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# COMMERCIAL IN-WATER WHALE SHARK INTERACTION TOURS IN NINGALOO MARINE PARK OPERATING FROM TANTABIDDI WESTERN AUSTRALIA

PART OF THE NINGALOO COAST WORLD HERITAGE AREA



## EXPRESSIONS OF INTEREST GUIDELINES FOR SUBMISSION

***EOI Closing Date 3:00pm (WST) Tuesday 16 September 2014***

**EOI 1 243 2014**

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Department of  
Parks and Wildlife



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# PART A

## 1.0 EXECUTIVE SUMMARY

Expressions of Interest (EOI) are invited from suitably qualified individuals to develop and operate a nature based tourism operation in Ningaloo Marine Park. The opportunity will be to develop and conduct commercial in-water whale shark interaction tours operating from Tantabiddi, within the Ningaloo Marine Park and the Ningaloo Coast World Heritage area.

Ningaloo Marine Park, situated approximately 1,200 kilometres north of Perth, is internationally renowned for the unique recreation experience of swimming with whale sharks (*Rhincodon typus*) and is one of the few accessible places in the world where whale sharks aggregate in significant numbers on a regular basis. The park is also famous for other popular marine nature based activities such as year-round diving and snorkelling, fishing, surfing, and sea kayaking.

Ningaloo Marine Park and the adjacent Cape Range National Park are already both popular attractions for domestic and international visitors wishing to experience the area's unique terrestrial and marine landscape and wildlife that form part of the Ningaloo Coast World Heritage area listed in 2011.

The park is vested in the Marine Parks and Reserves Authority (MPRA) that was established in 1997 as the vesting body for the State's marine conservation reserves. Ningaloo is managed by the Department of Parks and Wildlife to provide for recreation and tourism whilst preserving and protecting the natural environment, social, cultural and heritage values in accord with the *Ningaloo Marine Park and Muiron Islands Marine Management Area Management Plan 2005-2015*.

Licensed interactive whale shark operations access the park from two locations; Tantabiddi and Coral Bay. Tantabiddi is a popular beach located 36 kilometres from Exmouth on Yardie Creek Road. With its boat ramp facility, the beach is the park's main northern departure point for whale shark interaction, snorkelling and manta ray tours.

Currently, there are 11 licences issued to operate whale shark interaction tours from Tantabiddi and three (3) from Coral Bay. These licences will expire on 31 December 2018 and can be renewed for up to a further five years. These licences were allocated via an EOI process in 2008. While 15 licences were available, only 14 applications were assessed as meeting the selection criteria to a satisfactory standard. One licence remained vacant and was to be reviewed after three years.

In 2012, Parks and Wildlife commenced a review of the Wildlife Management Program that guides the management of whale sharks in Ningaloo Marine Park. This included a review of the cap on the number of licences available for commercial interaction tours. In October 2013, the review was completed and the *Wildlife Management Program no. 57 2013; Whale shark management with particular reference to Ningaloo Marine Park* was approved. The review concluded that there was no reason to increase or decrease the number of licences available and the allocation of the vacant licence was approved.

The *Conservation and Land Management Regulations 2002 (CALM Regulations 2002)* currently allow for the licence issued as a result of this call for EOI to be issued for up to ten years, and may be renewed for up to a further five years, subject to approval by the Minister for Environment. At the end of this second (renewal) period all licences will be required to undergo another competitive EOI process. To bring this licence into line with the current licences, it will be granted to expire on 31 December 2018 and can be renewed for up to a further five years. The licence will also allow the conduct of other associated activities such as scuba diving, snorkelling and sightseeing in Ningaloo Marine Park for the whole period of the licence.

The provision of a commercial in-water whale shark interaction licence in Ningaloo Marine Park will need to be conducted in such a way that potential conflict with other users and operators is minimised, ecologically sustainable tourism is ensured, natural and cultural values of the area are not compromised and visitors are offered a quality tourism and recreation experience.

Parks and Wildlife views the allocation of licences such as the one in this EOI as an opportunity to enter into arrangements with the private sector, where mutual benefits can be derived. The operator can provide commercial services on *Conservation and Land Management Act 1984 (CALM Act 1984)* land managed waters, create more visitor opportunities and increase direct expenditure in regional communities. Fees and charges collected from these operations will be retained by the Parks and Wildlife Exmouth District to contribute to the cost of the whale shark management program.

Applicants will need to demonstrate in their submission a sustainable business model that will deliver:

- conservation outcomes through management of the local environment and education of visitors about the environmental and cultural values of the area;
- a high level of tourism experience in promotion and delivery that meet the expectations of visitors to the unique World Heritage listed area of Western Australia;
- social and community benefits to the local area by contributing to the regional economy and providing opportunities for the local Aboriginal people who have a strong connection to this area; and
- a financially viable operation for both themselves and Parks and Wildlife.

**For further information regarding this EOI process, please contact Matthew King on (08) 9334 0499 or: [matthew.king@DPaW.wa.gov.au](mailto:matthew.king@DPaW.wa.gov.au)**

**The applications for this Expression of Interest will close  
3:00pm WST, Tuesday, 16 September 2014.**

Although this document contains information about the EOI evaluation process, none of the information shall give rise to any promise or contract, and no legal relationship shall be created between the State and an applicant at any stage prior to the grant of a licence.



Image: Cameron Skirving.

## 2.0 MANAGEMENT OF NINGALOO MARINE PARK

### 2.1 General management goals and objectives

The primary goal for management of national parks and marine parks, as defined in the *CALM Act 1984*, is to fulfil so much of the demand for recreation by members of the public as is consistent with the proper maintenance and restoration of the natural environment, the protection of indigenous flora and fauna and the preservation of any feature of archaeological, historic or scientific interest with mostly local or regional significance. This includes:

- maintaining natural values and visitor experiences;
- protecting the cultural values of the area;
- minimising environmental impacts by directing visitors to more robust sites and providing a wide range of opportunities to distribute visitor pressures;
- maintaining and improving the quality, rather than quantity, of existing recreational opportunities;
- retaining natural experiences in the area by not increasing the number of recreation sites proposed in the management plan; and
- linking Parks and Wildlife's visitor management and recreational facilities with interpretation to improve visitor amenity and environmental safeguards, as well as ensuring sustainable recreation by portraying a strong conservation education message.

### 2.2 Park management

Ningaloo Marine Park encompasses both Commonwealth and State waters with each section having been declared under respective legislation. Parks and Wildlife manages the park as one unit on behalf of both entities. The State component of the park covers an area of about 224,000 hectares, which includes a strip of coastal land extending 40 metres above high water mark adjacent to Ningaloo, Cardabia and Warroora Pastoral Stations. Both Commonwealth and State components of the park total approximately 4,300 square kilometres. The *Ningaloo Marine Park and Muiron Islands Marine Management Area Management Plan 2005 - 2015* addresses the State proportion of the park while the *Ningaloo Marine Park (Commonwealth Waters) Management Plan 2002* addresses the commonwealth waters.

The primary purpose of reserving (and the subsequent management of) marine parks, as defined in the *CALM Act 1984* is to allow only that level of recreational and commercial activity which is consistent with the proper conservation and restoration of the natural environment, the protection of indigenous flora and fauna and the preservation of any feature of archaeological, historic or scientific interest.

The *Ningaloo Marine Park and Muiron Islands Marine Management Area Management Plan 2005-2015* defines the three principal goals for management of the park that address conservation, recreation and education aims for Ningaloo. These include:

- conserve marine species, marine ecosystems and natural, historic and cultural features;
- facilitate public enjoyment of the park to the extent compatible with conservation of its natural environment; and
- create an awareness and understanding of the marine and coastal environment and the limitations.

To achieve these goals, Parks and Wildlife has the following management objectives for Ningaloo:

- to manage State and Commonwealth areas as one park;
- to integrate management and development of the park with adjacent areas of land to achieve maximum effectiveness and optimum allocation of management resources;
- to manage adjoining coastal land so that access to the park is achieved with minimum disruption to the rights of adjoining landholders;
- to conserve native species, habitats and natural processes;
- to provide recreational opportunities and facilities that maximise the quality of experience sought by visitors;



- to promote an appreciation and understanding of the marine environment and sites of cultural significance in the park, through information, interpretation and education;
- to manage recreational and commercial fishing without adversely affecting fish populations.
- to provide for tourism, to the extent consistent with maintenance of resources;
- to ensure that all development and activities are consistent with the maintenance of species populations, habitats, natural features, and cultural and scenic values; and
- to conduct research programmes aimed at understanding how impacts of use and natural processes affect the maintenance and management of the park.

The main management strategy used to achieve these goals is to separate sections of the park into zones. Such management zones reflect the characteristics of particular areas within the park and separates potentially conflicting uses and activities into different areas. Ningaloo's current management zones are presented in the *Ningaloo Marine Park and Muiron Islands Marine Management Area Management Plan 2005-2015* available on the Parks and Wildlife website at [www.dpaw.wa.gov.au](http://www.dpaw.wa.gov.au).

*Wildlife Management Program no. 57 2013; Whale shark management with particular reference to Ningaloo Marine Park* has been approved by the Director General of the Department of Parks and Wildlife and endorsed by the MPRA. The wildlife management program replaces and updates the original program approved in 1997 and directs the management of whale sharks, with specific reference to whale shark interaction in reserves – particularly Ningaloo Marine Park.

## 2.3 Background to licensing whale shark interaction tours

Whale sharks are native fauna and as such are fully protected under the provisions of the *Wildlife Conservation Act 1950*. Whale sharks are a natural resource that generate considerable interest from the public and now form the basis of a commercial tourism interaction industry in Ningaloo Marine Park. Whale sharks are also encountered by members of the boating public in other parts of State waters, both inside and outside marine parks.

To ensure potential human impacts are minimised to this high profile species, Parks and Wildlife has developed a two-pronged management strategy. All commercial tourism interactions involving whale sharks within Ningaloo Marine Park are managed by way of a restricted interaction licence issued under the provisions of the *Wildlife Conservation Regulations 1970* (Regulation 15) and the *CALM Regulations 2002*.

Incidental non-commercial interactions both inside and outside of marine parks are regulated under the *Wildlife Conservation (Close Season for Whale Sharks) Notice 1996*, which is gazetted under the provisions of section 14(2)(a) of the *Wildlife Conservation Act 1950*.

Together these mechanisms give Parks and Wildlife the best strategy to ensure that any interaction with whale sharks is managed sustainably and presents the lowest risks to the species, within Western Australian waters.

In-water commercial whale shark interaction tours have been operating in Ningaloo Marine Park since 1987 and until 1992 the scale of this activity was relatively small. By 1993, awareness of the industry had significantly increased amongst both national and international visitors.

