









## ACKNOWLEDGEMENT OF COUNTRY

The City of Victor Harbor acknowledges the Ramindjeri and Ngarrindjeri people, the Traditional Custodians of the land and surrounding waters where we live and work. We acknowledge their deep connection to country and pay our respects to Elders past, present and emerging. This respect is extended to Aboriginal and Torres Strait Islander people across Australia.



## INTRODUCTION

The City of Victor Harbor (Council), through its property advisors Alinea Group, is pleased to invite innovative responses from qualified and well-credentialled groups to deliver an exceptional outcome for The Precinct opportunity.

The Precinct will be the premier sports, recreation, and entertainment destination on the Southern Fleurieu Peninsula.

This Expressions of Interest (EOI) process provides an opportunity for the private sector to develop and operate a quality multipurpose regional community, sport, leisure, and commercial asset as a destination.

The EOI is seeking development partners to realise the vision for a significant and strategic land holding totalling 11.5 hectares with a developable area of 5.4 hectares.

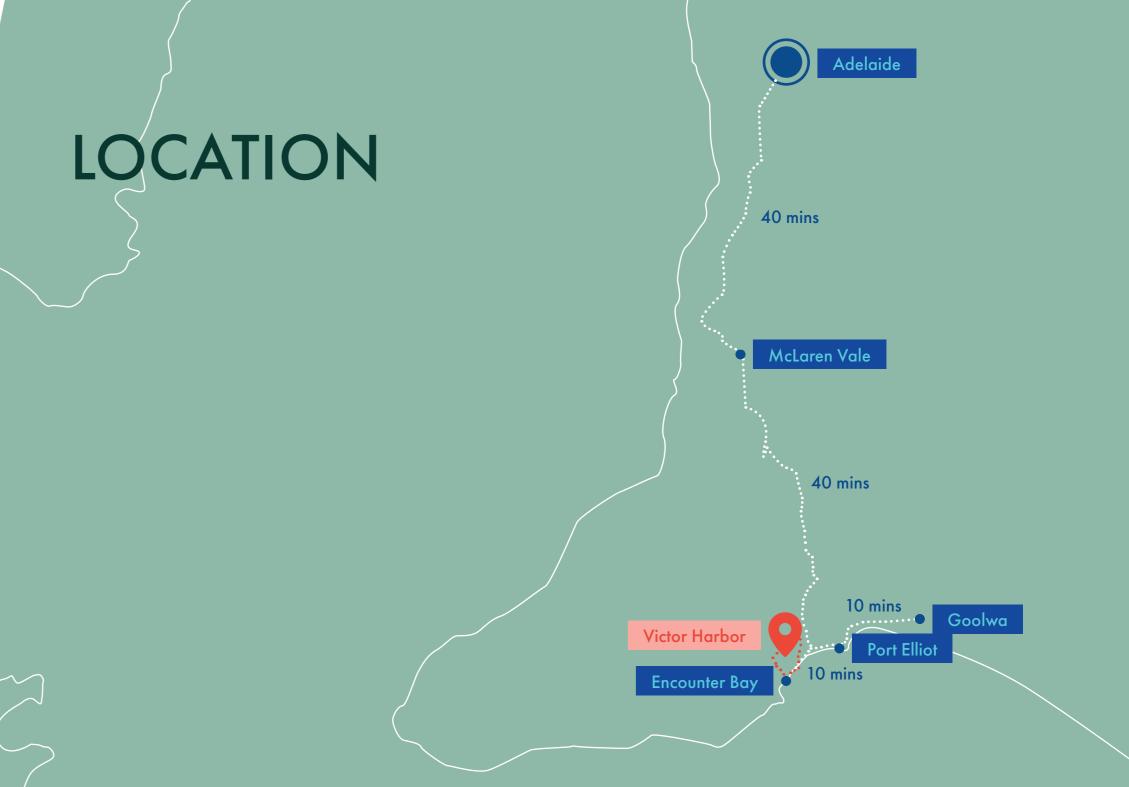
The project has been initiated by the Council to directly respond to community needs and drive the long-term growth of the Victor Harbor tourism economy.

Victor Harbor is an easy 84-kilometre drive south of Adelaide CBD and one of SA's dominant tourism destinations. The attractive coastal lifestyle and vibrant regional community also underpin strong regional population growth.

Recognising these major tourism and population growth drivers, the State and Council have invested significantly in transport and tourism infrastructure and amenities. From major road upgrades to the \$43 million Causeway to Granite Island, renewal of the Mainstreet precinct and the future arts and culture centre. Not surprisingly, within its draft plan for Greater Adelaide, the

State has identified Victor Harbor to transition to an even more prominent regional city, pointing to the opportunity for substantial growth in decades to come.

In response to this existing and future growth potential, developers, operators and consortia are invited to review this Information Memorandum. including prequalification criteria, and respond to this compelling Expression of Interest opportunity. The Precinct represents an exciting and landmark opportunity to partner with Council in the delivery and operation of one of South Australia's most exciting sport, recreation, and entertainment destinations.





## THE OPPORTUNITY

The City of Victor Harbor is embarking on one of the most exciting region-shaping development opportunities in a generation. The project will be a key drawcard for one of South Australia's flagship tourism regions and a thriving local community.

