

North-South Bypass Tunnel



Invitation for Expressions of Interest

Contract No. MIPO 50099-04/05

Major Infrastructure Projects Office
Brisbane City Council

March 2005



Dedicated to a better Brisbane

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Definitions

Business Case - the business case prepared by Council for the Project.

Concession Period - the term of the concession to carry out the Project, likely to be around 35 years.

Council - Brisbane City Council.

Customer Service - the customer service obligations that will be imposed on the PPP Co under the Project Deed.

Data Room - the physical or virtual rooms referred to in Section 6.5, which contain information related to the Project which is made available to industry.

EIS - the Environmental Impact Statement being prepared by Council for the Project.

EOI Process - the process described in this Invitation for Expressions of Interest for selection of Short-listed Respondents.

EOI Response - an expression of interest in the Project in response to this Invitation for Expressions of Interest by a Respondent.

Evaluation Criteria - the criteria for evaluation of EOI Responses specified in Section 7.

Integrated Project Team - the wider team responsible for implementing the Project for Council.

Interoperable - an electronic tolling system that is in accordance with national interoperability guidelines formulated by the Australian Transport Council.

Invitee - a consortium or other entity that is invited to submit an EOI Response and includes those Invitees that become Respondents.

NSBT - the North-South Bypass Tunnel.

Participant - a member of a Respondent. This includes equity providers, key subcontractors and key advisers.

Performance Specification - the output based technical specification that will be incorporated in the Project Deed.

PPP - the public private partnership procurement model, generally following the principles in the Queensland State Government's Value for Money Framework.

PPP Co - the private sector vehicle that will contract with Council to deliver the Project.

Project - the financing, design, construction, commissioning, operation, maintenance, repair, levying and collection of tolls, maintaining public safety, network interfaces and traffic management and handover of the North-South Bypass Tunnel and associated works.

Project Deed - the contract setting out the grant of the concession to carry out the Project between Council and the PPP Co.

Project Director - the person having overall responsibility for the management of the Integrated Project Team for Council.

Project Documents - the Project Deed and the other documents to be entered into by Council and/or the Successful Proponent in connection with the Project.

Project Executive Group - the group established by Council to oversee the implementation of the Project for Council.

Project Information - any and all documents and information (in any form of storage or transmission, whether electronic, paper or any other means) which is provided or made available by Council to any party in connection with the Project, which includes, but is not limited to, data contained in the Data Room, but excludes this Invitation for Expressions of Interest.

Project Objectives - Council's objectives for the Project described in Section 3.

Proponent - a Short-listed Respondent who submits a Proposal.

Proposal - a Proponent's response to the Request for Proposals.

Public Sector Comparator/PSC - Council's estimate of the benchmark cost of delivering the Reference Project using its traditional delivery methods.

Reference Project - the reference project description prepared by Council for the Project, as described in the EIS.

Related Company - any Participant of any Respondent that is a related body corporate (as defined in Section 50 of the Corporations Act 2001 (Cth)) of a Participant of another Respondent.

Request for Proposals - the document governing the process by which Council will invite short - listed Respondents to submit Proposals with a view to selecting a Successful Proponent.

Respondent - a consortium or other entity that submits an EOI Response.

Short-listed Respondent - a Respondent that is short-listed by Council and invited to submit a Proposal for the Project.

Successful Proponent - the Proponent that Council selects to deliver the Project.

Tolling System - a fully electronic and Interoperable tolling system for the Project.

Value for Money Framework - the Queensland Government's policy for public/private partnerships released in September 2001. A copy of the policy can be obtained on the Department of State Development and Innovation website: www.sdi.qld.gov.au

1. Introduction

1.1 The Opportunity

The North-South Bypass Tunnel (NSBT) is a key element of Council's *Transport Plan for Brisbane 2002-2016* to improve public and private transport in Brisbane. The NSBT will provide a bypass of the Brisbane Central Business District between Woolloongabba and Bowen Hills.

Council's Reference Project for the NSBT consists of two separate parallel north-south tunnels approximately 5 kilometres long, with two lanes in each direction except at connections to the existing road network. Under the Reference Project, it is envisaged that connections to the NSBT will occur at the Inner City Bypass, Lutwyche Rd, Shafston Avenue, Ipswich Road and the Pacific Motorway. The Reference Project includes appropriate safety systems such as egresses, fire protection and monitoring systems, and a ventilation system to manage the air quality in the tunnel and externally. Details of Council's Reference Project are in the Data Room.

Council intends to procure the Project as a PPP, generally following the principles in the State Government's Value for Money Framework. The private sector will be responsible for the financing, design, construction, commissioning, operation, maintenance, repair, levying and collection of tolls, maintaining public safety, network interfaces and traffic management and handover of the Project and associated works.

1.2 Purpose of this Document

This Invitation for Expressions of Interest has been issued by Council to seek EOI Responses from Invitees.

The purpose of this document is to:

- inform the market of the NSBT, its components and the proposed delivery model for the Project;
- outline the process for the procurement of the Project;
- outline the proposed timetable for the procurement process;
- invite private sector parties to express their interest in participating in the Request for Proposals stage for the Project; and
- set out the Evaluation Criteria to be applied by Council to short list Respondents.

Further detail in relation to each of these is provided later in this document.

2. Background

2.1 Brisbane City Council

Council is one of the largest local government authorities in the Asia Pacific region. Its permanent workforce of 6400 delivers core local government services such as public transport, urban management and city administration to a culturally diverse population of almost one million people. Council's services and resources span ten program areas and five business units. Twenty-six councillors and a Lord Mayor govern the operations of Council.

During 2003-04, Council managed a budget of more than \$1.3 billion and assets in excess of \$12 billion. Further details on Council's operational and financial position can be found in its Annual Report. Copies of Council's Annual Reports for the last three years can be found in the Data Room (see Section 6.5.2 for details on how to access the Data Room).

Council's 2004-05 budget and 2003-04 Annual Report are available on its web site, www.brisbane.qld.gov.au.

2.2 Council's Vision for Brisbane - "*Living in Brisbane 2010*"

Council's vision for the city is expressed in *Living in Brisbane 2010* which aims to ensure that Brisbane is a great city in which to live, now and in the future. Together, Council and the community are working towards goals that will help achieve this vision for Brisbane's future.

The eight *Living in Brisbane 2010* themes are:

- accessible city;
- active and healthy city;
- city designed for subtropical living;
- city of inclusive communities;
- clean and green city;
- creative city;
- regional and world city; and
- smart and prosperous city.

The population of the Brisbane Statistical Division has grown by over 50 percent in the last 20 years. As the centre of one of the fastest growing urban regions in Australia, increasing pressure is being placed on developing an integrated transport network for Brisbane that caters for accessibility and mobility demands while meeting economic, environmental and social goals. Provision of an efficient and effective transport network supported by travel demand management strategies addressing public transport, traffic management, parking and travel behaviour are crucial in achieving the desired outcome.

A copy of *Living in Brisbane 2010* is in the Data Room.

2.3 Transport Plan for Brisbane

Council has developed the *Transport Plan for Brisbane 2002 - 2016* (Transport Plan), which provides an integrated strategy to modernise Brisbane's transport system. The plan focuses on a planning horizon up to 2016 and consists of a program of policies, projects and performance measures. It promotes integration between transport and land use and provides for improved efficiency in the use of transport infrastructure and services. It will result in a balanced transport system, enabling accessibility at an affordable and sustainable scale for residents and businesses.

