



**Tasmanian**  
Audit Office

**Report of the Auditor-General  
No. 3 of 2020-21**

Expressions of interest for tourism  
investment opportunities

22 September 2020

## The Role of the Auditor-General

The Auditor-General's roles and responsibilities, and therefore of the Tasmanian Audit Office, are set out in the *Audit Act 2008* (Audit Act). The Auditor-General's role as Parliament's auditor is unique.

Our primary responsibility is to conduct financial or 'attest' audits of the annual financial reports of State entities. State entities are defined in the Interpretation section of the Audit Act. We also audit those elements of the Treasurer's Annual Financial Report reporting on financial transactions in the Public Account, the General Government Sector and the Total State Sector.

Audits of financial reports are designed to add credibility to assertions made by accountable authorities in preparing their financial reports, enhancing their value to end users. Following financial audits, we report findings and outcomes to Parliament.

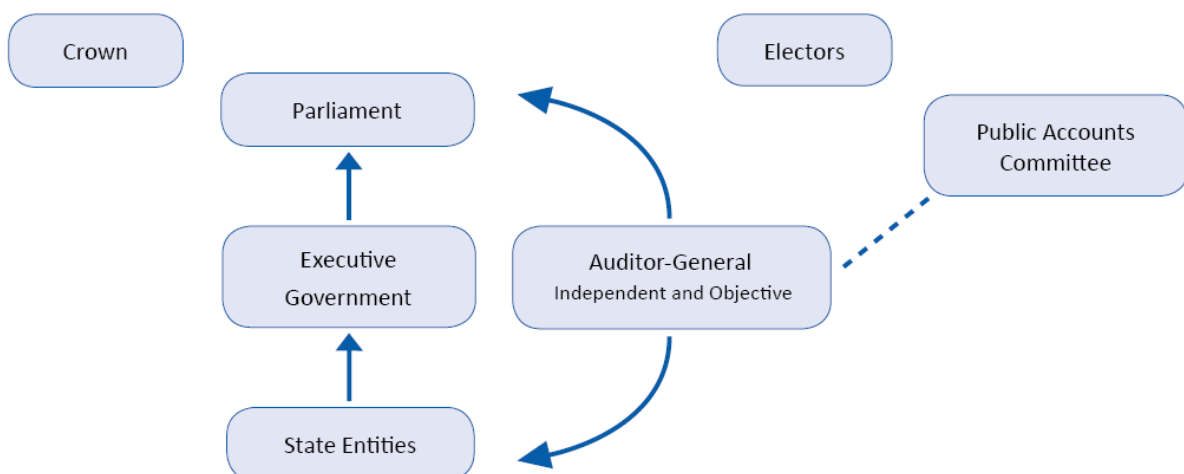
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## The Auditor-General's Relationship with the Parliament and State Entities





**2020**  
**PARLIAMENT OF TASMANIA**

**Report of the Auditor-General**  
**No. 3 of 2020-21**

**Expressions of interest for tourism investment opportunities**

**22 September 2020**

Presented to both Houses of Parliament pursuant to  
Section 23 of the *Audit Act 2008*

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22 September 2020

President, Legislative Council  
Speaker, House of Assembly  
Parliament House  
HOBART

Dear Mr President, Ms Speaker

## **Report of the Auditor-General No. 3 of 2020-21: Expressions of interest for tourism investment opportunities**

This report has been prepared consequent to examinations conducted under section 23 of the *Audit Act 2008*. The objective of the audit was to assess the effectiveness of the EOI process for the development of sensitive and appropriate tourism experiences and associated infrastructure in Tasmania's national parks, reserves and Crown land by private investors and tourism operators.

Yours sincerely



Rod Whitehead  
**Auditor-General**

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# Independent assurance report

This independent assurance report is addressed to the President of the Legislative Council and the Speaker of the House of Assembly. It relates to my performance audit (audit) on expressions of interest for tourism investment opportunities.

The audit was selected due to the level of public interest surrounding the use of public resources in the form of National Parks and other reserved land for the purpose of private enterprise. There have been criticisms by certain stakeholders regarding the Expression of Interest (EOI) process and the potential impact on both environmental values and tourism.

## Audit objective

The objective of this audit was to assess the effectiveness of the EOI process for the development of sensitive and appropriate tourism experiences and associated infrastructure in Tasmania's national parks, reserves and Crown land by private investors and tourism operators.

## Audit scope

The scope of the audit was limited to the tourism developments submitted under Round 1 and Round 2 of the EOI process from June 2014 to October 2019.

State entities that were included within the scope of the audit were:

- Department of State Growth (State Growth), including the Office of the Coordinator-General (OCG)
- Department of Primary Industries, Parks, Water and Environment (DPIPWE), including the Parks & Wildlife Service (PWS).

The audit did not examine:

- tourism developments in Tasmanian national parks, reserves and on Crown land that were approved prior to the commencement of the EOI process on 21 June 2014
- tourism developments on Crown land that were approved prior to the commencement of the second round of the EOI process on 17 December 2016
- tourism developments in Tasmanian national parks, reserves and on Crown land approved post 21 June 2014 that have been subject to an alternative public tender process
- tourism developments subject to PWS's own application and approval processes and which are not subject to the EOI process.

## Audit approach

The audit was conducted in accordance with Australian Standard on Assurance Engagements ASAE 3500 *Performance Engagements* issued by the Australian Auditing and Assurance Standards Board, for the purpose of expressing a reasonable assurance conclusion.

The audit evaluated the following criteria and sub-criteria:

1. Was there an effective governance structure for the whole EOI process?
2. Were EOI projects appropriately assessed by the EOI Assessment Panel?
  - 2.1 Were EOI projects assessed by the EOI Assessment Panel in accordance with the assessment criteria and the guiding principles and established decision-making process?
  - 2.2 Did the EOI assessment criteria and guiding principles align with the Government's objectives?
3. Were EOI projects appropriately assessed by PWS and approved by the relevant authority?
  - 3.1. Were EOI projects assessed by PWS in accordance with applicable assessment and decision-making processes given the level of information available at that time and the level of decision / assessment required?
4. Did effective licence and/or lease negotiation processes exist?
5. Were ongoing monitoring and evaluation processes effective?

The audit assessed whether OCG and PWS handled the EOI process effectively by analysing data, performing audit procedures on selected EOI applications, examining and verifying internal and external reports, reviewing strategic planning processes and documents and discussing the EOI process with relevant staff, members of the assessment panel and proponents.

The audit also assessed whether:

- there was effective coordination of EOI submissions
- governance arrangements ensured a clearly defined separation of duties and personnel between the assessment and approval functions
- there was clarity and consistency in how due consideration was given to other relevant processes and approval requirements in related procurement policy documents (including relevant management plans and guidelines)
- the extent to which advice was provided by Crown Law or the Solicitor-General and whether that advice was followed.

## Responsibilities of management

The responsibility for the effective management of the EOI process rests with the OCG and PWS.

The OCG manages the application and assessment processes and provides an overall secretariat service to proponents and the assessment panel.

PWS are responsible for the management of proposals that have been invited to proceed beyond the application stage.

## Responsibilities of the Auditor-General

In the context of this audit, my responsibility was to express a reasonable assurance conclusion on OCG's and PWS's effective management of the EOI process and whether it achieved the stated policy objectives of Government.

## Independence and quality control

Shortly after the commencement of the audit I became aware that a close family member had submitted an expression of interest for a development involving Reserves and Crown Land. Whilst this does not represent a breach of an independence provision of APES 110 *Code of Ethics for Professional Accountants* issued by the Accounting Professional & Ethical Standards Board Limited, to avoid any perceived threat to independence I removed myself from the conduct of the audit and appointed the Deputy Auditor-General, pursuant to section 33 of the *Audit Act 2008*, to carry out the audit. In addition, the audit was substantially performed by a contracted audit service provider, also appointed under section 33 of the *Audit Act 2008*, who reported to the Deputy Auditor-General.

Section 34 of the *Audit Act 2008* does not allow me to delegate the preparation and signing of a performance audit report, or the submission of it to Parliament. Consequently, I have signed this independent assurance report and submitted this Report to Parliament.

The Deputy Auditor-General has complied with the independence and other relevant ethical requirements relating to assurance engagements and apply Auditing Standard ASQC 1 *Quality Control for Firms that Perform Audits and Reviews of Financial Reports and Other Financial Information, and Other Assurance Engagements* in undertaking this audit.

## Conclusion

It is my conclusion the Tourism Opportunities Expressions of Interest (EOI) process, as measured against the audit criteria, was in all material aspects implemented and administered effectively and in a manner consistent with the Government's policy objectives.



Rod Whitehead  
**Auditor-General**

22 September 2020

# Executive Summary

## Summary of findings

Tasmania has a long history of assessing, approving and managing commercial operations on State owned and controlled land.

The EOI in Tourism Investment Opportunities process (EOI process), launched in 2014, is one of the mechanisms by which Government now seeks to attract investment in tourism in Tasmania. It endeavours to provide a more consistent process for dealing with applications for tourism and community activities on reserve land by building on and refining the approach of the existing PWS Commercial Visitor Services (CVS) licencing system which had previously, at times, been fragmented and inconsistent.

The EOI process was designed to supplement but not replace the existing application and approval systems, which have operated for many years. The EOI process was implemented to cater for proposals that required single occupancy of a site and/or significant built infrastructure. Projects not requiring either of these were to remain the domain of existing PWS lease and licence processes.

Encouraging and assessing developments in national parks and reserves is not an easy environment in which to operate. The need to balance the development of the State's assets for the benefit of all Tasmanians against the, at times, strong public opinion and opposition to certain developments can be challenging.

In undertaking our audit we reviewed the documentation and other evidence in relation to a selection of individual proposals, but this was not for the purpose of forming an opinion as to whether any particular project should have been approved or otherwise. The focus of our audit was on whether the process that had been implemented for the assessment of proposals was comprehensive and adhered to appropriately and consistently.

The EOI process criteria and guiding principles are fundamentally sound. They are well supported by reference to authoritative guidance on ecotourism from international agencies and by comparison to precedents set by other Australian jurisdictions.

The Assessment Panel contained a reasonable mix of skills and experience but lacked independence. After the departure of the sole independent member after Stage 1 of Round 1 it consisted of government agency officers. A broader representation from community stakeholders may have been beneficial in mitigating some of the criticisms levelled at the EOI process. However, we have no evidence to suggest that assessment outcomes would have been different with an alternative composition of the assessment panel.

Administration of EOIs by the OCG was mostly robust but we found room for some improvements to documentation of the process. This included improving communication of the EOI's function relative to the overall assessment process and more explicit documentation of the assessment panel's consideration of how proposals aligned with guiding principles. There was some evolution of the documentation, with some initial deficiencies identified and addressed by OCG as the EOI process matured. OCG did not seek the Solicitor-General's legal advice on individual EOI proposals which may have enhanced

the quality of legal guidance on specific proposals in recommendations made to the Minister.

Proposals recommended by the EOI Assessment Panel are then subject to the pre-existing Reserve Activity Assessment (RAA) conducted by PWS. Allegations of undue secrecy of the EOI process are not supported by our evidence and we found the publication of information on recommended proposals had been sufficiently timely and appropriately handled. Notwithstanding the adequate publication of information, stakeholder consultation undertaken through the Reserve Activity Assessment (RAA) is primarily proponent-driven and unstructured. This increases the risk of positive bias by the proponent (either conscious or otherwise) in reporting on the outcome of consultations.

Our review indicated the RAA was adequately administered and adhered to the assessment steps laid out in RAA documentation. PWS staff were knowledgeable and diligent in relation to relevant issues pertaining to proposals and adequate advice was sought, obtained and considered from qualified experts. However, feedback from some proponents was critical of the length of time taken by the process.

The document management system of PWS needed improving. We found it difficult to substantiate some of the assertions made to us by PWS in regards to monitoring and operation of leases and licences.

The RAA is currently undergoing a review by the Department of Primary Industries, Water and Environment (DPIPWE) and the Government, finalisation of which is on hold pending the outcome of current legal processes relating to an ecotourism proposal. This is an opportunity to address aspects of the RAA which have been challenged by some of the proponents whose submissions have been more complex than the RAA process has traditionally dealt with.