The Precinct is strategically designed to respond to key market opportunities across the sports, leisure and entertainment sectors. From sports uses that cater to locals and tourists, to entertainment experiences and quality food & beverage, The Precinct will be a major destination offering whole-day entertainment potential. The Precinct will serve a dual purpose as a signature tourism asset and a hub of exceptional amenities to serve a fast-growing regional community.

The Precinct comprises a landmark 11ha holding (~5.4ha developable) in the heart of Victor Harbor's

dominant sports precinct. This includes existing established and high-quality sports experiences ranging from football, bowls, hockey, and tennis through to the prominent Victor Harbor Golf Course. The Precinct also benefits from exceptional connectivity and proximity to the two major tourist parks within Victor Harbor — a key advantage for access to Victor Harbor's high-performing tourism market.

Experienced development groups, operating partners and consortia are invited to deliver on the vision for The Precinct through innovative development and operating solutions. The development partnering opportunity includes the ability for a long term ground lease to best leverage a capital contribution from Council to the project of up to \$10 million. Innovative uses and operating models are encouraged to achieve a commercially self-sustaining outcome for The Precinct.



## PROJECT OBJECTIVES

- » Southern Fleurieu's premier sports, leisure and entertainment precinct
- » Multipurpose indoor stadium courts of ~ 4,800 sqm GFA
- » Community-driven multi-function sporting precinct
- » Commercially self-sustaining precinct
- » High-standards of environmental sustainability
- » Driving regional population growth
- » Acting as a powerful tourism and economic generator for the region







# THE PRECINCT USES

A dynamic range of uses and outcomes have been identified to unlock the full value of the assets within The Precinct. The diverse mix of potential uses includes recreational, leisure, sport, entertainment and food and beverage offerings. This includes offerings that draw on leading market trends in sports entertainment, blended with quality food & beverage, through to wellness, allied health and the ability to host a range of events. Importantly, The Precinct functionally should adopt best practice design principles that achieve multi-purpose assets that ensure uses are commercially optimised for a regional market. This is to enable The Precinct to be both commercially self-sustaining in operation and a compelling destination of high amenity value for the local community and tourist market.





























- 1:

