

# Request for Information

## The Response & Terms and Conditions

Leigh Creek and surrounds

[www.usg-outback.statedevelopment.sa.gov.au](http://www.usg-outback.statedevelopment.sa.gov.au)



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These terms and conditions relate to the document titled Request for Information Commercial Opportunities Leigh Creek and surrounds which is available from the website

[www.usg-outback.statedevelopment.sa.gov.au](http://www.usg-outback.statedevelopment.sa.gov.au)

# 1 The response

## Information to include about a respondent

- Full legal, and any relevant business, name of respondent.
- ABN/CAN (if applicable).
- Registered office address.
- Postal, email and website addresses.
- Name, title and contact details of the respondent's contact person.
- Brief summary of a respondent's experience and expertise.
- If a response is a joint submission or that of a consortium or joint venture, then above details of each person participating in the response, or in a proposed consortium or joint venture.

## Information to include in a response

- An outline of any proposed new or expanded business venture.
- An outline of concepts/options for private investment and/or product/service development.

- A summary of likely economic or other benefits forecast to arise from the response, including employment opportunities.
- An overview of the respondent's ability, resources and capacity to deliver the concepts, options and/or products/services.
- Information in relation to any existing business interests and their relationship to the proposal.
- Information that demonstrates the respondent's understanding of operating in the region, including, in particular, the region's rich Aboriginal heritage.
- Any training requirements arising as a consequence of a response.
- Expectations concerning public investment.

A respondent may supply any additional information or material which may assist the understanding of the response.

As a guide, a response should be a maximum of 10 pages.

## Consideration of responses

The Government will consider a response by reference to the following criteria.

The criteria are not exhaustive, are not listed in any significant order and no criterion has been assigned a weighting.

The purpose of the criteria is to give an indication of the types of matters against which the Government will consider the responses.

The criteria are:

- the extent to which a proposal is understood to be economically viable or otherwise feasible
- the extent to which a proposal is able to utilise and enhance the environmental, cultural, heritage and community values associated with the region
- the impact a proposal will have on the local community and broader regional development, including the impact on the region's economy, job creation, diversification of employment opportunities, and adjacent rural centres
- whether a proposal would be either complementary to or in conflict with any existing or other proposed uses, any existing interests, any applicable restraints, or any applicable policies, plans or strategies, in the chosen locality
- indicative requirements for services and other infrastructure
- alignment with the Government's higher order economic and planning objectives and strategies

- the nature and extent of the experience of the respondent in the planning, permitting, design, construction, operation and maintenance of projects generally, and in relation to a proposal
- the nature and extent of any commercial or environmental outcomes or effects of a proposal
- the financial capacity of the respondent and its ability to fund a proposal
- native title or Aboriginal heritage matters
- value for money for the Government, including the nature and extent of any government contribution that may be required
- any other matters that the Government may consider relevant given the nature and content of a proposal.

## Next steps

Responses received will help inform the Government to determine a way forward for the economic and social sustainability of the region.

This may involve further steps, including:

- the Government formulating a strategy for the future of the region
- discussions and negotiations with selected respondents, and possibly also Alinta Energy, either seeking additional information or seeking to further potential commercial arrangements and implement appropriate proposals
- a subsequent competitive process
- a combination of the above.

# 2 Terms and conditions of participation

## Lodging a response

Responses can be lodged electronically, mailed or hand delivered.

Electronic lodgement is to be emailed to

*LeighCreekRFI@sa.gov.au*

Mailed lodgement is to be posted to

**Attention: Dr Jane Lomax-Smith**  
GPO Box 320, Adelaide SA 5001

Hand delivered lodgement is to be delivered to

**Attention: Dr Jane Lomax-Smith**  
Level 4, 11 Waymouth Street, Adelaide SA 5000

All responses must be received by 5pm, Monday 1 February 2016.

Respondents using courier services must allow adequate time for delivery. Any response lodged after the nominated closing time will be recorded as late and may be considered at the discretion of the panel. The decision to consider or exclude a late response will be based on circumstances surrounding submission and receipt.

