



## POLICY DOCUMENT

7.63.18

<b>Policy Name</b>	<b>GUIDELINES FOR UNSOLICITED PROPOSALS</b>
<b>Policy No.</b>	7.63.18
<b>Version:</b>	1
<b>Strategic Reference:</b>	1.2 Investigate and implement policies to facilitate and enable diversity of economic development and investment activities
<b>Responsible Department:</b>	Corporate & Community Services
<b>Policy Adopted:</b>	21 August 2023
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<b>Minute reference:</b>	CO 23/186
<b>Next review date:</b>	This Policy will be reviewed every 2 years after adopted date or following significant change to legislation or aspects included within this policy.
<b>Applicable Legislation:</b>	Local Government Act 1999
<b>Related Policies:</b>	7.63.15 Procurement Policy 16.63.7 Disposal of Land and Assets Policy 9.63.24 Prudential (Project) Management Policy 18.63.7 Services and Program Reviews 2.63.1 Public Consultation & Community Engagement
<b>Related Documents:</b>	Unsolicited Proposal Application Form – (Refer to Annexures A and B)

### **1. INTRODUCTORY STATEMENT**

Local Government is a natural leader in local economic development because councils know their local business communities, workforce and comparative advantages better than anyone else. Councils are perfectly positioned to work with local stakeholders to drive a place-based approach to achieve economic prosperity.

As facilitators and enablers of economic growth, Council is open to working together with the private and not-for-profit sectors to pursue innovative ideas that will create jobs, contribute to the best use of public assets and deliver a high quality of service to communities.

These guidelines create a framework for new and innovative ideas to be brought forward. These guidelines also give confidence to investors and their community that unsolicited proposals will be considered in a consistent, transparent and lawful manner to deliver the highest standards of public value.

### **2. COUNCIL'S ROLE AND FUNCTIONS**

**2.1** Council is a council constituted under the LG Act.

**2.2** Council's principal role and functions are detailed in sections 6 and 7 of the LG Act.

- 2.3** Council's strategic vision for its Council area is outlined in its Strategic Directions Plan, a copy of which is available on Council's website or at its Council's office. Copies of other Council policies and plans are also available on its website.

**3. DEFINITION OF AN UNSOLICITED PROPOSAL AND APPLICATION OF THESE GUIDELINES**

- 3.1** Council has adopted these guidelines as a policy for the purpose of Section 49 of the LG Act.
- 3.2** These guidelines apply to any unsolicited proposal that a proponent submits to Council, and in any circumstances in which Council is considering waiving the application of any or all of its procurement policy (or policies).
- 3.3** An unsolicited proposal is a new and innovative proposal from the private and non-government sector, which has not been requested by Council through its regular procurement processes, and which could assist Council in achieving its strategic objectives or satisfying a community need.
- 3.4** An unsolicited proposal may include a proposal for:
- 3.4.1 the purchase, lease or development of Council owned or managed land;
  - 3.4.2 the delivery of goods or services to or on behalf of Council; or
  - 3.4.3 the provision of infrastructure for the community.
- 3.5** Where an unsolicited proposal involves more than one council, the relevant councils may resolve to adopt any one of their unsolicited proposals guidelines, with any required variations, to apply to that proposal in place of their individual guidelines.

**4. COUNCIL'S OBJECTIVES**

- 4.1 The following objectives will guide Council's consideration of unsolicited proposals in accordance with these guidelines:**
- 4.1.1 promoting the development of innovative ideas by the private and community sector to support Council's role and functions discussed in clause 2 of these guidelines and Council's broad objectives as outlined in its Strategic Directions Plan;
  - 4.1.2 ensuring that unsolicited proposals are received and assessed via an open, transparent and fair process that involves high standards of probity and public accountability;
  - 4.1.3 ensuring that the unsolicited proposals process is not used to circumvent Council's regular procurement processes where appropriate;
  - 4.1.4 ensuring value for money for Council is achieved from any unsolicited proposal;
  - 4.1.5 maximising the benefits from unsolicited proposals for Council and its constituents; and
  - 4.1.6 ensuring the Intellectual Property of a proponent submitting an unsolicited proposal is appropriately protected.