The Transport Plan has been developed to ensure Council's investment in infrastructure delivers the maximum benefits.

The actions and strategies contained in the Transport Plan are grouped under six objectives:

- quality public transport that everyone can use and encourages people to leave their cars at home;
- manage travel demand so that traffic growth is kept below population growth;
- coordinated transport and land use that makes it easy to travel across Brisbane using sustainable forms of travel;
- a safe and efficient road network that minimises traffic impact on neighbourhoods and the environment;
- deliver goods on time to the right place so that freight moves efficiently and safely throughout Brisbane while protecting residential areas; and
- more clean and green transport providing a safe and attractive alternative to driving.

Council is making sure new transport developments meet the community's needs, are economically viable and environmentally sustainable. These objectives are therefore inherent in this Project.

The NSBT has been identified as a key project for delivery of a modern transport system for the city. The 15-year plan of coordinated actions and strategies within the Transport Plan aims to achieve balanced transport solutions for the city of Brisbane.

A copy of the *Transport Plan for Brisbane 2002-2016* is in the Data Room.

2.4 NSBT Feasibility Studies

In late 2002, Council appointed two independent committees to investigate the NSBT from engineering and financial perspectives. The Engineering and Financial Taskforces concluded that the NSBT warranted a detailed feasibility study as a "user-pays" toll road.

Council has since completed its detailed feasibility phase of the NSBT. This has involved undertaking the following detailed studies, generally in accordance with the Queensland State Government's *Value for Money Framework*:

- detailed engineering concept plans;
- a traffic and transport study; and
- a detailed Business Case.

2.5 Status of the NSBT

The Business Case, approved by Council in October 2004 concluded that the NSBT:

- is economically, technically and financially viable;
- could deliver a value for money outcome under a PPP delivery; and
- is affordable for Council.

Further information on the NSBT and work undertaken by Council to date can be obtained at the NSBT website at www.brisbane.qld.gov.au/nsbt.

2.6 Environmental Impact Statement

Council is currently undertaking an EIS for the NSBT based on the Reference Project. The EIS provides an independent assessment of the expected environmental, social and economic impacts and benefits of the Reference Project. A copy of the draft EIS is in the Data Room and on the EIS website at www.nsbt-eis.com.

In April 2004, the State Government designated the NSBT as a project of 'State significance' to enable independent assessment of the Reference Project by the State Government. The EIS process has included:

- the development of concepts for the tunnels and associated infrastructure;
- consultation with key stakeholders, including residents, businesses, community members and property owners;
- investigation and assessment of the potential environmental, social and economic impacts and benefits; and
- recommendation of appropriate strategies to mitigate any adverse impacts of the Project.

The State Coordinator-General released the draft EIS for public comment in February 2005. Public submissions are expected back by mid April 2005. The Project will need to consider the final outcomes of the EIS.

2.7 Government Commitment to the Project

The Project has received whole-of-Government commitment, demonstrated by Council's announcement in October 2004 and the State Government's statement of support in February 2005. Council and the State Government have formalised this commitment for project implementation by signing a Memorandum of Understanding, a copy of which is in the Data Room.

As detailed within the Memorandum of Understanding, the State Government is prepared to undertake processes deemed necessary by the State towards necessary legislative amendments in respect of the NSBT to enable the Project to proceed, including:

- statutory power for Council to set, levy and enforce tolls for the NSBT and for Council to enter into concession arrangements with a third party which is authorised to exercise the tolling power;
- statutory power for Council to manage and control traffic within the tunnel and to authorise a third party under a concession arrangement to exercise that power;
- acquisition of subterranean volumetric title;

- a statutory right of support for infrastructure within or underneath land; and
- statutory power to acquire land for the purposes of the Project, including where the taking of land may ultimately benefit a third party under a concession arrangement with Council.

Further evidence of the support for the Project is Council's financial commitment to the NSBT. Council has allocated around \$186 million for project development costs (including land acquisition). If required, Council also has significant capacity to make a financial contribution to the Project, as is evidenced by the Queensland Treasury Corporation letter retained in the Data Room.

3. Project Objectives

The NSBT is a key element of Council's *Transport Plan for Brisbane 2002-2016* to improve public and private transport in Brisbane. The NSBT represents a major initiative in the plan and, in essence, aims to meet the fourth strategic objective of providing a safe and efficient road network, but is also a key enabler for all six of Council's strategic objectives for transport outlined in Section 2.3 of this document.

The key objective of the NSBT is to provide an attractive complementary element to the existing road network for through-traffic to bypass the Brisbane CBD. This will be achieved through provision of an underground bypass for the existing road network.

The Project Objectives are as follows:

- improved mobility and accessibility for important centres in the City's fabric and for residents at large for both essential and discretionary travel;
- greater efficiencies from the existing transport infrastructure through the re-direction of trips to more appropriate routes and modes of transport;
- enhanced opportunities for public transport and other modes of transport along the corridor due to the easing of traffic congestion on the surface streets;
- improved economic conditions through easing the costs of congestion to the City's businesses and residents;
- improved environmental conditions through improved air quality and reduced traffic noise in the presently congested, inner-city streets;
- improvements in the well-being of City's residents through better accessibility for both commuting and leisure-based travel; and
- enhanced opportunities for urban regeneration in areas presently constrained by traffic congestion, diminished accessibility and environmental conditions.

4. Project Outputs

Short-listed Respondents will be invited to submit Proposals that deliver the Project Objectives. This output-based approach will be designed to encourage the private sector to develop innovative technical and commercial solutions.

4.1 Design and Construction Requirements

The Short-listed Respondents will be required to undertake investigations and develop their designs at the Request for Proposals stage in accordance with the environmental, technical and functional requirements to be issued with the Request for Proposals. Council will seek innovative design solutions which deliver value for money.

The Project Deed will also require the Successful Proponent to construct the NSBT in accordance with these requirements.

Council has developed its Reference Project for the purposes of EIS evaluation and for calculating the Public Sector Comparator (PSC). While the design for the Reference Project is available in the EIS, Proponents will be expected to explore alternative innovative design solutions. If a Proponent's Proposal incorporates some or all of the design of the Reference Project, the Proponent will adopt such design as its own.

4.2 Service Obligations

The PPP Co will assume all obligations in respect of the tolling system, customer services and operation and maintenance of the NSBT during the Concession Period. These obligations will include:

- operation and maintenance of the NSBT in accordance with the Performance Specification;
- provision of a tolling system and traffic management services including proactive measures to manage traffic flows and traffic performance and the provision and use of traffic information systems in order to maximise road network efficiency and safety;
- provision of high quality accountable customer services including;
 - traffic information services and systems to users of the NSBT;
 - traffic incident management (including vehicle breakdown services);
 - readily accessible, efficient and accurate account management services and systems;
 - marketing the NSBT and electronic tolling through appropriate and sufficient channels; and
 - ensuring that the tolling system is Interoperable; and
- environmental management, including adherence to applicable environmental guidelines and standards.

