders. All aspects of the interactive process will be conducted within an appropriate probity framework.

Shortlisted Proponents will be encouraged to use the interactive process to test the acceptability of their technical and commercial solutions and to seek maximum understanding of the requirements as expressed in RFDP documentation.

EOI information session

An EOI information session for Proponents will be held in early December 2012. A Proponent will only be entitled to attend the EOI information session if they have completed, executed and submitted to the State the Deed of Acceptance referred to in Appendix H of this EOI Invitation and the State has accepted that Deed of Acceptance.

Details regarding the date, time and location of the EOI information session will be provided directly to each Proponent after the State has received the Deed of Acceptance. The EOI information session is expected to be held on the Gold Coast, Queensland, Australia.

The purpose of this information session will be to assist Proponents with obtaining a broad understanding of the EOI Invitation and to receive further information on the Project. The information session will also provide an opportunity for Proponents to clarify any aspect of this EOI Invitation and to ask any questions or request clarifications from the State.

Interested organisations or consortia wishing to attend the information session should register their interest early by submitting their Deed of Acceptance referred to in Appendix H of this EOI

Invitation to the State in accordance with section 7 (Lodgement of EOI and enquiries) of this EOI Invitation.

Further Project information

A virtual data room will be established that provides further information relating to the Project and the Site. A Proponent will only be provided with access to the virtual data room after they have completed, executed and submitted to the State the Deed of Acceptance referred to in Appendix H of this EOI Invitation, the State has accepted that Deed of Acceptance and the Proponent has otherwise agreed to comply with the relevant virtual data room conditions of entry.

Indicative procurement process timeline

An indicative timeline for the procurement process is outlined in the table below:

EOI Invitation released	23 November 2012
EOI closes	31 January 2013 (2.00pm, Brisbane, Queensland, Australia time)
Assessment and evaluation	1 February 2013 to 28 February 2013
Notification of Shortlisted Proponents	Early March 2013
Release of RFDP document	Early March 2013
Bidding and RFDP responses close	Late June 2013
Preferred Proponent selected	Late August 2013
Negotiation and due diligence	2 September 2013 to 30 November 2013

The exact timing of each stage in the procurement process will be reviewed by the State at the completion of the EOI stage. The timeline is indicative only and is subject to change.

Procurement process approvals and changes

Further stages of the procurement process and the State's commitment to the Project remain subject to future approvals required from the State.

The State reserves the right to alter the proposed procurement process including suspending or terminating the procurement process, changing the nature of or omitting any stage or adding additional stages.

Depending on EOIs received and other matters, the State may reassess how and to what extent the State will continue to facilitate the Project under the procurement processes contemplated by this EOI Invitation or any other process.

6. Evaluation process

EOI evaluation process

The evaluation of EOIs will be conducted within an established probity framework. Specialist advisers will provide support to the evaluation panel in evaluating the EOIs.

The evaluation process will involve a review of EOIs to:

- confirm that the Proponent has provided satisfactory information relating to the information requirements detailed in this section of the EOI Invitation; and
- assess each EOI against the Evaluation Criteria.

As part of the evaluation process, Proponents may be invited to participate in a structured interview process. The State reserves the right, at any time during the evaluation process, and in its absolute discretion, to make requests of one or more of the Proponents, for clarification of any aspect(s) of its EOI. Proponents will be required to respond to any requests for clarification. Proponents should not rely on being invited to make further submissions or to participate in any interview process prior to the evaluation of EOIs being finalised.

EOI Evaluation Criteria

The Evaluation Criteria that will be used to evaluate EOIs are outlined below:

1. Demonstrated capability and capacity of the Proponent to deliver large scale, high quality property and integrated tourism developments and associated infrastructure of a size and character similar to the proposed Project.
2. Demonstrated track record in completing large property and infrastructure projects of a size and character similar to the Project on time and budget.
3. Demonstrated understanding, which may include experience, of the issues in developing and operating a property and/or integrated tourism development and associated infrastructure of a size and character similar to the Project.
4. Demonstrated funding capacity and any proposed Project funding strategy.
5. Demonstrated financial viability, strength and financial capacity to successfully fulfil all of the obligations, responsibilities and liabilities associated with delivering and operating an integrated tourism project and/or property development and associated infrastructure of the magnitude and scope of the Project.

The State reserves the right to vary or amend the Evaluation Criteria at any time, take into account any information from its own and other sources in evaluating the EOIs, accept or reject any EOI at any time irrespective of the extent to which it satisfies any of the Evaluation Criteria, and at its absolute discretion, give preference to any one or more Evaluation Criteria over another.

Information required for assessment

The Response Forms 1 to 6 contained at Appendix G outline the information requirements that Proponents are required to address in their EOI. These requirements are summarised in the table below:

Information requirement	Response Form Name/No.
A checklist is to be provided summarising all information contained in a Proponent's EOI.	Response Form 1: Form of checklist
Proponents are to provide information in relation to their (or their consortium's) structure and ownership (shareholding) arrangements.	Response Form 2: Proponent's details
Proponents are to submit details of their experience, capability and track record in mobilising large property, tourism and infrastructure projects in Australia quickly while still managing normal project risk, cost effectiveness, scope and quality considerations.	Response Form 3: Proponent's experience and capability; and Response Form 5: Project Data Sheets
Proponents are to provide information in relation to their (or their consortium's) understanding of the issues in developing and operating a property and/or integrated tourism development and associated infrastructure of a size and character similar to the Project.	Response Form 4: Proponent's understanding and/or experience in project delivery
Proponents are required to furnish certain financial information demonstrating the Proponent's (and its financier's) financial capability, including the Proponent's proposed funding approach to the Project.	Response Form 6: Financial and commercial information

Responses which do not address all of the items in this section of this EOI Invitation may be disregarded. The State may in its absolute discretion seek clarification of information provided by Proponents.

Proponents should also note the requirement to lodge a completed Deed of Acceptance in the form attached to this EOI Invitation at Appendix H, in accordance with section 7 (Lodgement of EOI and enquiries) of this EOI Invitation.

Request for Additional Information

In addition to the information submitted by the Proponent to address the Evaluation Criteria, Proponents are required to submit with their EOI the Additional Information described at Response Form 7.

Proponents are required to respond to the questions, and provide any suggestions that they have, in regard to the Project.	Response Form 7: Additional Information
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The State and Council are interested in obtaining feedback from and inviting comments from Proponents in relation to the matters set out in Response Form 7.

Although the Additional Information provided by a Proponent in responding to the matters raised in Response Form 7 will not be considered in the assessment of EOIs, the provision of that Additional Information is a mandatory requirement of this EOI Invitation and the State may, in its absolute discretion, refuse to consider any EOI that does not include the Additional Information.

Probity

The State has engaged a probity advisor for the duration of the procurement process. The probity advisor role in the procurement process will include:

- ensuring that the procedure adopted in the receipt and evaluation of EOIs is consistent with proper probity requirements;

- monitoring the evaluation process to provide independent validation of this to the State; and

- providing guidance to the State as to how unforeseen probity issues can be resolved.

The probity advisor is an independent observer of the evaluation process and will not be involved in the evaluation of any EOI.

Proponents who have any concerns about the conduct or probity of the procurement process should promptly bring their concerns to the attention of the probity advisor. [REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

7. Lodgement of EOI and enquiries

Deed of Acceptance

Any Proponent wishing to lodge an EOI must complete and execute a Deed of Acceptance. Duly executed originals of the Deed of Acceptance must be provided to the State at the following address:

Project Director, Broadwater Marine Project
 Department of State Development, Infrastructure and Planning
 PO Box 15009
 City East QLD 4002
 Australia

While executed originals of the Deed of Acceptance must be provided and accepted by the State for Proponents to participate in the EOI stage, Proponents may email their scanned executed Deed of Acceptance to notify the Department that the document is being delivered. The Department email for the Project is broadwater_marine_project@dsdip.qld.gov.au.

The Department may take scanned Deed of Acceptance documents received by email into consideration when developing the Proponent list for the EOI information session.

If a Proponent fails to lodge a Deed of Acceptance, the State may in its absolute discretion refuse to consider any EOI lodged by the Proponent, or exclude the Proponent from the EOI process.

Access to the virtual data room and any EOI information session will not be provided to a Proponent until it has lodged a signed Deed of Acceptance with the State and the State has accepted that Deed of Acceptance.

The State reserves its right, in its absolute discretion, to accept or reject any executed Deed of Acceptance.

Lodging your EOI

EOIs must be in writing and must be received no later than 2.00pm (Brisbane, Queensland, Australia) time on 31 January 2013.