## **5. PROCESS FOR RECEIPT AND CONSIDERATION OF UNSOLICITED PROPOSALS (REFER TO ANNEXURES)**

### **5.1 Pre-lodgement meeting**

Before formally submitting an unsolicited proposal via the process detailed below, the proponent may request a pre-lodgement meeting with the Unsolicited Proposals Coordinator. This meeting is not mandatory but it may assist the proponent to determine if their proposal is one that may be considered under these guidelines.

Proponents are encouraged to bring a draft completed Application Form with them to this meeting (Refer to Annexures A and B at the end of this document).

Nothing that is discussed at the pre-lodgement meeting binds Council or the proponent and the proponent may continue with lodgement of its proposal notwithstanding any feedback that it may receive at or following the pre-lodgement meeting.

### **5.2 Receipt and assessment process**

The process by which Council will receive and consider unsolicited proposals is a three-stage process. The three stages are:

Stage 1 – Initial Proposal

Stage 2 – Detailed Proposal

Stage 3 – Contract Negotiation

Each of these stages is discussed in more detail below.

#### **5.2.1 Stage 1: Initial Proposal**

The objective of the initial proposal stage is to enable a proponent to provide Council with a high level overview of its proposal which enables Council to form a preliminary view as to whether:

5.2.1.1 the proposal may be considered under these guidelines;

5.2.1.2 the proposal should be considered further; and

5.2.1.3 the parties should enter into exclusive arrangements in relation to the proposal.

A proposal should comprise a completed Application Form (which can be downloaded from Council's website) and may also include further information that the proponent wishes to provide at this stage.

A proposal must be lodged electronically to: [plcc@plcc.sa.gov.au](mailto:plcc@plcc.sa.gov.au) and addressed to the Unsolicited Proposals Coordinator.

A proposal will not involve negotiation at this stage. This opportunity will arise in later stages if Council determines that the proposal should proceed.

Once a proposal has been submitted in accordance with this policy and the Unsolicited Proposals Coordinator determines that it has sufficient information

about the proposal to consider it, then the Unsolicited Proposals Coordinator will convene a meeting with representatives of relevant departments of Council depending on the subject matter and requirements of the proposal (Steering Committee).

The Steering Committee will determine whether the proposal meets the criteria for it to be considered under these guidelines. To make its decision, the Steering Committee may consult with other Council departments and professional advisers as it deems necessary.

If the Steering Committee determines that the proposal should proceed to the next stage of the process, a recommendation and report on this basis will be prepared for consideration of Council's Elected Members.

If the Steering Committee recommends that the proposal not be accepted or Council Elected Members do not endorse the proposal, the proponent will be notified in writing of this outcome by the Unsolicited Proposals Coordinator. This notice may also notify the proponent that the subject matter of the proposal may form the basis of a competitive bidding process.

Where Council Elected Members endorse the proposal the proposal will proceed to Stage 2 and the proponent will be provided with the following:

5.2.1.4 notification that the proposal has been approved by Council to proceed to Stage 2;

5.2.1.5 a copy of Council's resolution (subject to any confidentiality);

5.2.1.6 the broad terms and timeframes for Stage 2 consideration of the proposal; and

5.2.1.7 information on any other matters relevant to the proposal and Council's further consideration of it that Council considers to be appropriate.

Any endorsement of a proposal at Stage 1 is "in principle" endorsement only so that the proposal may proceed to Stage 2 consideration.

## 5.2.2 Stage 2: Detailed Proposal

Stage 2 involves further consideration of the feasibility of the proposal, how it will be delivered, whether it represents value for money for Council and what outcomes it will deliver for Council and the community.

Stage 2 will be an interactive process between Council and the proponent within a framework established by Council.