4.3 Processes and Approvals

The PPP Co will be required to carry out its obligations within a contractual and legislative framework including, but not limited to, the following:

- project plans; Proponents will be required to provide initial project plans with their Proposals and the Successful Proponent will be required to develop, implement and maintain detailed project plans. These will describe how the Successful Proponent will comply with the requirements under the Project Deed.
- quality management; the Successful Proponent will be required to develop, implement and maintain an effective quality management system.
- utilities; the Successful Proponent will be required to preserve and protect, or relocate as appropriate, all existing utilities' infrastructure and to minimise the interruption to utility services.
- occupational safety; the issue of occupational safety is of critical importance to the Project. All relevant legislative requirements will need to be met, including compliance with the *Workplace Health and Safety Act 1995* (Qld).
- environmental and cultural heritage management; the Successful Proponent will be required to develop, implement and maintain an effective and compliant environmental management plan and a cultural heritage management plan.

4.4 Community Consultation

The PPP Co will be required to participate in community advisory groups and undertake the Project in a manner sensitive to the need of the local communities and, where appropriate, incorporate community input.

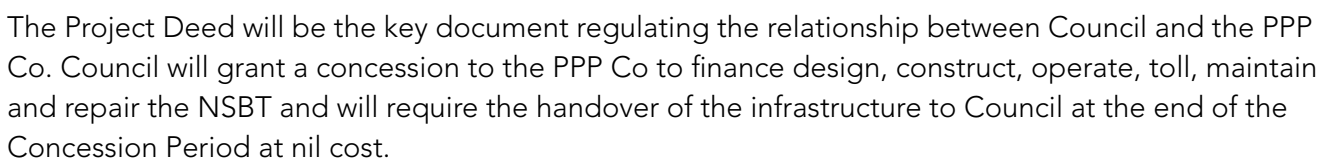
4.5 Handover

At the end of the Concession Period, the PPP Co will be required to hand over the infrastructure (including the tolling system and customer service system, associated fixtures, software and manuals) to Council in a specified condition for nil consideration.

This section details the proposed commercial structure for the Project.

The PPP Co will be required to use its best endeavours to complete the design and construction of the NSBT by a specified date. The Concession Period will be prescribed in the Project Deed and is likely to be around 35 years. Further information on the Concession Period will be included in the Request for Proposals.

The diagram below illustrates a possible contractual framework for the Project.



5.3 Proponent's Proposal Documentation

Council will require the following commitments upon lodgement of Proposals at the Request for Proposals stage:

- confirmation from all key consortium members (including debt and equity providers and major sub-contractors) that due diligence has been completed on all matters (including technical, traffic, financial and legal) relating to the Project;
- committed and unconditional debt financing and credit support demonstrated by way of detailed term sheets;
- committed and unconditional equity investment (including the documents constituting the entities which will be the counterparty to the Project Deed and relating to equity investment in it); and
- committed and unconditional construction and operating contracts demonstrated by way of fully developed and agreed sub-contracts (eg design & construct contract/s and operation & maintenance contract/s).

5.4 Payment Mechanism

5.4.1 Tolls

Tolls will be the main source of revenue for the PPP Co. The Tolling System is to be a fully automated e-tolling system that permits travel at free flow operating conditions, without vehicles being required to slow down or stop.

Further details on tolling requirements will be outlined in the Request for Proposals, however Council intends to adopt the following principles:

- the tolls the PPP Co will be permitted to levy will be described in the Project Deed;
- the PPP Co will be entitled to index the tolls;
- there may be differential tolling for light and heavy vehicles; and
- all Short-listed Respondents will be invited to propose alternative tolling levels and structures, within constraints to be described by Council in the Request for Proposals such as time of day surcharges/discounts.

5.4.2 Performance Deductions

Council intends to adopt a mechanism that provides for financial penalties against a limited specified set of key performance indicators. This mechanism will be detailed in the Request for Proposals.

5.5 Commercial Revenue Opportunities

The NSBT may provide the Proponent with various commercial revenue opportunities, which may include:

- advertising revenue in accordance with government regulatory guidelines;
- telecommunications using the NSBT; and
- redevelopment of land parcels currently owned by Council.

Proponents will be permitted to include any commercial revenue opportunities they wish to pursue in their Proposals.

5.6 Risk Allocation

Council is seeking to optimise value for money for the entire Project. A key driver for this optimisation is the allocation of Project risk. Council intends to generally adopt the risk allocation principles outlined in the State Government's Value for Money Framework. Invitees may access the State Government's website: www.sdi.qld.gov.au for detailed information regarding the State's preferred risk allocation principles.

Invitees are also advised that in the Request for Proposals, Council intends to, where possible, adopt relevant precedent that has been achieved on recent Australian toll road PPP transactions. A high-level "Summary Risk Allocation Matrix" is set out in Appendix E.

6. Procurement Process

6.1 Overview

This Invitation for Expressions of Interest is issued by Council and seeks EOI Responses from suitable qualified consortia or other entities. This EOI Process represents the first stage in the selection of the PPP Co to deliver the NSBT for Council. Council is seeking approaches from the private sector that will achieve the Project Objectives described in Section 3.

6.2 Key Principles

Council's procurement process has been designed around the following key principles:

- appropriate level of interaction with Invitees, Respondents and Proponents - Council is committed to ensuring that the procurement process is appropriately transparent and interactive. It plans to hold a structured consultation process throughout the procurement process, in accordance with probity guidelines;
- Performance Specification - Subject to the commentary on the approach to key commercial issues, Council is looking to the private sector to propose innovative solutions that meet the Project Objectives over the Concession Period. Therefore the Performance Specification to be provided with the Request for Proposals will follow an output based approach to allow the private sector to submit innovative proposals;
- commercial proposals - Council intends to encourage Proponents to propose innovative commercial structures within a set of constraints that are likely to involve fixing the Concession Period and a range of toll levels;
- network restrictions - Council strongly discourages Proposals that require capacity reductions, restrictions or changes to the surrounding road network;
- tender costs - Council is mindful of minimising Proponents', and indeed its own, transaction costs. As a result, it intends, where appropriate, to draw on the extensive precedent that exists in the Australian PPP toll road market on key areas including risk allocation, tender process and documentation;
- a value for money outcome - A Reference Project and a Public Sector Comparator have been prepared by Council as part of the Business Case. The Reference Project is Council's view as to the most likely and efficient method of public sector delivery of the NSBT Performance Specification required of the private sector. The PSC is a costing of the Reference Project, including appropriate allowances for transferred risks and will be used as a benchmark of value for money against which Proposals will be assessed;
- optimal risk allocation outcome - Council and its advisers have undertaken a detailed risk analysis as part of its Business Case. To this end, Invitees should approach this transaction on the assumption that Council is seeking to adopt the Summary Risk Allocation Matrix in Appendix E; and
- benefit sharing - Proponents will be expected to submit Proposals that share with Council elements of any future financial upsides that the Project may earn. This will include sharing of future unplanned refinancing benefits.

6.3 Transaction Timetable

The indicative timetable for the procurement process is as follows:

Milestone	Date
Release of Invitation for EOI	7 March 2005
Market Briefing	18 March 2005
Closing Date for EOI Responses	29 April 2005
Release of Request for Proposals	June 2005
Closing Date for responses to Request for Proposals	December 2005
Contractual Close	May 2006

Council reserves the right, at its sole discretion, to amend or terminate this process, structure and timetable at any stage without compensation being payable by Council. Council also reserves the right to reject any and all EOI Responses.

6.4 Key Milestones

This Section summarises the principles Council intends to adopt for key milestones.

6.4.1 Market Briefing

A detailed briefing will be held for interested parties. Details are as follows:

Date: FRIDAY 18 MARCH 2005

Time: 10am to 12noon (Brisbane time)

Venue: Sherwood Room, Brisbane City Hall, Ann Street, Brisbane

Interested parties must register their intended attendance, including names of attendees, by facsimile or email to the Project Manager at the address set out in Section 8.3.