## CONCEPT PLAN

1. Carpark

2. Multi-purpose indoor courts (4)

3. Potential bowling alley

4. Core services (toilets, change room, storage, elvator)

5. Precinct entry / administration

6. Cafe with kitchen

7. Retail/recreation space

8. Outdoor recreational uses

9. Expansion space

10. Retractable seating

11. Storage

12. Potential childcare

■ 13. Multi-Function event area and viewing area

14. Potential Tree Climb

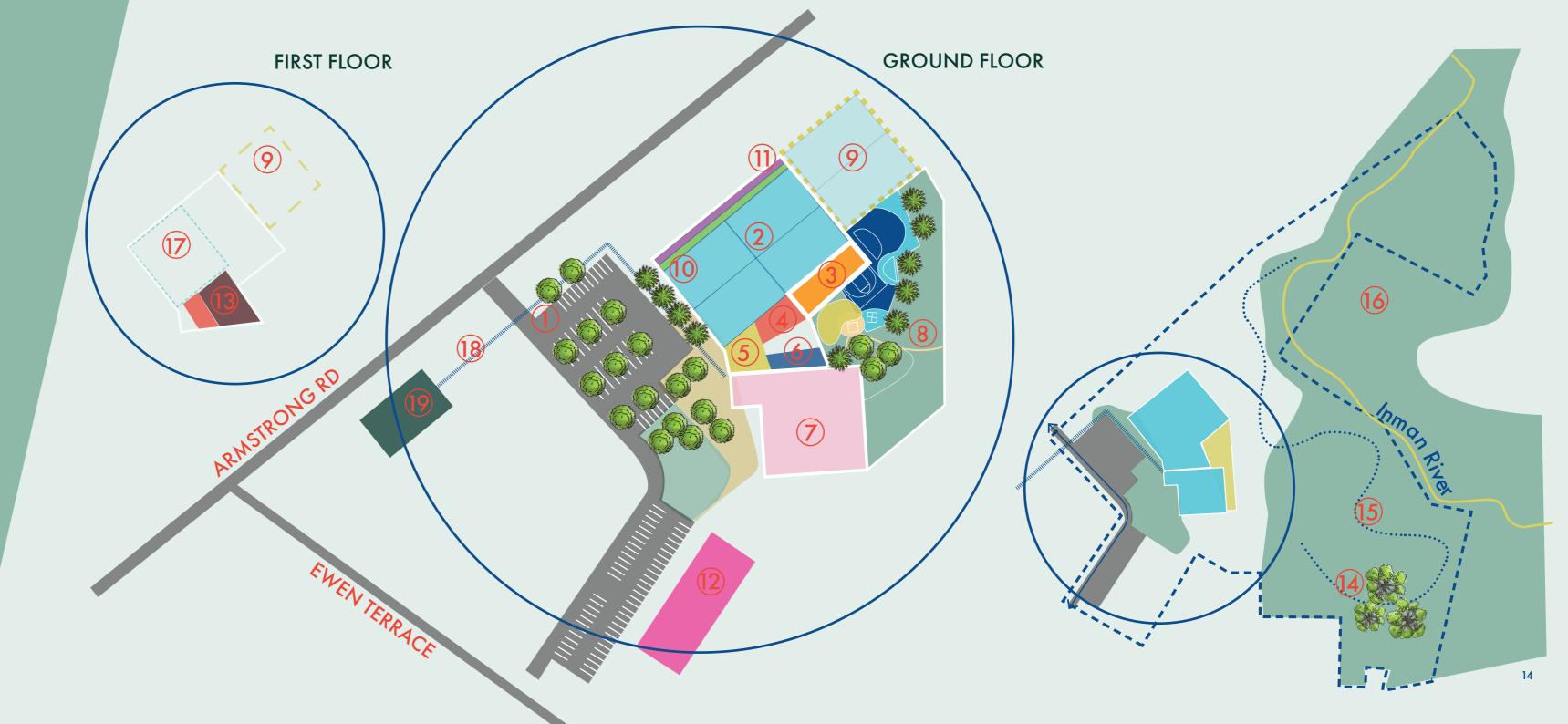
•••••• 15. Potential nature walk

16. River zone

17. Area can be overlooked from first floor

18. Connection to Encounter Centre

19. Encounter Centre (existing)



## VICTOR HARBOR - KEY DRIVERS

In September 2023, the State Planning Commission released its draft Greater Adelaide Regional Plan Discussion Paper which delivers a vision for the Greater Adelaide region to 2051 and beyond. This is the first major update to the 30-year plan and has firmly placed Victor Harbor in the spotlight as one of two satellite cities in South Australia.

This identifies the growth potential of more than 10,000 additional dwellings for Victor Harbor and Goolwa in the next 30 years<sup>1</sup>. In addition to the significant growth benefits as a satellite city, Victor Harbor is part of a much wider regional growth catchment focusing on opportunities to take advantage of Federal and State Government commitments to the Fleurieu Connections project.

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This total growth has the potential to build on the already strong residential growth pipeline and major tourism investments in the region, which is supporting a massive 12.5% population growth in the coming decade<sup>2</sup>. This could see Victor Harbor continue to grow rapidly from a township of just under 20,000 today to well over 50,000 in the coming 25 years<sup>2</sup>.





## **FAST FACTS**



Largest township population in the Southern Fleurieu Peninsula Region



10,000 additional dwellings anticipated in Victor Harbor & Goolwa over next 30 years<sup>1</sup>



1.2M visitors in Victor Harbor annually



18.16% population growth over the last 10 years<sup>2</sup>



\$163M injected into the local economy



Population growth of 12.5% expected by 2030<sup>3</sup>



TiCSA 2023 Top Tourism & People Choice Town



\$641 M Gross Regional Product 2021/22 in Fleurieu Peninsula



Fleurieu Peninsula 2030 visitor expenditure predicted \$807M



2.5M day trips to Fleurieu Peninsula 2022

#### The Steam Ranger Heritage Railway – Cockle Train

A nationally significant tourism drawcard – The Steam Ranger traverses a stunning coastline route first opened in 1887 and with nothing separating you from the beach and views of the Southern Ocean. The 30-minute journey links the historic townships of Victor Harbor, Port Elliot, Middleton and Goolwa. The Cockle Train name is derived from the early settlement days in the late 1800's when residents used horsedrawn trains to travel to collect cockles from the sandy beaches of Goolwa.

#### The Surf Coast

Victor Harbor's main attraction is its breathtaking, easily accessible beaches. The coastline is perfect for leisurely walks, along with dramatic cliffside paths overlooking turbulent waves. Nearby, are some of South Australia's top surfing locations like Petrel Cove, Boomer Beach, and Knights Beach. For more a relaxed experience, Port Elliot and Goolwa offer brilliant swimming and fishing.

## SURROUNDING ATTRACTORS



# Granite Island From Blue Surf.

#### Granite Island

Granite Island is one of the most recognised ecological attractions in Victor Harbor.

The island spans over 62 acres with unique rock formations made of granite, alongside surging white waves, elevated vantage points, diverse plant and animal life, and hiking paths offering exceptional vistas.

#### Horsedrawn Tram

The Victor Harbor Horse Drawn
Tram, operating since 1894, offers
a nostalgic journey from the
mainland to Granite Island using
Clydesdale horses. This iconic
attraction provides picturesque
ocean views and a unique
historical experience, making it
a must-visit for people visiting
Victor Harbor. Since the upgrades
to the Causeway, ~70,000 tickets
sold in 2022/23.

#### Urimbirra Wildfire Park

Located at the gateway to Victor Harbor, Urimbirra Wildlife Park offers a unique experience with Australian animals in a 40-acre open-range setting, including a 16-acre wetland bird sanctuary. Open every day, the park features interactive activities like petting kangaroos and watching snake handlers, along with amenities like a children's farmyard, picnic areas, and easy parking, making it a highly visited attraction for international visitors and families.