Council will establish a framework for Stage 2 which may include:

5.2.2.1 confidentiality, conflict of interest, communication and probity protocols;

5.2.2.2 Stage 2 participation terms and conditions;

5.2.2.3 Stage 2 assessment criteria;

- 5.2.2.4 timeframes;
- 5.2.2.5 information to be provided and/or shared;
- 5.2.2.6 governance requirements; and
- 5.2.2.7 any other matters that Council considers necessary or desirable.

The matters that Council will consider during Stage 2 are:

- 5.2.2.8 the value for money proposition from the proposal for Council;
- 5.2.2.9 if the proposal is legally, technically and financially feasible;
- 5.2.2.10 how the proposal would best be structured to deliver the best outcome for Council and the community;
- 5.2.2.11 a cost/benefit analysis of the proposal;
- 5.2.2.12 whether the proposal or any part of it would more appropriately be the subject of a competitive bidding process;
- 5.2.2.13 the appropriate allocation of risk;
- 5.2.2.14 government, strategic and community priority;
- 5.2.2.15 the 'uniqueness' of the proposal; and
- 5.2.2.16 the proposed delivery method.

During Stage 2 the Unsolicited Bids Coordinator will:

- 5.2.2.17 convene meetings of the Steering Committee with any other subject matter experts, professional advisers and other persons that the Unsolicited Bids Coordinator sees fit;
- 5.2.2.18 convene meetings with the proponent;
- 5.2.2.19 request further information from the proponent as required;
- 5.2.2.20 obtain reports and further information for Council's consideration of the proposal; and
- 5.2.2.21 arrange the preparation of a detailed report on the proposal for Council Elected Members' consideration.

During Stage 2, a proponent must:

- 5.2.2.22 develop a detailed proposal, consistent with the requirements outlined by Council at the end of Stage 1;
- 5.2.2.23 provide any additional information as required; and

5.2.2.24 make themselves available to participate in meetings requested by, and respond to communications from, the Unsolicited Bids Coordinator.

At the end of Stage 2, a report and recommendation will be prepared for Council Elected Members' consideration and the proponent will be advised in writing of Council's resolution and one of the following:

5.2.2.25 that all or part of the proposal will proceed to Stage 3 on an exclusive consideration basis;

5.2.2.26 that all or part of proposal will not continue to be considered on an exclusive basis but that all or part of the proposal warrants a competitive bidding process; or

5.2.2.27 that all or part of the proposal is not suitable for further consideration and its consideration under these guidelines is now at an end.

### 5.2.3 Stage 3: Contract Negotiation

Stage 3 allows Council and the proponent to negotiate a suitable contract or contracts for the implementation of the proposal.

At the commencement of Stage 3, the Unsolicited Proposals Coordinator will advise the proponent of the process and protocols for the development of a contract.

Once a contract has been agreed in principle between Council Administration and the proponent, the contract will be submitted to Council Elected Members to seek their approval for the Contract to be executed. The Unsolicited Proposals Coordinator will then advise the proponent in writing of one of the following:

5.2.3.1 that Council agrees to the terms and conditions of the contact and will proceed to execute it;

5.2.3.2 that Council agrees to the contract, subject however to specified variations or conditions;

5.2.3.3 that Council does not agree to enter into the contract but instead determined to pursue or consider pursuing the unsolicited proposal through another process, including a competitive bidding process; or

5.2.3.4 that Council does not agree to enter into the contract and that its consideration of the proposal under these guidelines is now at an end.

## 6. **PERIOD OF EXCLUSIVITY**

### 6.1 **Criteria for assessment**

6.1.1 Council may, in its absolute discretion, enter into a period of exclusive negotiation with a person in relation to a proposed or submitted unsolicited proposal, if the circumstances warrant it.

6.1.2 Exclusivity between the parties is not assumed simply by submission of an unsolicited proposal to Council.

6.1.3 Exclusive negotiations may be justified in circumstances, for example, where a party's Intellectual Property should be protected or where, on a balancing of the criteria listed below, there is a clear benefit to Council in doing so.