The significance of whale sharks to conservation objectives of Ningaloo was recognised in the *Ningaloo Marine Park and Muiron Islands Marine Management Area Management Plan 2005-2015*. In this document it was stated that Parks and Wildlife has a clear responsibility to ensure that the whale shark interaction tours are managed equitably and sustainably particularly considering the limited knowledge of the species biology and ecology and the unknown impacts of increased tourism on individual sharks or the group as a whole. Measures are then taken to ensure these objectives are met. Therefore, to ensure the species is protected from increasing tourism demand and to ensure the conservation objectives are maintained, a precautionary approach to licensing is necessary and limits the number of commercial interaction licences available.

In 1993, in conjunction with the whale shark operators Parks and Wildlife developed an operational 'Code of Conduct' for whale shark interaction tours. This Code of Conduct was designed to protect the whale sharks, enhance visitor experience and ensure visitor safety, whilst enabling observers to be in relatively close proximity to whale sharks. This Code has been incorporated into the licence conditions.

To ensure Parks and Wildlife's management objectives are met, a continual review process of management controls takes place. These have been identified in *Whale shark management with particular reference to Ningaloo Marine Park, Wildlife Management Program no. 57 (2013)*. Copies of this document are available from Parks and Wildlife's Kensington or Exmouth offices, and on the Parks and Wildlife website.

The strategic objectives of the program are as follows:

Conservation:

- to improve our understanding of whale shark ecology and ensure it is incorporated into whale shark conservation and interaction management at Ningaloo Marine Park; and
- to raise public awareness and appreciation of whale sharks and use their iconic status to promote broader marine conservation issues.

Sustainable Tourism:

- to ensure whale shark interaction tours are undertaken in a sustainable manner; and
- to ensure and further promote the status of whale sharks as one of the iconic species found within Ningaloo Marine Park and Ningaloo Coast World Heritage Area in order to support a world-class ecotourism industry into the future.

Of the 15 whale shark interaction licences permitted in Ningaloo Marine Park, there are 14 currently allocated; 11 from Tantabiddi and three from Coral Bay with activities in the park restricted by boat access. The licence allocated from this process will operate from Tantabiddi.





## 2.4 Ningaloo Coast World Heritage Area

The Ningaloo Coast was inscribed on the World Heritage List on 24 June 2011 for its natural beauty and biological diversity, in particular the:

- aesthetically striking coastal and terrestrial environment of the Ningaloo Reef adjacent to the Cape Range;
- lush and colourful underwater scenery and its contrast with the arid and rugged land;
- annual aggregation of whale sharks, one of the largest in the world;
- important aggregations of other fish species and marine mammals;
- high marine diversity, including an unusual diversity of marine turtle species;
- rare and diverse subterranean creatures; and
- diversity of reptiles and vascular plants in the drylands.

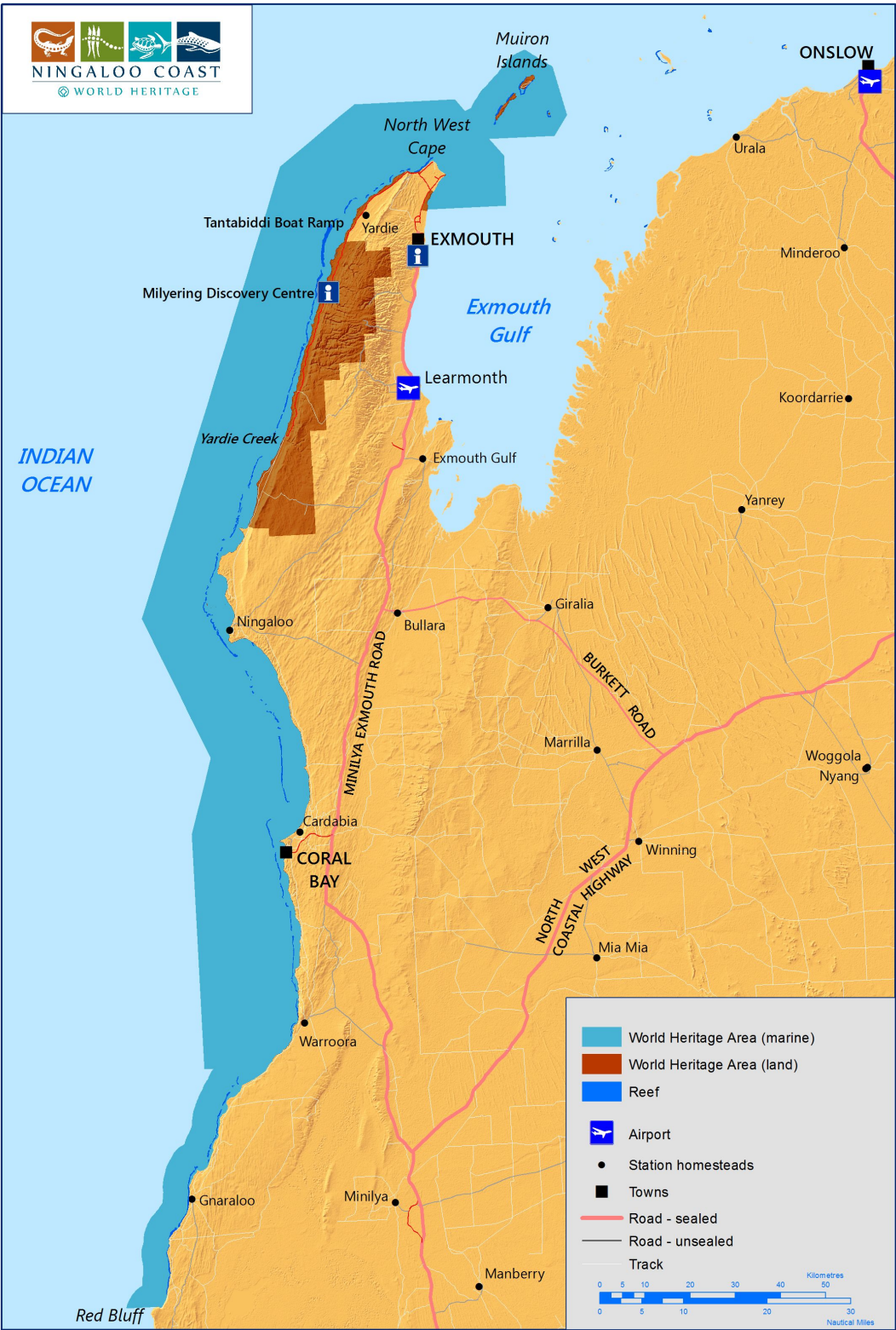
## 3.0 TOURISM OPPORTUNITY

Parks and Wildlife is seeking EOI from suitably qualified individuals who wish to apply for the opportunity to develop and operate commercial in-water whale shark interaction tours and associated activities from Tantabiddi within the Ningaloo Marine Park, **with the licence granted as of 1 January 2015.**

This licence is personal and will only be issued to a person not currently licensed for this activity. However, a person who is a principal of a business that currently operates whale shark interaction tours, pursuant to a licence held by one of its other principals, can apply for the licences offered via this EOI. Please refer to 3.11 Economic Stability in relation to those businesses already operating and looking to expand their business by operating under an extra licence.

This is an excellent opportunity to develop and operate a service that provides a quality nature based tourism experience and explores natural themes of the Ningaloo Marine Park.

3.1 Location



### 3.2 Licence period, charges and annual sustainability auditing

Licences to conduct tours and activities on lands and waters managed by Parks and Wildlife can be granted for periods of up to 10 years and be renewed up to a further period of up to five years subject to approval by the Minister for Environment. At the end of this second (renewal) period new licences will be allocated via a competitive EOI process.

To ensure businesses are continually improving and moving towards achieving best practice, operations will be audited each year of their licence against sustainability benchmarks, licence conditions outlined in Table 5 and in accordance with the proposals in their submissions (which will be incorporated into the licence conditions). It is proposed that if the level of compliance reaches 100% the audit may be conducted every two years. Audits may be less frequent if consistently high levels of performance are achieved.

Licence charges will apply to the successful applicant who obtains a restricted licence. Licence charges for restricted licences are usually a percentage of gross or annual turnover or determined on a per person basis. Currently, licence charges for in-water whale shark interaction tours are \$18.00 per adult per day and \$9.00 per child per day and are payable for all whale shark interactions tours. A \$900.00 (50 x adult licence charge) non-refundable deposit on licence charges is required to be paid prior to the commencement of each season. All charges in relation to the licence are GST exempt and are reviewed annually.

**All licence charges are retained by the Parks and Wildlife Exmouth District and contribute to whale shark research costs and costs associated with the whale shark management program within Ningaloo Marine Park.**

### 3.3 Australia's Coral Coast Tourism Overview

One of Western Australia's most spectacular and rapidly developing regions, Australia's Coral Coast stretches from Cervantes (north of Perth) to the tourist destination of Exmouth and Ningaloo in the north encompassing a distance of over 1000 kilometres.

A major attraction to this region is its unique natural attractions, including the Ningaloo Marine Park, Cape Range National Park, the Ningaloo Reef, the Pinnacles Desert, the Abrolhos Islands, the Kalbarri National Park and the Shark Bay World Heritage area.

Australia's Coral Coast is now a well established brand within the tourism industry in Australia and within those key international markets in which the organisation takes an active approach. These key international tourism markets include South East Asia, UK/Europe, New Zealand and Japan.

Australia's Coral Coast is the third most visited tourist destination outside of Perth and Tourism Western Australia considers this region one of its highest priorities for product and infrastructure development.

In 2012, Australia's Coral Coast received approximately 742,500 overnight visitors, made up of 628,000 intrastate, 57,000 interstate, and 57,500 international overnight visitors.

On average for years ending December 2010/11/12:

- the average length of stay in the region was 6.2 nights;
- caravan/camping was the most popular form of accommodation for international visitors;
- 85% of international visitors went to the region for holiday/leisure purposes; and
- the top two international markets to visit the region were the UK and Germany, respectively making up 20% and 16% of international overnight visitors to the region.

A full version of the regional fact sheet can be downloaded from the 'Research and Reports' page of the Tourism Western Australia Corporate website: [www.tourism.wa.gov.au](http://www.tourism.wa.gov.au).

## Australia's Coral Coast

Ningaloo Marine Park is located within Australia's Coral Coast Region, one of Western Australia's five tourism marketing regions and is marketed and promoted by the Australia's Coral Coast Regional Tourism Organisation.

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### 3.4 Whale Shark Interaction Tour Licences

To ensure minimal impact on the conservation values of the Ningaloo Marine Park, to protect the whale sharks and to preserve the quality of the visitor experience, only one licence will be issued as a result of this EOI. Licence conditions will be developed and reviewed to ensure that commercial whale shark interaction tours are undertaken in an environmentally sustainable way, to minimise the risk of injury and to prevent the animals from being harmed or disturbed.

To be consistent with existing licences, the licence issued as a result of this call for EOI will expire on 31 December 2018. At the end of this period the licence may be renewed for a further five years, subject to the approval of the Minister for Environment.