6.4.2 EOI Presentation

Respondents may be given the opportunity, at Council's discretion, to give a presentation to Council's Evaluation Panel and advisers on their EOI Response.

6.4.3 Short-listing of Respondents

The EOI Responses will be assessed to select a short-list of Respondents who will be eligible to participate in the Request for Proposal stage. Council intends to short-list two or three Respondents but reserves the right to amend this number. Respondents will only be short-listed if they sign the appropriate deeds of probity and reliance. It is envisaged that this short-listing will take place around June 2005.

6.4.4 Request for Proposals

Council intends to issue the Request for Proposals shortly after the announcement of the Short-listed Respondents.

Council considers that Proposals received at the Request for Proposals stage should be Proponents' best and final offer(s) which should be fully financially committed. It is envisaged that, to limit the possibility of misunderstanding Council's position on various matters, Council will engage with Short-listed Respondents on the technical, financial and commercial requirements of the Request for Proposals while Proposals are being prepared, in accordance with probity guidelines.

When Proposals are lodged, Council will be seeking assurances from Proponents that processes have been put in place within the Proponent to deliver committed and unconditional debt financing and credit support, demonstrated by way of detailed term sheets committed and unconditional equity investment (including the documents constituting the entities which will be the counterparty to the Project Deed and relating to equity investment in it) and committed and fully developed and agreed subcontracts (eg. Design & Construct contract/s and Operations & Maintenance contract/s).

It is intended that a 24 week period will be allocated for preparation of Proposals.

Council is proposing to offer a contribution of A\$2.5m to assist in defraying an unsuccessful Proponent's Proposal costs. Further details on Council's position on this issue will be contained in the Request for Proposals.

6.5 Information Available to Respondents

Council has collected a large amount of data for the purposes of preparing its Business Case and the EIS.

6.5.1 Project Information

Council may from time to time provide parties with Project Information. A large amount of Project Information including financial data, technical data, reports, notes, records and other materials has been made available in the Data Room to parties that have registered with Council for access to the Data Room. Council may separately provide to registered parties any additional Project Information in circumstances where the nature of such Project Information is not appropriate or conducive to storage in the Data Room. Summary descriptions of the types of Project Information currently available to registered parties are provided in Appendix F.

Council makes no warranty or representation, and does not assume any duty of care to Invitees and Respondents that any Project Information is accurate, adequate, suitable or complete, and Council accepts no responsibility for interpretations placed on the Project Information by Invitees and Respondents. There may also be other information or documents in the knowledge or possession of Council or its officers, employees, consultants, contractors or agents which are relevant to the Project or the EOI Process.

To the extent that Council is not the author or source of any Project Information, it merely makes that information available without endorsing or adopting ownership of the content of it.

Invitees should prepare their EOI Responses based on their own investigations and determinations and should not rely on any Project Information.

Nothing in this Section 6.5 limits the generality of Section 8.9.

6.5.2 Data Room Registration

The registration process to access the Data Room involves the payment of an access fee, the execution and delivery to Council of a Confidentiality Deed and the nomination of an authorised representative as the primary contact in accordance with Council's Procedure - H2: Access to Data Rooms.

Invitees wishing to register for access to the Project Information can do so by contacting Elaine Holbrook (e-mail nsbt3@brisbane.qld.gov.au) to obtain a copy of Procedure - H2: Access to Data Rooms and register online at <http://www.brisbane.qld.gov.au/nsbt>

6.5.3 Requests for Further Geotechnical and Contamination Investigations

Each Short-listed Respondent will be given the opportunity within the period of 2 weeks after the date of issue of the Request for Proposals, to submit a request to Council for details of any further geotechnical and contamination investigation it would like Council to carry out. Accordingly, Invitees may wish to start considering any further geotechnical or contamination issues they would like Council to address. After reviewing the requests it receives after the issue of the Requests for Proposals, Council will then decide what, if any, further geotechnical and contamination investigation it will undertake for the Short-listed Respondents. There will be no obligation on Council to carry out any further geotechnical or contamination investigation.

6.6 Interaction with Respondents

Council is keen to ensure that the EOI Process is as transparent and interactive as possible to ensure the value from the EOI Process is optimised. To this end, Council may from time to time during the EOI Process convene meetings in accordance with probity guidelines with Invitees or Respondents, either individually or collectively, to discuss issues associated with the EOI Process, the Respondent's EOI Response or any other aspect of the Project.

6.7 Probity Auditor

Council has engaged a Probity Auditor. The Probity Auditor's role in this EOI Process includes the following:

- ensuring that the procedures adopted in the receipt and evaluation of EOI Responses are fair and equitable, to monitor the evaluation process and to provide independent validation of this to the Project Executive Group;
- providing independent confirmation to all Invitees and Respondents that the appropriate processes were adopted and that the evaluation process was managed and undertaken in such a way that no Invitee was given an unfair advantage or unfairly discriminated against;
- providing guidance to the Integrated Project Team, the Project Executive Group and Council as to how probity issues can be resolved; and
- monitoring communications regarding the Project that occur between the Integrated Project Team (and/or Project Executive Group members and/or other Council officials that may be associated with the Project) and parties associated with Respondents during the period between the release of the Invitation for Expressions of Interest and announcement of the Short-listed Respondents.

The Probity Auditor is not part of the Evaluation Panel but an independent observer of the evaluation process and will not be involved in the evaluation of any EOI Response.

Invitees and Respondents who have any concerns about the conduct or probity of the procurement process should promptly bring their concerns to the attention of the Probity Auditor. The Probity Auditor's contact details are as follows:

Phil Hennessy
KPMG
Level 30, Central Plaza 1
345 Queen Street, Brisbane, QLD 4000
E: phennessy@kpmg.com.au
T: +61 7 3233 9332
F: +61 7 3233 9337

7. EOI Evaluation Process

7.1 Process Objectives

The object of the EOI Process is to select a shortlist of Respondents who may subsequently be invited to submit detailed and fully costed Proposals for the Project.

Council intends to short-list two or three Respondents, however Council may, at its sole discretion, amend this number.

7.2 Integrated Project Team

An Integrated Project Team has been established by Council to facilitate the delivery of the NSBT. A Project Executive Group has been created by Council to oversee the project implementation process and provide strategic advice. Reporting directly to the Project Executive Group, the Project Director (who will chair the Evaluation Panel) has overall responsibility for delivery of the project and management of the Integrated Project Team.

Council has engaged the following specialist advisers:

- transaction and project management - Burns Bridge Transactions
- financial adviser - Ernst & Young
- legal adviser - Clayton Utz
- technical adviser - SKM/CW Joint Venture (being a joint venture between Sinclair Knight Merz and Connell Wagner)

7.3 Evaluation Process

The evaluation of EOI Responses will be conducted by the evaluation panel that will be appointed by the Project Executive Group. The following three-stage evaluation process will be adopted:

Evaluation Stage	Explanation
Stage 1 Compliance Assessment	A review to confirm the Respondent has provided in its EOI Response the documents or material referred to in the Compliance Checklist in Appendix A.
Stage 2 Qualifying Criteria Assessment	Assessment of each EOI Response against the Qualifying Assessment Criteria listed in Section 7.4.
Stage 3 Evaluation Criteria Assessment	Using the Evaluation Criteria listed in Section 7.5, evaluate and rank EOI Responses and determine a provisional short-list of Respondents who may be invited to attend structured interview(s) to provide further clarification regarding their capability and EOI Response.