6.1.4 The criteria that Council must consider in determining if a period of exclusivity should be entered into with a particular proponent includes:

6.1.4.1 No competing proposals

Whether the subject matter of an unsolicited proposal is already the subject of an existing or proposed procurement process or processes. If the subject matter of an unsolicited proposal is already being considered or proposed to be considered by Council in this way, then it is unlikely that an unsolicited proposal will pass Stage 1.

6.1.4.2 Community need/Council priority

Whether the unsolicited proposal:

(a) promotes Council's role and functions discussed in Clause 2 of these guidelines and generally, under the LG Act;

is broadly consistent with Council's objectives outlined in its Strategic Directions Plan and other relevant documents; and

(b) provides a clear economic, social or environmental benefit for Council.

6.1.4.3 Uniqueness

Whether the unsolicited proposal is unique, and how and why it is unique such that it justifies Council considering it under these guidelines rather than via its usual procurement processes.

A proponent may be able to establish the uniqueness of its proposal by demonstrating that:

(a) it cannot be readily delivered by competitors at all or within the timeframes proposed by the proponent;

(b) the proponent owns something that would limit other parties from being able to deliver the proposal (for example, Intellectual Property or strategic landholdings);

(c) the proponent has unique financial arrangements that enable it to deliver the proposal where other parties would not be able to; or

(d) a combination of factors which may not stand alone as being unique but which together create a unique proposal in the circumstances.

#### 6.1.4.4 Value for money

Whether the proposal represents value for money for Council. Council should consider factors such as (but not limited to) whether the proposal:

- (a) is fairly and sustainably priced relative to comparative projects and products;
- (b) will meet acceptable commercial and industry standards; and
- (c) will effectively deliver on the proposal for the price proposed and in all other respects.

Note that 'value' can include:

- (d) financial benefits;
- (e) economic benefits; and/or
- (f) community benefits.

#### 6.1.4.5 Capacity and capability of proponent

Whether the proponent has the skills, experience and resources required to enable it to deliver the proposal.

## **6.2 The exclusivity period**

6.2.1 If Council determines to enter into a period of exclusive negotiation with a proponent, the following broad terms will apply:

- 6.2.1.1 during the exclusivity period, Council will not enter into negotiations with another party in relation to another proposal that is substantially similar to the subject matter of the proposal;
- 6.2.1.2 the exclusivity period will be limited to the development of the specific proposal;
- 6.2.1.3 the exclusivity period will be for a set period as advised by Council to the proponent in writing;
- 6.2.1.4 Council may set specific terms and conditions for the exclusivity period which it will advise the proponent of in writing;
- 6.2.1.5 Council may end the exclusivity period at any time and withdraw from exclusive or all negotiations with the proponent at no cost or liability to Council; and
- 6.2.1.6 all correspondence between Council and the proponent will be kept confidential, subject to any legislative requirements.



**7. PROBITY FRAMEWORK**

**7.1** It is a primary objective of these guidelines to ensure the probity of the processes employed by Council to consider unsolicited proposals. As such, in addition to any specific requirement outlined in this policy, probity principles and protocols will be established when dealing with proponents in relation to their unsolicited proposals to ensure that:

- 7.1.1 proposals are received, assessed and negotiated, and decisions are made, through an approved and transparent framework;
- 7.1.2 decisions are made through a robust framework and so that they will deliver the best outcomes for Council and its community;
- 7.1.3 confidential information is protected; and
- 7.1.4 any perceived conflict of interest, bias or misconduct is eliminated.

**7.2** Council may, at any Stage outlined in these guidelines, engage a probity adviser or auditor.

**8. INTELLECTUAL PROPERTY RIGHTS**

**8.1** Council acknowledges the unsolicited proposals may contain Intellectual Property of the proponent and/or third parties.

**8.2** If Council declines to consider, or ends its consideration of, an unsolicited proposal submitted in accordance with these guidelines, and Council elects to engage in a competitive bidding process or other approach to the market in relation to the subject matter of the proposal, Council will respect any Intellectual Property rights of the proponent and/or third parties.

