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# QUEENSLAND MARKET-LED PROPOSAL GUIDELINES RELEASED

The Queensland Government has released the "*Project Assessment Framework - Guidelines for the assessment of market-led proposals*" (MLP Guidelines) for inviting and developing "unsolicited" projects led by the private sector. Queensland Treasurer Cutis Pitt MP has previously acknowledged the importance of private-sector collaboration in developing major projects, especially in a challenging revenue period for the Queensland Government.

The MLP Guidelines replace the former "Exclusive Mandate - Value for Money Framework", which placed a high focus on maximising competition. The MLP Guidelines extend beyond infrastructure delivery and allow for the delivery of MLPs across a range of government services and assets, which aligns to the New South Wales and Victorian unsolicited proposal regimes.

## ASSESSMENT UNDER MLP GUIDELINES

The Government will review the MLP in three stages (with an optional pre-submission informal proposal review) and will consider the following criteria in assessing a MLP:

- 1 community need/government priority
- 2 value for money
- 3 uniqueness and intellectual property
- 4 benefit of the proponent's preliminary investment
- 5 risk/cost allocation
- 6 capacity and capability of proponent
- 7 feasibility
- 8 public interest and benefits to Government, and
- 9 competing proposals.

Ultimately, the project proponents must demonstrate why their project is uniquely able to achieve a priority outcome, is incapable of replication by a competitor and thus requires a different process to the traditional competitive tender process.

## KEY CONSIDERATIONS FOR PROPONENTS

The Government's default position is for market-testing of the proposal to determine value for money. As such, the Government has reserved the right to subject any MLP to competitive processes. Whilst the Guidelines note that the Government will respect intellectual property owned by the proponent, this may not protect the overall concept of the proposal. Proponents should be cognisant of this risk and ensure that their MLP is sufficiently unique to maximise the chances of obtaining an exclusive mandate. The Guidelines outline examples of "uniqueness":

- 1 the ownership or control of land, intellectual property or other legal rights limiting competitors from delivering the same outcomes;
- 2 no competitors who would be able to be deliver the same outcomes; or
- 3 a combination of unique attributes demonstrated by the proponent to create a unique proposal and constitute an innovative departure from previous practice.

## CONCLUSION

The Queensland Government has acknowledged that old models of government ownership, financing, delivery and operation may not be suitable in light of fiscal constraints and thus private sector participation can improve the delivery of government objectives. This follows the development of various unsolicited proposals throughout Australia, such as the NorthConnex Motorway Tunnel, the Crown Barangaroo Hotel Resort Project, the Surat Basin Railway and the Wiggins Island Coal Export Terminal.

However, before investing significant time and expense in developing proposals, private sector proponents should assess the prospects of success with advisers and seek to engage early in confidential, high-level discussions with government agencies to explore the merits of the proposal.

## MORE INFORMATION

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