All responses become the property of the Department of State Development (DSD) once submitted. DSD may make copies of the response for any purpose related to consideration of the response.

## Contact person

The contact person is Dr Jane Lomax-Smith at email: *LeighCreekRFI@sa.gov.au*

Dr Lomax-Smith is the only person authorised by the Department of State Development to communicate with a respondent.

A respondent cannot rely on communications with any other person unless otherwise advised in writing.

A respondent must nominate a contact person at the time of submitting a response.

## Clarification

The last date for queries is 5pm, Friday 22 January 2016.

Until this date, respondents may seek clarification of any matters relating to the RFI by directing enquiries to the contact person.

Respondents may expect that in response to a query submitted before that date, the Department of State Development (DSD) will either provide an answer or provide written notice that no answer is to be given.

DSD reserves the right to inform all other respondents of the question or matter raised and the response given, but may, at its discretion, choose not to do so.

## Cost of preparation of responses

The respondent is responsible for the cost of preparing and submitting the response and all other costs arising from the process.

## Respondents to be informed

DSD makes no representations in relation to the condition or development potential or suitability for future uses of any of the assets or infrastructure in the region and the respondent relies on its own investigations and advice in preparing a response.

## Conflict of interest

Respondents must inform DSD of any circumstances or relationships which constitute a conflict or potential conflict of interest. If any conflict or potential conflict exists, the respondent must advise how it proposes to address this.

## Confidentiality

Subject to the terms of the RFI, any proprietary information included in a response, which is not generally known or available in the public domain, and which is specifically developed by a respondent for the purposes of its response and specifically expressed in the response as proprietary information, will be kept confidential by DSD, unless otherwise agreed.

Although DSD understands the need to keep commercial matters confidential, DSD reserves the right to disclose some or all of the contents of any response:

- to any consultant or advisor as part of DSD's consideration of the response; and
- as a consequence of a constitutional convention in order that the relevant Minister may answer questions raised in the South Australian Parliament, keep Parliament informed or otherwise discharge the Minister's duties and obligations to Parliament and to advise the Governor, Parliament and/or the South Australian Government, or if required to do so by law.

A respondent may not make any news releases or responses to media enquiries pertaining to this RFI or the RFI process without DSD's prior written approval.

If a respondent acts contrary to these expectations, DSD reserves the right to exclude the respondent from the RFI process.

## Freedom of Information

The Freedom of Information Act 1991 (SA) (FOI Act) applies to the information provided by a respondent in its response. Respondents should note that the FOI Act allows members of the public rights of access to documents of DSD or other of the Government's participants.

All or part of the information provided by respondents may be disclosed to third parties if there is a requirement to do so under the provisions of the FOI Act. Any information that is commercially sensitive or confidential must be marked "commercial and confidential". This special notation must not be used unless the information is genuinely confidential. Marking information as "commercial and confidential" will not necessarily prevent disclosure of the information in accordance with the FOI Act. Any decision to release information will be determined by the requirements of the FOI Act.

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

## Copyright and intellectual property

By lodging a response, a respondent licenses DSD to reproduce for the purpose of the response process the whole or any portion of the response despite any copyright or other intellectual property right that may exist in the response.

## Probity

DSD expects that a respondent shall:

- not engage in any unlawful collusion with any person in connection with this response process
- submit a response in good faith
- maintain the confidentiality of the documents and information provided by (or on behalf of) DSD, including answers to questions, whether oral or written
- make inquiries and otherwise liaise on matters relating to this RFI with the contact person
- declare any actual, potential or perceived conflict of interest as part of the response process
- not offer any incentive to, or otherwise attempt to influence any employee of DSD in relation to this response process
- comply with all laws in force in South Australia applicable to the RFI process.

If a respondent acts contrary to the expectations set out above, DSD may in its discretion exclude the respondent from further consideration, including from any subsequent process.