As part of the evaluation process, Respondents will need to demonstrate, as a condition of short-listing, that they meet Council's probity and competitiveness requirements, as detailed in Appendix D.

7.4 Qualifying Assessment Criteria

The Respondent should satisfy Council of its capacity to comply with the Qualifying Assessment Criteria outlined in the table below. The information required in relation to each criterion is provided in the Schedules contained in Appendix C.

Qualifying Assessment Criterion
Demonstration of the financial capacity of the Respondent to deliver the Project.
Demonstration of the experience of the Respondent to raise finance for projects of a magnitude commensurate with the size and scope of the Project.

7.5 Evaluation Criteria

Council invites Respondents to demonstrate their capabilities in respect of each of the Evaluation Criteria set out below. Council has opted against prescribing information requirements against each Evaluation Criterion, with a view to enabling Respondents to provide all material considered relevant.

Evaluation Criterion	Explanation
Experience and Capability of Delivering an Urban Road Tunnel Project	<p>The extent to which the Respondent demonstrates the experience in and ability to:</p> <ul style="list-style-type: none">→ successfully procure and manage the design and construction of a major road tunnel in a manner which provides certainty of delivery of the Project Objectives;→ successfully procure and manage the maintenance, operation and handover of the asset to Council in a manner which provides certainty of delivery of the Project Objectives;→ successfully procure, operate and manage the Customer Services and electronic tolling system; and→ successfully manage relationships and interfaces with key stakeholders including customers, Council, unions, contractors, service utility organisations, other road operators, formal community groups and the wider community throughout the Concession Period.

Evaluation Criterion	Explanation
Innovation	<p>The extent to which the Respondent demonstrates:</p> <ul style="list-style-type: none"> → an approach specific to the Project, relating to the design & construction (including urban design), operations & maintenance, e-tolling and customer service elements of the Project; → evidence of innovation demonstrated on other comparable projects. → an understanding of the key issues for this Project (including the challenging geotechnical conditions and high engineering, air quality and other environmental standards) and can propose (or demonstrate the capacity to propose) solutions that (for purposes of demonstrating innovation) align with three of Council's key objectives of facilitating urban design outcomes, managing construction impacts and meeting customer service needs during the operations phase of the tunnel.
Commercial Issues	<p>The extent to which the Respondent demonstrates:</p> <ul style="list-style-type: none"> → a commercial and financial structure that is able to successfully finance and deliver the Project based on the proposed risk allocation as set out in Appendix E; → proposed strategy and approach to raising the finance required to deliver a committed Proposal as described in Section 5.3; and → a whole-of-life approach to financing of the Project that will incentivise the PPP Co to deliver an effective service throughout the Concession Period.
Commitment to the Procurement Process	<p>The extent to which the Respondent's proposal demonstrates:</p> <ul style="list-style-type: none"> → an approach that will enable all aspects of the Project to be successfully delivered for Council, the Respondent and the community; → its capacity to deliver a Proposal at the Request for Proposals stage within the transaction timetable (Section 6.3); and → the commitment of experienced and appropriate personnel and the nomination of alternative personnel in the event that nominated personnel are not available, during the Request for Proposals stage.

8. General Terms and Conditions of EOI

8.1 Lodgement Details

The Respondent must forward:

- six bound presentation copies, one unbound copy and one electronic copy (on a CD ROM, with files to be formatted for viewing on Microsoft Office for Windows) of the EOI Response; and
- a Deed of Disclaimer in the form of Appendix G duly executed by each entity and consortium member comprising the Respondent and which is to include an annexure detailing the Project Information which has been provided to the signatory,

in one or more sealed envelopes or packages marked "Strictly Private and Confidential - North-South Bypass Tunnel EOI" to:

Brisbane City Council - Major Infrastructure Projects Office
Level 2, 171 George Street
Brisbane QLD 4000

The closing time for submission of EOI Responses is 12 noon Brisbane time on FRIDAY 29 APRIL 2005.

EOI Responses received by Council after the closing time will be deemed to be late and will be registered separately.

A late EOI Response will only be admitted to evaluation if Council in its absolute discretion makes a decision to do so.

There will be no public opening of EOI Responses. Details of the names of Respondents who submitted EOI Responses will be available on Council's web site at www.brisbane.qld.gov.au/business/onlineservices/etendering/index.shtml within forty-eight hours from the closing time.

8.2 EOI Response Format

Invitees should note the following with respect to the required format of EOI Responses:

- the format should be in accordance with the requirements set out in Appendices A to D of this Invitation for Expressions of Interest;
- submitted in A4 format;
- each Schedule referred to in Appendix A is to be submitted as a clearly separate section in the EOI Response;
- EOI Responses should be no longer than 100 pages excluding attachments (e.g. financial statements, CVs and project data sheets). Unnecessarily elaborate responses or presentations beyond that sufficient to present a complete and effective EOI Response are discouraged;
- EOI Responses must be generally in size 12 font.

Council also reserves the right to seek clarification or further details of any information submitted by Respondents. However Respondents should submit EOI Responses which are sufficient to allow short-listing by the Evaluation Panel. Respondents should not rely on being invited to make further submissions prior to the short-list being finalised.

8.3 Enquiries

All communications relating to this Invitation for Expressions of Interest must be addressed in writing by facsimile or email to the Project Manager as follows:

John McEvoy

NSBT Project Manager

Facsimile: +61 7 3403 7333

Email: nsbtinfo@brisbane.qld.gov.au

If an Invitee finds any discrepancy, error or omission in this document or has any question or wishes to make any enquiry concerning this document, it should notify the Project Manager in writing one (1) week prior to the closing time for submission of EOI Responses.

Council may reply to questions from an Invitee by notice to that Invitee or all Invitees (together with the question). Invitees may request that any question not be disclosed to other Invitees, however Council may determine in its absolute discretion whether it will disclose the question. If Council decides that it will disclose the question to other Invitees, the Invitee will first be given the opportunity to withdraw the question.

8.4 No Legal Relationship

This invitation is not an offer. The participation by an Invitee in the EOI Process will not create a contractual relationship between the Invitee and Council.

8.5 Use of this Invitation for Expressions of Interest

The contents of this Invitation for Expressions of Interest are being made available to Invitees only in connection with this Invitation for Expressions of Interest and may not be used other than for the purposes of the Invitee preparing an EOI Response.

8.6 Additional Information and Clarifications

Notwithstanding any other requirements of this Invitation for Expressions of Interest, Council may require Respondents to submit additional information or clarifications. Respondents must promptly respond, in writing, to all such requests for additional information or clarifications. Where such information is not provided within the timeframe nominated by Council, Council reserves the right to continue its evaluation processes on the basis of the available information.

8.7 Respondent Privacy

Personal information provided by Respondents may, in the course and for the purposes of evaluation, be disclosed within Council.

Council reserves the right to publish the names of Respondents and Short-listed Respondents.

8.8 Costs to be borne by Invitees and Respondents

Council will not be responsible for, or pay or reimburse, any costs, expense or loss which may be incurred by any Invitee in the preparation of its EOI Response, attending any meetings, providing any further information, or otherwise in connection with its participation in the EOI Process.