The successful applicant to this EOI will be expected to liaise closely with Parks and Wildlife and other concessionaires and tourism industry operators to ensure compatibility of services and operations that result in minimum detrimental impacts on the marine park and optimum benefit to visitors, the community and Parks and Wildlife.

A licence to conduct wildlife interactions pursuant to Regulation 15 of the *Wildlife Conservation Regulations 1970* is also required to conduct commercial tours focusing on whale sharks and will be allocated via this EOI.

Operators who also wish to operate whale shark interaction tours within the Commonwealth waters adjacent to Ningaloo Marine Park (seaward of state territorial waters and extending to the 200 nautical mile limit) will be required to hold a permit with the Australian Government Department of the Environment (DE). It is a condition of the DE permits that to conduct whale shark interaction tours, you must also hold a current E class licence for whale shark interaction tours with Parks and Wildlife. Successful applicants to this EOI who wish to apply for a permit with DE can visit its website [www.environment.gov.au](http://www.environment.gov.au) for more information.

### 3.5 Access to Ningaloo Marine Park

Access to Ningaloo Marine Park for the licence allocated through this EOI will be via Tantabiddi. Tantabiddi is a popular beach located 36 kilometres from Exmouth that has its own boat ramp facility and is the park's main northern departure point for whale shark interaction, snorkelling and manta ray tours.

Currently a total of eleven (11) licences operate from Tantabiddi and three (3) operate from Coral Bay.

### 3.6 Universal Access to Services and Facilities

Parks and Wildlife supports the principle of Universal Design in its delivery of recreation and tourism facilities and services and is required under the Commonwealth *Disability Discrimination Act 1992* and the State *Equal Opportunity Act 1984* to ensure access is not denied to people with disabilities wherever possible. Parks and Wildlife's approach is to provide for a diversity of user groups with a wide range of needs and design for flexibility and ease of use *while at the same time* seeking to maintain the fundamental characteristics and experience of a place. The principle is that if the solution to an access problem destroys

the environment or experience (such as a ramp to the top of Bluff Knoll for wheelchairs), or it would be financially unachievable, then Parks and Wildlife will consider other options and will provide an equivalent experience when possible somewhere else.

Applicants should demonstrate their commitment to providing services that accommodate universal design and access to facilitate a range of disabilities consistent with legislation. Disabilities are not just limited to mobility and may include other forms of disablement (see weighted criteria 3.9).

### 3.7 Licence Conditions

Licence conditions will be attached to the licences awarded as a result of this EOI in accordance with the *CALM Regulations 2002*. The conditions will be developed in consultation with the successful applicant and will be consistent with commitments made in their submission to this EOI and these guidelines.

A licence to conduct wildlife interactions pursuant to Regulation 15 of the *Wildlife Conservation Regulations 1970* is also required to conduct commercial tours focusing on whale sharks. The licence conditions typically attached to the Wildlife licence are provided in the *Whale shark management with particular reference to Ningaloo Marine Park, Wildlife Management Program no. 57 (2013)*, pg. 70.

### 3.8 Appropriate Vessel

The principal vessel nominated by the successful licence holder must either be wholly or partially owned or leased by the licence holder and must be currently surveyed to the Department of Transport requirements for operation in the area of the proposed tours. Another whale shark interaction tour operator cannot use the vessel nominated at that time. The vessel must also be removed from the marine park to undergo maintenance.

If you do not currently have an appropriate vessel to nominate, you are able to state your acknowledgement that if you are a successful applicant, prior to the grant of any licence, you will nominate a vessel that is consistent with your application and provide a survey certificate at that time.

### 3.9 Moorings

Parks and Wildlife is currently implementing its Statewide mooring management strategy in which all existing and proposed moorings in conservation estate, including those within Ningaloo Marine Park, will be reviewed and assessed in accordance with environmental, safety and navigational criteria.

Any operator awarded a whale shark licence as a result of this EOI, who requires a mooring for their whale shark operation (and does not already have an approved mooring), will be required to apply for Lawful Authority to install a mooring. Lawful authority to use the mooring will be included in the licence conditions.

Current licence holders for whale shark interactions at Tantabiddi may also be required to apply for Lawful Authority to use an existing mooring under their existing licence conditions.

The successful applicant and current licence holders will be required to abide by any mooring policy that may be implemented pursuant to the mooring management strategy. This may include removing, relocating or upgrading existing moorings and/or installing approved moorings.

It is expected that all moorings will be required to meet the following minimum environmental criteria:

- the mooring is installed in such a manner as to avoid causing damage to sensitive habitats (e.g. corals/seagrass);
- the mooring is non-polluting;
- the mooring must not move;
- the top end gear must not come into contact with the seabed (including sand, seagrass, corals etc.) at any time; and
- that an inspection report is provided from a suitably qualified person indicating that the mooring has met all environmental criteria.



The approval to use a mooring in association with the whale shark interaction licence will be included in the licence conditions.

### 3.10 Data Collection

Accurate and timely collection of data is an important management and research tool to allow Parks and Wildlife to understand more about whale sharks and the marine environment of the park. Licence conditions require operators to input data into an electronic monitoring system in relation to all whale shark tours, irrespective of whether interaction occurs.

Conservation benefits will include having accurate data lodged in a timely fashion in a format ready to be evaluated for eventual end of season reporting and analysis.

### 3.11 Economic Sustainability

Applicants will need to show via their financial projections and marketing plans that the proposed operation will be financially sustainable and will use the licence to a reasonable extent. Licence holders cannot hold the licence inactive.

The assessment panel will assess applications from applicants who currently do not hold a whale shark interaction licence. It is understood that if such an applicant is successful there will need to be reasonable lead time to establish their business. Applicants should demonstrate in their submissions how they will set up their business and a timeframe to become operational and viable.

If the applicant is a principal in a business that has an existing licence holder then the applicant will need to demonstrate that their business has the capacity for growth to ensure that a new licence will be used to a reasonable extent.

Reasonable extent may be determined by, but is not limited to, the following principles, and may be amended from time to time:

- that the operator demonstrates that whale shark interaction tours have been offered and the operator and vessel is available at Tantabiddi to accept bookings for at least 50% of the period between 1 March and 31 July;
- that the licence holder is actively promoting whale shark interaction tours to be available during 1 March and 31 July demonstrated by the use of promotional material distributed within Exmouth or other markets and an easily available retail and/or wholesale booking system; and
- valid reasons for non-operation could include:
  - adverse weather conditions that present a safety risk to passengers;
  - major breakdown of vessel or equipment; or
  - absence of whale sharks in the Ningaloo Marine Park for the period between 1 March and 31 July.

## 4.0 CULTURAL CONNECTIONS

### 4.1 Aboriginal connections

Ningaloo Marine Park and Cape Range National Park is also of importance from a cultural perspective, as it boasts one of the earliest known sites in Australia of Aboriginal occupation based on a marine economy.

The Gnulli Native Title claimants represented by the Yamatji Land and Sea Council is the relevant contact body for this section of the national park. Contact details: 9964 5645 or 9965 6222.

Amendments have recently been made to the *CALM Act 1984* to incorporate Aboriginal cultural heritage into management planning, provide a mechanism for management partnerships of parks and reserves with Aboriginal people, and facilitate the exercise of Aboriginal customary activities on *CALM Act 1984* Land estate. These amendments aim to recognise the connections between Aboriginal people and country.

## 5.0 DEVELOPMENT OF SELECTION CRITERIA

Applicants will be required to address all selection criteria in section 6.0. The nine indicators in Appendix 1 form the basis of the criteria so applicants should note the indicators when addressing selection criteria, as applicants will be required to address:

- strategies on how, and to what standard, the criteria will be addressed; and
- strategies on how these standards will be increased and improved over time so that the operator operates using best practice standards.

The aim is to have the operation achieve the highest level of sustainability (best practice standards) for each criterion as soon as possible. Applicants who propose realistic and practicable achievement of best practice standards sooner will be looked upon favourably and assessed accordingly.

**To ensure the business is continually improving and moving towards achieving best practice, the operation will be audited against licence conditions based on the sustainability benchmarks and in accordance with the applicant's commitments in its submission.**

### 5.1 Evaluation and approval process

Applicants should refer to the *EOI Process and Assessment Methodology, Additional Information and the Terms and Conditions* documents in part B, C and D respectively in these guidelines to understand the process and requirements of this EOI process.

### 5.2 Nominated Vessel

**Please provide details of your nominated vessel/s, the survey and vessel specification.**

If you do not currently have an appropriate vessel to nominate, you are able to state your acknowledgement that if you are a successful applicant, prior to the grant of any licence, you will nominate such a vessel that is consistent with your application and provide a survey certificate at that time.

## 6.0 ASSESSMENT CRITERIA FOR EOI

The following assessment criteria need to be addressed in submissions for the in-water whale shark interaction tours in Ningaloo Marine Park commercial operations licence. Please address these criteria in the stated order and under the stated headings.

APPLICANTS ARE REQUIRED TO ADDRESS AND MEET EACH CRITERION IN SECTION 6.1.

**Failure to satisfactorily address all the EOI criteria or demonstrate how they will be addressed prior to the allocation of a licence may result in the application being considered non-compliant.**

**Applicants should assume that the Evaluation Panel has no knowledge of you, your organisation, its activities, experience or any other previous work undertaken for any organisation or government agency.**

## 6.1 Weighted/qualitative objectives/criteria

Applicants must address each criterion, using the headings provided below. Applicants will be scored for each of the weighted/qualitative criteria listed on a scale of zero to nine. Please refer to Part B, *EO/ Process and Assessment Methodology*, section 4 for information about assessment scoring and evaluation.

When addressing the weighted/qualitative criteria, applicants should aim to demonstrate an understanding of the issues, as well as describe their capability, experience and past performance.

Applicants are encouraged to submit any further relevant information that they consider may support their application.

Applicants should present their submission in the same format as shown in the tables associated with each criterion. The higher the weighting, the more important the criteria or sub-criteria are.

### **APPLICANTS ARE REQUIRED TO ADDRESS EACH OBJECTIVE AND MEET EACH OF THE CRITERIA.**

| <b>Criterion 1</b> | <b>Applicant Attributes</b> | <b>WEIGHTING – 35%</b> |
|--------------------|-----------------------------|------------------------|
|--------------------|-----------------------------|------------------------|

This selection criterion relates to the operators experience, skills and business qualities that will enhance the management and operation of whale shark tours and other associated activities in Ningaloo Marine Park, as well as the relevant knowledge and ability to operate commercial tourism in a protected area.

Sub-criteria for the assessment of applicant's submissions are presented in Table 1 along with the weighting of each.

You should present your submissions in the same format as Table 1 below.