EOIs are to be lodged in a sealed envelope clearly marked:

Private and Confidential
 Expressions of Interest – Broadwater Marine Project- DSDIP-1975-12
 Closing Date: 31 January 2013
 Attention: The Project Manager, Broadwater Marine Project
 Major Projects Office, Department of State Development, Infrastructure and Planning

And addressed to:

Queensland Government Tender Box
 DSDIP-1975-12
 Decipha Pty Ltd
 2 Duncan Street
 West End QLD 4010
 Australia

or

Queensland Government Tender Box
DSDIP-1975-12
Decipha Pty Ltd
GPO Box 2482
Brisbane QLD 4001
Australia

An acknowledgement of receipt will be issued by the State as soon as practicable in respect of the EOI.

The State reserves its right, in its absolute discretion, to accept or reject any EOI lodged after the closing date.

Proponents shall provide EOIs as follows:

- One original EOI plus five bound copies and two unbound and unstapled copies. Each copy shall:
 - be presented on A4 paper and printed on one side only
 - be presented in ring binders to facilitate photocopying
 - provide a full contents sheet.
- One electronic copy of the EOI on a DVD or CDROM.

Enquiries and clarification questions

During the EOI process, Proponents may submit questions, requests for clarification and requests for further information to the State. Proponents should note the following procedure for submitting questions, requests for clarification and further information. The Proponent should submit their questions, requests for clarification and requests for further information to:

Broadwater Marine Project Project Director
Department of State Development, Infrastructure and Planning
Level 3, 63 George Street Brisbane QLD 4000 Australia

or

Email: broadwater_marine_project@dsdip.qld.gov.au

Proponents should clearly identify each question, request for clarification or request for further information requested.

Responses to any clarification questions in relation to this EOI Invitation may be provided to all Proponents. Where a Proponent is of the view that a clarification question is not of a general nature, but relates to proprietary aspects of their EOI, the Proponent may identify that question as such. If the Project Director agrees that a question relates to proprietary aspects of the Proponent's EOI, the response will not be circulated to other Proponent(s).

If however the Project Director is of the view that the question is not proprietary, the Project Director will advise the relevant Proponent, who will then have the option to withdraw the question.

If the Proponent continues to request a response to that question, the question and the response may be circulated to all Proponent(s).

The last date for questions, requests for clarification and requests for further information is:

24 January 2013

Proponents should note that this is not the closing date for EOIs. The closing date for EOIs is 31 January 2013, 2.00pm (Brisbane, Queensland, Australia time).

Appendix A: Conditions applying to the EOI process

Outlined below are general terms and conditions applicable to the EOI stage of the procurement process.

1. No legal relationship

The information in this EOI Invitation and any State supplied information has been compiled on behalf of the State for the guidance of organisations or consortia interested in participating in the EOI process for the Project. Except to the extent of obligations accepted by a Proponent in executing a Deed of Acceptance, neither the provision of this information nor the lodgement of any EOI is intended to, nor shall constitute, any contractual or other legal relationship between the State and the recipient of this information (whether about carrying out of the Project or the process for the selection of Proponents).

No legal or other obligation shall arise between a Proponent and the State in connection with the carrying out of the Project unless and until formal Project contractual documentation has been signed by both parties.

2. Reservation of rights

Notwithstanding any provision of this EOI Invitation to the contrary, the State may conduct the process for the evaluation of the EOIs and the selection or shortlisting of Proponents in connection with the Project in such manner as it thinks fit and the State reserves the right, in its absolute discretion and at any time, to:

- change the structure, procedures, nature or timing of the EOI process or overall procurement process for the Project
- vary or amend the Evaluation Criteria without notification
- take into account any information from its own and other sources in evaluating an EOI
- give preference to any one or more of the Evaluation Criteria over other criteria and consider relative trade-offs between criteria
- alter the terms of participation in the EOI process or overall procurement process for the Project (including timeframes)
- seek clarifications or additional information from any Proponent, including to invite presentations from any Proponents or engage in an interview with any Proponent (including without limitation in order to clarify any matter relating to the Proponent's EOI)
- conduct due diligence investigations in respect of any Proponent
- draw on outside expertise as required
- consult with or seek assistance from the Council or other Government Parties or stakeholders.
- request further information from any Proponent
- terminate further participation in the EOI process by any Proponent

- refuse to allow any particular organisations or consortia entry to the EOI process
- not proceed with an EOI information session
- allow further organisations or consortia to participate in the EOI process or overall procurement process for the Project (whether or not they have submitted an EOI)
- terminate or reinstate the EOI process
- extend the closing date and time
- not proceed with the Project
- not proceed with the Project in the manner outlined in this EOI Invitation
- amend the nature, scope or timing of the Project
- allow the withdrawal or addition of any Proponent
- conduct negotiations with any one or more Proponents after the EOIs have been lodged
- agree to terms for the delivery of the Project that are different from those contained in the EOI Invitation
- consider or accept an EOI which does comply with the requirements of this EOI Invitation
- reject any EOI or all EOIs for any reason
- publish the names of Proponents and Shortlisted Proponents
- require Proponents to provide a bid bond
- take such other action as it considers in its absolute discretion appropriate in relation to the EOI process or overall competitive process for the Project
- refuse to consider any EOI which:
 - is lodged by means other than in accordance with this EOI Invitation
 - is lodged after the closing date and time
 - does not conform with this EOI Invitation in any respect
 - has been lodged by a Proponent who has not complied with this EOI Invitation
- determine the nature, scope and timing of any further stages in the procurement process (including Evaluation Criteria, which may include the same Evaluation Criteria as this EOI Invitation)
- not provide Proponents with any reason for any actions or decisions it may take, including in respect of the exercise by the State of any or all of the abovementioned rights.

3. Confidentiality

Proponent's confidentiality

The contents of this EOI Invitation and any State supplied information are being made available to Proponents only in connection with the Project and must not be disclosed or

used other than for the purposes of the Proponent preparing an EOI. An EOI is also submitted to the State on a confidential basis.

Each Proponent must keep any information regarding or contained in the EOI Invitation, any State supplied information, details of their EOI and any other information which may be provided in association with it, confidential and not:

- (i) disclose to any person; or
- (ii) copy, use or otherwise deal with such information for any purpose,

except to the extent:

- (i) the Proponent is specifically authorised to do so in writing by the State;
- (ii) the information is disclosed to and used by others (who are also bound by terms acceptable to the State to keep the information confidential) for the purposes of enabling the Proponent to prepare its EOI; or
- (iii) the information is already in the public domain, otherwise than because of a breach by the Proponent of these confidentially obligations.

Proponents must not make any public statement in relation to this process, the Project, their EOI or any other matter referred to in this EOI Invitation without the prior written consent of the State.

State's confidentiality

The EOI and all Proponent Documents submitted by Proponents may be disclosed to the Council, Government Parties and any other party (not including another Proponent) from whom the State may seek advice in connection with this EOI process or the Project.

The EOI and all Proponent Documents will be stored securely and held in confidence, except to the extent that disclosure is required for audit or legal purposes, is required to be released under the *Right to Information Act 2009* (Qld) or any other legislative requirements or as required or allowed by this EOI Invitation.

4. Proponent Privacy

'Personal Information', as defined under the National Privacy Principles and provided by Proponents may, in the course and for the purposes of evaluation, be disclosed to the Government Parties and any other party from whom the State may seek advice in relation to this EOI process or the Project.

In relation to that Personal Information, the Proponent warrants to the State:

- (a) the Proponent has obtained the consent of each individual about which any Sensitive Information (as defined in the *Privacy Act 1988* (Cth)) is provided; and
- (b) the Proponent has or will within the time required by the Privacy Act ensure that each individual about whom any Personal Information is provided has received a written statement setting out all of the matters required by National Privacy Principle 1.3:
 - (i) in relation to disclosure of the Personal Information to the Government Parties and other parties in accordance with this EOI Invitation; and
 - (ii) disclosing that the entities referred to in paragraph (i) shall use the Personal Information for the purposes of reviewing and assessing the Proponent's EOI.

5. Costs to be borne by Proponents

To the extent permitted by law, no Proponent shall have any claim of any kind whatsoever against the State or other Government Parties (whether in contract, tort (including negligence), equity, under statute or otherwise) arising from or in connection with:

- (a) any costs, expenses, losses or liabilities suffered or incurred by the Proponent in preparing and submitting its EOI or any Proponent Document (including any amendments, requests for further information by the State, attendance at meetings or involvement in discussions) or otherwise in connection with its EOI or the Project;
- (b) the State at any time exercising or failing to exercise, in its absolute discretion, any rights it has under or in connection with the EOI Invitation or the Project; or
- (c) any of the matters or things relevant to its EOI or the Project in respect of which the Proponent must satisfy itself under the EOI Invitation.