## KEY INVESTMENT HIGHLIGHTS



#### \$15.4 billion River Torrens to Darlington (T2D)

The \$15.4b T2D Project is the largest single project in the State's history and will complete a 78km traffic light-free north-south motorway in Adelaide. Bypassing 21 sets of lights it will significantly reduce peak-hour commutes, such as cutting the West Hindmarsh to Darlington trip to just nine minutes saving 30 minutes. For travel to Victor Harbor, this will provide traffic light-free travel from the City's outer north to McLaren Vale in the south. This includes connections via the \$750 million Darlington Expressway completed in 2020. These massive investments will provide an unrivalled level of connectivity to the Southern Fleurieu and Victor Harbor — cutting travel times by up to 20 minutes.



#### \$685 million Fleurieu Connections

Australian and South Australian Governments have committed to funding the Fleurieu Connections on Main South Road and Victor Harbor Road. Combined with the T2D, Darlington Expressway and Southern Expressway, this delivery will dramatically improve road safety, and travel times and increase connectivity across the Fleurieu Peninsula, whilst providing a vital boost for local tourism and communities.



#### \$14.5 million Goolwa Wharf Precinct

This transformational project is a premium Murray River waterfront site, making a diverse collection of 12 heritage and modern buildings, including the historic Harbour Master's Residence and the renovated Signal Point gallery. Revitalising the area offers opportunities for outdoor dining and events, enhancing the market experience.



#### \$250 million Encounter Bay Seascape Housing Development

One of the largest residential developments in Victor Harbor, 'Seascape' will include more than 300 traditional house and land packages and "bespoke hilltop villas". This will be complemented by bike and pedestrian paths, reserves and a retail and commercial precinct across a total of 35ha of elevated land.



## \$43 million Granite Island Causeway Project

An iconic landmark with heritage value located 83 km south of Adelaide linking Granite Island and mainland Victor Harbor. The new \$43m Causeway supports continued strong visitation to one of the State's key tourism attractions.



#### \$20 million McCracken Country Club

In 2023, the G'DAY Group announced a development masterplan to enhance visitation to one of the key drawcards in the Fleurieu region, through a major reinvestment in McCracken estate and Country Club.



#### \$22 million Discovery Parks Goolwa

In conjuction with the McCracken Country Club, the G'Day Group completed Stage 1 of the highly visited tourist park. This investment features a splash park, new swimming pool, outdoor cinema, coastal nature playground and modern new accommodation. This further strengthen the family-friendly appeal in the Southern Fleurieu region.

## SITE OVERVIEW

## The Precinct Victor Harbor

#### Address

Allotment 202 Armstrong Road, Victor Harbor SA 5211

#### Site Area

Approx. 11.5 hectares (5.4 developable)

#### Certificate of Title

Hundreds of Encounter Bay in the area named Victor Harbor, Certificate of Title Volume 6264 Folio 793

#### Zoning

Currently zoned as Business Neighbourhood (BN), likely to require rezoning to Community Facilities (CF).

#### Key Attributes

- » Strategic landholding of 11.5 ha. with river frontage
- » Located in the heart of Victor Harbor Sport and Recreation Precinct
- » Developable site area 5.4 ha.

#### Location and Site Attributes

The development site is approximately 1.7 km from the centre of Victor Harbor. Strategically located on Armstrong Road, the primary ring road, the site provides exceptional connectivity to Victor Harbor Road (primary connection to Adelaide), and George Main Road to the City Centre and beaches. The development site benefits from direct proximity to Victor Harbor Golf Club, Investigator College, and TAFE SA, making it a prime location for a diverse regional sport, recreation and commercial precinct and valuable tourism asset for the community and as a destination.

The greenfield site provides the opportunity for development partners and operators to masterplan and curate the optimal tenancy mix for a landmark sport, recreation and entertainment precinct.



## INVESTMENT APPEAL

This development site presents an exciting opportunity to capitalise on the positive investments and changes happening in Victor Harbor:



Growing city that creates new opportunities for additional offerings



Prominent and large-scale site with two street frontages



Opportunity to incorporate facilities to be utilised by local community clubs, schools and TAFE.



Ability for multiple revenue streams and offerings on the one site

# EXPRESSION OF INTEREST EVALUATION CRITERIA

Criteria	Response Requirements
1. Development Capability & Track Record	Demonstrated experience in delivering high-quality visitor experience projects and / or sports, leisure and entertainment precincts. This includes an overview of the Proponent's:
	» experience, capability and capacity in the development of projects of a similar nature, scale and complexity to the project in collaboration with the public sector;
	» understanding of – and ability to deliver – the Council's requirements for the Project, with reference to an alignment with the 'Project Objectives' and the 'Precinct Uses' as set out in this Information Memorandum.
	As part of responses and in support of the above, Proponents should include details for three comparable projects, with reference to those projects' value, location, scale, timing, brands / tenants, and operators.
2. Master Plan Design Response	The Council has developed a preliminary land development concept masterplan for the Precinct which incorporates the layout and mix of uses ideally sought for the development. Proponents are required to either:
	» respond to the masterplan, or
	» nominate an alternative masterplan.
	If Proponents choose to nominate an alternative masterplan, Proponents should provide an outline of any:
	» supported elements of the Council's masterplan;
	» proposed refinements, enhancements or material alterations to masterplan;
	» the rationale for how such changes align with the vision and benefits to the project, and any additional value-add opportunities and innovative concepts to enhance the outcomes of the development.
	(Note: Detailed architectural plans are not required at EOI stage).
3. Project Objectives	Provide a design response on how the Proponent will meet Council's vision for the The Precinct each of the associated project objectives, supported by reference to demonstrated project experience where relevant