Given a key objective was to attract new investment into tourism for the development of sensitive and appropriate tourism experiences. The number of proposals received can be seen to be a positive indicator (37 in Round 1, 25 in Round 2) of the interest generated in the sector. However, for a variety of reasons, only a small number (11) have progressed through to full commercial operation. The majority of these are relatively minimal investment activities such as walking and boat tours. Those involving significant investment and employment include the Blue Derby Pods Ride, Maydena Adventure Experience and the Freycinet Lodge Extension.

A significant number (18) have been recommended to progress by the Assessment Panel but are still negotiating the PWS RAA process and 10 are yet to be fully assessed by the Assessment Panel. This is an indicator that whilst the EOI process has generated increased interest in relevant projects at the front end, the sometimes lengthy administrative requirements of the PWS have remained in place. In some cases it is indicative of the difficulties reported to us that proponents have in sourcing and presenting adequate information to support proposals.

The number of proposals not recommended or withdrawn by proponents (19) can also be interpreted in a number of ways. On the positive side, an effective screening/assessment process would weed out unsuitable or unviable projects at an early stage, thereby protecting our natural and cultural heritage. In some cases, however, it may be proponents

simply gave up on a decent idea because of the time and effort required to negotiate the system to obtain a licence to operate.

Another objective of the EOI process was to create economic benefit through employment opportunities. Records provided by OCG indicate 53 new jobs have been directly created by EOI proposals now operating. They have also indicated there are further jobs that will potentially arise from proposals still being assessed, however these are yet to be realised. In addition, there would be further indirect employment and economic activity generated by the new business operations. On balance, it is our assessment the EOI process has been successful in contributing to the objectives of economic growth that were the purpose of its instigation by the Government, albeit to a relatively minor extent at this point.

There are a number of recommendations to improve both the EOI and RAA processes within this Report. These would facilitate a more robust approach to both processes.

I would like to thank staff from both the OCG and DPIPWE for their assistance in the completion of this audit.

## Recommendations

We make the following ten recommendations which we believe will improve the effectiveness of the EOI and RAA processes to achieve development of sensitive and appropriate tourism experiences and associated infrastructure in Tasmania's national parks, reserves and Crown Land:

1. Explore and implement options, for improving the format and structure of stakeholder consultation so that it is more robust and objective. This should include PWS input into stakeholders selected for consultation and appropriately defining and communicating how the EOI process and the CVS system interface, including removing any references to *"EOI Round 2"*.
2. Increase the rigour of the public consultation as part of the RAA process to improve the level of transparency or objectivity.
3. Make stronger guidance available to potential proponents which more clearly outlines the process beyond the EOI stage once ministerial approval has been given. This information should include general information such as likely costs, timeframe and potential hurdles needing to be negotiated before the project can commence.
4. Modify the Assessment Panel Evaluation Report to include documentation of the Panel's considerations to clearly indicate how the assessment panel view the proposal's alignment with each of the seven guiding principles.
5. Review the composition of the EOI Assessment Panel, specifically to obtain broader representation of community stakeholders, including those representing conservation and Tasmanian Aboriginal interests.
6. Seek advice from the Solicitor-General, as part of the EOI assessment process, to enhance legal understanding, help mitigate potential risks and provide valuable insight for subsequent recommendations made to the Minister.
7. Exclude the contractor appointed to provide the Probity Advisor role from providing any external advice to the EOI process to remove any perceived or actual conflicts

of interest.

8. Include a question on the EOI application form as to whether the proposal has been previously put forward and reasons for it not progressing at that time. Where a proposal has previously been considered and rejected by PWS, prior to being put forward in the EOI process, consideration should be given to not progressing the proposal past the initial assessment if circumstances have not changed.
9. PWS better document RAA post-approval reviews and ongoing monitoring of leases and/or licences.
10. OCG take the opportunity to learn from successful projects by reviewing those currently operating to assess the extent to which proponents have achieved their objectives and how the operating project aligns with the original guiding principles of the EOI.

## Submissions and comments received

In accordance with section 30(2) of the *Audit Act 2008* (Audit Act), a summary of findings and recommendations was provided to the Treasurer, and other entities who, in my opinion, had a special interest in the report, with a request for submissions or comments.

Submissions and comments that we receive are not subject to the audit nor the evidentiary standards required in reaching an audit conclusion. Responsibility for the accuracy, fairness and balance of these comments rests solely with those who provided the response. However, views expressed by the responders were considered in reaching review conclusions.

Section 30(3) of the Act requires that this Report include any submissions or comments made under section 30(2) or a fair summary of them. Submissions received are included below.

### Department of Primary Industries, Parks, Water & Environment

DPIPWE notes the overarching conclusion that the EOI process, as measured against the audit criteria, was in all material aspects implemented and administered effectively and in a manner consistent with the Government's policy objectives. Further, the Summary Report finds the EOI process criteria and guiding principles are fundamentally sound, and that they are well supported by reference to authoritative guidance on ecotourism from international agencies and by comparison to precedents set by other Australian jurisdictions.

DPIPWE notes the allegations of undue secrecy of the EOI process were not supported by evidence, and that the Tasmanian Audit Office found the publication of information on recommended proposals had been sufficiently timely and appropriately handled. The findings that PWS staff were knowledgeable and diligent in relation to relevant issues pertaining to proposals and adequate advice was sought, obtained and considered from qualified experts are reassuring.

With regard to specific recommendations, DPIPWE acknowledges areas for continuous improvement and notes that the EOI Assessment Panel will be requested to review all the recommendations in detail and to provide advice to Government accordingly. In the

meantime, we offer the following response to several recommendations particularly relevant to DPIPWE.

- (1) Explore and implement options, for improving the format and structure of stakeholder consultation so that it is more robust and objective. This should include appropriately defining and communicating how the EOI process and the CVS system interface, including removing any references to “EOI Round 2.”

We agree that every aspect of the EOI process should be robust and objective and to that end, DPIPWE through PWS has undertaken to work closely with the OCG to review a range of guiding advice and documents to ensure a more robust and thorough approach to areas like stakeholder consultation.

- (2) Increase the rigour of the public consultation as part of the RAA process to improve the level of transparency or objectivity.

- We acknowledge the importance of public consultation throughout the EOI process and specifically as a critical part of the RAA process. DPIPWE through PWS is currently trialling a new process whereby public consultation on significant RAA projects occurs via the PWS website. Proposals identified at level 3 and 4 are now available for public comment for a minimum of 28 days. At the end of the comments period, PWS reviews comments and prepares an Environmental Assessment Report which describes how PWS will address issues raised. This report is then posted on the PWS website.

- (5) Review the composition of the EOI Assessment Panel, specifically to obtain broader representation of community stakeholders, including those representing conservation and Tasmanian Aboriginal interests.

- We recognise the important role members of the EOI Assessment Panel have in representing the views of community stakeholders and undertake to support the OCG to review this recommendation.
- It is important to note that there has always been an independent member on the Panel. In round one there were two independent members and in round two there was one independent member – the Chair of the National Parks and Wildlife Advisory Council (NPWAC), Malcolm Wells. NPWAC is a statutory body with expertise including ecology, conservation, land and water science, cultural heritage, recreation, social science, marketing, tourism, philanthropy, presentation and interpretation, reserve and business management. It presently has two Aboriginal representatives.
- Applications through the RAA process will continue to be referred to Aboriginal Heritage Tasmania and the Aboriginal Heritage Council for assessment with respect to potential impacts on Aboriginal heritage, including cultural landscapes, and for direction on appropriate consultation with the Tasmanian Aboriginal people.

- (9) PWS better document RAA post-approval reviews and ongoing monitoring of leases and/or licences.

- We acknowledge the importance of the RAA process as the key Environmental Impact Assessment system that PWS uses to assess whether activities proposed on PWS-managed land are environmentally, socially and economically acceptable. The

PWS has already commenced a process to review and monitor compliance actions with respect to each EOI/lease/licence condition to ensure all activities meet the requirements of legislation, plans and policies as spelled out in the RAA.

I close by thanking you for the professional manner in which the audit was conducted. We will continue to work with your Office to ensure shared awareness of progress against the recommendations.

**Deidre Wilson**

**Acting Secretary**

## Office of the Coordinator-General

We note the objective of this audit was to assess the effectiveness of the EOI process for the development of sensitive and appropriate tourism experiences and associated infrastructure in Tasmania's national parks, reserves and Crown Land.

The OCG takes comfort in your finding that the process and guiding principles are fundamentally sound and well supported by reference to authoritative guidance on eco-tourism. We note your finding that administration of the EOI process was found to be mostly robust, and on balance has been successful in contributing to the objectives of economic growth.

We were pleased that the audit found that 'allegations of undue secrecy of the EOI process are not supported by evidence, and the publication of information on recommended proposals has been sufficiently timely and appropriately handled'.

We acknowledge areas for continuous improvement as highlighted in your summary report which includes improving communication with proponents and reviewing a range of guiding advice and process documentation. We are reassured that several of the areas for continuous improvement that were included in your findings had already been recognised and acted upon prior to your report.

We thank you for your recommendations and, along with PWS, and the Assessment Panel will conduct a detailed review and provide subsequent advice to relevant Ministers.

We do wish to respond to comments made as part of several recommendations as follows to help increase the understanding of the OCG's role in relation to the EOI process:

### **Recommendation 4:** Assessment Panel evaluation reporting

A structured approach is taken by the Assessment Panel to evaluate each proposal against the three stated Assessment Criteria, which are informed by the program's seven Guiding Principles.

The format of the Assessment Panel Evaluation Report will continue to be refined to effectively document how the Assessment Panel has viewed each individual proposal.

### **Recommendation 6:** Advice from the Solicitor-General

As noted in our response to the earlier 'Consultation Draft' of the audit that we were provided with, the OCG sought advice from the Solicitor-General early in the EOI process where a need to understand a number of factors pertaining to the various legislation was identified. This included issues relating to the National Parks and Reserves Management Act (2002), the National Parks and Reserved Land regulations (2009), and the National Parks and Wildlife Act (1970).

Given that the relevant authority to whom legal matters pertained was the Minister responsible for Environment and Parks and by extension, PWS, it was also agreed by the OCG and PWS early on in the EOI process that all subsequent legal advice was best handled and managed by PWS. Every proposal considered by the Assessment Panel included advice from PWS and where necessary, Crown Land Services, relating to the application of relevant

legislation. Furthermore as captured in the 'Consultation Draft', the audit found that there was substantial consultation with Crown Law during any resulting negotiation of leases and/or licences.

If a new or novel legal issue arises, advice will be sought from the Solicitor-General's Office however in the vast majority of cases, Crown Law will be the appropriate area within the Department of Justice for obtaining advice regarding a project.

#### **Recommendation 7: Role of Probity Advisor**

We note the importance of addressing perceived or actual conflicts of interest prior to undertaking EOI related activities. We take reassurance in the robust systems that professional services firms that undertake these roles have in place to identify and manage the range of complex engagement arrangements, including in particular, consideration and management of potential conflicts of interest. Our probity services provider has confirmed a 'global conflict check' system is in place and that internal firewalls prevent conflicts from arising.

Further to this we note that all procurement activities are overseen by the Department of State Growth's Corporate Services Unit and are consistent with procurement and risk management guidelines.

#### **In Conclusion**

We would endorse and repeat your conclusion from the Consultation Draft in relation to evaluation against the specific audit criteria and sub-criteria. Which is that:

- The EOI process was implemented and administered effectively and in a manner consistent with the Government's policy objectives.
- The EOI assessment criteria were appropriate and comprehensive, and consistently applied.
- There has been a reasonable balance between commercial sensitivities and protecting the public interest with adequate and timely disclosure of information.
- Leases and/or licences entered into with successful EOI proponents were effectively negotiated, and conditions within the contracts were consistent with the issues identified through the process.
- Whilst there are some recommendations in regard to potential improvements that could be made to the EOI process, overall administration of the EOI was robust with good adherence to processes by both OCG and PWS staff.

I thank you for the opportunity to provide a response to the brief audit summary and recommendations. We will continue to work with your office as required to ensure shared awareness of progress against the recommendations relevant to the OCG.