**9. SUPPLEMENTARY INFORMATION**

Council may from time to time at its discretion publish supplementary information to assist proponents with the interpretation and application of these guidelines.

**10. PUBLICATION OF DETAILS OF UNSOLICITED PROPOSALS**

Proposals that are considered by Council's Elected Members are included in Council's agendas, which are published on Council website.

**11. GENERAL TERMS**

**11.1 Definitions**

11.1.1 **Application Form** means the application form attached as Annexure B to these guidelines.

11.1.2 **Intellectual Property** means inventions, original designs and practical applications of good ideas protected by law through copyright, patents, registered designs, circuit layout rights and trademarks and it also includes trade secrets, proprietary know-how and other confidential information protected against unlawful use and disclosure by common law and contractual obligations.

11.1.3 **LG Act** means the *Local Government Act 1999 (SA)*.

11.1.4 **Unsolicited Proposals Coordinator** is the person occupying the position of General Manager Corporate and Community at Council from time to time.

## **11.2 No legal relationship**

By making an unsolicited proposal the proponent acknowledges:

11.2.1 without confirmation in writing, that no discussions in relation to a proposed unsolicited proposal or the submission of an unsolicited proposal assumes exclusivity between the parties;

11.2.2 that no legally binding contract exists or is to be implied between the Council and the proponent unless and until a formal contract document is signed by both parties; and

11.2.3 that Council is under no contractual or other legal obligation to the proponent with respect to the receipt, assessment, consideration, acceptance or rejection of any proposal or the failure to receive, assess, consider or accept any proposal.

## **11.3 Legislative obligations**

In submitting a proposal proponents acknowledge that:

11.3.1 Council may have legislative obligations that it will need to comply with in relation to a particular proposal and nothing in these guidelines is intended to override or circumvent those obligations; and

11.3.2 the processes established by these guidelines are separate from, and do not override other legislative approval processes that a proponent may need to participate in in order to progress its proposal (for example, planning approval processes).

## **11.4 No soliciting or outside discussions**

11.4.1 All queries or communications in relation to unsolicited proposals must be directed to the Unsolicited Proposals Coordinator to ensure consistency and transparency in the unsolicited proposals process. Council reserves the right to discontinue assessment of, or negotiations on, a proposal if the proponent discusses the proposal with members of Council staff or Elected Members otherwise than as directed by the Unsolicited Proposals Coordinator.

11.4.2 A proponent must not offer any incentive to, or otherwise attempt to, influence any person who is either directly or indirectly involved in an assessment or negotiation process. Council reserves the right to end any consideration of a proposal if a proponent fails to comply with this requirement.

## **11.5 Conflict of interest**

Proponents must inform Council of any circumstances or relationships which will constitute a conflict or potential conflict of interest if the proponent is successful in negotiating a contract for its unsolicited proposal. If any conflict or potential conflict exists, the proponent must advise Council how it proposes to address this.

### **11.6 Cost of proposal**

A proponent bears its own costs of preparing, discussing and negotiating any unsolicited proposal with Council.

### **11.7 Use of documents**

Any documents provided by Council to a proponent during any of the Stages outlined in these guidelines must only be used for the purpose of progressing a proposal in accordance with these guidelines and must be returned to Council at the end of the process on request.

### **11.8 Change in circumstances**

A proponent must inform Council promptly in writing of any material change to any of the information contained in the proponent's submission.

### **11.9 Interaction with other Council policies**

11.9.1 Unless specifically stated in these guidelines or determined by Council, these guidelines are not intended to override any other policy of Council that may apply to an unsolicited proposal.

11.9.2 Any policy on the sale and disposal of Council assets and procurement policies that Council has adopted for the purposes of Section 49 of the LG Act does not apply to an unsolicited proposal that is covered by these guidelines.