**Table 1 – Weighting of sub-criteria for applicant attributes**

| <b>Sub-criteria</b> | <b>Applicant Attribute</b>  | <b>% weighting</b> |
|---------------------|---|--------------------|
| 1.1                 | Demonstrated ability to work cooperatively with Parks and Wildlife.   | 25                 |
| 1.2                 | Demonstrated ability to meet relevant statutory requirements, management guidelines and operating conditions. Please provide details of any breaches by you of Acts, Regulations and/or conditions if applicable. If you have had a history of any of the above, you should declare them and explain what strategies you propose to introduce to ensure that they will not occur in the future. | 25                 |
| 1.3                 | Demonstrated timely payment of fees, charges and accounts that have been levied for which you are responsible for payment in any business that you have been involved.  | 25                 |
| 1.4                 | Evidence of cooperation and assistance to organisations in research and management programs.  | 25                 |

|                    |   |                        |
|--------------------|---|------------------------|
| <b>Criterion 2</b> | <b>Economic environment performance</b> | <b>WEIGHTING – 35%</b> |
|--------------------|---|------------------------|

This selection criterion relates to the applicant's demonstrated economic performance in business.

Sub-criteria for the assessment of applicant's submissions are presented in the table below, along with the weighting of each.

Applicants should present submissions in the same format as Table 2 below.

**Table 2 – Weighting of sub-criteria for economic environment performance**

| <b>Sub-criteria</b> | <b>Economic environment performance</b>  | <b>% weighting</b> |
|---------------------|--|--------------------|
| 2.1                 | Demonstrated skills, qualifications and experience of key personnel in business management with an emphasis on nature based and wildlife interaction tourism.                        | 20                 |
| 2.2                 | Provide a marketing plan showing the proposed marketing programs for the business for the first year of operation.   | 20                 |
| 2.3                 | Provide proposed tour itineraries and price structure for all activities proposed within the application.  | 15                 |
| 2.4                 | Provide cash profit and loss forecasts for at least three years detailing major areas of income and expenses (2015/2016/2017).   | 15                 |
| 2.5                 | Demonstrate the applicant's financial capacity to operate the business. Refer to 3.11 Economic sustainability. (Information from banks/financiers/accountants can assist with this). | 10                 |
| 2.6                 | The applicant's business management and structure.   | 10                 |
| 2.7                 | Nominated skipper and crew.  | 10                 |

|                    |   |            |
|--------------------|---|------------|
| <b>Criterion 3</b> | <b>Natural and Social environment performance</b> | <b>30%</b> |
|--------------------|---|------------|

This selection criterion relates to the applicants commitment to minimising the environmental impact and maximising the social benefits of its operation.

In addressing each of these performance criteria, applicants should pay attention to the detailed sub-criteria, as outlined below.

**Table 3 - Weighting of sub-criteria for natural environment performance**

| <b>Sub-criteria</b> | <b>Social environment performance</b>                                 | <b>% weighting</b> |
|---------------------|---|--------------------|
| 3.1                 | Level of Aboriginal employment / training or ownership opportunities. | 25                 |
| 3.2                 | Culturally sensitive behaviour.                                       | 25                 |
| 3.3                 | Provision of interpretative material.                                 | 25                 |
| 3.4                 | Environmental Stewardship in co-operation with Parks and Wildlife.    | 25                 |

Applicants should aim to demonstrate an understanding of the issues, as well as describe their capability, experience and past performance. Please provide details of the approach you would take in meeting each of the sub-criteria.

The minimum standards which Parks and Wildlife expects operators to comply the sub-criteria are outlined below. Applications not meeting the minimum standards may be considered non-conforming. Best practice is a higher standard, which Parks and Wildlife intends the successful operator to aim to achieve over time. The operator will be assessed on both their ability to achieve minimum standards (5 points) and initiatives proposed to aim for best practice (additional 0-4 points).

**Table 4 - Description of sub-criteria for natural and social environment performance**

| Selection criteria |  | Minimum standard   | Examples of best practice  |
|--------------------|--|--|--|
| <b>Criteria 3</b>  | <b>Natural and Social environment performance</b>                    |  |  |
| 3.1                | Level of Aboriginal employment / training or ownership opportunities | Commitment to the provision of employment and training opportunities to local Aboriginal people.   | At least partial ownership of operation by local Aboriginal groups. High proportion of staff from local Aboriginal groups.   |
| 3.2                | Culturally sensitive behaviour                                       | Awareness of local Aboriginal culture.<br>Adherence to sacred site restrictions.<br>Education of visitors regarding local Aboriginal culture.  | Cultural content in educational material developed in consultation with local Aboriginal people.   |
| 3.3                | Provision of Interpretive materials                                  | Provision of interpretive information on both the local environment and Aboriginal and European culture.<br>Communication of low impact nature based tourism principles and appropriate behaviour such as the Leave No Trace principles. | Pre-tour interpretative information as part of marketing material.<br>Face-to-face Aboriginal cultural education.<br>High level of interpretation on tours; provision of reference books and maps.<br>Demonstration of the application of best practice model principles; active visitor involvement in conservation activities. |
| 3.4                | Environmental stewardship in cooperation with Parks and Wildlife     | Preparedness to keep records and supply information to Parks and Wildlife as required.<br>Reporting of incidents of damage or risk within the park.<br>Prompt payment of fees and charges.   | Active participation in research and studies carried out in the park such as surveys, coral monitoring Drupella surveys and Humpback whale photo ID.<br>Self monitoring for continual improvement in minimising impact of operations.  |

### 6.3 Licence conditions

The licence granted will be performance-based with specific licence conditions, including those developed from the commitments made in applications relating to the natural environment and social performance assessment (criteria 2). Table 5 identifies further issues that will be incorporated into the licence as licence conditions and applicants should consider them within their submission. **Although applicants do not need to address these conditions in their submissions**, they should keep them in mind in formulating the proposal, and be aware that any proposal that is not capable of achieving these conditions is unlikely to be accepted.

| Table 5                                |  | Issues   |
|--|--|--|
| <b>Natural environment performance</b> | <b>Maintenance of natural ecology.</b>         | <ul style="list-style-type: none"> <li>No pets.</li> <li>No feeding of wildlife.</li> <li>Development of protocols for the prevention of the further introduction of non-endemic species of all types.</li> </ul>                    |
|  | <b>Amount of solid waste produced on site.</b> | <ul style="list-style-type: none"> <li>Policy of purchasing goods with minimal packaging (e.g. in bulk).</li> <li>Use of crushable aluminium cans rather than glass wherever possible.</li> <li>Use of recycled products.</li> </ul> |



|                                       |   |  |
|---------------------------------------|---|--|
|                                       |   | <ul style="list-style-type: none"> <li>Recording of, and ongoing improvement in, waste management.</li> <li>Minimise volume and weight of all waste.</li> </ul>  |
|                                       | <b>Amount of non-renewable energy consumed.</b>                         | <ul style="list-style-type: none"> <li>Policy on minimisation of non-renewable (e.g. hydrocarbon-based) energy consumption.</li> <li>Use of energy efficient appliances.</li> </ul>  |
|                                       | <b>Green house gas emissions.</b>                                       | <ul style="list-style-type: none"> <li>Documented regular maintenance to ensure engines and other machinery runs efficiently.</li> </ul>   |
|                                       | <b>Noise levels.</b>  | <ul style="list-style-type: none"> <li>Commitment to minimisation of noise.</li> <li>Minimisation of vessel noise.</li> <li>Minimise radio noise on vessels.</li> </ul>  |
|                                       | <b>Fuel and chemical storage and handling design; spill procedures.</b> | <ul style="list-style-type: none"> <li>Spill response equipment in place and recording of spill events and how they were handled.</li> <li>Register of all chemical and fuel storage on vehicles and vessels including management requirements.</li> <li>Appropriate signage.</li> <li>Commitment to and use of environmentally friendly products wherever possible.</li> <li>Disposal of all chemical and petrochemical waste in a licensed facility.</li> </ul>  |
|                                       | <b>Waste storage and disposal methods.</b>                              | <ul style="list-style-type: none"> <li>Minimise volume and weight of all waste.</li> <li>Visitor education regarding litter.</li> <li>Appropriate signage.</li> </ul>  |
| <b>Social environment performance</b> | <b>Content of marketing material.</b>                                   | <ul style="list-style-type: none"> <li>Provision of background information on sustainability principles and natural area focus.</li> <li>Accurate description of tour, equipment and level of service.</li> <li>Description of park features.</li> </ul>   |
|                                       | <b>Expenditure to local businesses.</b>                                 | <ul style="list-style-type: none"> <li>Commitment to local expenditure wherever possible.</li> </ul>   |
|                                       | <b>Membership of local associations.</b>                                | <ul style="list-style-type: none"> <li>Membership of regional tourism organisations and visitor centres or similar.</li> </ul>   |
|                                       | <b>Safety equipment and procedures.</b>                                 | <ul style="list-style-type: none"> <li>Fully functioning emergency communication equipment.</li> <li>Basic search and rescue protocols in place.</li> <li>Staff member present with a first aid qualification of at least a Level 2 Senior First Aid certificate or equivalent.</li> <li>Appropriate first aid kit on site.</li> <li>Visitor education regarding risks.</li> </ul>   |
|                                       | <b>Visitor feedback.</b>  | <ul style="list-style-type: none"> <li>Provision of an international best practice standard of service and value for money measured by the assessment of visitor feedback on the operation that includes some or all of the following: the perceived value for money standard of services, level of cleanliness and comfort, staff competency and manner, the accuracy of marketing, natural focus of the operation, provision of conservation initiatives, the level of educational opportunity and the level of cultural sensitivity.</li> </ul> |

## 7.0 CLOSE OF SUBMISSIONS

**SUBMISSIONS CLOSE AND MUST BE RECEIVED BY  
3:00pm WST, Tuesday 16 September 2014**

Faxed submissions will not be accepted.

Late submissions will not be accepted, with the exception of circumstances outlined within the probity guidelines, late submissions, part C.

**All applicants must submit five (5) copies of their submission.**

The submission (as well as the outside of the envelope) should be marked:

**COMMERCIAL IN-WATER WHALE SHARK INTERACTION TOURS IN NINGALOO MARINE PARK  
OPERATING FROM TANTABIDDI  
Expressions of Interest No. EOI 1 243 2014  
TENDER BOX**

and posted to:

**Tender Box**  
*Director General  
Department of Parks and Wildlife  
Locked Bag 104  
Bentley Delivery Centre WA 6983*

Hand delivered submissions must be delivered to the Tender Box, Main Reception Desk at:

*Department of Parks and Wildlife  
State Operations Headquarters  
17 Dick Perry Avenue  
Technology Park – Western Precinct  
KENSINGTON WA 6983*

### **Important Note: Late Submissions**

The Project Manager, in consultation with the Probity Auditor, may at his or her discretion elect to accept a late submission where the Project Manager considers it appropriate in the circumstances and the Project Manager is satisfied that no applicant has been materially advantaged or disadvantaged.

## 8.0 APPLICATION FORM

Please fill out and remove this page and attach to your application with the \$100.00 application fee.