Without limiting the foregoing, if the State cancels or varies this EOI process at any time or does not select or shortlist any Proponent following its evaluation of EOIs, or does any other thing referred to in Section 2 (Reservation of rights) of this Appendix A, no Proponent shall have any claim against the State arising from or in connection with any costs, expenses, losses or liabilities incurred by the Proponent in preparing and submitting its EOI or otherwise in connection with or in relation to (whether directly or indirectly) the Project.

6. No warranties

Neither of the Government Parties or Council make any warranty or representation (express or implied), as to the currency, accuracy, adequacy, suitability, reliability or completeness of the information contained in this EOI Invitation or any information which may be provided in association with it (including in any information session or virtual data room). Neither of the Government Parties or Council accept any responsibility or liability whether arising from negligence or otherwise (except a liability that cannot be lawfully excluded) for any reliance placed on the contents of this EOI Invitation or any information which may be provided in connection with it by Proponents or for any representations (whether express or implied) or information (including forecasts) contained in, or any omissions from, this EOI Invitation or any written or oral communications transmitted to a recipient in the course of the evaluation of the Project.

There may also be other information or documents in the knowledge or possession of the Government Parties or Council which are relevant to the Project or the EOI process but are not disclosed by the Government Parties.

To the extent the Government Parties or Council are not the author or source of any document provided to Proponents, they merely pass that document on to Proponents and do not adopt or accept any responsibility for the content of it.

This EOI Invitation and all statements and information made in relation to it reflect the Government Parties' and Council's current intention only. The information and intentions set out in this EOI Invitation and any other information made available in connection with the EOI (including any information session or virtual data room) may change at any time without notice. The risk, responsibility and liability connected with an EOI are solely that of each Proponent.

7. Disclaimer

This EOI Invitation and all State and Council supplied information that accompanies it have been prepared to give potential Proponents background information in relation to the Project. This EOI Invitation does not, and does not purport to, comprehensively describe the scope of the Project or contain all of the information that Proponents may require in reaching decisions in relation to whether or not to submit an EOI. Proponents must form their own views as to what information is relevant to such decisions.

Proponents must not rely on the information contained or referred to in this EOI Invitation and the State or Council supplied information (including anything in the virtual data room or disclosed in a information session). Proponents must make their own independent investigations of the information contained or referred to in this EOI Invitation and their own appraisal of the opportunity to participate in the Project. Proponents must obtain their own independent legal, financial, tax and other advice in relation to information in this EOI Invitation or otherwise made available to them during the EOI process.

8. Changes

The delivery of this EOI Invitation shall not under any circumstances be taken to create an implication that there has been or will be no material change in the affairs, the operations or status of the Government Parties. The Government Parties will not be responsible for any errors, inaccuracy in or omissions from this EOI Invitation, nor will they have any responsibility to inform any recipient of this EOI Invitation of any matter or information coming to their attention which may affect any other matter or information contained or referred to in this EOI Invitation.

9. Diagrams and plans

This EOI Invitation contains a number of diagrams and plans. These diagrams and plans are only indicative in nature. The Government Parties and Council do not make any representation or warranty, express or implied, that such diagrams or plans are accurate.

10. Assumptions and sources

Certain information contained or referred to in this EOI Invitation or any information which may be provided in association with it is based on a number of electronic and other assumptions, and must be interpreted in the context of those assumptions. Where information in this EOI Invitation or any information which may be provided in association with it includes reference to another source, recipients of this EOI Invitation should refer to, and interpret the information in the context of, that source.

11. Ownership of EOIs

Each EOI and all Proponent Documents become the property of the State on lodgement, and will not be returned to Proponents.

Any intellectual property rights that may exist in an EOI or any Proponent Document will remain the property of the Proponent. Any element of an EOI or any Proponent Document considered to carry any intellectual property rights should be clearly identified by the Proponent. Where the State, in its sole discretion, determines that such elements are subject to such intellectual property rights, the State will treat that element as protected.

By providing an EOI, the Proponent grants the Government Parties and Council a non-exclusive, fully paid up and royalty free, perpetual, assignable licence to copy, adapt,

modify, disclose or do anything else necessary at the State's sole discretion, to all material (including material that contains any intellectual property rights of the Proponent or any other person) contained in an EOI or any Proponent Document, for the purposes of evaluating that EOI and determining the State's requirements for the Project (including any further stages in the process of selection of the Preferred Proponent for the Project).

12. Changes to participants

Where a Proponent is a consortium, the Proponent will be evaluated and shortlisted on the basis of the consortium members (Participants) identified in the EOI. If a Proponent lodges its EOI without having identified all Participants, this may affect that Proponent's ability to meet the Evaluation Criteria and the State reserves the right to exclude that Proponent from further participation in the EOI process.

Where Participants change after the closing date for submission of EOI, Proponents must notify the Project Director of this change. If the State, in its sole discretion, determines that this change is material, the State reserves the right in its absolute discretion to re-evaluate the EOI and to exclude the Proponent from further participation in the EOI process.

A Proponent should (as a minimum) notify the State of any change to any of the following entities or individuals:

- any entity that proposes to take a direct equity interest in the Proponent if successful
- the ultimate parent entity of any entity that proposes to take a direct equity interest in the Proponent if successful
- any other entity that is likely to be in a position to exercise control or influence (direct or indirect) over the future management and operation of the Proponent if successful, and
- any director, secretary or chief executive officer of any entity falling within the above paragraphs and any proposed new directors, secretary or chief executive officer.

13. Change in circumstances

Proponents must inform the Project Director promptly in writing of any material change to any information contained in their EOI, and of any material change in circumstances which may affect the truth, completeness or accuracy of any information provided in, or in connection with the EOI.

14. Canvassing

Except as expressly permitted by this EOI Invitation, Proponents must not contact any members, or employees or officers of the Government Parties, the Project Team (other than the Project Director), elected members of the Commonwealth, State or Local Governments, officers of the Local Government authorities, government agencies, or the Government Parties' advisers with a view to providing or obtaining information in respect of any part of the Project, the EOI process or their EOI, or attempting to support or enhance their prospect of being selected as a Shortlisted Proponent other than as expressly permitted by this EOI Invitation. At the absolute discretion of the State, any unauthorised communication or attempted approach by a Proponent may lead to the Proponent's exclusion from the EOI process.

15. Collusion

Proponents and their respective officers, employees, agents and advisers must not engage in any collusive tendering, anti-competitive conduct or any other similar conduct with any other Proponent or any other person in relation to the preparation or lodgement of an EOI. At the absolute discretion of the State, any such conduct may lead to the Proponent's exclusion from the EOI process.

16. Conflict of interest

A declaration must be made by Proponents and their respective officers, employees, agents and advisers and submitted with the EOI as to any conflict of interest or a potential conflict of interest during the EOI process or in relation to their potential involvement in the Project. Proponents undertake to inform the State of any actual or potential conflicts that may arise after lodgement of an EOI.

The State reserves the right, in its absolute discretion, at any stage to undertake investigations to satisfy itself that there are no conflicts of interest or potential conflicts of interest. At the absolute discretion of the State, any conflict or potential conflict may lead to the Proponent's exclusion from the EOI process.

17. Return or destruction of information

The State reserves the right, in its absolute discretion, at any stage, to require that material and other information provided to Proponents (and copies or reproductions of such information) be either destroyed by Proponents or returned to the State unless otherwise required by law in which case the Proponents will continue to be bound by the terms of the Deed of Acceptance.

The State may require that Proponents provide evidence (in a form satisfactory to the State) that any of its requirements in this respect have been fully met.

18. Right to information

Proponents should note that the *Right to Information Act 2009 (Qld)* (RTI Act) and the *Information Privacy Act 2009 (Qld)* (IP Act) may allow members of the public rights to be given access to documents relating to the Project.

All or part of an EOI may be disclosed to third parties if there is a requirement to do so under the provisions of the relevant legislation.

Any information that is of a confidential nature or concerns the business, professional, commercial or financial affairs of a Proponent, the disclosure of which could reasonably be expected to have an adverse effect on those affairs, may be exempt from disclosure under the relevant legislation and should be marked as follows:

Right to Information Act and Information Privacy Act – SENSITIVE BUSINESS INFORMATION

Confidential to [**entity name**]

Refer to [**name and title of company representative who is claiming exemption**]

Telephone [**direct telephone number**]

Marking information in the manner stated above will not necessarily prevent disclosure of the matter in accordance with the relevant legislation. Any decision to grant access to a document will be determined by the requirements of the relevant legislation.

Proponents will not be entitled to make any claim in relation to any actions taken in relation to, or under, the relevant legislation.

Proponents are advised that, while the Government Parties may deal with applications for access in response to right to information requests, there may be occasions on which a Proponent exercises a right to seek independent external review of the decisions made.