**John Perry**

**Coordinator-General**

# Introduction

## Background

- 1.1 For many years now governments have grappled with the need to delicately balance the protection of the natural environment with stimulating economic growth and facilitating access to parks and reserved lands.
- 1.2 As at the beginning of 2014, there were 222 tourism operators operating within Tasmania's parks/reserves/World Heritage Areas and Wellington Park. These operators included those who provided tours and experiences such as:
  - Franklin River rafting
  - Cradle Mountain Walks
  - aircraft trips into the Southwest National Park
  - scenic flights
  - Freycinet Lodge
  - Macquarie Island cruise ship operators
  - guided walks into many parks
  - boardwalks/interpretive walks along the Gordon River and at Sarah Island
  - ferry operations to Maria Island
  - sea kayaking
  - wildlife tours at Freycinet, and bus transport tours.
- 1.3 Approved tourism operators, prior to the EOI process, secured leases and/or licences by applying in writing to the PWS under the long-standing CVS/RAA process or by participating in an open tender process. The vast majority of these operators undertake their businesses under a Standard CVS licence (recently renamed Nature Based Tourism (NBT) licence), which is a set format licence for tourism operators undertaking activities the public would ordinarily be able to do in parks/reserves.

## Government policy

- 1.4 During the 2014 election campaign, on 18 February 2014, the Tasmanian Liberal Party announced a new policy approach to encourage projects in Tasmania's national parks and World Heritage areas. This was articulated in the Liberal Party document "*Unlocking the potential in our Parks*" which stated:

*The Liberals will encourage development in our National Parks by calling for expressions of interest from private investors and tourism operators to propose their ideas for developing sensible, low-impact eco-tourism experiences and associated infrastructure which will broaden the range of exciting and unique experiences on offer in our beautiful parks.*

- 1.5 The EOI process, which was implemented in 2014, is an internal administrative mechanism developed by Government to facilitate implementation of its policy encouraging development in national parks. It seeks to identify potential projects and to guide proponents through other relevant approval processes. The EOI process is intended to provide flexibility, subject to legislative and probity requirements, for the responsible Ministers to negotiate with applicants to achieve suitable outcomes. This may include assisting applicants to find a suitable alternative site, merging independent EOI submissions or identifying opportunities for applicants to work together where mutually compatible developments are proposed for a site.
- 1.6 The intended objectives of the EOI process include:
- signalling the willingness of the Tasmanian Government to attract investment from tourism proponents from Tasmania, nationally and internationally
  - the identification of a wide variety of sensitive and appropriate environmental tourism experiences and associated infrastructure projects that will broaden the range of experiences on offer in Tasmania's natural areas;
  - facilitating proactive engagement with tourism proponents;
  - unlocking the potential for some proposals to be catalysts for economic renewal of regional communities;
  - minimal initial cost outlays for tourism proponents during initial stages of the EOI process;
  - protection of intellectual property associated with potential tourism projects;
  - timely indication of government support or interest;
  - enabling the Tasmanian Government to ask for further information before making a final decision on whether to enter into contractual negotiations or licence or lease arrangements; and
  - providing the Tasmanian Government, the opportunity to negotiate with tourism proponents before entering into licence or lease arrangements.
- 1.7 There has been some adverse public opinion of the EOI process reported. In some quarters public opinion has been fuelled by insufficient information being available at appropriate times. As a result, public criticism has focused on:
- the lack of clarification from the Tasmanian Government on what it sees as 'appropriate and sensitive' development in reserves
  - the potential environmental and access impact on reserve areas, including a willingness to amend existing reserve management plans
  - the transparency of the decision making process and scope for public consultation.
- 1.8 Despite some adverse public opinion the '*Unlocking the Potential in our Parks*' policy, as facilitated by the EOI process, was expected to play a key role in delivering the Liberal Government's vision to grow the tourism industry to 1.5 million visitors per year by 2020, with the creation of up to 8 000 new jobs.

## Assessment criteria and guidelines

- 1.9 The EOI Assessment Panel considered the EOI proposals against the high-level guiding principles shown in Table 1.

Table 1: EOI principles

<b>Principle 1</b>	Proposed Developments should be compatible with and sensitive to the cultural and natural values, character and setting of the reserve and should aim to enhance broader visitor enjoyment of the State's reserve estate.
<b>Principle 2</b>	Proposed Developments should offer unique, innovative and enhanced visitor experiences and provide a net public benefit.
<b>Principle 3</b>	Proposed Developments offering environmental tourism experiences that involve or benefit local communities (including the Aboriginal community) should be encouraged.
<b>Principle 4</b>	Proposed Developments should be established and managed in an ecologically sustainable manner and should be designed to minimize the footprint on the site.
<b>Principle 5</b>	Proposed Developments should be compatible with the statutory management objectives and purpose of the reserves in the relevant legislation (however, a Participant is not excluded from lodging an EOI Submission for a Proposed Development that may not be fully compatible with the current statutory and regulatory framework, for consideration and assessment by the Minister).
<b>Principle 6</b>	Proposed Developments should take account of associated risks relating to natural events for the proposed settings, for example, bushfires or flooding.
<b>Principle 7</b>	Proponents can demonstrate the qualifications and financial capability to establish and operate the proposed development in a commercially viable manner.

Source: OCG – Expressions of Interest – Round 2 Application Form

- 1.10 From these guiding principles, the assessment was distilled into three primary criteria as shown in Table 2.

Table 2: EOI assessment primary criteria

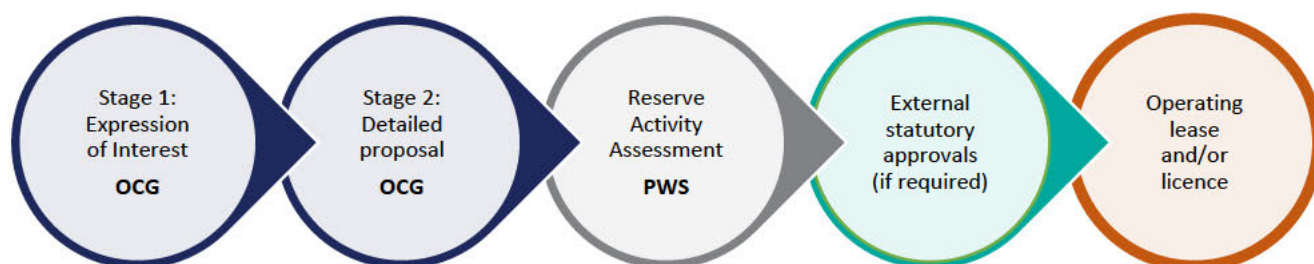
<b>Criterion 1</b>	The appropriateness of the proposed development to a particular site.
<b>Criterion 2</b>	The qualifications of the participant to establish and operate the proposed development.
<b>Criterion 3</b>	The commercial and financial viability of the proposed development.

Source: OCG – Expressions of Interest – Round 2 Application Form

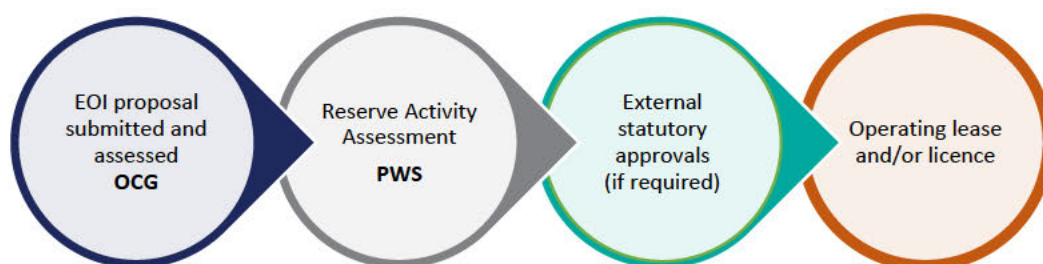
## Outline of the EOI process

1.11 At a very high level, the general flow of EOI proposals for both Round 1 and 2 is illustrated in Figure 1 and further expanded upon in the following sections.

Figure 1: Round 1 EOI Process (commenced June 2014, with submissions closed November 2014)



Round 2 EOI Process (commenced November 2016, with no end date)



Source: Tasmanian Audit Office

## EOI Round 1

1.12 Following the March 2014 election resulting in a Liberal Tasmanian Government, the first round of the EOI process for ecotourism developments in Tasmanian national parks, reserves and Crown Land was opened on 21 June 2014. The first round called for proposals that focused on the Tasmanian Wilderness and World Heritage Area (TWWHA), National Parks and Reserves around the State managed under the *National Parks and Reserves Management Act 2002*.

1.13 Round 1 of the EOI process was conducted in two stages. Stage 1 invited proposed developments to be submitted for an initial assessment, with submissions closing on 21 November 2014. Stage 1 was focused on capturing project concepts so as to ensure ideas were not excluded early in the process by a requirement for significant investment in the development of consultant reports and a detailed project specification. This approach was aimed at maximising the number of entrepreneurial

concepts to be put forward. Stage 2 involved assessing proposed developments in more detail by calling for a “*Request for Detailed Proposal*”.

- 1.14 Stage 1 of Round 1 saw a total of 37 proposals being received for assessment. Proposals ranged from low-impact guided walks and tours to the construction of high-end eco-tourism accommodation.
- 1.15 The EOI Assessment Panel completed its Stage 1 assessment in January 2015 and the Minister for Environment, Parks and Heritage invited 25 participants recommended by the Panel to proceed to Stage 2, which was managed by the OCG.
- 1.16 EOI participants who were approved to proceed to Stage 2 were asked to submit a more detailed proposal for further consideration. Developments that progressed to Stage 2 were assessed by the EOI Assessment Panel who made recommendations to the Minister on which proposals should be invited through to lease and licence negotiations. Once recommendations were made, successful proposals were referred for assessment to PWS which used the existing RAA approval processes for developments on reserve land.

## EOI Round 2 (and ongoing)

- 1.17 Round 2 of the EOI process commenced on 17 December 2016. There is no end date for this EOI round. For the period covered by this Report 25 new proposals were put forward. This number may increase over time as Round 2 remains open as a continuous process so that ideas can be proposed as opportunities arise.
- 1.18 Changes made to the EOI process between Rounds 1 and 2 included Removal of the Stage 1 brief EOI submission. Instead, a more comprehensive application form and guidance was provided to enable proponents to submit a more complete proposal, with greater engagement with OCG staff at the preliminary stage. Round 2 also widened the range of reserve land for which proposals could be put to include Crown land, State forests and land adjacent to the TWWHA and national parks.
- 1.19 Since the finalisation of Stage 1, Round 1 the OCG has been responsible for managing the EOI process and coordinating relevant internal and external advice in preparation for assessment by the EOI Assessment Panel. The assessment criteria and general process remained the same as for Round 1 Stage 2.

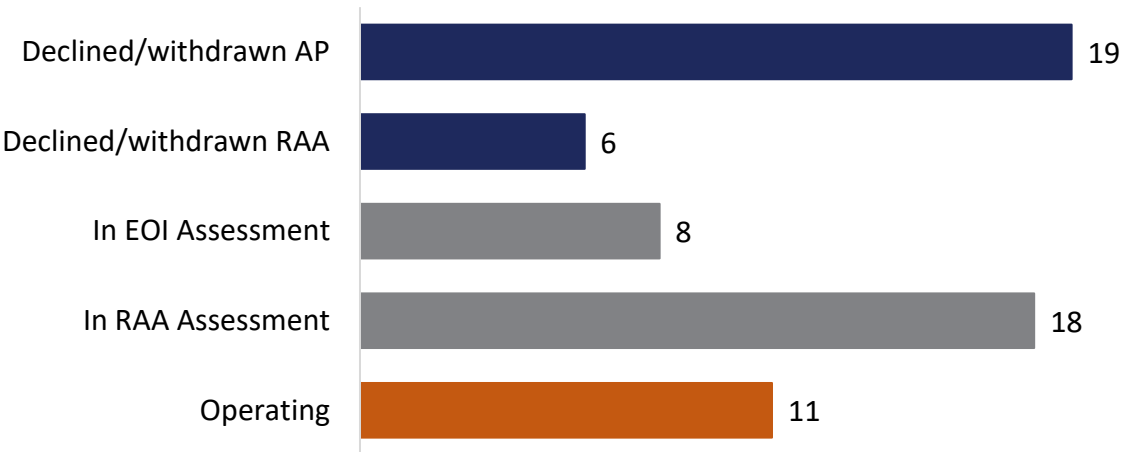
## Analysis of proposals received

- 1.20 Round 1 generated 37 applications of which 13 were excluded at Stage 1 examination and a further six after Stage 2 assessment. This left 18 projects of which eight are up and running and 10 are at varying stages of negotiation.
- 1.21 Round 2 resulted in 25 applications of which six were excluded at first examination. Of the remaining 19 projects, three are operating, eight are in various stages of negotiations with PWS and eight are in various stages of the assessment process.
- 1.22 Figure 2 shows the 37 remaining projects (18 from Round 1 and 19 from Round 2). 11 are now operating, 18 are negotiating to do so and eight are still awaiting assessment procedures to be completed or commence. Of the 62 applications received 46 were

from different applicants and 16 applications were made by five applicants (three with four projects and two with two projects).