### CONSERVATION AND LAND MANAGEMENT REGULATIONS 2002 (PART 7)

#### APPLICATION FOR A LICENCE

TO: THE DIRECTOR GENERAL OF THE DEPARTMENT OF PARKS AND WILDLIFE  
DEED POLL

I .....

hereby apply for a licence

to enter upon and use land within the  
Ningaloo Marine Park

.....  
in order to conduct commercial in-water whale shark interaction tours.

I understand and agree that the licence if granted will be subject to the provisions of the *CALM Act 1984* and all regulations and subsidiary legislation made under it.

I certify to the best of my knowledge that the information provided within this application is true and correct in every detail.

I understand that the licence if granted will not be transferable and may not be automatically renewed.

I have read, understood and agree to abide by the general, operation specific, area specific, issues and extra conditions contained within the Department of Parks and Wildlife Commercial Operator Handbook – Terrestrial and Marine, as amended from time to time, and I understand that further conditions relevant to the areas and activities proposed in this application may be imposed.

I hereby agree to release and indemnify, and keep indemnified, the State of Western Australia (**State**), the Chief Executive Officer of Parks and Wildlife (**CEO**), and each of the employees, contractors and agents of the State or Parks and Wildlife (**Indemnified Parties**) from and against all Claims and Costs which may be made or brought against, suffered or incurred by any of the Indemnified Parties arising in any way from, or in connection with the conduct of the applicant or any of its employees, agents, contractors, or passengers of the operation the subject of this application:

- on any lands to which the *CALM Act 1984* applies; or
- in relation to the event and activities the subject of this application.

I certify that the applicant's public liability insurer is aware of the conditions that would apply to this licence and the indemnity granted above. I confirm that the applicant's public liability policy also covers the operation and activities that are specified in this application form.

I declare that I am not currently bankrupt, or have executed an arrangement under Part X of the *Bankruptcy Act 1966* or, if a company is involved with any part of the submission, the company is not in receivership or some other formal arrangement with creditors.

I/we also agree to comply with all requirements of the *EOI Guidelines for Submission*. This includes:

- i. The licence will be subject to an annual audit of terms and conditions.
- ii. The applicant will be responsible for all set up costs.
- iii. All other requirements of the *EOI Guidelines for Submission*.
- iv. If not currently accredited, I/we will obtain appropriate tourism accreditation (see part C, section 5) within three months of the licence being issued.

v. That if I/we do not currently hold public liability insurance of at least \$10 million, that this will be provided prior to the grant of any licence.

I/we have also attached the required \$100.00 application fee.

Executed as a deed on: .....

DATE

|                |           |      |
|----------------|-----------|------|
| Natural person | Signature | Name |
|                | Witness   | Name |

# APPENDIX 1 – SUSTAINABILITY CRITERIA AND INDICATORS

The number of visitors to national and marine parks is continually increasing together with their expectations for experiencing the ‘natural’ environment. While this type of tourism is favourable for improving the community’s appreciation of the natural world (and hence its protection) the presence of these visitors can impact upon the environment they are visiting.

Ningaloo Marine Park is an example of such a park that is expecting visitor numbers to steadily increase in the future. As the managing agency, Parks and Wildlife looked at ways to ensure that the operation of commercial activities would ensure sustainability. Parks and Wildlife chose to do this by developing sustainability based selection criteria (environment, social and economic) that licence holders could be assessed and annually audited against to measure performance.

Environmental consultants were engaged previously to develop sustainability criteria for tourism operations in other areas of the State and these have been further developed to suit the types of operations covered by this EOI. Their approach was to employ the “Pressure/State/Response” framework to define a set of sustainability indicators from which to draw selection criteria.

Minimum standards have been identified to set short-term benchmarks, and strategic objectives are given to guide applicants in the application of sustainability principles to their operations.

**Those applicants with the best, most effective strategies for accomplishing a sustainable tourism practice during the term of the licence will be viewed favourably in the selection process.**

## Key Issues for Sustainable Commercial Operations

Nine key issues were identified as significant issues to be considered in the development and delivery of sustainable tourism services in Ningaloo Marine Park. The issues ranged from impacts on the biophysical environment, to less tangible aspects of sustainable tourism, such as visitor satisfaction and ethical marketing. Table 1 provides a summary of the issues identified as important and a list of goals associated with each issue.

**Table 1. Significant Issues and Goals for Ecotourism Operations**

| Issues (and sub issues)                                  | Goals  |
|--|--|
| <b>1. Sustainable equipment</b><br>Vessel/vehicle design | Provide a safe and comfortable visitor environment.<br>Give visitors a quality experience of “naturalness”.<br>Create a coherent theme consistent with the natural environment.<br>Minimise environmental impacts.<br>Design for functionality to enhance visitor experience, safety and management of the operation.<br>Provide facilities accessible to as wide a range of visitors as possible considering the <i>Disability Discrimination Act 1992</i> and Parks and Wildlife’s policy on Disability Access and Inclusion.<br>Minimise impact on the environment through appropriate footprint design and techniques. |



| <b>Issues (and sub issues)</b>            | <b>Goals</b>   |
|---|--|
| <b>2. Environmental impact</b>            |  |
| Biodiversity                              | Appropriate interaction protocols with marine flora and fauna.<br>Preserve ecosystem structure and function.<br>Minimise loss or alteration of habitat by clearing, fire or other disturbance.   |
| Marine environment                        | Prevent parasites or non-indigenous species.<br>Protect and conserve rare, vulnerable or endangered species.   |
| Water resources                           | Reduce/minimise water use and waste water generation.<br>Educate visitors concerning the value of water.   |
| Waste management                          | Minimise waste production.<br>Reduce environmental impacts by ensuring correct waste disposal.   |
| Energy production and use                 | Minimise use of fossil fuels.<br>Minimise production of greenhouse gases and combustion by-products.<br>Increase use of renewable fuels.<br>Increase energy use efficiency.  |
| Fuel and chemical use and storage         | Reduce fuel and chemicals used and stored on vessel/vehicles.<br>Manage fuel and chemical use/storage to minimise risks to the environment and to the safety/health of visitors.   |
| Air quality                               | Minimise emissions of greenhouse gases and combustion by-products.   |
| Noise                                     | Minimise impacts on native fauna and other visitors.   |
| <b>3. Cultural and social impacts</b>     | Ensure benefits of tourism operations are returned to the local community, specifically traditional owners.  |
| Aboriginal issues                         | Partner with and/or include traditional owners in aspects of tour operations.<br>Conduct sustainable tourism operations that minimise risks to cultural values and the spiritual connection to land and water.<br>Provide social and economic benefits to traditional owners.        |
| Non-Aboriginal local issues               | Ensure that local non-Aboriginal stakeholders are not negatively impacted by tourism operations.<br>Recognise and preserve positive elements of non-Aboriginal local culture as part of the tourism experience.  |
| <b>4. Safety and risk management</b>      | Manage risks so as to provide a safe and healthy tourism experience.<br>Minimise liability for Parks and Wildlife.   |
| <b>5. Interpretation and education</b>    | Provide visitors with an improved understanding of the natural environment, wildlife, Aboriginal culture and appropriate behaviour for environmental conservation and cultural respect as well as an understanding of the principles of low impact nature based sustainable tourism. |
| <b>6. Quality of service</b>              | Provide visitors with high quality service in keeping with sustainable tourism principles.   |
| <b>7. Visitor satisfaction</b>            | Maximise visitor satisfaction within the constraints of sustainable tourism principles.  |
| <b>8. Contribution to park management</b> | Tourism operation to provide a positive contribution to the park, including traditional owners and management.   |
| <b>9. Responsible marketing</b>           | Ensure that visitors understand the cultural values, the natural focus of  |

| Issues (and sub issues) | Goals  |
|-------------------------|--|
|                         | park, level of facilities being offered, and delivery of services as advertised. |

The “Pressure/State/Response” framework was used to define this set of sustainability indicators. This framework was originally developed by the Organisation for Economic Cooperation and Development and is used throughout Australia and New Zealand for state-of-the-environment reporting. It has been applied successfully to projects involving assessment of urban and natural systems. In New Zealand, the framework is being used to develop culturally appropriate indicators for use by Maori stakeholders.

- **Pressures** are factors that give rise to social or environmental impacts.
- **States** (or conditions) are aspects of the social or physical environment that may be impacted.
- **Responses** are things that can be done to eliminate or mitigate impacts.

In the context of low impact nature based (sustainable) tourism assessment in Ningaloo Marine Park, *pressures* relate mainly to the scale and style of proposed operations. *State* indicators relate to the impact of the tourism operations on people and on the biophysical environment. *Response* indicators relate to management or engineering systems (visitor interpretation and education, landscape, architectural and engineering design) that minimise the impact of tourism operations.

For each pressure, state or response a range of possible measures was identified as well as a minimum standard (expected of successful applicants) and a best practice standard (to which the operators will be expected to move towards through their licence period).

The aim is to have the operations achieve the highest level of sustainability (best practice standards) for each criterion as soon as possible. Applicants who propose realistic and practicable achievement of best practice standards sooner will be looked upon favourably and assessed accordingly.

## **PART B**

### **EOI PROCESS AND ASSESSMENT METHODOLOGY**

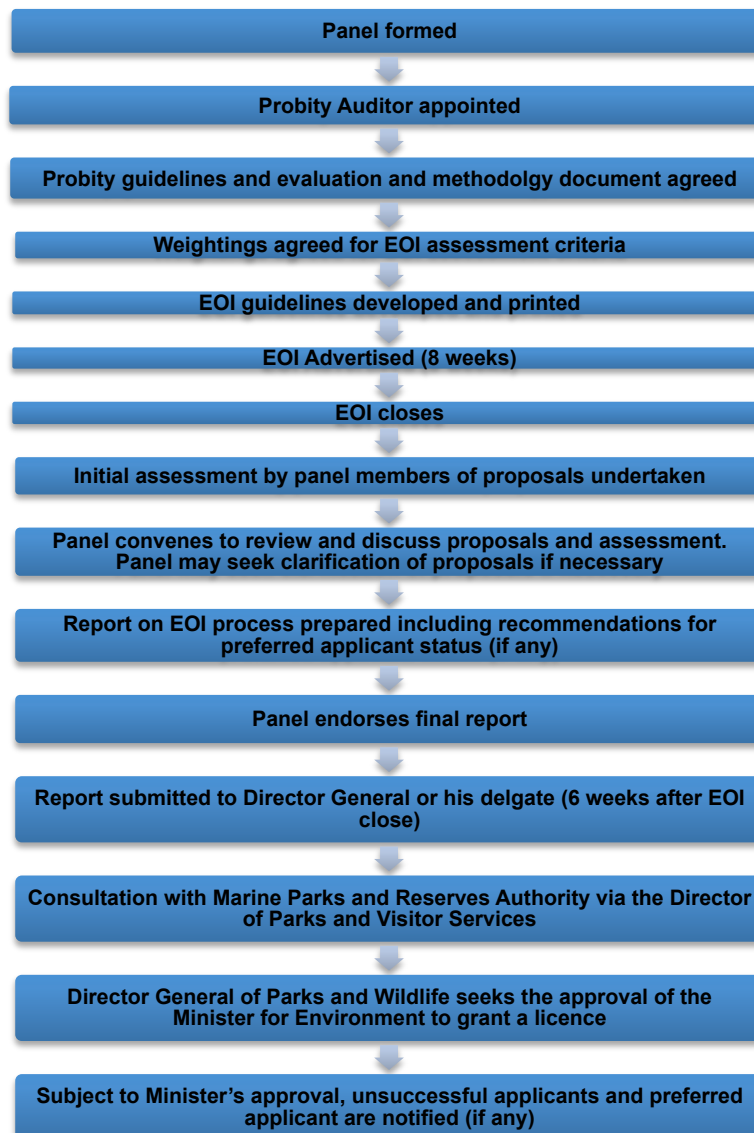
## 1. ESTABLISHMENT AND ROLE OF THE EVALUATION PANEL

To support Parks and Wildlife as lead agency an evaluation panel has been established, comprising representatives from organisations who will provide advice to the lead agency. The members of the panel are:

- Panel Chair (Parks and Wildlife – PVS Division) non-voting;
- Project Manager/Executive Officer (Parks and Wildlife);
- Exmouth District representation (Parks and Wildlife);
- Wildlife Officer representation (Parks and Wildlife);
- Tourism WA representation; and
- Probity Auditor (independent) non-voting.