8.9 Disclaimer

Council makes no warranty or representation, and does not assume any duty of care to Invitees that the information in this Invitation for Expressions of Interest or any other document provided by Council or any other person on behalf of Council is accurate, adequate, suitable or complete, or that the information has been independently verified and Council accepts no responsibility for interpretations placed on the information by Invitees. There may also be other information or documents in the knowledge or possession of Council or its officers, employees, consultants, contractors or agents which are relevant to the Project or the EOI Process but is restricted from disclosure by Council due to confidentiality obligations, third party ownership, licensing, copyright or other contractual arrangements.

To the extent Council is not the author or source of any document provided to Invitees, it merely passes that document on to Invitees and does not adopt the content of it.

Invitees should prepare their EOI Responses based on their own investigations and determinations and should not rely on the information contained in this Invitation for Expressions of Interest.

This Invitation for Expressions of Interest and all statements and information made in relation to it reflects Council's current intention only. The information and intentions set out in this Invitation for Expressions of Interest may change at any time without notice.

Council is under no obligation to give reasons for any decision made or not made in relation to the EOI Process.

The risk, responsibility and liability connected with an EOI Response is solely that of each Respondent.

Each Invitee is solely responsible for obtaining its own independent financial, legal, accounting, technical and other advice with respect to the EOI Process.

8.10 Council's Discretion

Notwithstanding any other provision of this Invitation for Expressions of Interest, Council may, in its absolute discretion and without limiting any other right which Council may have, do any one or more of the following at any time:

- withdraw this Invitation for Expressions of Interest;
- vary, suspend or terminate the EOI Process;
- extend the date for submission of EOI Responses;
- decline to consider or evaluate any EOI Response or all EOI Responses;
- cancel, amend, vary, supplement or replace this Invitation for Expressions of Interest by notice in writing to all Invitees ;

- modify or terminate the EOI Process at any time;
- select any number of Short-listed Respondents to proceed to the Request for Proposals process;
- Council may select any Respondent as a Short-listed Respondent despite any deficiency in that Respondent's EOI Response, and irrespective of whether or not deficiencies exist in the EOI Responses of other Respondents;
- select as a Short-listed Respondent, any Respondent which does not meet the Qualifying Assessment Criteria specified in Section 7.4;
- decline to select any Respondents to proceed to the Request for Proposals process;
- where a Respondent comprises more than one Participant, only select one or more, but not all, Participants comprising the Respondent to proceed to the Request for Proposals process;
- abandon the Project;
- proceed with the Project in a different form to that envisaged in this Invitation for Expressions of Interest; and/or
- negotiate with and enter into a contract with any person for the performance of the Project.

To the extent permitted by law, Invitees will have no claim against Council arising out of Council's exercise, or failure to exercise, any rights under this Invitation for Expressions of Interest.

8.11 Ownership of EOI Responses

Subject to the paragraph below, all EOI Responses become the property of Council on submission, and will not be returned to the Respondents.

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

By providing an EOI Response, the Respondent licenses Council, its officers, employees, agents and advisers, to copy, adapt, modify, disclose or do anything else necessary at Council's sole discretion, to all material (including material that contains any intellectual property rights of the Respondent or any other person) contained in an EOI Response, for the purposes of evaluating and clarifying that EOI Response.

EOI Responses will, to the extent that they contain information that is not in the public domain, be held as Commercial-in-Confidence.

8.12 Disclosure of Financial Information

By making an EOI Response, the Respondent acknowledges and agrees that, if it is selected as a Short-listed Respondent, it will include in its Proposal:

- a detailed break-up of design and construction costs;
- a detailed break-up of operation and maintenance costs; and
- a full financial model for the Project (in electronic format) that is able to be readily interrogated by Council and its advisers and which includes full details of the financial projections in the Proposal including equity contribution, revenue, escalation, depreciation, interest paid and capitalised, debt amortisation, capital expenditure, operation expenditure, taxation, cash flow, profit and loss, balance sheets, distributions and financial analysis (including internal rate of return, investor analysis, dividend yield and financing coverage) together with a detailed schedule of the assumptions contained in the financial model.

8.13 No Appeal

Invitees will not have a right to appeal against any decisions arising from the EOI Process or the Request for Proposals process.

8.14 Changes to Participants

Where a Respondent is a consortium, the Respondent will be evaluated and short-listed on the basis of the Participants identified in the EOI Response. If a Respondent lodges its EOI Response without having identified all Participants, this may affect that Respondent's ability to meet the evaluation criteria and Council reserves the right to eliminate that Respondent from further participation in this EOI Process.

Where Participants change after the closing time for submission of EOI Responses specified in Section 8.1, Respondents must notify the Project Manager of this change. If Council, at its sole discretion, determines that this change is material, it reserves the right to re-evaluate the EOI Response and to eliminate the Respondent from further participation in the EOI Process.

A Respondent should (as a minimum) notify Council 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 of any entity falling within the above paragraphs and any proposed new directors, secretary or chief executive officer.

8.15 Canvassing

Invitees must not contact any members or employees of Council, its Integrated Project Team (other than the Project Manager), elected members of the Commonwealth, State or Local Governments, officers of the Queensland Government, officers of the local Government authorities, or Council's advisers with a view to providing information in respect of any part of the Project, the EOI Process or their EOI Response, or attempting to support or enhance their prospect of being selected as a Short-listed Respondent. At the sole discretion of Council, any unauthorised communication or attempted approach by an Invitee may lead to the Invitee's exclusion from the EOI Process.

8.16 Collusion

Invitees, 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 Invitee or any other person in relation to the preparation or lodgement of an EOI Response. Evidence of such conduct may lead to the rejection of the EOI Response of all Invitees involved.

8.17 Conflict of Interest

Council's requirements relating to probity and competitiveness issues are outlined in Appendix D.

A declaration must be made by Respondents, Participants, and their respective officers, employees, agents and advisers and submitted with the EOI Response 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. Respondents must undertake to inform Council of any actual or potential conflicts that may arise after lodgement of an EOI Response.

Council 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 which may preclude a Respondent from being included in the short list of Respondents.

8.18 Return or Destruction of Information

Council reserves the right, in its absolute discretion, at any stage, to require that material and other information provided to Invitees (and copies or reproductions of such information) be either destroyed by Invitees or returned to Council. Council may require that Invitees provide evidence (in a form satisfactory to Council) that any Council requirements in this respect have been fully met.

8.19 Freedom of Information

Respondents should note that the *Freedom of Information Act 1992* (Qld) (the “Act”) allows members of the public rights to be given access to documents of Council, limited only by exceptions and exemptions necessary for the protection of the public interest and private and business affairs of persons or organisations in respect of whom information is collected and held by Council.

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

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

“FOI 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 Act. Any decision to grant access to a document will be determined by the requirements of the Act. Respondents will not be entitled to make any claim in relation to any actions taken in relation to, or under, the Act.

Respondents are advised that, while Council may deal with applications for access in response to FOI requests, there may be occasions on which an applicant exercises a right to seek independent external review of the decisions made.