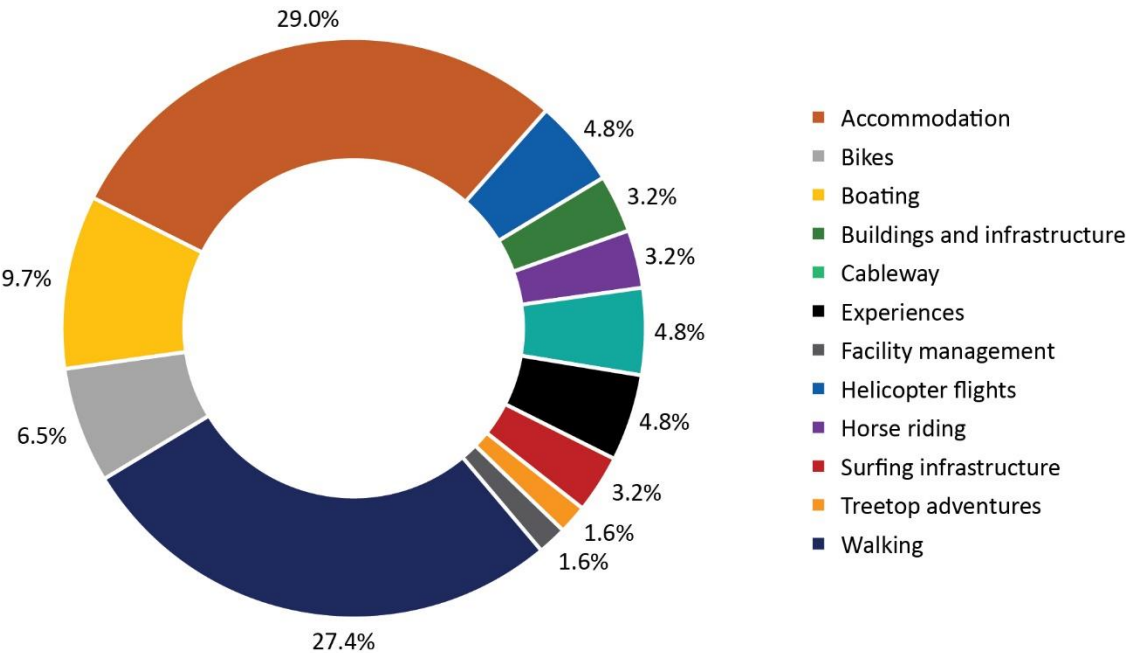
1.23 Four applicants were common to both rounds. The four common applicants submitted eight projects between them of which one project was submitted in both rounds.

Figure 2. EOI Proposals by Stage of Progress



Source: Tasmanian Audit Office

Figure 3. EOI Proposals by Activity Type



Source: Tasmanian Audit Office

1.24 Figure 3 shows the most popular areas were projects based around walking activities and associated infrastructure and accommodation proposals. These two areas made up 60% of applications in Round 1 and 52% in Round 2.

1.25 Accommodation and walking related projects made up 72% of the 25 projects declined.

## EOI Impact on tourism activities

- 1.26 The period during which the EOI has been running saw a substantial increase in the number of leases and licences issued for operations on reserved land. In the five years after the EOI process was implemented there were 211 new leases and licences issued which is an approximate 23% increase on the five years prior (172 issued).
- 1.27 A large majority of activities operate under a CVS standard licence, indicating that the particular activity is relatively straightforward and has not been required to negotiate specific terms and conditions, examples of which include guided tours and day walks, transport and other low impact activities, or those which are located in less sensitive locations. These types of activities were not necessarily the type of major attractions that were envisaged as being the target for the EOI and the majority of new CVS licences did not go through the EOI.
- 1.28 Negotiated leases and licences typically relate to more extensive commercial activities, with leases providing access to land for visitor accommodation, catering and other built infrastructure, whilst licences cover activities such as boat and helicopter tours. There were 10 negotiated leases and/or licences issued to EOI proponents, offset by the expiry or termination of some existing activities to arrive at an overall increase of seven.
- 1.29 It should also be noted that while an active licence confers the right to operate the licenced activity, it does not necessarily indicate the activity is currently operating on a continual or regular basis, or at all. Of the 14 leases/licences granted to EOI proponents, only nine are operating commercially while four are effectively dormant and one has been terminated.
- 1.30 There appears to have been a substantial increase in activities in the five years since the EOI commenced but it is difficult to determine to what extent the EOI influenced this. It is likely that the messaging around the EOI has contributed to this increase, both in the negotiated leases/licences and also in prompting more applications that did not go through the EOI but resulted in a CVS standard licence. However, the EOI was undoubtedly not the only factor occurring over that period and there would have been some of the activities that would have been put forward regardless of the existence of the EOI.

# Was there an effective governance structure for the whole EOI process?

In this Chapter, we discuss:

- support and facilitation for implementation of the Government's policy intent
- separation of duties and personnel between the assessment and approval functions
- co-ordination of EOI submissions throughout the EOI process
- managing probity and conflicts of interest.

## Chapter summary

In understanding the relevant governance model, it is important to understand the nature of the EOI process. The EOI does not constitute an approval process in its own right. Its purpose is to generate ideas for new tourism opportunities utilising Tasmania's reserves and national parks, assess their appropriateness and if worthy of further consideration, put them forward for formal assessment and approval under the pre-existing regulatory mechanisms. A recommendation from the EOI Assessment Panel is not a green light for the proposal to proceed but merely an endorsement to proceed to the next stage. It is essentially a new gateway for receiving proposals which compliments and runs in conjunction with the existing RAA process.

One of the challenges of assessing the EOI's governance has been the changes in departments responsible for the stewardship of the program. In particular, the establishment of the OCG and the appointment of the Coordinator-General occurred subsequent to the establishment of the EOI process. The initial setting-up of the EOI process and receipt of submissions were handled by PWS staff. Responsibility for the secretariat role for the EOI process and Assessment Panel was subsequently assumed by the OCG. This included receiving and interacting with proponents, maintenance of EOI application documentation and dissemination of public information via the Tourism EOI webpage<sup>1</sup>.

The governance structure was documented in a Project Plan prepared by DPIPW in May 2014 and refined in a subsequent project plan for Round 2 under OCG's remit in December 2016. That structure is reproduced in Figure 4.

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<sup>1</sup> [https://www.cg.tas.gov.au/home/investment\\_attraction/expressions\\_of\\_interest\\_in\\_tourism/eoi\\_tourism\\_projects](https://www.cg.tas.gov.au/home/investment_attraction/expressions_of_interest_in_tourism/eoi_tourism_projects)

Figure 4: EOI Governance Structure



Source: OCG – Project Plan Round 2 EOI (2016)

A more detailed description of the EOI process and the roles of the respective parties is outlined in Table 3 later in this Report.

The EOI Assessment Panel is the core of the governance model but it was not clear what selection process was used for panel members. In our opinion, once assessment panels had been established, panel members represented a narrow aspect of the community being predominantly drawn from Government agencies. While the individual members possessed a reasonable range of skills and experience relevant to the EOI, there would have been valuable perspectives provided by including a broader representation from other stakeholder groups in the tourism industry, conservation interests and the aboriginal community in particular. While the representative from the National Parks and Wildlife Advisory Council would provide independent advice relating to the management of Tasmania's parks and reserves and to review management plans, representation on the panel remained narrow.

This perspective was further narrowed by the departure of the sole independent member after Stage 1 of Round 1 who was not replaced.

As with any process involving public assets, the appointment of a probity advisor is an important tool in ensuring the adequacy and fairness of processes. However, the possibility of a conflict of interest for the probity advisor firm was not adequately addressed when the same firm also provided the majority of external review reports which formed a part of the material supporting the Assessment Panel's decisions.

Overall, the structure and implementation of the process supported the Minister's authority as the ultimate decision-maker in the process and communications between the respective parties was consistent with their roles and responsibilities in the process.

## Appointment of Assessment Panel members had a narrow focus

- 2.1 A key component of the overall governance of the EOI was the establishment of an Assessment Panel. We have not been provided with any information regarding the selection process for the appointment of the Assessment Panel members, other than that the appointments were made by the then-Minister for Heritage, Parks and Environment, and so are unable to comment on its efficacy. Initial planning documents indicate that the members of the panel were to include representatives of relevant State agencies, local Government and the tourism industry, however this was not fully reflected in the then-Minister's final appointments.
- 2.2 The initial Assessment Panel members were invited by a letter from the Minister for State Growth in November 2014. The assessment panel members and their respective skills comprised:
  - John Perry, Coordinator-General (legal, commercial, investment, logistics)
  - John Whittington, Secretary for Department of Primary Industries, Parks, Water and the Environment (resource management, science)
  - John Fitzgerald, CEO Tourism Tasmania (tourism marketing)
  - Malcolm Wells, Chair National Parks and Wildlife Advisory Council (tourism consulting, education)
  - Rohan Boman, Independent member (investment banking commercial development)
- 2.3 The members of the Assessment Panel were publicly announced in a media release on 25 November 2014 by the Minister for Environment, Parks and Heritage.
- 2.4 The first meetings of the Assessment Panel were held in January 2015. The assessment panel were not involved in formulation of the EOI process and assessment criteria, given that the EOI opened for submissions in June 2014, prior to the panel's appointment. However, it should be noted that the EOI Evaluation and Probity Plan was endorsed by Assessment Panel members via email. Further, both Mr Whittington and Mr Fitzgerald were both members of the Government-appointed steering committee which preceded the Assessment Panel.
- 2.5 While no definitive information is available the decision around the selection of the assessment panel members was largely driven by the statutory responsibilities attached to the roles held and not necessarily related to the experience and qualifications of the individuals. A possible area of weakness (particularly in light of the financial viability as the third criteria), was in specialist financial knowledge, with no expert in accounting or economics on the panel. This was compensated for to a large degree by the engagement of external expertise used for reviews of proposals, which were provided by an accounting firm.
- 2.6 Another valuable perspective may have been from an environmental conservation representative, which would have also given conservation stakeholders an opportunity to be involved in the process. Similarly, many areas of reserved land have

significant cultural values to the Tasmanian Aboriginal community and their views should also be considered. Providing these interests with some ownership of the outcomes might signal the importance of the need for a “social licence” for recommended proposals and an early warning on proposals that would likely create significant community resistance.

- 2.7 The governance structure outlined in the EOI project plan and reproduced above indicates the formation of a Communications and Engagement Group, consisting of representatives from tourism industry groups and relevant agencies. Its terms of reference included providing advice on stakeholder management, communications and marketing. As far as we can ascertain this group was never convened and this limited engagement and communication with key stakeholders on the EOI process.
- 2.8 The independent panel member stepped down from the panel at the conclusion of Round 1 and was not replaced. No explanation was given to us as to why it was not considered appropriate to seek a new independent member for Round 2. The presence of an independent member on the panel was an opportunity to provide some balance between the separation of the administrative functions of OCG and PWS in handling proposals and dealing with proponents, and the assessment function of the heads of those agencies in their role as members of the Assessment Panel.

## **Probity advisor potential conflict of interest was not adequately addressed**

- 2.9 The importance of probity was acknowledged as indicated by the publication of Probity Guidelines as part of the EOI application documentation. To ensure it was observed a probity advisor was appointed. A representative of the contractor appointed was present at all meetings of the assessment panel as well as being involved with discussions with OCG and Parks staff throughout the assessment process. The probity advisor also provided a report at the completion of assessment of each proposal with an opinion as to whether the appropriate process had been adhered to.
- 2.10 The appointed probity advisor was independent, with substantial experience in the role. The engagement of the probity advisor was made from a pre-approved supplier on the Tasmanian Government Probity Advisor Directory in accordance with the Treasurer’s Instruction PP2: *Procurement Process – Market Approaches*.
- 2.11 A key element of any probity relationship is the advisor’s independence from the entity or process that is the subject of the probity audit, and this includes both avoidance of actual as well as any perceived potential conflicts of interest. Measures to protect the independence of the probity advisor would include precluding the contractor from providing any other form of service in relation to the process, which would raise the possibility of self-review or self-interest threats to independence.
- 2.12 Most of the external review reports commissioned in relation to EOI proposals in both Round 1 and Round 2 were prepared by a team from the same contractor that acted as probity advisor for both rounds. In the absence of strong safeguards this could give rise to a perceived, if not an actual, conflict of interest for the probity advisor. There is

little evidence the OCG sought confirmation of safeguards in place from the advisor involved until mid-2018 and even then did not appear to consider with any rigour how any actual or perceived conflicts of interest would be managed by the contractor.