19. The State may rely on information in EOIs

By submitting an EOI, the Proponent:

- warrants to the State and the Government Parties that the information contained in its EOI is accurate and complete as at the date on which it is submitted, and may be relied on by the State in determining whether or not to shortlist the Proponent;
- undertakes to promptly advise the State if it becomes aware of any change in circumstances which causes the information contained in its EOI to become inaccurate or incomplete in a material respect;
- acknowledges that the State will rely on the above warranty and undertaking when evaluating the EOI; and
- acknowledges that the State may suffer loss or damage if the Proponent breaches the warranty and undertaking.

20. Status of additional information

Proponents are invited to submit Additional Information along with its EOI. The State and Proponent acknowledge that:

- the Additional Information will not be used for any evaluation purposes associated with the EOI or any subsequent stages of the procurement process (if any) for the Project;
- the content of the Additional Information will not be binding upon either the Proponent or the State for any purpose;
- the State is under no obligation to incorporate or reflect information provided in a Proponent's Additional Information in determining the State's requirements for the Project (including any future stage of the procurement process); and
- the State will not use the Additional Information for any purpose other than assisting it develop and formulate future requirements for the Project.

21. Debriefing

Debriefing of Proponents not shortlisted will occur after announcement of Shortlisted Proponents in the absolute discretion of the State.

22. Addenda to this EOI Invitation

Written addenda issued by the State are the only explanations of, or amendments to, the EOI Invitation that will be recognised by the State. All Proponents are responsible for ensuring they are correctly registered with the State to ensure they are mailed addenda information. Proponents are to satisfy themselves that they have received, acknowledged and addressed all addenda that may have been issued up to the date for closing of submissions. Updates of addenda issued will be available from the Project Director.

23. Variations to EOI

A Proponent may replace, amend or supplement its EOI only if invited to do so by the State.

The State reserves the right to ask for a replacement, amended or supplemental EOI from one or more Proponents but is under no obligation to do so. The State is entitled to accept a replacement, amended or supplemental EOI from a Proponent (whether requested by the State or not) in its absolute discretion, without reference to any other Proponents.

24. No appeal

Proponents will not have a right to appeal to the State against any decisions made or rights exercised by the State in connection with the EOI process or the Project.

25. Acceptance of conditions

Proponents are required in their EOI to explicitly acknowledge and accept each of the terms and conditions of this EOI Invitation by lodging a Deed of Acceptance.

26. State's powers not fettered

Proponents acknowledge:

- (a) the State gives no warranty and makes no representation as to the way the State or any other Government Parties may exercise any discretion relevant to any aspect of the Project; and
- (b) nothing in this EOI or any information which may be provided in association with it fetters the exercise by any Government Party of any discretion whether to grant, grant subject to conditions, or refuse:
 - (i) any approval; or
 - (ii) any lease,or fetter the exercise, by any Government Party, of any executive discretionary or other powers or actions whatsoever.

27. Application of this EOI Invitation

Except to the extent the State expressly agrees otherwise, this EOI Invitation (including these conditions applying to the EOI process) shall continue to apply to any process that the State may undertake (including following the close of the EOI process) in connection with the selection or negotiation or dealings with any Proponent.

28. Proponent's legal and ethical obligations

Every Proponent must:

- (a) prior to lodging any EOI obtain or satisfy itself as to its ability to obtain any approval, qualification, registration or licence required to be held by the Proponent to enable it to lawfully perform and satisfy the commitments set out in its EOI;
- (b) in preparing and lodging its EOI, comply with all applicable laws, legal requirements and acceptable probity standards; and
- (c) without limiting paragraph (b):
 - (i) not collude with, accept any commission from, or offer any commission to, any other Proponent;

- (ii) not disclose any part of its proposal to any other Proponent;
- (iii) not enter any contract, arrangement or understanding with any other Proponent or any trade, industry or other association to the effect that the Proponent, if successful, will confer any benefit on any other party;
- (iv) not offer any incentives, gifts or other favours to any person who is in any way:
 - (1) involved with;
 - (2) capable of providing technical or other advice to those who are involved in any way with; or
 - (3) in a position to influence,
 - the evaluation of proposals (including without limitation any person closely related or associated with those persons or entities); and
- (v) not enter any anticompetitive contract, arrangement or understanding with any other party in connection with the Proponent's proposal.

29. Terms and conditions to prevail

The terms and provisions of this Appendix A of the EOI Invitation prevail over any other provision of this EOI Invitation or any information provided by the State in association with this EOI Invitation.

30. Governing law

This EOI Invitation is governed by the laws applicable in Queensland.

31. Engagement with other stakeholders

Proponents accept that:

- (a) neither the Council nor any Government Party nor any other stakeholder (Other Interested Party) is authorised by the State to make any statement or provide any information under or in connection with the EOI or the Project on behalf of the State;
- (b) each Proponent must satisfy itself by its own enquiries as to any requirements of Other Interested Parties for or in connection with the Project;
- (c) each Proponent must assume responsibility for satisfying all lawful requirements of Other Interested Parties for or in connection with the Project, at its own costs and risk; and
- (d) the role of any Other Interested Party in the EOI process is limited to the role expressly provided for by this EOI Invitation.

Appendix B: Site plan



Appendix C: Site details and relevant considerations

Site details

The Site potentially available for the Project comprises approximately 81ha of predominantly undeveloped State-owned land at Wave Break Island and on The Spit at the Gold Coast Harbour.

The Site includes the following lots:

Lot description	Area	Location	Current Tenure
Lot 1 on CP908847	37.15 Ha	Wave Break Island	Reserve
Lot 528 on WD6624	29.62 Ha	Doug Jennings Park	Reserve
Lot 1 on SP104014	8.81 Ha	Boating Facilities area	Reserve
Lot 530 on WD6522	4.23 Ha	Land south of Sea World	Unallocated State Land
Lot 381 on WD5096	0.693 Ha	Land south of Sea World	Unallocated State Land
Lot 273 on WD3813	0.546 Ha	Land south of Sea World	Unallocated State Land
Total	81.049 Ha		

The lot comprising Wave Break Island is held by the Department of Transport and Main Roads as a reserve for beach protection and coastal management.

The lot comprising Doug Jennings Park is held by the Department of Transport and Main Roads as a reserve for Port and Harbour Purposes.

The lot comprising the Boating Facilities area is held in Trust by the Council for park and recreation.

The lots comprising the land south of Sea World are held as Unallocated State Land managed by the Department of Natural Resources and Mines. This part of the Site also includes a road reserve. Subject to any necessary approvals being obtained, the Project may integrate this road reserve into any proposed internal road network for the development of the Site or the road reserve could be closed for inclusion in Lot 530.

This EOI Invitation applies only to the lots identified in the above table which are shown as the Development Opportunity Zone in Appendix B. Appendix B also shows a Cruise Ship Terminal Zone, which indicatively describes the zone where an open access cruise ship terminal is considered most appropriate.

Transport and utilities

Considerable upgrades of the road network may be required depending upon the nature of development proposed on the Site. Detailed traffic surveys and trip generation calculations are yet to be undertaken to determine the capacity of and impact on the existing road network and the extent of the upgrades required. It is likely that the RFDP will require a statement of the likely impact the Project will have on the existing road network.

Proponents will also be asked by the RFDP to comment on the potential impact on other utilities and service upgrades that may be required to support the development (including water, sewerage, recreation, stormwater, electricity and other infrastructure) and to specify the measures they have incorporated into their Detailed Proposals to address these impacts.

Ground condition and contamination

The Department is not aware of any confirmed or potential contamination of the Site. The Site is not included on the Environmental Management Register or Contaminated Land Register. It is considered unlikely that contamination will pose a constraint to developing the Site; however Proponents must satisfy themselves as to any contamination risk.

The State does not propose to undertake further studies or investigations in relation to other ground conditions (eg geotechnical, hazardous substances, existing improvements or site services and facilities).

Native title and cultural heritage

Native title describes the rights and interests of Aboriginal people and Torres Strait Islanders under their traditional laws and customs.

The *Native Title Act 1993* (Cth) allows for Indigenous Land Use Agreements (ILUAs) between native title holders/claimants and other interested parties about how land and waters in the area covered by the agreement will be used and managed in the future.

The State is committed to resolving native title issues through negotiation rather than through costly and time consuming litigation and strongly supports these agreements. ILUAs can also be an alternative to other processes under the *Native Title Act 1993* (Cth).

The Proponent will be responsible for addressing any native title and cultural heritage issues that may exist in relation to the Site, and obtaining any approvals or agreements that might be legally required in that regard under the applicable legislation. The Preferred Proponent will also be required to indemnify the State in respect of any compensation that might be payable to a native title party as a result of the development of the Site.

No cultural heritage assessments have been undertaken over any part of the Site.