## 2. PROCEDURE FOR EVALUATION AND APPROVAL

The evaluation panel has established the following procedure for the assessment of applications:



\*Dates and timeframes are indicative only. These may be revised or altered subject to the requirements of the process or as determined by Parks and Wildlife.

## 3. EVALUATION PROCESS

The EOI process seeks details from those applicants interested in undertaking the opportunity outlined. The evaluation and selection process follows the *Evaluation Process and Methodology* (part B) and the probity guidelines set out in the *Terms and Conditions* section of these guidelines (part D).

Parks and Wildlife uses a competitive process to allocate restricted opportunities for commercial licences and leases on the lands and waters it manages. This is not a tender for a specified product and allows for applicants to use their own initiative to develop submissions that will meet Parks and Wildlife's requirements and best meet their own market needs.

**The final decision will be based on the best business and management outcome for the State.**

Parks and Wildlife issues leases and licences for all commercial operations carried out on its estate in accordance with Part 7 of the *CALM Regulations 2002* and Section 100 of the *CALM Act 1984*.

In assessing submissions, all information requested in this EOI, and any relevant additional information available to Parks and Wildlife or provided by applicants in response to this EOI, may be taken into consideration. A scoring system will be used as part of the assessment of the qualitative criteria. Unless otherwise stated, a response to one of these criteria, which provides all the information requested, will be assessed as satisfactory and will, in the first instance, attract an average score. The extent to which the response demonstrates greater or lesser satisfaction of each of these criteria will result in a score greater than or less than the average. The aggregate score of each applicant will be used as one of the factors in the final assessment of the qualitative criteria and in the overall assessment in terms of the best business and management outcome for the State.

#### 4. ASSESSMENT SCORING AND EVALUATION

The scoring legend zero to nine is outlined as follows:

- |   |   |
|---|---|
| 0 | Does not address selection criteria.  |
| 1 | Limited understanding or capability, no confidence that selection criteria will be met.                     |
| 3 | Less than satisfactory understanding or capability, limited confidence that selection criteria will be met. |
| 5 | Satisfactory understanding or capability, reasonably confident that selection criteria will be met.         |
| 7 | Good understanding or capability, confident that selection criteria will be met.                            |
| 9 | Excellent understanding or capability, complete confidence that selection criteria will be met.             |

“In between” scores such as 2, 4, 6 and 8 may be used to reflect variation to these scores.

When addressing the weighted/qualitative criteria, applicants should aim to demonstrate an understanding of the issues, as well as describe their capability, experience and past performance.

Applicants are encouraged to submit any further relevant information that they consider may support their application.

Applicants should present their submissions in the same format as shown in the tables associated with each criterion. The higher the weighting, the more important the criteria or sub-criteria are.

At Parks and Wildlife’s discretion, applicants may be required to clarify the offer or make a presentation. Referees may also be contacted prior to the selection of the successful applicant.

**An offer of preferred applicant status may then be made to the applicant that represents the best business and management outcome for the State. Following an offer of preferred applicant status, the applicant may be granted a licence pursuant to the *CALM Regulations 2002*, subject to Parks and Wildlife consulting with the Marine Parks and Reserves Authority and gaining the approval of the Minister for Environment.**

All applicants should understand that the assessment panel, which reviews all submissions, does not make the final decision as to which applicant a licence will be offered. The evaluation panel, as outlined, makes a recommendation to the Director General of Parks and Wildlife for consideration in regard to which application can be progressed.

Applicants should also understand that Parks and Wildlife reserves the right to:

- not progress any application should it believe that none are appropriate or that the licence should not be offered; and
- not agree with certain parts of a submission and discuss changes to applications so that the application provides the best management and business outcome for the State.

All submissions will be given due consideration and information provided will be treated in the strictest confidence.

All applicants will be informed of their status at the completion of the approval process. Each submission will be considered on its merits and if no submissions are acceptable, then none will be accepted.

## 5. DEVELOPMENT OF SELECTION CRITERIA

Applicants to this EOI will be required to address the assessment criteria in section 6.0, which will be assessed by the panel. The nine indicators in Appendix 1 form the basis of some of the weighted sub-criteria in criteria 2 and the licence conditions listed in section 6.2 in part A. Applicants should note the indicators when addressing selection criteria, as applicants will be required to address:

- strategies on how and to what standard the criteria will be addressed; and
- strategies on how these standards will be increased and improved over time so that operators eventually operate using best practice standards.

The aim is to have the operation achieve the highest level of sustainability (best practice standards) for each criterion as soon as possible. Applicants who propose realistic and practicable achievement of best practice standards sooner will be looked upon favourably and assessed accordingly.

**To ensure the business is continually improving and moving towards achieving best practice, the operation will be audited each year against licence conditions based on the sustainability benchmarks and in accord with the applications in the submission.**

## 6. LICENCE CONDITIONS

The licence granted from this process will be performance-based with specific licence conditions including those developed from the commitments made in applications relating to the natural environment and social performance assessment (criteria 2). Licence conditions will also be incorporated into the licence and applicants should consider them within their submissions. Refer to section 6.2 in the *EOI Guidelines for Submissions* (part A).

## 7. ANNUAL SUSTAINABILITY AUDITING

To ensure businesses are continually improving and moving towards achieving best practice, operations will be audited each year of their licence against the licence conditions developed in accordance with the applications and the above mentioned mandatory licence conditions. It is proposed that if the level of compliance reaches 100%, the audit may be conducted every two years. Audits may be less frequent if consistently high levels of performance are achieved.

## 8. LICENCE PERIODS

Licences for operations on lands or waters managed by Parks and Wildlife can be granted for periods of up to 10 years with a renewal for a further period of up to five years depending on performance and the approval of the Minister for Environment.

## 9. RECOMMENDED READING

***Wildlife Management Program no. 57 (2013); Whale shark management with particular reference to Ningaloo Marine Park***

Available at: <http://www.dpaw.wa.gov.au/management/marine/marine-wildlife/65-whale-sharks>

**Commercial Operator Handbook – Terrestrial**



Parks and Wildlife Commercial Operator Handbook – Marine, available at:  
<http://parks.dpaw.wa.gov.au/for-business/commercial-operator-handbooks>

## **PARKS AND WILDLIFE Strategic Directions 2013-14**

Parks and Wildlife's outline of priorities for its first 12 months of operation is available at:  
[www.dpaw.wa.gov.au](http://www.dpaw.wa.gov.au).

## **Ningaloo Marine Park and Muiron Islands Marine Management Area**

*Ningaloo Marine Park and Muiron Islands Marine Management Area*, available at:  
[www.dpaw.wa.gov.au/parks/management-plans/approved-management-plans](http://www.dpaw.wa.gov.au/parks/management-plans/approved-management-plans)

## **10. MAKING A SUBMISSION**

Interested parties are invited to express their interest by 3:00pm (WST) Tuesday 16 September 2014. An application form and a \$100.00 application fee are required with the application, to register your interest.

**APPLICANTS WILL BE REQUIRED TO SUBMIT FIVE (5) COPIES OF THEIR SUBMISSION.**

**THE APPLICATION WILL NEED TO BE SUBMITTED BY A REAL PERSON ONLY, NOT INCORPORATED BODIES.**

Before submitting an application for the EOI, applicants should ensure that they have completed the following:

1. Carefully read the *EOI Guidelines for Submissions* document (part A) and the *Guidelines to Developing a Submission* in part C. If you have any questions or do not understand what is required, contact Matthew King (details on cover) for further information or clarification.
2. Research information to ensure that you understand what is being requested in the criteria.
3. If Parks and Wildlife does not know of your intent to be an applicant, ensure you advise the contact person of your details so that Parks and Wildlife can advise you of addenda, any notice of general advice or any change to the process.
4. Address all criterion separately under the heading as detailed in the guidelines. If the criterion is broken into separate points, answer these separately.
5. If the criterion asks you to **demonstrate** something, provide supporting documentation that is appropriate (e.g. qualifications or certificates).
6. If the applicant's business involves personnel other than the owner who have skills or qualifications that may enhance the application, then this should be detailed and independently demonstrated within the application (i.e. provide copies of qualifications or certificates of other personnel).
7. Where appropriate, provide references from people who can vouch for or support what you have submitted in your application.
8. Attach all appropriate certificates (e.g. registration of vehicles, SPV certificates, and insurance certificates) as requested.
9. Make sure you have made enough copies as required in the 'Close of Submissions' section. Parks and Wildlife will not photocopy copies for panel members.
10. Ensure that you finish your submission in enough time to have it fully prepared and arrive in Parks and Wildlife's Tender Box by the required time and date as late submissions may not be accepted.

Assistance in preparing submissions

An EOI is a competitive process. If you feel that you need assistance with a submission, it is suggested that you contact your local office of the Small Business Development Corporation for advice. It is the content that is important, not how glossy the application is.

Parks and Wildlife advises any applicants who choose to employ a consultant to prepare their application on their behalf to thoroughly check their submission before it is submitted. Incorrect or misleading content may affect the assessment of your submission, and any commitments made in the submission will be incorporated into licence conditions if the applicant is successful.

## **PART C**

### **ADDITIONAL INFORMATION**

## 1. COMMERCIAL TOURISM ON LANDS AND WATERS MANAGED BY PARKS AND WILDLIFE

Parks and Wildlife has the lead responsibility for conserving the State's rich diversity of native plants, animals and natural ecosystems, and many of its unique landscapes, for their intrinsic value and for the benefit and appreciation of present and future generations. This includes more than 28 million hectares comprising national parks, conservation parks, 5(1)g reserves, 5(1)h reserves, State forests and timber reserves, nature reserves, marine parks, marine nature reserves and marine management areas.