## **Ministerial authority was respected and appropriate communication channels used**

- 2.13 Throughout the EOI documentation, it was clear the Assessment Panel respected the authority of the Minister for State Growth to make the final decision in relation to proposals recommended to proceed to further assessment through the RAA process. In particular, it was explicit the Assessment Panel did not “approve” any proposals but merely made recommendations to the Minister based on their assessment, providing an appropriate separation between the assessment and approval functions.
- 2.14 Recommendations were made in the form of a minute and briefing to the Minister. Minutes and recommendations were generally clear and comprehensive, and accurately reflected the deliberations of the Assessment Panel, providing a reasonable basis for the Minister’s decision. We did not find any evidence of instances where the Minister decided other than in accordance with the recommendation of the Assessment Panel.
- 2.15 The Minister for State Growth’s approval was communicated to proponents in a letter from the Minister inviting the proponent to enter into negotiations for a lease and or licence. Concurrently, the Minister for State Growth also communicated to the Minister for Environment, Parks and Heritage, who then instructed the Secretary of DPIPWE to commence negotiations with the proponent.

# Were EOI projects appropriately assessed by the EOI Assessment Panel?

In this Chapter, we discuss:

- basis for determining assessment criteria and guidelines
- reference to standards/precedents on environmental and cultural values
- use of external advisors/experts
- evidence of assessment against criteria and guiding principles.

## Chapter summary

A rigorous, structured and consistent assessment approach was used throughout the assessment process by the Assessment Panel. Clear written process steps were devised and implemented, and our review indicates the process was followed in the assessment of each of the proposals we examined.

The assessment criteria and guiding principles were grounded in precedents from other jurisdictions, adapted to the Tasmanian environment and the Government's policy objectives. This was notwithstanding that one of the Government's key metrics for economic development, being job creation, was not explicitly considered by the Assessment Panel in their review of proposals.

A substantial level of information was sought from proponents, supplemented by external advice on specific aspects including compatibility with existing management plans, environmental and natural values impact, financial viability and aboriginal heritage. Advice from the Solicitor-General was not sought as part of the EOI assessments. This would have provided guidance on legal aspects of specific proposals helpful in informing the process, streamlining later consultations in the negotiation process and mitigating potential risks to the Crown. The quality of proponent's responses to the information requests varied significantly, although there was a noticeable improvement in the quality of proposals through Round 2, reflective of a maturation of the EOI process and increased engagement by OCG staff.

Assessment Panel decisions were documented in a consistent manner including the panel's consideration of the external advice received. However, the assessment reports for Round 1 proposals did not always explicitly comment on how the score for the proposal had been arrived at, nor was the structure of the report conducive to showing how the Assessment Panel viewed the proposal's alignment with each of the guiding principles. The underlying rationale for the criteria scoring was made more explicit with a change to the assessment report format for Round 2, although the guiding principles were not as directly dealt with.

Similarly, the Assessment Panel's recommendation to the Minister for State Growth was generally comprehensive and included pertinent matters for the Minister to take account of in formulating a decision on progression of the proposal. Once approved by the Minister to progress to further stages of assessment, the proposal was included on a list maintained on the EOI website, which was the point at which proposals became public. Overall, there was

a reasonable balance between protection of commercial confidence and public interest, contrary to some assertions that the EOI was secretive and lacked transparency.

In speaking with some proponents and on review of EOI material during the audit, it was evident communications regarding the EOI were not sufficiently clear about the nature of the EOI as being a gateway into the pre-existing assessment process for developments comprising the RAA and other State, local and Australian government approvals. With the EOI being an ongoing and open-ended part of the tourism development process, it has effectively become part of “business as usual”. Terminology such as “Stage 2” is probably redundant and could be changed along with other communication materials to reflect the ongoing nature of the EOI.

## Assessment criteria and guiding principles were appropriate

- 3.1 The EOI process was initially developed by PWS staff with assistance from Crown Law in early 2014 and the EOI process opened for submissions in June 2014. The guiding principles and assessment criteria adopted are detailed previously in the Report.
- 3.2 A steering committee was convened comprising the heads of agency of DPIPWE, State Growth, Tourism Tasmania and the CEO of the Tourism Industry Council. The steering committee only met once, in May 2014, for the purpose of considering and approving documentation underpinning the formulation of the EOI. The documentation included a project plan, draft application form and guidelines for proponents, communications plan and background paper on the formulation of EOI assessment criteria.
- 3.3 Similar programs to the EOI process have been implemented in other jurisdictions, both within Australia and internationally, which were used to compare the criteria and principles adopted in the Tasmanian EOI process. The principles were correlated with other jurisdictions but were adapted to the Tasmanian environment.
- 3.4 In Victoria<sup>2</sup>, there is a close correlation with Tasmania’s principles one to five but they also include principles concerning public access and impact on other users. New South Wales<sup>3</sup> assessment criteria appear to be somewhat narrower, focusing primarily on the equivalent to Tasmania’s principles one and four but put greater emphasis on the appropriateness of built form and scale of structures.
- 3.5 Queensland’s<sup>4</sup> EOI process most closely resembles that implemented in Tasmania and its guiding principles are more closely aligned with Tasmania’s principles one to four

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<sup>2</sup> Victorian Department of Environment, Land, Water and Planning: Tourism Leases in National Parks: Guidance Note

<sup>3</sup> NSW Department of Environment, Climate Change and Water: Sustainability assessment criteria for visitor use and tourism in New South Wales national parks

<sup>4</sup> Queensland Department of National Parks, Recreation, Sport and Racing: Ecotourism Investment Opportunities Implementation Framework

and seven of those in Table 1. The Queensland system also contains separate assessment criteria in addition to the guiding principles and these broadly mirror the Tasmanian EOI's three criteria shown in Table 2. An additional aspect of the Queensland principles is consideration of a proposal's alignment with the tourism destination focus and brand, which indicates a more broadly co-ordinated approach to development.

- 3.6 The main principles that differentiate the Tasmanian approach from similar processes in interstate jurisdictions are principles five and six. In terms of Principle five, Tasmania appears to be unique in allowing applications that may not be fully compatible with the existing management plans, indicating there is scope to review or amend plans to enable developments that may not otherwise have been permitted. This more flexible approach undoubtedly contributed to some of the criticisms surrounding the EOI process, however it was a policy decision of the Tasmanian Government, which has been duly implemented through the inclusion of this provision in the EOI guiding principles. We understand the intent of this aspect was to provide a more encouraging environment to bring forward new and innovative concepts that may not have been contemplated when the relevant management plans were written.
- 3.7 Principle six, addresses risks arising from natural events such as bushfire and flood. This is specific only to Tasmania.
- 3.8 International<sup>5, 6</sup> comparisons are not as directly available but are largely consistent with the themes expressed in the guiding principles and criteria above. The primary areas of increased emphasis appear to relate to the opportunity to educate visitors on the special attributes of the particular location, as well as supporting and respecting the local population and economy.
- 3.9 During the course of our audit, we ascertained the Tasmanian EOI model has been the centre of significant interest to other jurisdictions, with delegates visiting to review the process and discuss the outcomes. It is apparent that the level of applications generated by the Tasmanian EOI process has been relatively high compared to experiences under similar programs elsewhere.

## **Job creation was not a core focus of EOI assessments of proposals**

- 3.10 One of the key stated objectives of the EOI process cited in the original Government policy document was the creation of new jobs through increased economic activity from tourism. In keeping with this, the EOI application form required proponents to provide an estimate of the number of jobs that would be created by the project.

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<sup>5</sup> World Commission on Protected Areas (WCPA): Sustainable Tourism in Protected Areas - Guidelines for Planning and Management

<sup>6</sup> European Charter for Sustainable Tourism in Protected Areas

- 3.11 At the assessment level there appeared to be limited consideration given to the job creation potential of proposals but the commercial viability criteria incorporated elements relating to economic benefits. The estimates for job creation were not subject to scrutiny and cannot be considered reliable. Notwithstanding this, the job creation estimates were recorded and have been subsequently used in media and publications being cited as an outcome of the EOI process.

## Transparency of the EOI process was reasonable

- 3.12 A recurring public criticism of the EOI process has been the lack of transparency. The nature and extent of proposals was not made public until each proposal was endorsed by the Assessment Panel. Proposals were published on the EOI webpage once the assessment panel had recommended them to the Minister for proceeding to the statutory assessment stage.
- 3.13 The EOI process has sought to protect the commercial value of the ideas put forward. The ability for proponents' ideas and intellectual property to be protected as part of the initial discussion on ideas was seen, by the Government, as fundamental to the commerciality of the process. This view stemmed from a belief proponents would have been reluctant to engage had they not felt they could trust the Government to protect their confidentiality. Many of the applications contained significant amounts of market and commercial research, which competitors may have been able to take advantage of had the process and applications been more publicly available.
- 3.14 Weighed against this is the valid argument for public awareness and acceptance of a particular proposal. The integrity of the EOI process is directly determined by the balance between commercial protection and the need for a "social licence".
- 3.15 In the case where a proposal does not progress, either through being rejected by the Assessment Panel or withdrawn by the proponent, there is no potential impact and therefore no benefit in publication of the details.
- 3.16 The question is then at what point it is appropriate for continuing proposals to be made public, the extent of information made available and capacity for public comment to inform the decision. In practice, this was done by OCG updating the EOI webpage immediately upon the recommendation that a particular project is able proceed to licence/lease negotiations.
- 3.17 There is opportunity for public/stakeholder engagement during the RAA process, which we comment on further later in this Report.
- 3.18 Overall, there has been a reasonable balance struck between protecting the commercial confidence of proponents and public disclosure in relation to proposed usage of community assets.

Figure 5: Blue Derby Pods Ride



Source: Blue Derby Pods Ride

## Advice from Solicitor-General was not sought

- 3.19 In assessing proposals received in Stage 1 of Round 1, the Coordinator-General on behalf of the Assessment Panel sought advice from the Solicitor-General in relation to a number of specific issues pertaining to legislative intent, the Minister's authority and matters relevant to activities in national parks arising from proposals under consideration.
- 3.20 In providing the advice sought the Solicitor-General commented that, given the complexity of the relevant law and management plans, individual cases should be submitted for his review. We saw no evidence this comment was acted upon by the OCG or Assessment Panel and were advised no requests to the Solicitor-General's office were made. Consistently with Treasurer's Instruction FC-17 *Engagement of Legal Practitioners* an Accountable Authority must refer requests for legal advice to Crown Law, which would then be in a position to provide definitive advice about legal questions affecting a particular proposal.
- 3.21 As noted in the following section, there was substantial consultation with Crown Law during the negotiation of leases and/or licences. We understand in most instances, the relevant authority to whom legal matters pertained was the Minister responsible for Environment and Parks and by extension, PWS, and accordingly OCG formed the view legal advice be best handled by PWS using Crown Law.
- 3.22 While the Assessment Panel decision was not a formal approval of a proposal in itself, only a recommendation to proceed to a further stage, a thorough understanding of the legal intricacies of some proposed developments may have been helpful in

informing the process, streamlining later consultations in the negotiation process and identifying potential risks to the Crown.

## Administration of assessment process was robust

- 3.23 Overall, we found the EOI process was orderly and well-documented, with adequate time and information made available for Assessment Panel members to properly consider proposals. The integrity of the process was strengthened by proponents not having direct contact with Assessment Panel members, thereby enhancing the objectivity of decisions which were solely based on documented evidence and not influenced by proponent presentation skills. Several proponents were complimentary toward the helpful attitude of OCG and PWS staff.
- 3.24 The EOI assessment process comprised the seven steps shown in Table 3. Round 1 and Round 2 assessments were essentially the same. An initial step contained in Round 1 was removed, whereby the proponent submitted a preliminary expression of interest that was viewed by the Assessment Panel prior to being invited to submit a detailed proposal. In order to refine the EOI process, an internal review was completed following EOI Round 1, and a project plan developed to guide the development of Round 2, including a high-level risk analysis and a marketing plan to communicate the EOI process to a wider audience and encourage potential investors.