Existing registered interests

National Australia Trustees for Sea World Property Trust (Sea World) hold a permit to occupy under the *Land Act 1994* (Qld) over part of Lot 530 on WD6522 for the purpose of car parking. There is no term on this permit to occupy. This car park is primarily used by Sea World for overflow parking during the Christmas school holiday period. This permit to occupy will need to be dealt with as part of any development in the affected area.

Lease terms and Development Agreement

The lease structure proposed by the State to be entered into is a Development Lease followed by a Long Term Lease. A Long Term Lease will only be granted after satisfactory completion of development of the Project and if the relevant conditions in the Development Agreement have been satisfied.

A Development Agreement is also proposed to be entered into between the State and the Preferred Proponent which will include provision for the upfront premium payment for the

development rights and other development matters not dealt with by the terms of the Development Lease or the Long Term Lease.

Land tenure issues

It is envisaged that the Proponent will be offered leasehold tenure under the *Land Act 1994* for the relevant parts of the Site (whether those areas are wet or dry sites). Therefore, the Development Lease and Long Term Lease will be granted subject to the requirements of that Act.

The rent applicable to the Development Lease will be indicative of the construction stage of the Project. The rent for the Long Term Lease will be negotiated and include the standard rental return required by the *Land Act 1994* (Qld) at that time. Any rent or other costs payable by the State as landlord will be payable under these leases.

An upfront premium payment for the development rights (which recognise the unique nature of the Site) will be dealt with as a separate issue by the State.

It should be noted that the State will not consider any Detailed Proposals that deal with land in freehold on The Spit and will not consider amendments to existing legislation. However, alternative tenure arrangements may be considered in relation to any additional land which is reclaimed on Wave Break Island as part of the Project. The approach to tenure arrangements set out above is considered to be consistent with existing tenure arrangements on The Spit and does not unfairly compromise the development potential or financial returns associated with the Site.

A term lease under the *Land Act 1994* will need to be obtained in relation to any areas of the seabed which are required for an open access cruise ship terminal. If Proponents require additional tenure over any parts of the water in the Cruise Ship Terminal Zone, appropriate tenure arrangements will need to be entered into with the State.

Planning

Wave Break Island is currently within the Public Open Space Domain of Council's planning scheme. The balance of the Site currently falls within The Spit (Gold Coast Harbour) Local Area Plan of Council's planning scheme.

The Project will be subject to all applicable regulatory requirements (including environmental, planning and building requirements) of the Commonwealth Government, the State, Council and other responsible authorities. The Preferred Proponent will be expected to obtain, and comply with the conditions of, all appropriate approvals for the Project.

Depending on the EOIs received, the State may consider available options to facilitate and expedite the Project.

Further site information

The State does not propose to facilitate Site inspections at this stage.

All information provided in this EOI Invitation in respect of the Site must be treated as commercial in confidence.

Appendix D: Project risks

Interested organisations and consortia should take into account the following matters in deciding whether to lodge an EOI for the Project. If shortlisted, Proponents will need to develop their own solutions for addressing each of these matters.

This EOI Invitation does not purport to identify all risks associated with the Project. Each Proponent will need to make its own assessment of, and is responsible for satisfying itself in relation to, the risks associated with the Project. These risks may include, for example, securing adequate access to water and terminal arrangements for the Project and negotiating and entering into relevant agreements with any native title holders.

Cruise ship terminal

The development of a cruise ship terminal will require significant capital and maintenance dredging in and around the Broadwater, including the creation of a swing basin. Whilst appropriate arrangements may be facilitated by the State to enable dredging to occur, Proponent's must undertake their own enquires in relation to the extent and cost of required dredging.

A navigational simulation will soon be undertaken by the Council. This study will simulate the entry and departure of cruise ships from the port to determine any operational restrictions. The purpose of the navigational assessment is to provide guidance about the operational limitations for cruise ships for the port. This study will be made available to Preferred Proponents in the RFDP stage of the procurement process. This information will be made available for use by Proponents at their own risk.

Proponents need to undertake their own investigations in relation to the commercial viability of a cruise ship terminal in the Broadwater, including the response of existing cruise ship operators to such a proposal.

Proponents also need to be aware that it is the intention of the State that any cruise ship terminal will need to operate as an open access terminal and the lease arrangements will support this requirement.

Casino

Whilst Proponents may put forward as part of their Project proposal the inclusion of a casino, the Proponent should be aware that the State makes no representation as to whether such a proposal would be acceptable to the State or as to whether the Proponent could obtain the grant of a casino licence or other required State approvals.

Infrastructure requirements

Significant upgrades may be required to transport and infrastructure networks throughout the Gold Coast. Proponents should be aware of the potential extent and cost of the required upgrades. An innovative market response on how the associated infrastructure upgrades may be approached is sought.

Appendix E: Council Planning Intent and infrastructure considerations

This Appendix is for information only and is not part of the Evaluation Criteria. It is intended to express the broad planning intentions and expectations of the Council and is intended to be included in the body of the future Request for Detailed Proposal. This Appendix has been included in this EOI Invitation to give Proponents an indication of the planning outcomes sought to be achieved by Council in development of the Project.

Planning Intent

Vision

An internationally acclaimed integrated tourism development that lifts the Queensland economy, provides confidence to invest in the Gold Coast, and is revered by the community for the enhanced lifestyle and recreation outcomes achieved at the Broadwater

Alignment to the city vision:

Project proposals should be able to demonstrate how they advance the Gold Coast City Council's 2020 City Vision and key themes:

"The Gold Coast is a global city that is loved by its people, attracts investment and welcomes opportunity."

People contribute to a strong community spirit - *'Gold Coast is an affordable and safe city. A united community it has every opportunity to enjoy good health, education and a fulfilled life.'*

The best place to live - *'Gold Coast has an enviable climate. It boasts quality urban centres rich with culture, pristine rainforests, open spaces and clean beaches .*

A dynamic city of potential - *'Gold Coast is a prosperous city of opportunity, that successfully competes in the global market. The city's diversified economy fosters construction and tourism, education, sport and knowledge based industries.*

Objectives

- promote the Gold Coast as a competitive Global City
- embody the qualities that make the Gold Coast attractive and liveable
- strengthen the economic base of the Gold Coast and support long term job creation
- provide a transformational and sustained increase in international and domestic tourist visitation to the Gold Coast
- create a high quality, sustainable development that contributes positively to the City image
- respect the environmental qualities of the Broadwater, responsibly managing potential impacts and demonstrating a balanced approach to fostering economic opportunity and addressing community expectations

Land use and activity

New tourism and marine oriented activities that fully leverage the unique Broadwater location, enhance the city image, and provide lasting economic benefit are sought.

While there is an existing local planning instrument in place, an opportunity is now provided to reconsider land use and urban form outcomes provided there are strong economic, urban design and community benefit grounds to support proposals. To this extent, addressing the project vision and advancing the key themes of the Gold Coast City 2020 vision is required.

Specific development that is sought includes:

- a distinctive new attractor with destination appeal to enhance the Gold Coast's offer as a world class tourist destination
- cruise ship terminal/s
- marinas (non industrial) that provide Super Yacht facilities, provide for marine tourist operators and businesses, and short term/visiting vessels
- specialist leisure, cultural and entertainment activities (a casino may be proposed)
- short term tourist accommodation (highest quality hotel and other accommodation outcomes such as family oriented resort facilities)

Supporting land uses may be proposed, including a mix of residential development.

Development must also consider the city wide land use framework and centre network, including the specialist nature of activities at the Broadwater and the principal activity centre of Southport. Development is to be staged to respect the viability of the wider Gold Coast property market.

Built form

The Spit, Wave Break Island and the Broadwater physical context is a flat plain with minimal topographic variation. Fringing development to the west and south at Labrador, Southport and Main Beach contains high-rise development set back from, and enjoying views across, the Broadwater.

Through well considered and robust design ethos and rationale, a wide range of built form outcomes may be appropriate to the development opportunity sites. The framework supports flexibility in building height and form, subject to proposals demonstrating:

- a built form that is diverse, permeable and well integrated with both the natural and local coastal environment and character
- respect for the scenic amenity of the Broadwater, with a built form that is sympathetic to view corridors and that minimises impacts to surrounding communities (e.g. Labrador, Main Beach, Biggera Waters)
- excellence in urban design and architecture that makes a positive contribution to the city image
- accords to established sub tropical design principles and developed on the basis of Council's 15 Qualities for Good Urban Places.