As an agency with integrated responsibilities, lands and waters are managed for the conservation of biodiversity at an ecosystem, species and genetic level, including management for the renewable resources they provide and for recreation and visitor services they can sustainably support. One method of contributing to sustainable tourism is through issuing leases and licences to commercial operators. Parks and Wildlife licenses all commercial operations carried out on its estate in accordance with Part 7 of the *CALM Regulations 2002*.

Licences for operations on lands or waters managed by Parks and Wildlife can be granted for periods of up to 10 years with a renewal of up to a further five years.

Commercial operations licences that are granted with appropriate conditions provide a mechanism to ensure that conservation reserves are managed in an ecologically sustainable manner. Licensed operations help minimise any impacts that may occur from an increase in usage by providing controlled access. The granting of licences also enables Parks and Wildlife to monitor access and use of lands and waters it manages to ensure that the conservation values of these areas are maintained. The protection of these values enables tourism operators to return to the same location and find it in an unspoiled condition.

An EOI process is adopted where a limited number of opportunities are offered for a commercial tourism or recreation operation.

Parks and Wildlife has two major responsibilities in managing recreational and tourism activities. These are to:

- protect the conservation values of an area; and
- assist visitors in developing an appreciation and understanding of the natural environment.

These responsibilities are shared with tourism operators. It is recognised that there are three ways in which commercial tourism operators can assist in achieving management objectives. These are by:

- ensuring visitors receive a quality experience through the provision of *quality* services, facilities and interpretation;
- assisting in the protection and management of the nature conservation and cultural values; and
- ensuring that operations are conducted in an environmentally sustainable way.

Hence, there is an opportunity to ensure commercial operations are undertaken in a way that is acceptable to the commercial market and the public while ensuring the conservation of wildlife, protected areas and cultural values.

It is important that all operations proposed are consistent with the maintenance and preservation of species, populations, habitats, natural features and social values of the park. Commercial activities and services provided on areas managed by Parks and Wildlife are subject to consultation with either the Conservation Commission of Western Australia or the Marine Parks and Reserves Authority and the approval of the Minister for Environment.

The effective management of commercial tourism is also an integral part of Parks and Wildlife's financial strategy. Increasingly, the revenue derived from commercial tourism contributes toward management and administration costs incurred from the increase in demand of users and the associated potential increase

in impacts on the environment. As the demand from users increases, so does the demand for quality services and facilities on these lands and waters, including tourism amenities.

## 2. UNIVERSAL ACCESS TO SERVICES AND FACILITIES

Parks and Wildlife supports the principle of universal design in its delivery of recreation and tourism facilities and services and is required under the Commonwealth *Disability Discrimination Act 1992* and the State *Equal Opportunity Act 1984* to ensure wherever possible access is not denied to people with disabilities. Parks and Wildlife's approach is to provide for a diversity of user groups with a wide range of needs and design for flexibility and ease of use while at the same time seeking to maintain the fundamental characteristics and experience of a place. The principle is, if the solution to an access problem destroys the environment or experience, or it would be financially unachievable, then Parks and Wildlife will consider other options and will provide an equivalent experience if possible in a more suitable location.

Applicants should demonstrate their commitment to providing services that accommodate universal access and design, to facilitate access by people with a range of disabilities consistent with legislation.

The successful applicants of an EOI process will be expected to liaise closely with Parks and Wildlife and other concessionaires and tourism industry operators to ensure compatibility of services and operations that result in minimal detrimental impacts on the park and optimum benefit to visitors, the community and Parks and Wildlife.

## 3. ANNUAL SUSTAINABILITY AUDITING

To ensure businesses are continually improving and moving towards achieving best practice, operations will be audited each year of their licence against sustainability benchmarks and in accordance with the applications in their submissions (which will be incorporated into their licence conditions). Applicants will be required to meet the cost of the audit (including associated travel costs) and it should be included in their application. Audit costs are dependent upon how prepared the operators are for the auditor. It is proposed that if the level of compliance reaches 100%, the audit may be conducted every two years.

## 4. LICENCE CHARGES AND CONDITIONS AND OTHER FEES

Where they apply, park entry fees are applicable to all visitors. Fees and charges that apply are available on Parks and Wildlife's website at: <http://parks.dpaw.wa.gov.au/know/fees>

Throughout the term of the licence, charges will be reviewed annually in consultation with the licence holder, and Parks and Wildlife will give 12 months notice of any amendment to the charges or how they are applied. Any charges in relation to the licence are GST exempt.

**All licence charges are retained by the relevant Parks and Wildlife district and contribute to costs associated with conservation, visitor facilities and maintenance of the park.**

Licence conditions will be included in the licence awarded as a result of this EOI in accordance with the *CALM Act 1984*. The conditions will be negotiated with the successful applicant and will be consistent with the commitments made in their submission to this EOI and requirements on the sustainability criteria.

## 5. ACCREDITATION

Accreditation programs, such as the Australian Tourism Accreditation Program (ATAP) and the Eco Certification Program, can assist commercial operators in meeting their responsibilities within protected areas, by ensuring visitors receive a quality experience through the provision of quality services, facilities and interpretation and by conducting the operations using industry accepted sustainable practices.

To encourage commercial tour operators to meet their responsibilities while operating within the conservation estate of Western Australia, accreditation programs will be an assessable part of the

selection criteria. Applications will need to demonstrate their commitment to becoming accredited with either ATAP or the Eco Certification Program (or their equivalents), within three months of a licence being allocated.

ATAP is administered by the Tourism Council of Western Australia [telephone (08) 9416 0700, fax (08) 9472 0111, email [accreditation@tourismcouncilwa.com.au](mailto:accreditation@tourismcouncilwa.com.au) or visit [www.tourismcouncilwa.org.au](http://www.tourismcouncilwa.org.au)]. Eco Certification is administered by Ecotourism Australia [telephone (07) 3229 5550, fax (07) 3229 5255, email [info@ecotourism.org.au](mailto:info@ecotourism.org.au) or visit [www.ecotourism.org.au](http://www.ecotourism.org.au)].

## 6. PUBLIC LIABILITY INSURANCE

It is a standard Parks and Wildlife licence condition that operators are covered with a minimum A \$10 million public liability insurance. It will be a requirement of the successful applicant that they obtain a minimum coverage of \$10 million public liability insurance for the operations before a licence is issued. This will need to include cover for all activities allowed by the licence.

## 7. PROBITY GUIDELINES

### PRINCIPLE 1 - CONFIDENTIALITY AND CONFLICT OF INTEREST

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*The community and potential bidders have a right to expect that public sector staff and elected officials will perform their duties in a fair and unbiased way and that the decisions they make are not affected by self-interest or personal gain. Conflicts of interest arise when public officials are influenced, or appear to be influenced, by personal interests when doing their job (Independent Commission Against Corruption (ICAC), December 1995).*

#### SECURITY

##### GENERAL

Security of all information that becomes available and pertaining to this procurement process is the responsibility of all members of the evaluation panel.

All persons must take reasonable precautions to prevent the unauthorised disclosure of confidential information.

All office files will be established in accordance with the relevant department's overall policies and stored in secured cabinets. All files must be returned to the central cabinets each night where they will be locked when the office is unattended.

##### PHYSICAL SECURITY

It is the personal responsibility of all persons privileged to confidential documents to ensure that they are securely stored and unobtainable to others not authorised by the Project Manager.

Any documents, files or copies of submissions that are given to panel members should be identified by number and signed out by the Executive Officer to the member.

##### COMPUTER SECURITY

The computer environments containing confidential procurement information at Parks and Wildlife shall be secured and accessed only by authorised individuals with their own passwords. The system administrator shall ensure individuals only have access to areas of information that are appropriate to the roles assigned to them by the Project Manager. The Probity Auditor shall test the environments from time to time to confirm that the systems remain secure.

#### CONFIDENTIALITY AND CONFLICT OF INTEREST AGREEMENTS

Each person having access to confidential assessment information shall sign a confidentiality agreement before being granted access to the information. Attached is a pro forma agreement.

Reference is also made to *Public Sector Management Act 1994, the terms and conditions of engagement contracts, and ethical standards in government buying*, which is a document issued by the State Supply Commission.

All members of the panel, and any other persons having authorised access to confidential information, are to sign a declaration document.

## PRINCIPLE 2 - TRANSPARENCY

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*By having transparent, open processes, organisations can help to minimise opportunities for fraud and corruption. This also gives bidders and the public confidence in the outcome. Potential bidders often invest considerable time, effort and resources when preparing and submitting bids. In return, they are entitled to expect impartial treatment at every stage of the process (ICAC, December 1996).*

### EVALUATION METHODOLOGY

A detailed evaluation processes and methodology document shall be prepared and signed off by the evaluation panel prior to the closing date for submission. The evaluation methodology adopted shall as a minimum incorporate:

- overview of the project;
- internal administrative procedures;
- applicant enquiries protocol;
- office security;
- confidentiality;
- probity;
- establishment and role of evaluation panel;
- procedure for evaluation; and
- evaluation methodology.

The evaluation processes and methodology document shall be made available to all applicants as soon as the *EOI Guidelines for Submissions* are released.

### INVITATION DOCUMENTS

The EOI document shall provide sufficient information to applicants to enable the preparation of relevant and considered submissions. As a minimum, it will contain:

- name of Project Manager as the contact person;
- evaluation criteria;
- time and place of closure;
- conditions of application; and
- any overriding management plans or statutory obligations.

## RECORDS OF MEETINGS

All agreed items discussed and actions will be recorded including:

- meeting details;
- attendance;
- decisions and recommendations made;
- actions agreed; and
- responsibility and timeframe.

## MEDIA – PUBLIC RELATIONS

Media releases, public presentations, and attendance at functions sponsored by applicants and similar, are occasions that have the potential to jeopardise the probity of the process. The evaluation panel, advisers, and government agencies associated with the project must be mindful of this issue and to reduce risks, the Project Manager is to be the only spokesperson unless approved by the Director of Parks and Visitor Services, Parks and Wildlife.

## MEETINGS WITH APPLICANTS AND THEIR ADVISERS

### MEETINGS WITH APPLICANTS

All meetings with applicants are to have in attendance the Project Manager or Executive Officer and at least one other person. The meetings are to be based on the principle that they are for discussion purposes only and any request for information or clarification from applicants is to be addressed through written form with only written responses being binding.

A file note is to be maintained of all meetings held. All meetings are to be held at the Parks and Wildlife offices, unless otherwise agreed by the Project Manager.

### DEALING WITH APPLICANTS - ENQUIRIES

**All enquiries from applicants will be required to be submitted in writing. All written enquiries will comply with the procedure outlined below.**

Parks and Wildlife's enquiry protocol requires that all enquiries by applicants be submitted in writing to the Project Manager. The Project Manager will accept verbal enquiries but may request an enquiry to be made in writing at his discretion.