Table 3: Outline of EOI Process

1. Proposal submitted by proponent
<ul style="list-style-type: none"> <li>• Submissions are generally received via email, whereupon they are opened and logged by OCG staff, overseen by probity advisor.</li> <li>• Acknowledgement is sent to the proponent, indicating the next steps in the process and requesting additional information where initial gaps are identified.</li> </ul>
2. PWS high-level assessment
<ul style="list-style-type: none"> <li>• OCG forwards copy of proposal to PWS, who undertake a preliminary analysis of the proposal to identify any potential issues arising under the relevant reserve management plan.</li> </ul>
3. Optional external review
<ul style="list-style-type: none"> <li>• External review by an independent firm of the financial viability and commercial risk assessment.</li> <li>• OCG determine whether external review is appropriate depending on the complexity of the proposal and significance of financial matters to the assessment of the project.</li> </ul>

<b>4. Assessment panel meeting convened to assess proposal</b>
<ul style="list-style-type: none"> <li>• Documentation provided to the assessment panel in advance of the meeting includes: Original submission, PWS and other advice, External review, OCG-prepared summary, Preliminary lease/ licence considerations</li> <li>• Proposal scored against 3 criteria, and reviewed for consistency with guiding principles</li> </ul>
<b>5. Assessment evaluation report prepared</b>
<ul style="list-style-type: none"> <li>• Minutes are taken from the Assessment Panel's discussion, which are then extrapolated into a structured report for each proposal considered.</li> <li>• The Assessment report summarises panel members in attendance, the documents considered, criteria scores, and basis for recommendations, including any potential conditions.</li> <li>• Draft report circulated to Assessment Panel for approval prior to finalisation.</li> </ul>
<b>6. Post-assessment Ministerial recommendation</b>
<ul style="list-style-type: none"> <li>• Letter and Minute prepared outlining recommendation to Minister for State Growth.</li> <li>• Minute contained a summary of the recommendation and the basis for the decision, along with sufficient detail for the Minister to understand the general scale and intent of the proposal as well as any potential conditions that may potentially be imposed on a future licence.</li> <li>• Upon approval by the Minister, notification was made to the relevant Minister for the proposal location (i.e. National Park or Crown Land) for endorsement, and then subsequently referred to PWS for RAA and lease/licence negotiation. At this point, the proposal was also made public for the first time via the EOI website.</li> </ul>
<b>7. (optional) More information sought by Assessment Panel</b>
<ul style="list-style-type: none"> <li>• Where the proposal was assessed as having merit, but the assessment panel felt there was insufficient information to make a recommendation to the Minister.</li> <li>• A meeting between OCG staff and the proponent would be organised, and correspondence prepared to communicate the further information sought, with a timeframe specified.</li> <li>• Where the proponent failed to provide the information within the timeframe, the Assessment Panel would generally recommend that the proposal not proceed.</li> </ul>

Source: Tasmanian Audit Office

- 3.25 Prior to proponents submitting their proposals (as outlined in step 1 shown in Table 3) they were encouraged to discuss their proposal with OCG staff to obtain guidance on the content and extent of information required. The intent was to provide the

Assessment Panel with sufficient information to make an assessment and minimise follow-up where information was missing. The PWS preliminary review utilises a short-form checklist (two pages) that has a simple yes/no response to factors in three categories including scale and construction, legal and planning, and natural/cultural values. Should the proposal progress, it also indicates the likely RAA level as described in Chapter 4 of this Report. At this point, OCG would also generally seek a Natural Values Assessment from DPIWE and an Aboriginal Heritage desktop assessment to identify any additional potential issues.

- 3.26 External reviews were done by one of two pre-approved contractors when considered necessary by OCG staff. In addition to an opinion as to the reasonableness of financial projections, risks considered are typically categorised into strategic, environmental, operational and reputational, with a focus on identifying risks that have not been identified by the proponent.
- 3.27 Documentation provided for assessments we reviewed was well prepared, timely and complete. The only exception was instances where the proponent was unable to provide sufficient information or opted to withdraw their application.
- 3.28 Commentary contained in the Assessment report was comprehensive and succinct. We noted that in the Assessment reports for Round 1, the comments recorded followed the structure relating to documents received, rather than how the scoring criteria was determined. This was subsequently addressed in Round 2 assessment reports with an improved structure more centred on the proposals. However, the comments did not extend to how the proposal measured against the guiding principles and as a result the comments did not always explicitly cover all of the principles. Notwithstanding this, the scoping documents for the EOI demonstrated a linkage between the guiding principles and the final criteria.
- 3.29 The minute and recommendation was generally clear and comprehensive, and accurately reflected the deliberations of the assessment panel, providing a reasonable basis for the Minister's decision. We noted however, the minute and correspondence with the proponent did not explicitly indicate the need for further assessment through the RAA and potential approvals from the Australian Government. We consider this would be helpful to the proponent.

## **There was significant variation in the quality of proposals**

- 3.30 The quality and depth of information varied significantly between proposals, from comprehensive, well researched and meticulously compiled documents at one end of the spectrum to very basic and in many ways deficient proposals at the other extreme. Whilst the degree of detail in the application was often indicative of the complexity and ambition of the proposal, this was not always true, with some straightforward ideas being well presented whilst more ambitious concepts had clearly not been fully thought through given the lack of detail provided.
- 3.31 The most common deficiencies were in the business planning, financial and market research aspects. This was recognised as part of the review of the Round 1 proposals

and the EOI application form was bolstered for Round 2 to provide more guidance to proponents as to what was needed to assess a proposal. In addition, OCG staff became more engaged in providing guidance to proponents where initial lodgements or discussions indicated a lack of sophistication. This included referring to template business plans, where appropriate, which resulted in consistently better applications.

## Documents should provide greater awareness of the subsequent process post EOI assessment

- 3.32 The EOI process provides a gateway or adjunct to the pre-existing CVS assessment processes (including the RAA) administered by PWS. The aims of the EOI process and the RAA are fundamentally different but together represent the pathway to approving a proposal. It was apparent it was not sufficiently clear to all proponents that the EOI process itself did not result in approval to operate but was merely a recommendation to proceed to the full assessment under the RAA and associated lease/licence negotiations.
- 3.33 Specifically, from the wording used in correspondence to proponents and internally, it would not be immediately apparent to proponents their proposal had not been approved but rather recommended to progress to further assessment. Correspondence generally contained wording that the Assessment Panel “*recommend the Minister to progress negotiations for lease and/or licence arrangement*”. This wording implies the proposal has effectively been approved and there only remained some administrative arrangements to finalise. This is demonstrably not the case and potentially misleading to proponents.
- 3.34 Other communications are also potentially misleading, with the OCG website containing the statement: “*Proposals will undergo a rigorous assessment based on 7 guiding principles to ensure that sensitive and appropriate proposals obtain statutory approvals as required under State and Commonwealth law*<sup>7</sup>.” Specifically, the word “*ensure*” seems inappropriate in this context.
- 3.35 This was reinforced through feedback from a number of proponents, particularly some who had progressed through the EOI process but then subsequently withdrew from the RAA after becoming aware of the likely cost and effort involved. Proponents most impacted were those less sophisticated and experienced, who would have had no prior experience and therefore less awareness of the post- Assessment Panel approval process. Other proponents we spoke with who had previously been through an RAA believed the EOI process to be an alternative approval channel through which they could obtain accelerated approval and bypass the RAA.
- 3.36 The clarity of this aspect of the EOI process has been somewhat ameliorated in the latter phase of Round 2, with OCG staff having more engagement with proponents in

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<sup>7</sup> [https://www.cg.tas.gov.au/home/investment\\_attraction/expressions\\_of\\_interest\\_in\\_tourism/overview](https://www.cg.tas.gov.au/home/investment_attraction/expressions_of_interest_in_tourism/overview)

developing their applications. In addition, as the EOI has evolved, correspondence with more recent proponents has been amended to provide more clarity as to the nature of the RAA. Notwithstanding this, we are of the view the EOI publicity material and documentation provided to prospective proponents should be more explicit as to the pathway from the initial submission to commencing operations. Such advice needs to detail the entire scope of the process, including the post-EOI recommendation requirement to complete RAA and obtain any other relevant local government, Tasmanian and Australian government approvals.

## Assessment criteria scoring methodology could be improved

- 3.37 The scoring matrix used by the Assessment Panel outlined in Table 4 was a key component of the assessment process. Upon receipt of an application, the information was reviewed by OCG staff and additional information sought from proponent or experts, as required. The information was then provided to Assessment Panel members ahead of a meeting for the members to read and form some preliminary views. Discussion at the meeting between the Assessment Panel and sometimes experts was used to come to a consensus views on scoring of the proposal or to defer scoring and request more information.
- 3.38 The three criteria, being suitability, capability of proponent, and financial viability were each scored out of 10, with the scores aggregated to give an overall score out of 30. Scoring for each criteria was based on the allocation shown in Table 4.

Table 4: EOI Assessment Panel Scoring Matrix

Score	Description	Full Description
10	Exceptional	Full achievement of the requirements specified in the EOI for that criterion. Demonstrated strengths, no errors, weaknesses or omissions.
8 to 9	Superior	Sound achievement of the requirements specified in the EOI for that criterion. Some minor errors, risks, weaknesses or omissions, which may be acceptable as offered.
6 to 7	Good	Reasonable achievement of the requirements specified in the EOI for that criterion. Some errors, risks, weaknesses or omissions, which can be corrected/overcome with minimum effort.
4 to 5	Adequate	Satisfactory achievement of the requirements specified in the EOI for that criterion. Some errors, risks, weaknesses or omissions, which are possible to correct/overcome and make acceptable.
2 to 3	Inadequate	Minimal achievement of the requirements specified in the EOI for that criterion. Several errors, risks, weaknesses or omissions, which are possible, but difficult to correct/overcome and make acceptable.

0 to 1	Poor to deficient	No achievement of the requirements specified in the EOI for that criterion. Existence of numerous errors, risks, weaknesses or omissions, which are very difficult to correct/overcome and make acceptable.
0	Unacceptable	Totally deficient and non-compliant for that criterion.

Source: OCG – Assessment Panel Evaluation report template

3.39 The score each participant received was intended to provide a numeric basis for comparison of EOI submissions outlined in Table 5. Scores out of 10 for each of the three criteria were added together to provide an overall assessed score out of 30 for each proposal. The total score out of 30 was assessed under the following framework.

Table 5: EOI Assessment Panel Scoring Outcomes

Score	Achievement of Objectives	Full Description
>28	Substantially exceeds	EOI Submission substantially exceeds the assessment criteria requirements specified in the EOI invitation. Demonstrated strengths, no errors, weaknesses or omissions.
25-28	Somewhat exceeds	EOI submission somewhat exceeds the assessment criteria requirements specified in the EOI invitation. Some minor errors, risks, weaknesses or omissions which may be acceptable as offered.
15-24	Meets	EOI Submission meets the assessment criteria requirements specified in the EOI invitation. Some errors, risks, weaknesses or omissions, which can be corrected/overcome with minimum effort.
10-14	Somewhat deficient	EOI Submission is somewhat deficient in the assessment criteria requirements specified in the EOI invitation. Several errors, risks, weaknesses or omissions, which are possible to correct/overcome and make acceptable.
0-9	Substantially deficient	EOI Submission is substantially deficient in the assessment criteria requirements specified in the EOI invitation. Existence of numerous errors, risks, weaknesses or omissions, which are very difficult to correct/overcome and make acceptable.

Source: OCG – Assessment Panel Evaluation report template

3.40 The recommendation to the Minister of whether or not to approve proposals was informed by the overall assessed score with a score of 15 and above meeting assessment criteria as outlined in Table 5.

3.41 In the event two submissions were received for one site, the recommendation for the preferred submission would be based on the scoring comparisons. The Assessment Panel had discretion with regard to making more than one recommendation for the same site, although this did not appear to occur within the applications received.