Community (public realm, open space and recreation)

The development must enhance the quality and range of public spaces and recreational opportunities available to the community. Innovative responses are encouraged, subject to the development:

- enhancing recreational facilities and amenities in the area, with opportunities to consider appropriate environmentally sensitive land reclamation to support:
 - potential expansion of the Labrador / Southport Broadwater foreshore parklands

- enlargement of Wave Break Island to enable offsets / improvements to compensate for potential loss of open space to support development
- providing a high level of public open space on Wave Break Island with a priority on supporting public access and parklands on all fringing waterfront land (with the exception of those areas required for marine and tourism infrastructure or internal canal waterways)
- blurring of public and private open space will be encouraged to create a sense of community engagement and energy
- supporting existing recognised recreational activities in the area including:
 - a safe, protected recreational boating anchorage in the Southern Broadwater with foreshores that facilitate ship to shore access.
 - improved diver access to the Seaway (dive stairs and dive attraction)
 - preserving South Stradbroke as a nationally important surf break
- considering future recreation opportunities including:
 - underwater observatory
 - recreational boating infrastructure (including, anchorages, ramps, pontoons etc)
 - sailing course.

Infrastructure considerations

Transport and access

Maintaining the performance of the wider city road and transport network is a core objective. The scale and mix of uses will be a key factor in defining the required transport and access infrastructure to support the Project. Innovative responses are encouraged, subject to the development:

- supporting active travel, walking and cycling
- establishing an appropriate management plan to minimise traffic impact to adjoining areas
- supporting the outcomes and objectives of the Gold Coast Transport Strategy
- providing the base infrastructure upgrades to support potential traffic generation and maintain surrounding road network performance
- ensure development is highly accessible from both the land and water.

Infrastructure and operations

Maintaining the performance of the wider city service infrastructure networks will be a key consideration. The scale and mix of uses will define the level of infrastructure necessary to service the Project. Innovative responses are encouraged, subject to the development:

- providing adequate levels of service to new development
- supporting efficient operation and long term protection of assets
- promoting opportunities for innovative infrastructure solutions.

Substantial dredging work is anticipated to facilitate navigation access, establish or modify development land, provide recreational foreshore areas and to resolve the hydrodynamic flow issues confronting the Gold Coast Seaway. Beneficial reuse of sand must be prioritised, with any excess sand used to support coastal processes or beach and foreshore nourishment.

Environment

The development must respect the environmental qualities of the Broadwater and demonstrate a balanced approach to fostering city-wide economic opportunity while responsibly managing potential environmental impacts. As the extent of development will be a key factor in determining the potential environmental impacts, innovative responses are encouraged, subject to the development:

- protecting RAMSAR and Broadwater environmental values by fully mitigating impacts on significant habitat areas (wading bird habitat, sea grass etc.) with local offset priority in the Broadwater. Development may trigger referral to the Australian Government under the *Environmental Protection and Biodiversity Conservation Act 1999* (Cth)
- establishing strict protocols for:
 - Cruise ship operations (no discharge into Broadwater)
 - Potential emergencies (e.g. sewerage / oil spill)
- positively addressing environmental considerations and establishing strategies to minimise and mitigate potential impacts
- adopting best practice water management measures (water harvesting and reuse, water sensitive urban design)

Appendix F: Interpretation

Definitions applicable to the EOI Invitation:

Item	Definition
Additional Information	The response submitted by the Proponent to Response Form 7.
Council	The Gold Coast City Council
Deed of Acceptance	A deed poll in the form attached to this EOI Invitation at Annexure H.
Department	Department of State Development, Infrastructure and Planning.
Detailed Proposal	A proposal submitted by a Shortlisted Proponent in response to a Request for Detailed Proposal.
Development Agreement	An agreement to be negotiated and entered into between the State and the Preferred Proponent for the development of the Project.
Development Lease	One or more short term leases allowing the Preferred Proponent to construct their development on the Site.
EOI or Expression of Interest	The response submitted by the Proponent in response to this EOI Invitation, excluding the Additional Information (if any).
EOI Invitation	This invitation for expressions of interest.
Evaluation Criteria	The criteria that will be used to evaluate the EOIs, outlined at section 6 (Evaluation process) of this EOI Invitation.
Government Parties	The Queensland Government, its Ministers, the Department or any of their statutory bodies, agencies, representative officers, employees, advisers, contractors or agents.
Lease Documents	The proposed draft terms of a Development Lease and a Long Term Lease.
Long Term Lease	One or more long term leases allowing the Preferred Proponent to operate and maintain their development on the Site.
Preferred Proponent	The Proponent selected as the Preferred Proponent at the conclusion of the procurement process for the Project.
Project	The Broadwater Marine Project, which: <ol style="list-style-type: none"> (a) may be developed on some or all of the Site; (b) is effected for the purposes of maximising the opportunity offered by the Site; (c) is undertaken in a manner consistent with the Project objectives; and (d) is developed in the manner approved by the State.
Project Director	General Manager, Major Projects, Department of State Development, Infrastructure and Planning

Project Team	A collaboration between the Office of Major Projects, within the Department, and the Council.
Proponent	An organisation or consortium that proposes to lodge or lodges an EOI in connection with this EOI Invitation.
Proponent Documents	All documents and information submitted by a Proponent in response to either: <ul style="list-style-type: none"> (a) the request for Additional Information, including the Additional Information being Response Form 7; and (b) this EOI Invitation (including its EOI submission, being Response Forms 1 to 6).
RFDP or Request for Detailed Proposal	A request for detailed proposals as referred to in section 5 (Procurement process) of this EOI Invitation.
Shortlisted Proponent	A Proponent who is shortlisted to participate in subsequent stages of the procurement process for the Project.
Site	The Site is indicatively marked at Appendix B as: <ul style="list-style-type: none"> • The Development Opportunity Zone, which is made up of: <ul style="list-style-type: none"> • An area of land located west of Sea World Drive on The Spit, north of Sea World at the Gold Coast Harbour; • An area of land located on The Spit, south of Sea World at the Gold Coast Harbour; • Wave Break Island: and • The Cruise Ship Terminal Zone.
State	The State of Queensland.

Appendix G: Response Forms

Respondents are required to provide the information requested on the forms listed below and include the completed forms as part of their submission. Failure to provide this information may cause submissions to be judged incomplete and non-conforming.

- Response Form 1: Checklist of EOI information**
- Response Form 2: Proponent details**
- Response Form 3: Experience and capability**
- Response Form 4: Understanding and/or experience in developing and operating a property and/or integrated tourism development**
- Response Form 5: Project data sheet**
- Response Form 6: Financial and commercial information**
- Response Form 7: Additional Information**

Response Form 1: Checklist of EOI information

Form of checklist

The EOI for (name of Proponent) includes the following:

Response Form	Item	Completed
1	Form of checklist	
2	Proponent details	
3	Experience and capability	
4	Understanding and/or experience in developing and operating a property and/or integrated tourism development	
5	Form of Project data sheet	
6	Financial and commercial information	
7	Additional Information	
	1 original EOI plus 5 bound and 2 unbound and unstapled copies of the EOI	
	One electronic copy of the EOI on a DVD or CDROM	

Signature:

.....
(Authorised officer of Proponent)

Date:

Name:

Title:

Response Form 2: Proponent details

Every Proponent should provide the name and full details of the Proponent and each consortium member, including:

- The name and nature of the entity (i.e. public listed company, partnership, proprietary company) including their relationship with any immediate and ultimate parent companies and details of any registered company, business and trading names
- ABN, ACN or other identification number
- Place of incorporation/registration, registered office, postal address
- Details of current office bearers/directors
- Details of principal shareholders (unless a public listed company)
- Contact details of the individual from the Proponent with whom the State will principally communicate in its dealings with the Proponent, including name and title, email address, office, mobile and facsimile numbers, and office and postal addresses
- Disclosure of all related parties of each consortium member comprising a Proponent that may be a consortium member of another Proponent. Also provide details of:
 - the relationship between the related parties and a summary of previous working relationships on similar projects;
 - any internal governance arrangements and other procedures which the Proponent has or will put in place to address and resolve any probity and competitiveness issues; and
 - the manner by which compliance with these internal governance arrangements and other procedures will be certified.
- A brief overview of the Proponent including background information and details of their operations
- If the Proponent is a consortium, details of the roles of each of the members
- A description of the management and governance structure of the Proponent and details of decision-making processes including resolution of probity and competitiveness issues
- The identity of any company that has become insolvent with which any director of the Proponent or a Participant has been associated
- The identity and nature of all known related companies for the Proponent (or who may in the future be involved)
- If a special purpose vehicle is proposed, full details of each participant or member and their intended method of engagement needs to be described

Answers submitted must apply specifically to the individual or entity named as the Proponent and must be exclusive of the activities of parent, associate or subsidiary companies (if any) unless specifically identified as such.