iteria	Response Requirements
Capacity, esourcing & elivery Approach	Detailed summary of the Proponent's delivery methodologies, construction and delivery systems for the proposed development and how the Proponent will ensure an outstanding and timely outcome for the Council, including but not limited to:
	» projected staging plan for each component of the Project (on a best case, likely, and worst case timeframe);
	» targeted commencement and completion dates for the Project as a whole;
	» any early and accelerated stage delivery outcomes;
	» current committed pipeline and financial and operation capacity to deliver the Project over the proposed staging timeline.
	Evidence of a strong project delivery team and key personnel who will be involved in and have the requisite skills and capacity to deliver the Project, including but not limited to:
	» Master Planner/Urban Designer/Architect
	» Civil/Structural Engineer
	» Town Planner
	» Internal Project Management Team
	» Operator
	» Any other third-party consultants or contractors deemed appropriate by the Proponent
Value aximisation & ommercial Terms	The commercial offer should provide strong value for money to Council in both direct and indirect returns and outcomes achieved. Innovative commercial structures are encouraged to maximise these outcomes for Council.
	The commercial offer should, at minimum, address the following key areas:
	» Outline quantum of proposed capital investment
	» Specify breakdown of investment by key components
	» Reference to investment by staging (if staged delivery)
	» Outline net operational return to or contribution from Council operationally — having regard to Council's commercial target of no net contribution
	The commercial offer should detail the Proponent's proposed tenure arrangements based a long-term ground lease. Any preferred extended tenure arrangements and associated implications for commercial terms should be specified.
	Details of the proposed funding strategy and financial structuring that the Proponent will utilise to deliver the proposal.
	Offers may be presented as a value range with appropriate qualifiers and limitations.

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# PRE-QUALIFICATION CRITERIA & PROCESS

Council is seeking the highest level of certainty regarding ability to deliver on the vision for The Precinct project. In this regard, Proponents will need to pre-qualify for the EOI Process by registering their interest with Council's Commercial Advisor, Alinea Group via the contact details outlined below. As a requirement for the pre-qualification process, Proponents are to demonstrate their suitability as follows:

- » Regional Recreation Precinct experience in commercial, retail and entertainment-based, local government and state government projects.
- » Partnering Ability experienced track record of partnering on the delivery of major real estate projects (including with State Government Authorities).

The City of Victor Harbor reserves the right to approve and refuse prequalified groups to participate in the EOI Process.



EXPRESSION OF INTEREST PROCESS

The evaluation of each proposal will be conducted by the City of Victor Harbor within an established probity framework and will involve a review of each Proponent's response to:

- confirm the Proponent has provided satisfactory information in accordance with the requirements set out in this Information Memorandum (in particular addressing the Evaluation Criteria); and
- » assess each proposal against the Evaluation Criteria to determine which proposal best responds to the Council's vision and objectives.

In the event that clarifications are required of a Proponent's response, the appointed commercial advisor may seek confirmation from the Proponent via a Request for Information (RFI).

Proponent's may be invited to present their submission to the Evaluation Panel during the evaluation process.

Following the evaluation of responses, the next steps in the market engagement process may at the Council's absolute discretion involve a subsequent more detailed procurement process, select market engagement, or direct negotiations in relation to all or some of the offerings as contemplated by this Information Memorandum.

Only qualified Proponents that submit a proposal pursuant to this Information Memorandum will be considered for any subsequent stage of the Project.



Expressions of Interest close 5pm ACDT, Thursday 09 November 2023

#### **Contact Details**

All enquiries in relation to this opportunity are directed to Council's Commercial Advisors:

Ben Koop | Principal, Alinea Group

+61 412 658 318 ben.koop@alineagroup.com.au.

Fred Porter | Director, Alinea Group

+61 408 621 947 fred.porter@alineagroup.com.au



#### Terms & Conditions

#### of Expression of Interest Process

Outlined below are the general terms and conditions applicable to the Expression of Interest stage of the competitive bid process for The Precinct development opportunity. By accessing the EOI Documents and receiving EOI Information, Proponents acknowledge and accept to be bound by these terms and conditions.

#### 1. No legal relationship

- a. The information in the EOI Documents have been compiled on behalf of the Council to guide Proponents during the EOI stage of the competitive bid process for the Project. This information does not constitute an offer by the Council, nor does it indicate an intention by Council to enter into any form of legal relationship with any Proponent.
- No legal or other obligation other than those associated with this EOI stage shall arise between a Proponent and the Council unless and until formal legally binding documentation has been signed by the Proponent and the Council.

#### 2. Communications

- a. All queries or communication in relation to the EOI stage must be directed to the Council's Exclusive Marketing Agents in the first instance to ensure consistency and transparency during the EOI stage. The Council reserves the right to discontinue assessment of, or negotiations on, a Proposal if the Proponent discusses the Proposal with members of the Council's staff or councillor(s) otherwise than as directed by the Exclusive Marketing Agents.
- b. At the sole discretion of Council, any breach of this clause 2 may lead to a Proponent's exclusion from participating in the EOI stage of the competitive bid process for the Project.