- 3.42 There was equal weighting given to each component and a low score in one criterion did not necessarily preclude a proposal from being recommended for approval. Conversely, if the Assessment Panel felt that a proposal with an overall high score was fundamentally flawed for a particular component, that would be reflected in the advice to the Minister for State Growth. Contrary to the guidance provided in the Assessment Panel's own documented guidelines, comments from discussions indicated the scoring in the matrix, while seen as an important part of the process, was not necessarily determinative of whether a proposal was recommended and it was acknowledged by OCG that the scoring was subjective. The scoring of EOI's was therefore used as only a guide to help determine recommendations.
- 3.43 We observed some proposals were scored multiple times, generally a result of a score being allocated even though the Assessment Panel concluded there was insufficient information to make a recommendation. Subsequent scoring in assessments of the same proposal, following receipt of the requested information, often showed significant and usually negative variations in the score. This suggests it is inappropriate to record scores based on incomplete information and scoring should only occur once the Assessment Panel is satisfied it has sufficient data on which to base their conclusions.
- 3.44 A potential improvement of the EOI process might be to review the assessment scoring criteria, allowing for weighting of components and/or setting suitability criteria as a "*hurdle*" criterion to be met prior to being considered against other criteria. Members of the Assessment Panel used the term "*showstopper*" to describe circumstances where a particular aspect of the proposal was so fundamentally flawed it would make the proposal untenable. Generally, a showstopper related to the appropriateness criteria, where the proposal was clearly inappropriate for the location. Formalisation of this concept within the assessment process would potentially improve the transparency of assessments and efficiency of the process.
- 3.45 Often the weakest component of proposals was the financial viability component, which we acknowledge was understandable given potential difficulties in estimating market demand for a new business venture and consequent income streams. Our observations indicated that it was not uncommon for proposals to be recommended to progress (with conditions) despite poor quality or incomplete financial information and in some cases where a deficiency in financial aspects had specifically been highlighted by an external review. We were informed that the Panel did occasionally suggest appropriate mitigation to financial aspects where the matter was not seen as insurmountable to the overall proposal and ensuring the mitigation was proportionate to the level of risk to the Crown.
- 3.46 As a commercial venture, the proponent bears the commercial risk of the venture failing and so it is not for the assessment panel or indeed the wider public to guarantee the financial success of proposals. However, in the case where physical infrastructure has been constructed or other public facilities utilised by the proposal, there is a financial risk to the Government in relation to reinstatement of the location in the event of the failure of the venture. In these cases, the assessment panel's recommendation would make suggestions of appropriate mitigating strategies, such as the imposition of a bond.

Figure 6: Rotorlift Tours - Tasman Island



Source: [discovertasmania.com.au](http://discovertasmania.com.au)

## **Previous rejected assessments were not raised although they were relevant to the EOI process**

- 3.47 From our review of selected projects, it was apparent that a proposal could be subjected to the full EOI assessment process even though it had been evaluated in the past under the PWS CVS system and rejected. It appeared the EOI Assessment Panel was not made aware of previous applications and their outcome at the time of its consideration of the proposal.
- 3.48 This may have been relevant in assessing the suitability of the proposal, as a previous rejection under the RAA would seem to provide a reasonable indication the proposal would be unlikely to succeed any subsequent assessment process.

## **External advice was appropriately sought and considered, including external reviews**

- 3.49 External reviews were commissioned for all detailed proposals received in Round 1, while a more selective approach was adopted for Round 2. Two external contractors were used for the reviews, however the majority of reviews for projects examined were sourced from one contractor.
- 3.50 The trigger for requesting an external review for Round 2 proposals appeared to be largely at the discretion of OCG staff. There was limited guidance to determine when it was appropriate to request an external review. OCG staff indicated the key determinants of whether a review was requested revolved around the complexity of the proposed commercial activity as well as the sensitivity of the proposal to commercial factors.

- 3.51 The purpose of the reviews was to provide an independent opinion as to whether the proposal adequately addressed each of the evaluation criteria and also to identify any additional commercial risks or other factors that had not been considered by the proponent. There was a substantially different approach to the review reports from each of the external contractors. Our observation of the reviews from both contractors indicated they were generally insightful and adequately addressed the subject matter. The approach that structured the report more closely to the proposal evaluation criteria was stronger in our view as it had a more logical fit with the overall assessment process. This approach was adopted by the contractor that undertook the fewer reviews.
- 3.52 Commentary in the assessment reports indicated the Assessment Panel gave due consideration to the external reviews, particularly where the external review raised deficiencies in the proposal or identified additional risks.
- 3.53 In addition to the external review of commercial and risk factors and the preliminary short form RAA checklist from PWS, the Assessment Panel also received input from written reports provided by other subject matter experts, including a Natural Values Assessment from DPIPWE and Aboriginal Heritage desktop assessment to identify any additional potential issues. These reports were less likely to be referenced in the Assessment reports unless there were specific issues raised.
- 3.54 A Statutory Approvals Mapping document was also prepared for Round 1 proposals by the former Major Projects Approval Agency (MPAA), which sought to outline the likely approvals and assessments that would be required for the proposal to progress to operational. This was referred to frequently in the Round 1 Assessment reports, particularly where possible lease/licence conditions were considered in the recommendation. There appeared to be no equivalent advice provided for Round 2 assessments as information was covered in the revised application form.

## **“Round 2” of the EOI provides rigour to applications and is now effectively business as usual**

- 3.55 Round 1 of the EOI process was for a defined period. After opening in June 2014 applications closed five months later in November 2014. Round 2 opened on 17 December 2016 but, unlike Round 1, Round 2 is a continuous process and remains open. The Round 2 methodology has now become part of the accepted process for putting forward an appropriate proposal. It still remains open to proponents to put forward proposals by entering the system through the still existing PWS administered CVS system. The use of the descriptor Round 2 and the flexibility of how proponents enter the system is now potentially misleading and confusing to proponents.
- 3.56 A purported benefit of the EOI process put forward by several parties has been the establishment of a more structured approach to dealing with proposals, which was in their view somewhat fragmented under the pre-existing PWS system. The EOI process essentially provides a more formalised gateway into the pre-existing assessment processes managed by PWS (including the RAA), which are predominantly unchanged by the addition of the EOI process. Previously, there was no clearly defined avenue by which applications found their way into PWS, and could have included public

enquiries, approaches to various department staff or even via elected members. It is likely there was some variability in the experience of proponents depending on the knowledge and understanding of people they encountered coming into the system, which the EOI process has addressed. The EOI process was never intended to replace any part of the RAA but was built to invite proponents to put forward ideas in a more structured way.

- 3.57 Proponents are still able to submit applications directly to PWS, which is often the case for simple permits and limited scope activities. PWS can also refer applications to the EOI Assessment Panel, which they informed us was useful as a screening process as it provided a more holistic assessment of the likelihood of success of a proposal before it progresses to the more detailed environmental assessment of the RAA. Similarly, basic applications coming into the EOI process can also be referred direct to PWS if they are straightforward.
- 3.58 Some proponents we spoke with commented they found the rigour of the EOI process helpful, particularly in assisting them to construct a robust business plan and undertake marketing research as a result of the Assessment Panel's focus on commercial aspects of the proposal. This contrasts with the RAA, which is primarily concerned with the natural and cultural values impact of proposals and particularly the compliance with relevant management plans.

# Were EOI projects appropriately assessed by the Parks and Wildlife Service and approved by the relevant authority?

In this Chapter we discuss:

- interaction between the preliminary EOI process and subsequent RAA assessment
- adherence to processes for assessing natural, cultural and economic impacts, including the need for specialist advice
- management plan changes.

## Chapter summary

EOI proposals receiving Ministerial approval to progress were then subject to the RAA administered by PWS, which determined whether they would be given a lease or licence to operate.

The RAA is the primary process used by PWS to assess potential impacts and risks of proposed developments on natural, cultural, economic and social values before approval is given. Whilst the process tests whether a proposal meets the requirements of legislation, plans and policies, it is also used to identify what conditions are required to mitigate potential impacts should a proposal be approved. Proposals may also require other Australian, Tasmanian or Local government approvals depending on the nature and extent of activities.

The RAA is a long-standing instrument used by PWS and remained unaffected by the introduction of the EOI. Whilst it has been reviewed and updated at intervals over that time, most recently in 2017, it remains an internal administrative process rather than a statutory approval process and so does not carry the force of law. In our view, this creates some ambiguity around the nature of the process and status of approvals thereby obtained.

Stakeholder consultation is an important element of higher-level RAAs, however we observed that the choice of which stakeholders to consult with and the form and content of the consultation were largely at the discretion of the proponent. This raises the risk that the stakeholder consultation reported in the RAA may not always be as transparent or objective as it could be, and consideration should be given to increasing the rigour around this requirement.

The PWS document management system was inadequate to manage the EOI process with many documents not dated. This issue is acknowledged and a new document management system is being implemented. Documentation was particularly deficient in relation to the post-approval review and ongoing monitoring of projects, and we were provided with little evidence that monitoring is occurring as described.

There is an opportunity to learn from successful projects by broadening post-approval reviews beyond the routine licence compliance aspects to understanding the extent to

which proponents' objectives have been achieved and how well the operating projects align with the original assessment criteria and guiding principles in practice.

As with the EOI, our audit was not designed to assess whether decisions to approve specific proposals were appropriate but rather whether the process was followed in the case of the proposals received through the EOI process. In terms of PWS staff adherence to the RAA process, we found procedures were appropriately followed, with adequate information and advice obtained from external experts and authorities where necessary.

## RAA process was adhered to by PWS

- 4.1 There are four specific levels of RAA which are graded from Level 1 (desktop) through to Level 4 (full Development Proposal and Environmental Management Plan). The extent of assessment work undertaken reflects the level of risk and impact of a relevant proposal. Level 1 assessments are used for low impact projects right up to Level 4 projects which are generally of a large scale and likely to have high impact on values and as such likely to generate a high level of public interest. The level of RAA to be applied is assessed and decided by the relevant PWS Regional Manager. Approval of the General Manager PWS is required for a Level 4 assessment to be undertaken.
- 4.2 The steps for proposals requiring an RAA of levels 2-4, and our observation of the manner in which they had been applied, are summarised in Table 6. Proposals rated as level 1 or not requiring an RAA go through a similar but less demanding process which reflects their lower level of environmental, social or economic impact.

Table 6: Outline of the RAA process

1. RAA checklist
<ul style="list-style-type: none"> <li>Preliminary indication of whether the activity is appropriate and the likely level of RAA required</li> </ul>
2. Activity Summary
<ul style="list-style-type: none"> <li>Provides a description of the activity and the proposed location, including appropriate supporting documentation. Needs to be sufficiently detailed to give readers a clear understanding of the proposal.</li> </ul>
3. Concept Review
<ul style="list-style-type: none"> <li>Likely compliance with relevant legislation, regulations and management plans considered, and initial assessment made in checklist form.</li> <li>Checkpoint as to whether to proceed with full assessment.</li> </ul>
4. Assessment Scope
<ul style="list-style-type: none"> <li>Level of RAA decided, which then governs extent of documentation to be provided to inform assessment, including the requirement for any external involvement.</li> </ul>

<b>5. Impact Assessment and Proposed Management</b>
<ul style="list-style-type: none"> <li>• Risk-based analysis of activity, including potential impacts and proposed controls to manage impacts in relation to 15 aspects covering natural, cultural, activity hazards and economic values.</li> <li>• Stakeholder consultation is also recorded at this point.</li> </ul>
<b>6. Advice</b>
<ul style="list-style-type: none"> <li>• Specialist input sought on the above proposals from experts within DPIPWE and also from other relevant agencies, such as heritage, local government and fire service.</li> </ul>
<b>7. Activity Plan</b>
<ul style="list-style-type: none"> <li>• Outlines key activities and related controls for implementation of the proposal, specifically including any to address any issues raised in previous steps.</li> <li>• Level 4 RAA include proponent's formal Development Proposal and Environmental Management Plan.</li> </ul>
<b>8. External Assessment (if required)</b>
<ul style="list-style-type: none"> <li>• Referral of activities requiring assessment by other Australian, Tasmanian and local government agencies under Environment Protection and Biodiversity Conservation (EPBC) Act and/or Land Use Planning and Approvals Act (LUPAA).</li> </ul>
<b>9. Final Determination</b>
<ul style="list-style-type: none"> <li>• Approval of the activity at delegation levels according to components of the proposal and RAA level. All conditions to which the activity are subject are detailed as part of the approval. If not approved, reasons for refusal are recorded.</li> </ul>
<b>10. Notification and Implementation</b>
<ul style="list-style-type: none"> <li>• Proponent is formally notified of the decision, and lease/licence finalised in conjunction with Crown Solicitor incorporating relevant conditions.</li> </ul>
<b>11. Report and Evaluation</b>
<ul style="list-style-type: none"> <li>• At completion of construction work, review completed to assess compliance with approval conditions and conclude on the outcome of the project/activity.</li> </ul>

Source: Tasmanian Audit Office

4.3 Our audit of selected proposals found document storage was inadequate. Of the 22 proposals selected, only two were found to have complete documentation.