### **11.10 General Acknowledgements**

11.10.1 Proponents acknowledge when discussing, negotiating, considering, preparing or submitting an unsolicited proposal to Council in accordance with these guidelines, that Council:

11.10.1.1 makes no representations or undertakings that it will enter into a contract with any proponent in respect of the subject matter of any unsolicited proposal;

11.10.1.2 may undertake 'due diligence' checks on any proponents;

11.10.1.3 will not be responsible for any costs or expenses incurred by a proponent arising in any way from the preparation, submission or negotiation of its proposal;

11.10.1.4 accepts no responsibility for any proponents failing to undertake any investigations or understanding any matters that may impact on its proposal;

11.10.1.5 will not be liable for or pay any expenses or losses incurred by a proponent, whether in the preparation of a proposal or prior to the signing of any agreement relating to a proposal or otherwise; and

11.10.1.6 will not be bound by any verbal advice given or information furnished by any member, officer or agent of Council except written advice or information furnished by the Unsolicited Proposals Coordinator.

### **11.11 Council's General Rights**

Council may, at any stage of the process of discussing, receiving, considering and/or negotiating an unsolicited proposal, at no cost to itself or acceptance of liability to the proponent in any way:

- 11.11.1 end consideration of the unsolicited proposal and withdraw from any negotiation with the proponent in relation to it if it considers or assesses that a proposal may not or does not meet the criteria to be considered or considered further under these guidelines, and make an approach to the market in respect of the subject matter of the proposal;
- 11.11.2 amend, vary or revoke and replace these guidelines at any time;
- 11.11.3 accept or reject any unsolicited proposal on any basis;
- 11.11.4 subject to any period of exclusivity determined in accordance with these guidelines, negotiate with any person in relation to the subject matter of an unsolicited proposal;
- 11.11.5 accept all of part of an unsolicited proposal;
- 11.11.6 discontinue negotiations with any proponent at any time; and
- 11.11.7 include any proponents name in council reports and, subject to any period of exclusivity determined in accordance with these guidelines and any agreement with a proponent to the contrary, make them public.

### **11.12 Ombudsman**

Proponents should be aware that the *Ombudsman Act 1972 (SA)* empowers the Ombudsman to investigate matters in the public interest. Proponents must ensure compliance with all obligations arising under that Act

### **11.13 ICAC**

Proponents should also be aware that *the Independent Commissioner Against Corruption Act 2012* establishes the Independent Commissioner Against Corruption and the Office for Public Integrity. The Act empowers the Commissioner to investigate corruption, misconduct and maladministration in public administration. Proponents must ensure compliance with all obligations arising under that Act.

### **11.14 Freedom of information**

The *Freedom of Information Act 1991 (SA)* (**FOI Act**) gives members of the public rights to access documents of Council. The FOI Act promotes openness in governance and accountability of government agencies and to achieve these objects confers on members of the public a legally enforceable right to be given access to documents, including contracts, held by Council subject but not limited to such restrictions as are consistent with the public interest, commercial in confidence and/or the preservation of personal privacy in respect of those from whom information is collected and held by Council and other public authorities.

### **11.15 Departure from guidelines**

Council may, by resolution, where it is justified in the circumstances, determine that these guidelines will not apply to a particular unsolicited proposal.

**11.16 Review of guidelines**

These guidelines will be reviewed regularly by Council to ensure that the objectives of the guidelines remain relevant and are met.

**12. RELEVANT DELEGATED POWERS AND DUTIES**

Any actions or decisions made regarding this policy, will be enacted upon as per Council's current Delegations Register.