#### 3. Reservation of rights

- a. Without limiting its rights, the Council (either themselves or through the Exclusive Marketing Agents) reserve the right in their absolute discretion and at any time to:
- i. invite Proponents to participate in the EOI stage of the Project and withdraw their invitation to Proponents to participate in the EOI stage of the Project:
- ii. vary or amend the EOI Information (including the Proposal Requirements), the EOI Documents or the scope or nature of the Project:

- iii. vary or alter any process or procedure set out in the EOI Documents or provided as EOI Information regarding the evaluation of any Proposal without notice;
- iv. give preference to any one or more of the Evaluation Criteria over another:
- v. make requests of one or more of the Proponents for clarification of any aspects of its Proposal, however, Proponents should not rely on being invited to make further Proposals prior to the Council's evaluation of Proposals being finalised;
- vi. take into account any information from their own or other sources in evaluating the Proposals including drawing on external expertise as required;
- vii. conduct its own due diligence investigations and make enquiries of any person, company or organisation to ascertain the suitability of a Proposal and/or a Proponent, and do so without advising the Proponent;
- viii. vary, suspend, terminate or reinstate the EOI stage or the Proiect:
- ix. extend any timeframe nominated in the EOI stage by notifying all Proponents of the extended date and time in writing or by email at least one (1) business day prior to the lapse of the nominated timeframe.
- x. change the nominated address(es) for lodgement of Proposals;
- xi. not proceed with the Project in the manner outlined in the EOI Documents or as described in the EOI Information;
- xii. self-perform the works and/or proceed with the Project without the input of the Proponent;
- xiii. receive, consider, evaluate or reject any Proposal (whether a conforming, non-conforming or alternative proposal) irrespective of the extent to which it satisfies any of the Response Requirements:
- xiv. allow the withdrawal or addition of participants (if a consortium) to a Proponent;
- xv. allow other organisations or consortia to participate in the EOI

- stage of the Project:
- xvi. waive any requirement or obligation under the EOI Documents:
- xvii. take such other action as they consider, in their absolute discretion, appropriate in relation to the EOI stage of the Project; and a Proponent shall not be entitled to any claim, action or demand against the Council in respect thereof

#### 4. Copyright and Intellectual Property

a. The Proponent grants an irrevocable license to the Council or its representative to reproduce and use the whole or any portion of any Proposal for any purpose related to the Project despite any copyright or other intellectual property right that may subsist in the Proposal.

#### 5. Confidential information

- a. The contents of the EOI Documents and EOI Information, including any records, plans, drawings or reports that are made available to Proponents during the course of the EOI stage, are being made available to Proponents only in connection with the Project. By accessing the EOI Documents and receiving EOI Information, Proponents acknowledge and agree that:
- i. the EOI Documents are strictly confidential and have been provided to Proponents on a confidential basis;
- ii. by providing the EOI Documents to Proponents, the Council did not convey any proprietary or other interest to Proponents;
- b. By accessing the EOI Documents and receiving EOI Information, Proponents undertake for Council's benefit that they:
- i. will keep the confidential information secure and protected so that no unauthorised person is able to gain access to it;
- ii. will not disclose all or part of any part of the confidential information or cause to permit the confidential information to be disclosed in any form or medium, expert as permitted by Council in writing:
- iii. will, and will ensure that its officers, employees and professional advisers, only use the confidential information for the purposes of submitting a Proposal for the Project;

- iv. will, if required to disclose any confidential information by any applicable law or requirement of any public authority, use its best endeavours to limit the extent of any disclosure.
- c. Without limiting any other provisions, if a Proponent breaches any of these requirements. Council may exclude the Proponent from the EOI stage or the overall competitive bid process for the Project.
- d. A Proponent may be required to sign a confidentiality agreement before any confidential information is made available to the Proponent.

#### 6. Respondent privacy

a. In the course of the EOI stage and the Project, 'Personal Information' (as that term is defined under the Privacy Act 1988 (Cth)) that is provided by a Proponent may be disclosed by Council to their elected representatives, officials, employees, advisers, contractors or agents. The Proponent will ensure that it secures consent for Council to use and disclose any Personal Information submitted as part of its Proposal for the purposes of the Project.

#### 7. Prior to submitting an EOI response

a. All information and statements set out in the EOI Information provided by Council during the EOI stage are provided in good faith, but the Proponent should not rely on them as statements or representations of fact but must satisfy themselves by inspection or other enquiry as to the correctness and completeness of all such information and/or statements.

#### 8. Lodgement of EOIs

- a. At all times and for all purposes, the original hard copy Proposal will take precedence over the electronic versions and any hard or other electronic copies generated from that electronic version.
- b. Proponents will not be present at the opening of any Proposal.
- c. An acknowledgement by or on behalf of Council of receipt of a Proposal does not mean or imply that the Proposal has been or will be treated as a conforming proposal.