Were EOI projects appropriately assessed by the Parks and Wildlife Service and approved by the relevant authority?

- 4.4 Step 3 *Concept Review* - comprised a comprehensive checklist of relevant legislation, regulations and management plans that could potentially apply to the proposal which generally identified the relevant issues at an early stage.
- 4.5 Step 5 *Impact Assessment and Proposed Management* - is the key step in the process as it assesses the impact of the proposal. We found this step was generally comprehensively completed with content consistent with other information provided. Nominated controls appeared to adequately address identified issues. Comments on stakeholder consultation were provided by the proponent, based on their interactions with interested parties. However, there appears to be no minimum requirement or defined process for undertaking consultation, particularly for Level 2/3 RAAs. While we found no evidence this impacted adversely on the process, there could be the perception consultation was presented in a way that was biased towards the proponent.
- 4.6 Step 6 *Advice* - is important in defining most of the conditions to be included in the final lease/licence and the RAA form contained a concise summary of the pertinent issues identified by experts consulted.
- 4.7 Activities nominated in the step 7 *Activity Plan* were specific and actionable and aligned with the recommendations raised through the advice step. However, we noted nomination of responsible person and dates for actions was not always fully completed.
- 4.8 Step 11 *Report and evaluation* – it was not clear the evaluation report was completed in all instances and it was not provided to us for all implemented proposals we reviewed.
- 4.9 Generally, our review indicated PWS staff had a sound understanding of the key issues relating to commercial activities in protected areas, and the level of detail within the RAA documents showed strong adherence to the process.

## **PWS document management system was inadequate**

- 4.10 Prior to the formation of the OCG and as a consequence of the greater role played by PWS in Stage 1 of Round 1, it was apparent the document management system was not appropriate to manage the EOI.
- 4.11 Documents were not retained and stored in a manner that facilitated easy access or guaranteed completeness of records in relation to any particular proposal. This resulted in significant delays in requested information being provided to us together with some items being duplicated. Some correspondence and documents were undated or watermarked as “*draft*”, making it difficult to establish a coherent chronology of events in some cases. There was no centralisation of records as many were held manually within regional offices or in individuals’ records.
- 4.12 Documentation and correspondence were not always dated and marked as to who prepared them. This applied across both OCG and PWS.
- 4.13 Document management for proposals was not coordinated between agencies, despite the EOI proposals continuing through a progression from OCG to PWS as part of the

approval process, with items sometimes duplicated in both PWS and OCG. From this perspective, it would be more effective for records relating to each proposal to be maintained in a single location for completeness, continuity and providing proponents with a more consistent experience.

- 4.14 The referencing system used to identify and reference proposals appeared to have changed during the process, with some more recent summary reports not containing the same identifier as those originally assigned and contained in the initial summary provided to us. This made it more challenging to track the progress of proposals, particularly those where more recent developments had occurred.
- 4.15 Information management is an acknowledged weakness by PWS, with records currently comprising a mix of manual documents in multiple locations, as well as two separate but not connected electronic systems, with staff emails and personal computers sometimes containing key documents.
- 4.16 We note a new integrated document management system has been commissioned and is in the early stages of implementation by PWS.

## **The RAA is not geared to deal with more complex proposals received through EOI**

- 4.17 Development in National Parks is subject to the usual local government development application assessment process. It must be consistent with the relevant planning scheme unless it has been declared under either the Projects of Regional or Projects of State Significance processes. Currently the majority of local planning schemes provide a permitted pathway for developments in National Parks covering most requirements of the scheme, meaning that the council does not need to assess the projects against those matters. In some cases there will still be issues that the planning scheme requires assessment against and these may make the proposal discretionary and subject to public notification and possible appeals. While the RAA is non-statutory nature, the planning schemes rely on an approval issued under the relevant legislation not the means that is achieved internally.
- 4.18 Given the increased interest in establishing commercial operations in National Parks, Crown Land and Reserves the appropriateness of the long-standing RAA system needs reviewing. The quantity and complexity of projects generated by the EOI process are beyond the levels experienced by the Tasmanian Government previously. Despite the long-standing use of the RAA it remains a non-statutory administrative process involving significant levels of subjectivity and regional interpretation. It has taken on an added importance in conjunction with the EOI process and as such consideration might need to be given to ensure the effectiveness of the RAA process.

## **Stakeholder consultation is proponent-driven**

- 4.19 Section 4.4 of the RAA deals with community consultation and documents the names of organisations and individuals with whom communication has occurred, their level of interest and concern, as well as general comments summarising the stakeholders views on the proposal.

- 4.20 All of the information relating to stakeholder consultations is compiled and presented by the proponent, and particularly for RAAs Level 3 and below there is limited guidance as to which stakeholders should be consulted or in what form the consultation should occur. Consultation does not necessarily require public forums or engagement with specified interest groups.
- 4.21 As a result, there is a risk the results of consultation will be coloured by the proponent's view of the consultation and who they consulted with, which would naturally tend to more positive feedback. While not necessarily a result of conscious bias on the part of the proponent, the degree of flexibility around the stakeholder consultation process would appear to detract from the objectivity of the information presented. A process currently being trialled by PWS is focusing on improving consultation.

## Effective licence/lease negotiation processes are in place

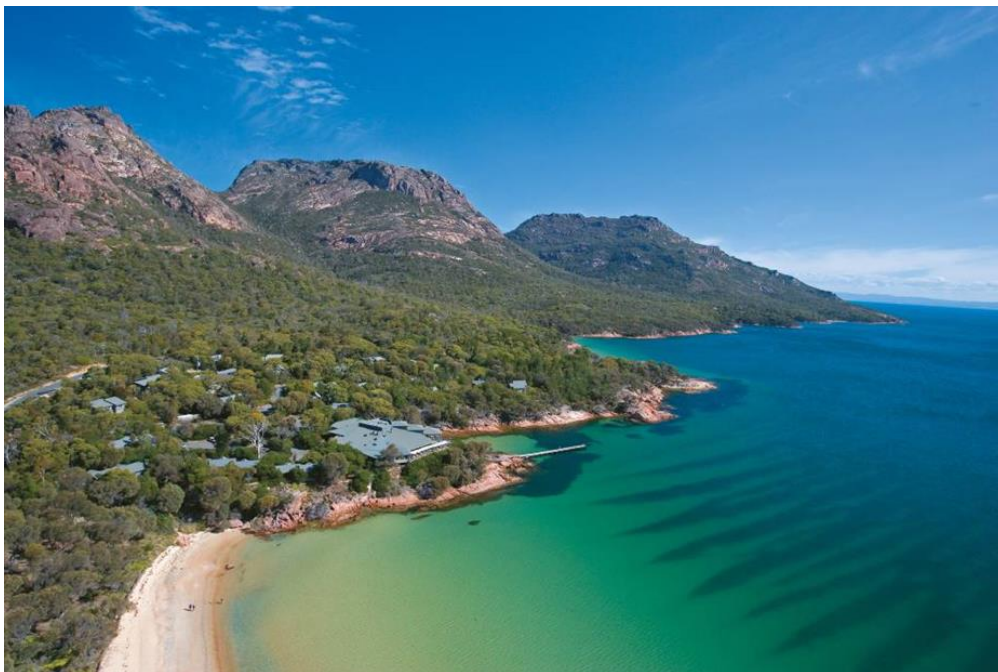
- 4.22 There are currently 285 leases and/or licences active in reserved areas, permitting a range of commercial and community activities. The lease/licence is the legal instrument outlining the activities and access granted to the leaseholder by the Crown as owner of the land and as such it is a critical component of effectively managing and controlling such activities particularly in sensitive areas.
- 4.23 Despite the terms lease or licence often being used together and interchangeably throughout documentation, it is probably important to distinguish between the definition of each:
- **A lease** provides for exclusive usage/access of the specified site by the lessee and is generally for a fixed period with or without options to extend. Some leases allow the construction of permanent or temporary structures and can encompass a range of conditions to be met. Lease fees are generally set based on valuation of the land by the Valuer-General and may be subject to negotiation in conjunction with other conditions and permissions under the lease.
  - **A licence** is a non-exclusive (i.e. does not necessarily exclude other people undertaking the same activity) permit to undertake specified activities in a particular location and is generally subject to an annual fee. Licence types can include those relating to shacks and huts.
  - Licences can be further separated into standard CVS licences and non-standard negotiated licences. A standard CVS licence (now known as a Nature Based Tourism (NBT) licence) is a set format licence for tourism operators undertaking activities the public would ordinarily be able to do in parks/reserves, such as guided bushwalking tours. The non-standard negotiated licences are applicable where a tourism operator wants to undertake activities that are out of the ordinary or require special bespoke terms and conditions.
- 4.24 Crown Law was involved in the preparation of all lease and licence documents, generally starting with a template document. We observed a substantial level of

consultation between PWS and Crown Law staff throughout the contract negotiation process. Whilst we do not purport to be experts in contract law, our high-level audit of lease and licence documents indicated the conditions contained within them were consistent with the nature of considerations suggested by the Assessment Panel in their recommendation, as well as subsequent issues raised during the RAA.

## Ongoing monitoring and evaluation processes should be better documented

- 4.25 All leases and licences should be subject to an ongoing review. Discussions with PWS indicate the existing monitoring is solely focused on the environmental compliance aspects of the operation. For operations originating through the EOI process, where a part of the assessment focus was on commercial success and community benefits, a more holistic approach to review would potentially be helpful, both to the operator and to inform future decision-making in relation to the ongoing EOI process.
- 4.26 Although we were informed that all leases and licences are subject to ongoing review, we were not provided with documented evidence of the formal annual lease/licence reviews. Without adequate documentation, it may be difficult to enforce particular conditions of a contract if later required. It is also not possible for us to conclude whether the reviews were undertaken, or if they were, whether they were effective in ensuring licensees have met their obligations.
- 4.27 As a precaution against '*land banking*' PWS has introduced a time limit following which the application will lapse. This is also a consideration in the approval of the terms for which the lease/licence is issued, including the condition that it lapses if commercial activity is not substantially commenced within a reasonable timeframe.

Figure 7: Freycinet Lodge



Source: freycinetlodge.com.au

# Acronyms and Abbreviations

OCG	Office of the Coordinator-General
PWS	Tasmania Parks and Wildlife Service
RAA	Reserve Activity Assessment
EOI	Expression of Interest
TWWHA	Tasmanian Wilderness World Heritage Area
CVS	Commercial Visitor Services
EPBC	Environment Protection and Biodiversity Conservation Act (Commonwealth)
LUPAA	Land Use Planning and Approvals Act (Tasmania)
DPIPWE	Department of Primary Industries, Parks, Water and Environment

# Audit Mandate and Standards Applied

## Mandate

Section 23 of the *Audit Act 2008* states that:

- (1) The Auditor-General may at any time carry out an examination or investigation for one or more of the following purposes:
  - (a) examining the accounting and financial management information systems of the Treasurer, a State entity or a subsidiary of a State entity to determine their effectiveness in achieving or monitoring program results;
  - (b) investigating any matter relating to the accounts of the Treasurer, a State entity or a subsidiary of a State entity;
  - (c) investigating any matter relating to public money or other money, or to public property or other property;
  - (d) examining the compliance of a State entity or a subsidiary of a State entity with written laws or its own internal policies;
  - (e) examining the efficiency, effectiveness and economy of a State entity, a number of State entities, a part of a State entity or a subsidiary of a State entity;
  - (f) examining the efficiency, effectiveness and economy with which a related entity of a State entity performs functions –
    - (i) on behalf of the State entity; or
    - (ii) in partnership or jointly with the State entity; or
    - (iii) as the delegate or agent of the State entity;
  - (g) examining the performance and exercise of the Employer's functions and powers under the *State Service Act 2000*.
- (2) Any examination or investigation carried out by the Auditor-General under subsection (1) is to be carried out in accordance with the powers of this Act

## Standards Applied

Section 31 specifies that:

'The Auditor-General is to perform the audits required by this or any other Act in such a manner as the Auditor-General thinks fit having regard to -

- (a) the character and effectiveness of the internal control and internal audit of the relevant State entity or audited subsidiary of a State entity; and
- (b) the Australian Auditing and Assurance Standards.'

The auditing standards referred to are Australian Auditing Standards as issued by the Australian Auditing and Assurance Standards Board.



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