8.20 Council May Rely on Information in Responses

By submitting an EOI Response, the Respondent:

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

Appendix A - Compliance Check List

EOI Checklist

Schedule	Description	Included Y/N
A	Details of the Respondent/Participants (refer Appendix B)	
B	Answer to Qualifying Assessment Criteria (refer Appendix C)	
C	Information relating to Probity and Competitiveness Issues (refer Appendix D)	
D.1	Answer to Evaluation Criterion : Experience and Capability (refer Section 7.5)	
D.2	Answer to Evaluation Criterion : Innovation (refer Section 7.5)	
D.3	Answer to Evaluation Criterion : Commercial Issues (refer Section 7.5)	
D.4	Answer to Evaluation Criterion : Commitment to the Procurement Process (refer Section 7.5)	
E	Deed of Disclaimer duly executed by each entity and consortium member comprising the Respondent (refer Section 8.1 and Appendix G)	

Appendix B - Schedule of Respondent's Details

The following information should be provided for the Respondent/Participants (as applicable) and the proposed roles of each of those Respondents and Participants should be described, including details of the contractual arrangements established or to be established between the Respondent and Participants.

1. Provide the identity of the Respondent and Participants including business and trading names, detailed of corporate structure, current directors, ABN, registered office, head office address, place of incorporation, shareholders and (if different) names and addresses of beneficial owners;
2. Provide the corporate structure of the Respondent and each Participant, including details of registered company, business and trading names and their relationship with any immediate and ultimate parent companies;
3. Beneficial ownership interests in the Respondent and each Participant;
4. A brief overview of the Respondent and each Participant, providing background information and details of its operations;
5. Contact details of the individual from the Respondent with whom Council will principally communicate in its dealings with the Respondent. Details are to include: name and title, e-mail address, office, mobile and facsimile phone numbers, and office and postal addresses;
6. Details of an individual contact from each Participant. Details are to include: name of Participant, name of individual and title, e-mail address, office, mobile and facsimile phone numbers, and office and postal addresses;
7. Provide details of the role of each Participant;
8. Additional Information:
 - the identity and nature of the relationship of all known Related Companies involved in the Respondent (or who may in the future be involved);
 - the internal governance arrangements and other procedures which the Respondent has or will put in place to address and resolve probity and competitiveness issues;
 - the identity of any company that has become insolvent with which any director of the Respondent or a Participant has been associated.

Appendix C - Schedules for Qualifying Assessment Criteria

Qualifying Assessment Criterion
Demonstration of the financial capacity of the Respondent to deliver the Project.
Demonstration of the experience of the Respondent to raise finance for projects of a magnitude commensurate with the size and scope of the Project.

Council requires an understanding of the financial strength of the entities which will ultimately accept the risk of Project delivery ("Responsible Entities"). The financial capacity of the Responsible Entities will be assessed to ensure that the Project does not dominate a Responsible Entity's existing business and that a true risk transfer can be achieved by Council.

1. Outline the identity of the Responsible Entities, which are to ultimately accept the risk of Project delivery. For each Responsible Entity please supply information on the financial strength of the entity including:
 - a copy of the two most recent annual reports for the Responsible Entities (or from the parent of the Responsible Entity, where support will be provided by that parent);
 - description of the level and type of any parent support (eg parent company guarantees) expected to be provided to the Responsible Entity;
 - details of any circumstances which may affect the ability of the Responsible Entity to meet its contractual obligations in relation to the Project; and
 - a statement concerning current and planned financial commitments to other Projects, and an assessment of the extent to which these commitments may affect the Respondent's ability to raise the necessary finance for the Project.
2. Experience of the Responsible Entity in raising funding to procure the design and construction of projects of a similar magnitude to the Project.
3. A statement on the processes that have been put in place within the Respondent to deliver committed and unconditional financing, construction and operating contracts at contractual close.

Appendix D - Requirements Relating to Probity and Competitiveness

Council intends to ensure that the probity and competitiveness of the Request for Proposals process is not materially impacted by:

- the existence of Related Companies; or
- any other issue.

A declaration must be made by Respondents, Participants, and their respective officers, employees, agents and advisers and submitted with the EOI Response 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. Respondents must undertake to inform Council of any actual or potential conflicts that may arise after lodgement of an EOI Response.

Depending upon the information provided by Respondents or otherwise obtained from its own investigations, Council may require Respondents to:

- clarify the information provided and/or provide further information; and/or
- enter into Probity Deeds containing covenants designed to protect the probity and competitiveness of the Request for Proposals process.

In determining the number and identity of Short-listed Respondents, Council may take into account the relationships between Participants in one or more Respondents, including the existence of Related Companies and common directors, advisers or employees.

Where a Respondent/Participant or a Related Party of a Respondent/Participant is involved as a Participant or contractor for a different Respondent, the Respondent should provide details of:

- the relationship between Related Parties (if relevant); and
- procedures and internal governance arrangements which the Respondent has or proposes to implement to ensure transparency and accountability and safeguard independence and perceived competitiveness of their Proposals.

Appendix E - Summary Risk Allocation Matrix

Risk	Council	PPP Co.
Site Risks		
Land Acquisition	✓	
Planning and other Approvals	✓	✓
Site Conditions		✓
Environmental contamination		✓
Subsequent Environmental		✓
Native title claims	✓	✓
Scope Risks		
Performance Specification adequately describes Council's requirements	✓	
Performance Design, Construction and Commissioning Risks		
Design		✓
Construction		✓
Commissioning		✓
Changes to Performance Specification	✓	
Operating/Maintenance Risks		
Traffic / Revenue		✓
Maintenance and Lifecycle Costs		✓
Utilities		✓
Network and Interface	✓	✓
Tolling System and Customer Service		✓
Changes to Performance Specification	✓	
Sponsor & Financial Risks		
Interest rates pre-financial close	✓	
Interest rates post-financial close		✓
Inflation		✓
Foreign exchange		✓
Taxation		✓
Change in Law	✓	✓
Insurances		✓
Industrial relations		✓

This is not intended to be an exhaustive Risk Allocation Matrix. Where ticks appear in both columns, the risk is intended to be shared on an agreed basis. Council's position on how the risk should be shared will be clarified in the Request for Proposals.

Appendix F - Summary descriptions of the types of Project Information

Public Information

Newsletters / Fact Sheets
News Videos
Media Monthly Reports
Council Annual Reports
Council Corporate Plans
Council Budget
Other Council Information

State Government Issues

Memorandum Of Understanding
Letter Of Support From Queensland Treasury Corporation

Geotechnical

Phase 1 Geotechnical Reports
Phase 2 Geotechnical Reports
Rock Core Samples

Environmental Impact Study

Initial Advice Statement
Terms Of Reference
EIS Consultation Plan
Draft Environmental Impact Statement

Community Reference Groups

Minutes Of Meetings
Newsletters

Engineering

Spatial Information
Concept Design Report
Preliminary Design Report
Various Working And Discussion Papers
River Soundings
Report Of Engineering Task Force

Traffic And Transport

Traffic Modelling Project Inputs

- NSBT Drawings
- Public Transport And Cycle Data
- Spatial Data
- Strategic Modelling Data
- Traffic Data
- Transinfo Bus Timetables
- Gateway Upgrade Project Study Data Traffic Signal Phasing

Traffic Modelling Project Outputs

- Public Transport Analysis And Reports
- Local Traffic Model
- Strategic Model Including Stated And Revealed Preference Surveys And Strategic Toll Model
- Technical Notes

Various Hardcopy Reports

Appendix G - Deed of Disclaimer

Deed of Disclaimer

To: Brisbane City Council ("**Council**")

Recitals

- A. Council has provided the entity that has executed this Deed Poll ("**Signatory**") with an Invitation for Expressions of Interest in relation to the design, construction, operation, maintenance, finance and handover of the North-South Bypass Tunnel ("**Project**"). The Invitation for Expressions of Interest, all appendices and attachments to it, and any addenda which amend it, are hereafter collectively referred to as "**EOI Documents**".
- B. The Signatory has prepared, or participated in preparing, a response to the Invitation for Expressions of Interest in respect of the Project ("EOI Response") and pursuant to the terms of the EOI Documents, each entity or consortium member that wishes to submit an EOI Response is required to deliver, together with the EOI Response, a Deed of Disclaimer in favour of Council in the form of this Deed Poll.