#### 9. Costs to be borne by the Proponent

- a. Council will not be responsible for any costs, expenses or losses that may be incurred by a Proponent:
- i. in the preparation of its Proposal, attending any meetings, providing

any further information, or otherwise in connection with its participation in the EOI stage;

ii. as a result of any modification or termination of the EOI stage or the Project.

a. Council does not make any warranty

#### 10. No warranties

- or representation (express or implied) as to the currency, accuracy, adequacy, suitability, reliability or completeness of the information (including any diagrams and plans) contained in the EOI Documents or any information that may be provided in association with them. The Council accept no responsibility or liability, whether arising from negligence or otherwise for any reliance placed on the contents of the EOI Documents by the recipients of the EOI Documents or for any representations (whether express or implied) or information (including forecasts) contained in, or any omissions from, the EOI Documents or any written or oral communications transmitted to a recipient in the course of the evaluation of Proposals.
- b. There may be other information or documents in the knowledge or possession of the Council that are relevant to the Project or the EOI stage but are not disclosed by Council.
- c. To the extent that Council are not the author or source of any document provided to Proponents, they merely pass that document on and do not adopt the content of it.
- d. The EOI Documents and all statements and information made in relation to them reflect Council's current intention only. The risks, responsibilities and liabilities connected with a Proposal are solely those of the Proponents.

- a. Proponents, so far as is permitted by law, release the Council from and against all claims that they may now or in future have against Council arising out of, or in connection with:
- i. the provision of, or the purported reliance on, or use of the EOI Documents
- ii. any other matter in connection with the Proposal, including the EOI stage.

#### 12. Non-compliance

a. If a Proponent fails to comply with any requirements of the EOI Documents,

Council may, in their absolute discretion. choose not to evaluate the Proponent's Proposal or any part of the Proposal, and may exclude the Proponent from any part of the EOI stage process or overall competitive bid process for the Project.

#### 13. Variations to EOI Proposals

a. Proponents may lodge variations to its Proposal if invited to do so by Council. Council reserves the right to ask for variations or additional submissions from one or more Proponents, however, Proponents should not rely on the Council doing so.

#### 14. Assumptions and sources

a. Certain information contained or referred to in the EOI Documents or the EOI Information is based on a number of electronic and other assumptions and must be interpreted in the context of those assumptions. Where information in the EOI Documents or EOI Information includes a reference to another source. Proponents should refer to and interpret that information in the context of that source.

#### 15. Ownership of Proposals

- a. A Proposal is the property of Council and will not be returned to the Proponent. Proponents submit a Proposal on the basis that Council may use, retain and copy the information contained in the Proposal for the purpose of evaluating, selecting and finalising any contract with a Proponent in respect of the Project.
- b. A Proposal will, to the extent that it contains information that is not already in the public domain, be held as commercial-in-confidence. However, Council may disclose the contents of a Proposal to a third party to assist Council during its conduct throughout the EOI stage, including but not limited to the evaluation of Proposals, and subsequent negotiation and preparation of any contract(s).

#### 16. Changes to participants

- a. Where a Proponent comprises a consortium, its Proposal will be evaluated based on the participants identified as being a member of that consortium. If a Proponent lodges a Proposal without having identified all participants within its consortium, this may affect its ability to meet the Response Requirements and Council reserves the right to exclude it from consideration.
- b. Where a Proponent changes its

participants in the consortium after the closing date set out in the EOI Documents, the Proponent must notify the Council's Exclusive Marketing Agents of this change. If Council in their sole discretion determine that the change is 19. Collusion a material change to the Proposal, the Council reserves the right to re-evaluate the Proposal and to eliminate the Proponent from further participation in the Project if deemed necessary.

- c. Proponents should (as a minimum) notify Council of any change to any of the following entities or individuals:
  - i. any entity that proposes to take a direct equity interest in the Proponent if it is selected as the preferred Proponent;
- ii. the ultimate parent entity of any entity that proposes to take a direct equity interest in the proponent if it is selected as a preferred Proponent
- iii. 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 it is selected as a preferred Proponent
- iv. any director, secretary or chief executive officer or any entity falling within the above paragraphs and any proposed new directors, secretary or chief executive officer.

#### 17. Change in circumstances

a. Without limiting clause 16, Proponents must inform the Council's Exclusive Marketing Agents promptly in writing of any material change to any information contained in its Proposal and of any material change in circumstances that may affect the truth, completeness or accuracy of any information provided in. or in connection with, the Proposal.

#### 18. Canvassing

- a. Proponents must not contact any members, employees or officers of Council (other than the Exclusive Marketing Agents as the Council's representative), with a view to:
- i. providing or obtaining information in respect of any part of the Project, the EOI stage or the status of its Proposal in an attempt to support or enhance its prospect of being selected as the preferred Proponent other than as expressly permitted by the EOI Documents.
- b. At the sole discretion of the Council,

any unauthorised communication or attempted approach by a Proponent may lead to its exclusion from the EOI stage or any related processes associated with the Project.

a. Proponents, their participants 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 Proponents or any other person in relation to the preparation or lodgement of its Proposal. Evidence of such conduct may lead to the rejection of the Proposals of all Proponents involved.