Response Form 3: Experience and capability

The EOI for (name of Proponent) includes the following:

Evaluation criteria	Information required
<p>Evaluation criteria 1</p> <p>Demonstrated capability and capacity of the Proponent to deliver large scale, high quality property and integrated tourism developments and associated infrastructure of a size and character similar to the proposed Project.</p> <p>Evaluation criteria 2</p> <p>Demonstrated track record in completing large property and infrastructure projects of a size and character similar to the Project on time and budget.</p>	<p>1 Proponents must demonstrate their qualifications and experience in the development and timely delivery and operation of high quality property and integrated tourism developments and associated infrastructure with project construction costs in excess of \$50 million or that provided built form and operational outcomes of a similar or greater size or complexity to the Project upon completion.</p> <ul style="list-style-type: none"> • Provide detailed information on a minimum of two projects that provides sufficient information for the State to adequately assess the experience and capability in relation to: <ul style="list-style-type: none"> • the design, construction and ongoing operation of these developments; and • projects with complexities similar to that which may be experienced in developing the Project; and • high level overview of methods used to expedite projects yet manage risk and quality; and • innovation in the construction industry without sacrificing an emphasis on safety; and • confirmation of project completion timeframe relative to targeted completion date. <p>Information provided for each project should include the form of the Project Data Sheet at Response Form 5.</p> <p>2 Provide details of the organisational capability and capacity of the Proponent or consortium members to deliver major tourism, leisure, residential, retail, commercial, recreational projects (including associated infrastructure) including:</p> <ul style="list-style-type: none"> • outlining your project team; • the capability and capacity of the proposed design and construction personnel; • names and employers of the Proponent’s key personnel who will potentially be engaged on the project including at a minimum the project director, senior and design construction management personnel – one page CVs are to be provided for the Proponent’s key personnel; and • identify the key personnel still employed by you who were involved in the referenced projects in item 1 including the nature of their involvement. <p>3 Provide details of the experience of key contractors, including any construction contractor, project manager and architect, operations experts and other consultants involved in design, construction and</p>

	<p>operation of similar projects.</p> <ol style="list-style-type: none">4 Outline the capacity of the Proponent to adequately resource the Project in all aspects.5 The Proponent's team composition and structure demonstrating necessary capability and resources.6 Provide detail of the successful track record of the Proponent in managing project teams including securing project approvals, project development and operation, construction, sales and marketing and involvement in similar projects.7 Provide examples demonstrating innovation and best practice in project development, delivery and operation.
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Response Form 4: Understanding and/or experience in developing and operating a property and/or integrated tourism development

Evaluation criteria	Information required
<p>Evaluation criteria 3</p> <p>Demonstrated understanding, which may include experience, of the issues in developing and operating a property and/or integrated tourism development and associated infrastructure of the size and character similar to the Project.</p>	<p>1 Proponents must demonstrate their understanding of and approach to, which may include experience, the design, planning, delivery, management, and operation of major tourism, infrastructure and development projects of a similar complexity to the Project.</p> <ul style="list-style-type: none"> • Provide an assessment of the key issues that need to be addressed to ensure the successful delivery of the Project, including: <ul style="list-style-type: none"> • an assessment of the key design issues that will need to be considered to effectively deliver a viable project of the nature of the Project; • an assessment of the key construction coordination and interface issues that will need to be considered to effectively deliver and operate the Proponent's preferred Project; • an assessment of the key operational interface issues between the State, Council and/or other key participants and Proponent in design, planning, development and operation of the Project; • an outline of the likely approach or strategies that you may adopt to manage the issues identified above during the delivery and operation of the Project; and • details on any projects where you have employed these approaches or strategies to deliver successful project outcomes.

Response Form 5: Project data sheet

Form of project data sheet

Proponents must complete one Project Data Sheet for each project submitted (minimum of 2 projects)

Project Data Sheet [] of []

Item	Proponent Response
1 Name of Project:	
2 Location:	
3 Client:	
4 Role: <i>(for example, consortia member, prime contractor, contractor, sub-contractor, financial adviser, debt/equity provider etc)</i>	
5 Date started:	
6 Date finished:	
7 Contract type:	
8 Project value (\$AUD):	
9 Contract value of works conducted by your company/consortia (\$AUD):	
10 Project description:	
11 Proponents/major sub-contractors engaged by company/consortia during the project:	
12 Nominated key personnel involvement:	
13 Reference/client referee:	
14 Contact details for referee:	

Response Form 6: Financial and commercial information

Evaluation criteria	Information required
<p>Evaluation criteria 4 Demonstrated funding capacity and any proposed Project funding strategy.</p> <p>Evaluation criteria 5 Demonstrated financial viability, strength and financial capacity to successfully fulfil all of the obligations, responsibilities and liabilities associated with delivering and operating an integrated tourism project and/or property development and associated infrastructure of the magnitude and scope of the Project.</p>	<p>Proponents should provide sufficient evidence to allow the State to assess the financial viability, strength and capacity to fulfil the obligations, responsibilities and liabilities expected to be associated with delivery of the Project.</p> <p>Proponents should provide a statement of financial strength for the Proponent containing the following information:</p> <ul style="list-style-type: none"> • A summary of the key financial information contained in annual reports and where applicable, interim reports and audited accounts for the last three years for the Proponent. • A copy of the full audited financial report for the last three financial years including the financial statements and all notes to the financial statements. Where applicable, the most recent interim financial statements are also to be provided. • Where the financial statements for the most recent financial year remain unsigned by Auditors, audited accounts for the prior year should be provided along with pro-forma financial statements for the most recent financial year. A statement as to the accuracy of the pro forma financial statements should be provided. • Where the above are not available (e.g. for companies not required to prepare statutory audited financial statements), Proponents should provide unaudited financial statements and other financial or other such information that will enable the State to conduct a financial risk assessment. This may include information such as: <ul style="list-style-type: none"> • special purpose financial reports or company management accounts; and • certification of a director, proprietor or trustee of the Proponent affirming that the financial statements provide a true and fair view of the financial affairs of the entity. <p>This information should be provided for the last three financial years in order to cover the same period as two years of audited financial reports which include comparative information from the previous year.</p> <ul style="list-style-type: none"> • Identification of any material change (as generally accepted in Australian accounting rules) in the financial position since the date of the last audited financial statements. • Identification of any events which could potentially and

	<p>materially impact the financial position since the date of the last audited financial statements and up to the date of the EOI, for example acquisitions and divestments.</p> <ul style="list-style-type: none">• A listing of the following contingent liabilities:<ul style="list-style-type: none">• all significant pending litigation not reflected in the financial statements supplied; and• a list of all significant capital commitments, not reflected in the financial statements, which will occur over the next 24 months.• A listing of all significant loans, guarantees and credit facilities in place.• Any breaches or near breaches in debt covenants for the past 3 years.• Description of the level and type of any parent support (e.g. parent company guarantees) expected to be provided to the Proponent including a confirmation letter from the parent company. <p>Any further information, not already supplied that may affect the Proponent's ability to meet the financial obligations associated with delivering the project.</p>
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Response Form 7: Additional Information

Proponents are requested to include a section with their submission that addresses the matters below and demonstrates their overall concept for the Project.

The purpose of this section of the EOI Invitation is to assist the State formulate its views on how it might refine its requirements for the following stages of the competitive process and how it might then participate in the Project on an ongoing basis. The responses may also inform the structure of the Request for Detailed Proposals and other Project documentation.

Proponent's responses do not form part of the evaluation of an EOI. However, the Additional Information provides an opportunity for the Department to undertake a market sounding and for Proponents to provide an early indication of their intentions for the Site and issues associated with their proposal.

Integrated tourism development opportunity

- Outline the development proposal and include a description of the proposed operational and business model, in particular, in relation to the open access cruise ship terminal component.
- Outline the proposed delivery approach (including concept designs to assist the evaluation panel in understanding the proposed vision), timelines and stages (if any) over which the Project will be undertaken. Indicate the earliest possible timeframe in which the cruise ship terminal component of the proposal will be delivered (noting early delivery would be preferred).
- Outline the approach to be taken to optimise the hydrodynamics of the Broadwater. In particular impacts associated with tidal velocities, tidal range, storm tides, flood flows, scour potential, shoaling potential and existing effluent releases.
- Outline the approach to be taken to minimising on-going dredging costs within and around the Broadwater with beneficial reuse of dredge sand preferred.
- Outline the suggested approach to mobilising the Project rapidly, including the earliest possible delivery of the cruise ship terminal.
- Outline the preferred minimum lease term for the Site.
- Outline any other tenure requirements for the Site.
- What are your views on the likely approach to development (staged, number of stages, and ability to deliver initial and subsequent stages) and the likely timeframe to develop the Site?
- What are your views on the planning context as it relates to existing planning arrangements and the type of development you might consider for the Site? Do you foresee any issues with the planning framework for the Site, noting the high level Planning Intent set out in Appendix E, provisions of the Council planning scheme, Local Area Plan, and other approval processes that could impact your ability to deliver a viable development proposal. This question is asked in order to understand possible planning and approval risks for a proposal going forward.
- If there are any issues, how would you propose to address these issues including what, if any, actions the State and/or Council could undertake to improve the planning, development and/or assessment framework and increase the attractiveness of the Site?