## Annexure A

## Process Flowchart

STAGE ONE – INITIAL PROPOSAL	
<p>Proponent Actions</p> <ul style="list-style-type: none"> <li>• Submit the completed Application Form and any further information to: <a href="mailto:plcc@plcc.sa.gov.au">plcc@plcc.sa.gov.au</a></li> <li>• Submit any further information that may be requested.</li> <li>• Engage in discussions with Council about the proposal as and when requested.</li> </ul>	<p>Council Actions</p> <ul style="list-style-type: none"> <li>• Determine if sufficient information has been provided to be considered under the guidelines and in terms of exclusivity.</li> <li>• Convene a meeting of the Steering Committee if required</li> <li>• Determine whether the proposal meets the criteria for it to be considered under the guidelines.</li> <li>• Prepare a report to Council if the proposal is recommended for Stage 2.</li> <li>• Advise the proponent of the Council decision.</li> </ul>
<p>POSSIBLE OUTCOMES</p> <ul style="list-style-type: none"> <li>• That the unsolicited proposal is not suitable for further consideration and is now closed.</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>• That the proposal may form the basis for a competitive bidding process.</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>• That the proposal will proceed to Stage 2.</li> </ul>	

<b>STAGE TWO – DETAILED PROPOSAL</b>	
<p><b>Proponent Actions</b></p> <ul style="list-style-type: none"> <li>• Submit a detailed proposal.</li> <li>• Provide additional information as requested.</li> <li>• Attend meetings as requested with and respond to communications from Council.</li> </ul>	<p><b>Council Actions</b></p> <ul style="list-style-type: none"> <li>• Establish the Stage 2 framework and advise the proponent of this.</li> <li>• Arrange meetings of the Steering Committee with any other subject matter experts, professional advisers and other persons.</li> <li>• Arrange meetings with the proponent as required.</li> <li>• Request further information from the proponent as required.</li> <li>• Obtain reports and further information for Council’s consideration of the proposal.</li> <li>• Arrange the preparation of a detailed report on the proposal for Council Elected Members’ consideration.</li> <li>• Advise the proponent of the Council’s decision.</li> </ul>
<p><b>POSSIBLE OUTCOMES</b></p> <ul style="list-style-type: none"> <li>• That all or part of the proposal will proceed to Stage 3 on an exclusive consideration basis.</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>• That all or part of proposal should not continue to be considered on an exclusive basis but that all or part of the proposal warrants a competitive bidding process.</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>• That all or part of the proposal is not suitable for further consideration and its consideration under these guidelines is now at an end.</li> </ul>	

**STAGE THREE – CONTRACT NEGOTIATION**

Proponent Actions	Council Actions
<ul style="list-style-type: none"> <li>• Negotiate contract terms</li> </ul>	<ul style="list-style-type: none"> <li>• Advise the proponent of the process and protocols for the development of a contract</li> <li>• Negotiate the contract</li> <li>• Submitted the agreed contract to Council Elected Members to seek approval for the contract to be executed.</li> <li>• Advise the proponent of Council’s decision.</li> </ul>

**POSSIBLE OUTCOMES**

- That Council agrees to the terms and conditions of the contact and will proceed to execute it.

OR

- That Council agrees to the contract, subject however to specified variations or conditions.

OR

- That Council does not agree to enter into the contract but instead determined to pursue or consider pursuing the unsolicited proposal through another process.

OR

- That Council does not agree to enter into the contract and that its consideration of the proposal under the guidelines is now at an end.



## **Annexure B - APPLICATION FORM**

### **UNSOLICITED PROPOSAL FOR CONSIDERATION BY CITY OF PORT LINCOLN**

#### **1. GENERAL INFORMATION**

**Consortium or company details (if applicable):**

**Legal name/s of proponents or consortium or company participants:**

**Address:**

**Date:**

#### **2. PROPOSAL TITLE AND ABSTRACT**

**Title:**

**Abstract (approximately 200 words):**

#### **3. PROPOSAL DETAILS**

Provide information on:

- the objectives of the proposal;
- the method of the approach;
- the nature and extent of expected outcomes; and
- the benefits that the proposal will deliver for Council.

#### **4. ASSESSMENT CRITERIA**

Provide a brief description of how the proposal would meet each of the assessment criteria detailed in clause 6.1 of the Unsolicited Proposal Guidelines.