#### 20. Conflict of interest a. Proponents are responsible for advising

- Council of any actual, potential or perceived conflict of interest that may arise during the EOI stage or in relation to the Proponent's potential involvement in the Project. Council reserves the right in their absolute discretion at any stage to undertake investigations to satisfy themselves that there are no actual, potential or perceived conflicts of interest that may preclude a Proponent from participating in the Project. If any conflict or potential conflict exists, the Proponents must advise the Council how it proposes to address this in its Proposal.
- more broadly a conflict of interest arises, or appears likely to arise, the Proponent must notify the Council's Exclusive Marketing Agents immediately in writing and take such steps as reasonably required to resolve the conflict. If the Proponent fails to notify the Council in accordance with the above or is unable or unwilling to resolve or deal with the conflict to the Council's satisfaction, the Proponent's Proposal may be excluded from the Stage.

b. If during the EOI stage or the Project

c. A Proponent must not, without written approval from Council, permit a person to contribute to or participate in any process relating to the preparation of a Proposal if that person was involved at any time in the planning of the Project. the preparation of the EOI Documents or the management of the EOI stage.

#### 21. Return or destruction of information a. Council reserves the right in their

absolute discretion at any stage of the Project to require that material and other information provided to Proponents (and copies or reproductions of such information) be either destroyed by it or returned to Council unless otherwise required by law. Council may require that Proponents provide evidence (in a form satisfactory to Council) that any of their requirements in this respect have been fully met.

#### 22. Freedom of Information

- a. Proponents should note that the Freedom of Information Act 1991 (FOI Act) gives members of the public legal rights to be given access to documents held by Council. All or part of a Proposal may be disclosed to third parties if there is a requirement to do so under the FOI Act.
- 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:
- i. Freedom of Information Act 1991 Sensitive business information
- ii. Confidential to [entity name]
- iii. Refer to [name and title of company representative who is claiming exemption]
- iv. Telephone [direct telephone number].
- c. Marking information in the manner stated above will not necessarily prevent disclosure of the information in accordance with the FOI Act. Any decision to grant access to a document will be determined by the requirements of the FOI Act. A Proponent will not be entitled to make any claim in relation to any actions taken in relation to, or under, the FOI Act.

#### 23. Council not liable

- a. In no circumstances will Council, the Exclusive Marketing Agents or any of their respective directors, officers, employees, agents or advisors be liable to a Proponent (whether the Proponent is preferred or unsuccessful) whether, in contract, tort (including negligence or misrepresentation), under statute (to the extent permitted by law) or otherwise for any costs, losses, expenses, liabilities or damages incurred or suffered by the Proponent:
- i. in responding to the EOI

- Documents, in preparing its Proposal or in otherwise acting in reliance upon the EOI Documents;
- ii. arising out of or in connection with its participation in or responding to any discussions, negotiations, interviews, enquiries or requests for details or information whether before or after the closing date set out in the EOI Documents;
- iii. arising out of or in connection with its participation in the EOI stage or Project generally;
- iv. arising out of or as a result of the exercise, or failure to exercise, by Council or the Exclusive Marketing Agents of any of their rights under the EOI Documents including but not limited to those rights set out under clause 3 of these terms and conditions.
- b. Any Proponent not selected as a preferred Proponent will have no claim against the Council, the Exclusive Marketing Agents or their respective employees, agents or advisers in connection to Council's decision to select another Proponent as a preferred Proponent.

#### 24. No appeal

a. Proponents will have no right to appeal to Council against any decisions arising from the processes involved in the Project, whether during the EOI stage or in later bid processes or transaction stages of the Project.

#### 25. Publicity

- a. At all times up to and including the award of the contract to the preferred Proponent or the termination of this EOI stage (whichever is the first to occur), the Council shall be solely responsible for all communications with all media in respect of the Project and the EOI stage. If during this period, a Proponent wishes to make any announcement or publish any information regarding the EOI stage or the Project, it must first obtain the written consent of the Council. This includes but is not limited to publishing via social media, the internet or other electronic media.
- In giving its consent under this clause, the Council shall be entitled to place any conditions that Council in its sole discretion deem appropriate with regard to said announcement or publication.

#### 26. Non-Exclusivity

a. The Council may in its absolute

discretion negotiate with any one or more of the Proponents or any other person who is not a Proponent to the exclusion of any other Proponent or other person at any time during the EOI stage.

### 27. Legislative Obligations In submitting a Proposal, Proponents acknowledge that:

- a. the Council may have legislative obligations that it will need to comply with in relation to a particular Proposal and nothing in this EOI stage is intended to override or circumvent those obligations; and
- b. the processes established by this EOI stage are separate from and do not override other legislative approval processes that a Proponent may need to participate in order to progress its Proposal (for example, planning approval processes).

#### 28. Definitions

In these terms and conditions, the following definitions shall apply:

Council means the City of Victor Harbor Council. EOI Documents means these terms and conditions and the information memorandum document to which these terms and conditions are attached.

EOI Information means all information provided by the Council (including through its authorised agents) during the EOI stage with regard to the Project.

**EOI** means Expression of Interest.

**EOI stage** means the first stage of the market engagement process for the Project as set out in the EOI Documents.

**Evaluation Criteria** means the detail requested by the Council in the EOI Documents which will be used to evaluate the Proposals received from Proponents.

Exclusive Marketing Agents means the representatives of Alinea Group respectively as described in the EOI Documents (as amended from time to time by the Council in writing to the Proponent).

**Project** means The Precinct development opportunity as that term is defined in the EOI Documents.

Proponent means a party who submits a
Proposal in response to the EOI Documents.
Proposal means a proposal in response to the EOI
Documents to participate in the Project.

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