## Disclaimer

DSD has prepared this RFI to, among other matters, give potential respondents background information on the region. DSD does not give any warranty, or make any representations, express or implied, as to the truth, completeness or accuracy of the information contained in this RFI or any information which may be provided in connection with it.

DSD expressly disclaims any and all liability relating to or resulting from the use of such information by a respondent or any third party in the preparation of a response.

## Acknowledgement by respondents

Each respondent acknowledges that DSD:

- makes no representations and offers no undertakings in issuing the RFI
- is not bound to proceed to any subsequent process or to execute any contract with any party
- may require any number of respondents to supply further information or attend a conference or interview
- may require any number of respondents to make a presentation
- may undertake 'due diligence' checks on any respondent including, but not limited to, verifying references or referees and undertaking company searches and credit checks
- will not be responsible for any costs or expenses incurred by a respondent arising in any way from the preparation and submission of its response
- accept no responsibility for a respondent misunderstanding or failing to respond correctly to the RFI
- will not be liable for, or pay any expenses or losses incurred by any party, in the preparation of a response
- will not be bound by any advice given or information furnished by any member, officer or agent of DSD in respect of the RFI, but will be bound only by written advice or information furnished by the contact person.

## State rights

DSD reserves the right to:

- require additional information from a respondent
- extend the closing time for the RFI
- invite any person to lodge a response
- allow a respondent to change its response whether or not the same opportunity is given to all respondent
- change its requirements, including, at any stage, cancelling, adding to or amending the information, terms, procedures, evaluation process and protocols set out in the RFI
- change the basis on which respondents may, or are required to, participate in the RFI
- reject or accept a late response
- publish the names of respondents
- amend, vary, supplement or terminate the RFI at any time
- accept or reject a response, for any reason;
- vary the process and timing of the RFI
- postpone or abandon the RFI, whether before or after the receipt of responses;
- add or remove a respondent
- accept all or part of a response
- negotiate or not negotiate with one or more respondents or any other person
- discontinue negotiations with a respondent.

## Variations to the RFI

DSD reserves the right, in its sole and absolute discretion and at any stage, to cancel, add to, or amend the information, terms, procedures or process set out in this RFI, without giving any reason to any registrant.

### No legal relationship

By lodging a response, the respondent acknowledges that:

- this RFI is not an offer or an invitation to treat;
- except as specifically stated, no contract exists or will arise between DSD or the State of South Australia and a respondent or other person by reason of this RFI or a response unless and until suitable documentation is executed with DSD
- the rights, powers and discretions given to DSD in this RFI are not pursuant to any contract between DSD and the respondent but rather are rights, powers and discretions which DSD has as part of the RFI
- despite the previous paragraph, by lodging a response, the respondent is bound by the terms of this RFI
- DSD has no contractual or other legal obligation to the respondent arising out of RFI with respect to the consideration, the evaluation, the acceptance or the rejection of a response or the failure to consider, evaluate or accept a response or any other matter as a consequence of the RFI process
- DSD is under no obligation to receive, consider or evaluate any response at all or in any particular way or within a particular time period or to give any reasons for any decision it makes in respect of the response process.

### Consideration of responses

#### Criteria

In reviewing responses, DSD will have regard to, but not necessarily be limited to, those criteria listed under the heading “consideration of responses” in the information document.

#### Use of responses

DSD may use, retain and copy any information contained in a response for use or reference in any subsequent process.

#### Information provided to potential respondents

By submitting a response, each respondent acknowledges that DSD may have made available to other persons (including other respondents or potential respondents) information that is not included in the RFI and that will not be provided to the respondent.

DSD expressly disclaims any and all liability relating to, or resulting from, any such information being made available to any person.

## Department of State Development

GPO Box 320, Adelaide SA 5001

Email: [LeighCreekRFI@sa.gov.au](mailto:LeighCreekRFI@sa.gov.au)

[www.usg-outback.statedevelopment.sa.gov.au](http://www.usg-outback.statedevelopment.sa.gov.au)

### Disclaimer

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