##### **No competing proposals**

If the proponent is aware of any existing proposal or procurement process currently under consideration by Council or under active consideration by another proponent then the proponent should clearly demonstrate how their proposal is distinct from these other proposals.

##### **Community need/Council priority**

The proponent should demonstrate how its proposal:

- promotes Council's role and functions discussed in clause 2 of the guidelines;
- is broadly consistent with Council's objectives outlined in its Strategic Directions Plan; and
- provides an economic, social or environmental outcome for Council.

The information that a proponent provides should include:

- details of benefits of the proposal;
- details of any economic activity or jobs that would be created by the proposal;
- details of any unmet community need that would be met by the proposal; and
- how the proposal is aligned with Council's strategic objectives.

##### **Uniqueness**

The proponent should provide information that demonstrates that its proposal is unique. This may be demonstrated by showing that:

- the proposal cannot be readily delivered by competitors at all or within the timeframes proposed by the proponent;
- the proponent owns something that would limit other parties from being able to deliver the proposal (for example, Intellectual Property, strategic landholdings).
- the proponent has unique finance arrangements that enable it to deliver the proposal where other parties would not be able to; or
- a combination of factors which may not stand alone as being unique together create a unique proposal.

### **Value for Money**

The proponent should provide information that demonstrates how its proposal represents value for money for Council. 'Value' can include:

- financial benefits;
- economic benefits; and
- community benefits.

The information that a proponent provides should include:

- how the proposal is priced relative to competitors;
- the proposed sharing of costs and risks between Council and the proponent; and
- the benefits to Council of the proposal.

### **Capacity and capability of proponent**

Proponents should provide information that demonstrates that it has the capacity and capability to deliver the proposal. Proponents should provide:

- a description of their organisation or consortium;
- details of previous experience in delivering similar projects;
- details of past performance on similar projects;
- details of relevant experience in prior dealings with Council or another council;
- details of its skills, experience and competencies to deliver the project; and
- details of any third parties that would be proposed to be involved in the delivery of the project.

## **5. FINANCIAL AND COMMERCIAL DETAILS**

A proponent should provide a brief description of the financial and commercial details of the proposal and the proponent's financial capacity to deliver the proposal.

## **6. COSTS AND REQUIREMENTS OF COUNCIL**

A proponent should identify what you are seeking from Council for the proposal. This may include land;

- use of assets, facilities, equipment, materials, personnel or other resources;
- finance; or
- assistance to obtain statutory approvals or legislative or regulatory amendments. A proponent should state what the cost would be for Council in providing what is sought.

**7. RISKS**

Proponents should list risks arising from the proposal for the proponent and Council.

**8. INTELLECTUAL PROPERTY**

Proponents should provide a brief description of:

- each item of Intellectual Property involved in the proposal;
- the nature of any Intellectual Property claimed;
- details of the owner of Intellectual Property claimed;
- registration details (where applicable); and
- details of any items for which commercial confidentiality is claimed in whole or in part.

**9. OTHER INFORMATION**

A proponent may provide any other information that is relevant to its proposal for Stage 1 assessment.

**10. PREFERRED CONTRACT ARRANGEMENT**

A proponent should provide details of its proposed contractual arrangements for the proposal if it is successful.

**11. CONTACT PERSON**

A proponent must nominate a contact person to be the only point of contact for this proposal. All communications from the Unsolicited Bids Coordinator about the proposal will be sent to this person.

**Name:**

**Postal Address:**

**Email Address:**

**Phone number:**

**12. COUNCIL CONTACT DETAILS**

A proponent should provide details of any person at Council who has already been contacted regarding the proposal.

**13. VALIDITY PERIOD**

Period of time for which the proposal is valid (this must be a minimum of six months).

**14. PROPOSED DURATION OF THE PROPOSED ARRANGEMENTS**

**Proposed Duration:**

\*Please note that additional information or pages may be attached to this form.

The proposal is to be signed by a representative of the proponent who is authorised to represent and contractually bind the proponent.

**Name:**

**Position:**

**Signature:**

**Date:**