- To what extent do you consider existing Site characteristics (including location, access, Native Title, contamination, tenure or other Site issues) an opportunity or constraint to delivering a viable development on the Site?
- Proponents contemplating the inclusion of a casino in their concept plans should include information about how the casino would operate and its likely impact on the existing casino licence on the Gold Coast. Also, Proponents should address the benefit a casino may bring to the Project and how it would enhance the Gold Coast.

Commercial principles

- What are your views in terms of dealing with land on the basis of a long-term lease? Noting that the State is not prepared to consider freehold tenure over existing land areas and implications of ongoing Long Term Lease arrangements, including payments. Will this significantly impact on the type of proposal you might consider and the commercial terms you may offer?
- What land payment mechanisms are attractive to you and ensure delivery of the Project, but fairly reflect the need to secure the Site on commercial terms, both prior to and during development?
- What opportunities are there for the State to mitigate these risks to improve certainty and value for money from the State's perspective?

Annexure H: Deed of Acceptance

Deed of Acceptance

(Section 7)

DEED OF ACCEPTANCE

Deed Poll dated 2012

By ..[insert name, address and ABN (or equivalent) of Proponent].....

.....

.....

..... (jointly and severally the **Proponent**)

in favour of The State of Queensland (**State**) and Gold Coast City Council (**Council**)

RECITALS:

- A. The State has provided the Proponent with an Expressions of Interest Invitation (**EOI Invitation**) which sets out the process by which the State proposes to shortlist Proponents for the Project (**Procurement Process**).
- B. The Proponent is intending to participate in the Procurement Process and in accordance with the terms of the EOI Invitation is required to sign and deliver to the State this Deed Poll.

It is agreed as follows:

1 Definitions and Interpretation

1.1 Definitions

In this Deed Poll, unless defined in this Deed Poll or the context otherwise requires, words and expressions have the same meaning as in the EOI Invitation.

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise:

- (a) The singular includes the plural and the converse.
- (b) A gender includes all genders.
- (c) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them.

- (e) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (f) The meaning of terms is not limited by specific examples introduced by including, or for example, or similar expressions.
- (g) Where more than one person comprises the Proponent, the rights and obligations of those persons under or in respect of this Deed Poll are joint and several.
- (h) A reference to any document includes all schedules and attachments to the document.

2 Application of Deed Poll

The Proponent acknowledges that this Deed Poll:

- (a) applies to the Procurement Process and any act, matter or thing arising from or connected with the Procurement Process;
- (b) shall take precedence over the EOI Invitation to the extent of any inconsistency between them; and
- (c) shall be given full force and effect despite any prior agreement or representation by the State.

3 Acknowledgment and Undertaking

- (a) The Proponent:
 - (i) agrees to be bound by; and
 - (ii) undertakes to strictly comply with,

all terms, conditions and other provisions of the EOI Invitation, including (without limitation) all terms and conditions in Appendix A.
- (b) The Proponent agrees that, except to the extent the State may otherwise expressly agree in writing, the terms and conditions and other provisions of the EOI Invitation and this Deed Poll shall continue to apply to any process which the State may undertake (including following the completion or termination of the Procurement Process) in connection with the selection of a Preferred Proponent or the entering into of any agreement relating to the Project (including any further procurement process or any negotiations with any person (including the Proponent)).
- (c) Without limiting any other provision of this Deed Poll, the Proponent agrees to maintain confidentiality over all information provided to it in connection with the EOI Invitation strictly in accordance with the terms of the EOI Invitation.

4. The State's Rights

4.1 The State's Rights

- (a) If the Proponent fails to comply with its obligations under this Deed Poll, the State may, in its absolute discretion, exclude the Proponent from any further involvement in the Procurement Process or the Project by written notice to the Proponent.
- (b) The State's rights under this clause are without prejudice to any other rights or remedies of the State.
- (c) The Proponent acknowledges that:

- (i) monetary damages alone may not be a sufficient remedy for a breach of this Deed Poll; and
- (ii) in addition to any other remedy which may be available at law or in equity, the State is entitled to interim, interlocutory and permanent injunctions or any of them to prevent breach of this Deed Poll and to compel specific performance of it.

4.2 Deed Poll for benefit of the State and Council

The Proponent agrees that this Deed Poll is for the benefit of and is enforceable by the State and the Council and their successors and assigns (and their officers, employees, agents, consultants and contractors) in their own name and is binding on the Proponent and its successors and permitted assigns.

4.3 Joint and Several Obligations

This Deed Poll binds any two or more persons comprising the Proponent jointly and severally.

4.4 No Waiver

- (a) Failure or delay by the State or the Council in exercising a right, power or remedy does not operate as a waiver of that right, power or remedy.
- (b) A single or partial exercise of a right, power or remedy by the State or the Council does not preclude either its exercise in the future or the exercise of any other right, power or remedy by the State or the Council.

4.5 Proponent as agent for others

If the Proponent executes a Deed Poll for or on behalf of itself and any other person, the Proponent warrants that it has authority to bind itself and each other person, and the Proponent and each other person is jointly and severally bound by the terms of this Deed Poll.

5. Amendment

This Deed Poll cannot be revoked or otherwise modified without the prior written consent of the State.

6. Governing Law

This Deed Poll is governed by the laws of Queensland.

[Instructions for execution: All Proponents, consortia members and/or sub-contractors to execute using appropriate execution clause (examples follow) and, if under power of attorney, a certified copy of the power of attorney must be lodged with the Expression of Interest]

Executed as a Deed

Signed sealed and delivered

By

.....
<i>[insert full name of Proponent legal entity and ABN]</i>	<i>[signature]</i>
.....
<i>[insert name of Director]</i>	<i>[signature]</i>
.....

[insert name of another Director/Secretary] [signature]

in accordance with s.127 of the Corporations Act 2001 (Cth)

this day of year

In the presence of:

..... [insert full name of witness] [signature of witness]

OR

Executed as a Deed

Signed sealed and delivered

By

.....

[insert full name of Proponent legal entity and ABN]

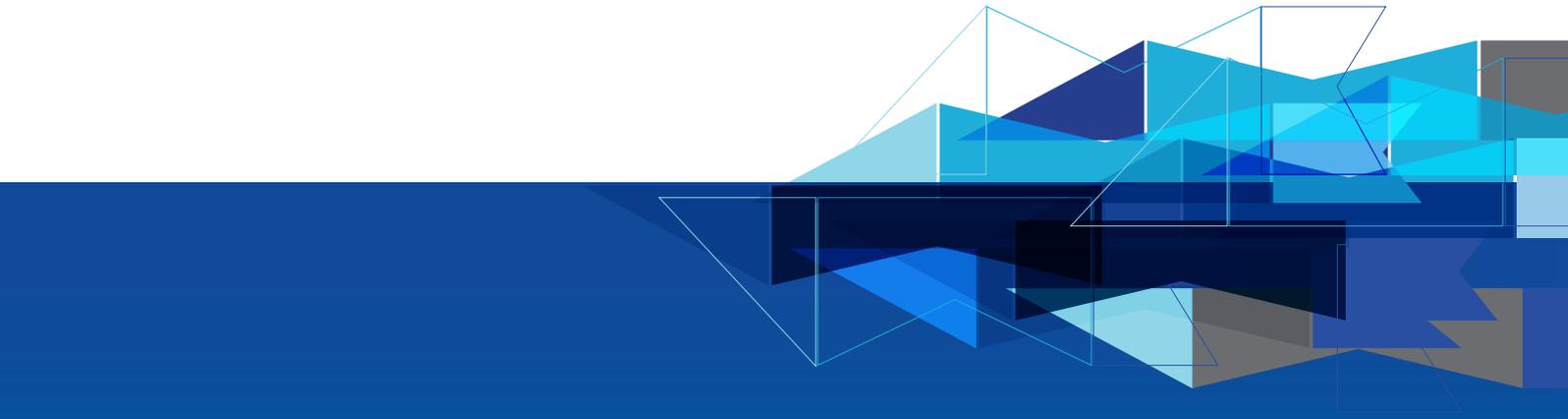
by its duly appointed attorney who states that he or she has no notice of revocation of the power of attorney

this day of year

..... [name of attorney] [Date of power of attorney] [signature of attorney]

In the presence of:

..... [insert full name of witness] [signature of witness]



For further information visit
www.broadwatermarineproject.com.au



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