Operative

1. In consideration of Council considering the Signatory's EOI Response, the Signatory:
 - (a) warrants that it has not relied upon the EOI Documents as being proper, adequate, suitable and/or complete for the purposes of enabling it to prepare, or participate in preparing, the EOI Response;
 - (b) warrants that it has made its own independent evaluation of the EOI Documents' adequacy, suitability and completeness for the purposes of enabling it to prepare, or participate in preparing, the EOI Response;
 - (c) acknowledges that:
 - (i) Council has made available to the Signatory the information and documents described in the Schedule ("**Project Information**");
 - (ii) the Project Information:
 - A. has been made available to the Signatory by Council for the information only of the Signatory; and
 - B. does not form part of the EOI Documents and will not form part of any contract with respect to the Project;
 - (iii) Council does not owe any duty of care to the Signatory with respect to the Project Information;
 - (iv) to the extent that Council is not the author or source of any of the Project Information it has merely passed those documents on to the Signatory;

- (v) Council:
 - A. is not responsible for; and
 - B. makes no representation or warranty in respect of, the contents of the Project Information including the accuracy, adequacy, suitability or completeness of any reports, data, test results, samples, reports or geotechnical investigations, opinions, recommendations, findings or other information contained in the Project Information;
- (vi) where any information or document is referred to and incorporated by reference in the Project Information, the Signatory has not relied upon any summary of the information or document which appears in the Project Information;
- (vii) no representation or warranty (express or implied) has been made by Council (or by anyone on its behalf) to the Signatory that the Project Information is accurate, adequate, suitable or complete for any purpose connected with the Project or the preparation of its EOI Response; and
- (viii) it has had sufficient opportunity to itself undertake and to request others to make further enquiries and investigations relating to the subject matter of the Project Information and for this purpose has had regard to the acknowledgments, warranties and releases in this Deed Poll in undertaking its own enquiries and investigations and in requesting further enquiries and investigations;
- (d) warrants that:
 - (i) it has prepared its EOI Response and, if Council offers the Signatory to enter into any contract with Council with respect to the Project, any entry into such contract, is based on its own investigations, interpretations, deductions, information and determinations including (without limitation) its own independent evaluation of the accuracy, adequacy, suitability and completeness of the Project Information for the purposes of the Project or the preparation of its EOI Response; and
 - (ii) it has not and will not in any way rely upon:
 - A. the Project Information; or
 - B. the accuracy, adequacy, suitability or completeness of the Project Information, for the purposes of preparing its EOI Response or entering into any contract with Council with respect to the Project;
- (e) acknowledges and agrees that if Council accepts the Signatory's proposal at the conclusion of the Request for Proposals stage:
 - (i) Council will be doing so and Council will be entering into a contract with respect to the Project in reliance upon the acknowledgments and warranties contained in this Deed Poll; and
 - (ii) Council will not be liable to the Signatory upon any Claim (to the extent permitted by law) arising out of or any way in connection with:
 - A. the provision of, or the purported reliance upon, or use of, the Project Information by the Signatory or any other person associated with the tender to whom the Project Information is disclosed by the Signatory; or
 - B. a failure by Council to provide any information to the Signatory;

- (f) irrevocably releases and indemnifies Council from and against:
- (i) any Claim against Council by, or liability of Council to, any person; or
 - (ii) without being limited by clause 1(f)(i) any costs, losses or damages suffered or incurred by Council,
- arising out of or in connection with:
- (iii) the provision of, or the purported reliance upon, or use of, the Project Information by the Signatory or any other person to whom the Project Information is disclosed by the Signatory; or
 - (iv) the Project Information:
 - A. being relied upon; or
 - B. otherwise being used in the preparation of any information or document, including any information or document which is “misleading or deceptive” or “false and misleading” (within the meaning of those terms in sections 52 and 53 (respectively) of the Trade Practices Act 1974, or any equivalent provisions of State or Territory Legislation),by the Signatory or any other person to whom the Project Information is disclosed by the Signatory; and
- (g) irrevocably releases and indemnifies Council from and against any Claim arising out of or in connection with any breach by the Signatory of this Deed Poll.
2. In consideration of Council agreeing to provide the Signatory with any Project Information, the Signatory:
- (a) acknowledges and agrees that the Project Information is confidential and secret; and
 - (b) warrants that it has not and will not:
 - (i) copy or otherwise reproduce in any form or medium the contents of the Project Information (or any part of it) or otherwise cause, permit or allow the Project Information (or any part of it) to be copied or reproduced in any form or medium;
 - (ii) disclose the contents of the Project Information (or any part of it) or otherwise cause, permit or allow the Project Information (or any part of it) to be disclosed; or
 - (iii) use the contents of the Project Information (or any part of it) or otherwise cause, permit or allow the Project Information (or any part of it) to be used,other than:
 - (iv) for the purpose of preparing its EOI Response; or
 - (v) where the Signatory enters into a Project Deed with Council in respect of the Project, as permitted by that Project Deed; or
 - (vi) as required by law or as otherwise permitted by Council.
- Nothing in this clause 2 will in any way limit clause 1 of this Deed Poll.

3. In this Deed Poll, "Claim" includes (without limitation) any claim:
 - (a) under, arising out of, or in connection with, any contract which the Signatory may enter into with Council in respect of the Project;
 - (b) arising out of, or in connection with, any task, thing or relationship connected with the Project; or
 - (c) otherwise at law or in equity including (without limitation):
 - (i) by statute;
 - (ii) in tort for negligence or otherwise, including (without limitation) negligent misrepresentation; or
 - (iii) for restitution including (without limitation) restitution based on unjust enrichment.

The term "Claim" does not include a claim made against Council by any third party, other than a third party to whom the Signatory disclosed the Project Information, arising from a breach by Council of an obligation which Council owes to a third party in relation to the Project Information.

4. This Deed Poll cannot be revoked or otherwise modified without the prior written consent of Council.
5. This Deed Poll is governed by the laws of Queensland.

Schedule

Project Information

The following documents and information are Project Information:

1. The documents and information described in Annexure A;
2. Any other document or information which was:
 - (a) issued or made available by Council to the Signatory; and
 - (b) at the time of issue expressly stated to be "Project Information"; and
3. Any other document or information referred to or incorporated by reference in another Project Information document.

Dated the day of 2005

Executed as a deed poll

Executed by:

.....
(Print Name of Signatory)

in the presence of:

Signature of Secretary/Director

Signature of Director

Name of Secretary/Director in full

Name of Director in full

Or

Signed, sealed and delivered by:

.....
(Print Name of Signatory)

in the presence of:

Signature

Signature of Witness

Name of Witness in full

ANNEXURE A

[List to be inserted by Council prior to closing time for submissions, noon Friday 29 April 2005.]

**Brisbane City Council
Information**
GPO Box 1434
Brisbane Qld 4001
Phone: (07) 3403 8888

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