The original of the applicant's enquiry will be placed in the relevant file by the Executive Officer after updating the Enquiries Register. The Executive Officer will, thereafter, prepare an initial draft response and will arrange for it to be reviewed by the Project Manager.

All responses to the registered applicants will be in writing, signed by the Project Manager or Executive Officer.

The Executive Officer will update the Enquiries Register with the response action.

The Executive Officer will produce a written report as appropriate to the Project Manager, detailing the enquiries received and action taken. Where the enquiry is deemed by the Executive Officer to be confidential in nature, the enquiry shall be immediately referred to the evaluation panel for action.

### DEALING WITH APPLICANTS - GENERAL ADVICE TO ALL REGISTERED APPLICANTS

In accordance with the enquiry protocol, each enquiry received from the registered applicants will be reviewed by the Executive Officer to determine whether the enquiry is of a confidential or general nature. Where there is any ambiguity, this determination is to be made in consultation with the Probity Auditor. Where the enquiry is agreed to be of a general nature, a 'General Advice to all Registered Applicants' will be released as soon as possible.



Where the enquiry is determined as 'General', the applicant raising the enquiry will be advised accordingly and given the opportunity to either confirm or refute the determination made by the Executive Officer.

All 'General Advice to Registered Applicants' will be issued in numeric sequence and signed by the Project Manager. All advice will go to the Probity Auditor prior to issue to registered applicants. A register, summarising the details of material issued, will be maintained.

## **ATTENDANCE AT FUNCTIONS SPONSORED BY APPLICANTS**

### **BY STAFF OR EVALUATION PANEL MEMBERS**

The Director of Parks and Visitor Services, Parks and Wildlife or the Project Manager only to approve such attendance (details to be recorded on the project file).

## **PRINCIPLE 3 - ACCOUNTABILITY**

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*Public sector agencies should have appropriate mechanisms in place to show that they are accountable for their practices and the decisions that are made. Accountability requirements can reduce opportunities for corruption and save time, money, resources and problems in the long term. Mechanisms can include the agency keeping detailed records throughout the process such as minutes of meetings, the reasoning behind any decisions made, who made those decisions and any departure from established procedures being approved by senior staff not directly involved in the process. Maintaining detailed records can be a way of proving that the process followed was legitimate if any questions or complaints are raised later (ICAC, December 1996).*

## **RECORDS MAINTENANCE**

### **DEALING WITH APPLICANTS - CORRESPONDENCE (GENERAL)**

- Copies of all incoming and outgoing material will be held in the nominated file.

### **INCOMING MATERIAL**

- Original will be stamped with date and time of receipt and record of file number.
- Original of material will be placed on the file.

### **OUTGOING MATERIAL**

- Copy will be retained on the file.
- The copy in the file will indicate the method of dispatch (i.e. posted, couriered, etc.).
- All outgoing material will contain the file reference number.

## **ROLES AND RESPONSIBILITIES**

### **LEAD AGENCY**

The Department of Parks and Wildlife.

## **TERMS OF REFERENCE AND RESPONSIBILITIES**

PARKS AND WILDLIFE's vision and mission are articulated in Parks and Wildlife's Strategic Directions 2013-14 document as follows:

### **VISION**

The natural assets of Western Australia are conserved and valued.

### MISSION

To ensure that the nature of Western Australia is protected and conserved, for its intrinsic values and to enrich people's lives.

Parks and Wildlife as the management agency has the overall responsibility for the achievement of the project objective and final outcome. The EOI process seeks applications from prospective tourism operators to operate an in-water whale shark interaction tour in Ningaloo Marine Park.

### EOI APPLICATION EVALUATION PANEL

To support Parks and Wildlife as lead agency, an evaluation panel has been established comprising representatives from organisations who will provide advice to the lead agency.

The members of the panel are as follows:

- Panel Chair (Parks and Wildlife) non-voting;
- Project Manager (Parks and Wildlife);
- Executive Officer (Parks and Wildlife) non-voting;
- Wildlife Officer representation (Parks and Wildlife);
- District representation (Parks and Wildlife); and
- Tourism WA representative.

### PROJECT MANAGER

A Project Manager has been appointed to provide the team with leadership and is of sufficient standing to report to Parks and Wildlife as lead agency. The Project Manager is Parks and Wildlife Policy and Project Officer – Tourism Development, Matthew King. Responsibilities include:

- oversee the development of the evaluation process;
- ensure proposed plan and associated processes meet the probity guidelines of each jurisdiction;
- liaise with applicants prior to, and subsequent to, submission of application to provide information and clarify application;
- manage the evaluation panel;
- manage and contribute to the preparation of documentation;
- manage and contribute to the evaluation of applications;
- ensure probity rules are observed;
- provide advice on the resources required to complete the process; and
- manage the engagement of additional consultants and services as required.

### EXECUTIVE OFFICER

An Executive Officer has been appointed to provide the Project Manager with support. Responsibilities include:

- provide regular reports to the Project Manager;
- liaise with applicant prior to, and subsequent to, submission of application to provide information and clarify application;
- manage the preparation of the summary report;
- ensure government rules and regulations are abided by;
- provide administrative support;
- maintain filing;

- handle/record queries;
- manage the required level of security for all proceedings and documents;
- assist with negotiations and discussions with other government agencies; and
- manage the project budget.

#### PROBITY AUDITOR

A Probity Auditor will be appointed prior to the close of submissions. He/she will provide independent probity advisory services to the evaluation process. The auditor may be in attendance at relevant meetings, and will also be present at meetings/presentations with/from applicants. He/she will provide periodic probity reports on the process.

Compliance audits will also be performed to confirm that agreed processes are followed.

Essential tasks include:

- reasonable insurance that the procedures adopted in the submission of applications and evaluation process are fair and equitable and that probity of the process is independently validated;
- monitoring and reporting to the department as lead agency through the Project Manager that the evaluation process and procedures have been followed, and the outcome is capable of being independently validated;
- providing assurance to all interested applicants that appropriate processes were adhered to and no applicant was given an unfair advantage or was unfairly discriminated against;
- providing guidance to the Project Manager, and the department as lead agency as to how unforeseen issues could be resolved;
- attending evaluation panel meetings where relevant;
- attending applicant meetings and presentations (if required);
- monitoring communication during the period between submission of applications and final decision;
- attending unsuccessful applicant debriefing meetings where applicable; and
- identifying areas where efficiencies may be adopted in the process.

It is important to note that the Probity Auditor is not part of the evaluation panel but an independent observer of the process and therefore will not be involved in the detailed evaluation of any applications.

#### APPOINTMENT OF ADVISERS

Parks and Wildlife as lead agency will appoint advisers, on a needs basis. It is probable that the following advisers may be required:

- legal;
- technical;
- financial; and
- others (to be determined).

The appointment of these advisers will be overseen by the Project Manager and will follow the standard WA consultancy procurement guidelines.

#### LATE SUBMISSIONS

The Project Manager, in consultation with the Probity Auditor, may at his or her discretion elect to accept a late submission where the Project Manager considers it appropriate in the circumstances and is satisfied that no applicant has not been materially advantaged or disadvantaged.

## PRINCIPLE 4 – VALUE FOR MONEY

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*Obtaining value for money is enhanced when there is open competition and the market is tested regularly. Processes that are designed to attract responses from the market place (for example, Expressions of Interest, calls for proposals) may lead to poor outcomes for a project if not conducted appropriately. Impartial, open and competitive processes are an important stepping stone in achieving value for money (ICAC, December 1996).*

### STATE SUPPLY COMMISSION POLICY

The Project Manager shall ensure that all decisions are in compliance with policies issued by the State Supply Commission concerning value for money aspects.

### ADVERTISING

Advertising coverage should be considered appropriate when the department as lead agency is satisfied that the reach and penetration of advertising is sufficient to ensure appropriate market testing and there is minimal opportunity for potential applicants to be unaware of the project.

## 8. GUIDELINES TO DEVELOPING A SUBMISSION

### Why does Parks and Wildlife call for EOI?

Where commercial opportunities arise on *CALM Act 1984* managed lands and waters that require the number of licences or leases to be restricted, the opportunities are commonly allocated through a publicly advertised, competitive call for EOIs.

EOIs are conducted in a manner consistent with State Supply Guidelines. As there may be a variety of different applications or methods of operations that may achieve the objectives of the process, EOIs are designed to seek information from applicants that demonstrates their skills, experience and capacity to provide a high level of service and visitor experience in a manner that is sensitive to the environmental, social and cultural values of the area. This process enables Parks and Wildlife to consider the allocation of licences on the basis of the best business and management outcome for the State.

It is very important that applicants provide as much relevant information in their application as possible so that the evaluation panel is fully informed about the application. Do not assume that the panel members or Parks and Wildlife have any previous knowledge about you, your skills and abilities or past performance.

### How should interested people/organisations respond to Parks and Wildlife's calls for EOI?

#### Register as an applicant

If you obtain a copy of the *EOI Guidelines to Submission* and intend to be an applicant, it would be valuable to notify the contact person at Parks and Wildlife of your interest and register as a potential applicant. If Parks and Wildlife is not aware of your intent to apply for the opportunity, you may not receive some vital information in the event that further information is made available to interested parties before the due date for submissions.

#### Understanding the assessment process and responding to selection criteria

##### 1. The assessment process

The process of assessment is explained in the *EOI Guidelines for Submission* document issued for each process.

These guidelines provide the following details:

- background on the particular opportunity;
- relevant information that may assist applicants (including, but not limited to, statistics, management objectives, recommended reading advice, licence charges);
- requirements of the assessment process (for Parks and Wildlife and applicants);
- selection criteria; and
- probity guidelines applicable.

As the EOI is intended to be a competitive process, applications are assessed on the extent to which selection criteria are addressed. Applicants should strive to obtain the best assessment possible for their related capabilities, rather than settling for meeting the minimum acceptable requirements of the EOI/Request for Proposals (RFP).

## **2. The Probity Auditor**

In the interests of all parties involved, a Probity Auditor is appointed for each EOI/RFP to determine whether the process is conducted according to the *EOI Guidelines for Submission* and provides independent assurance that the process has been undertaken with due regard to legislative obligations, codes of ethics and conduct, Parks and Wildlife's policies and the guidelines. The Probity Auditor addresses accepted principles of probity relating to:

- confidentiality and conflict of interest;
- transparency of the process;
- accountability; and
- value for money.

The Probity Auditor provides advice to the panel and Parks and Wildlife in relation to these issues and applicants can also discuss any concerns they have directly with the Probity Auditor.

## **3. The evaluation panel**

The evaluation panel appointed for each process is selected to represent a broad range of skills and experience related to the selection criteria.

Usually the panel is comprised of:

- Parks and Wildlife district/regional officers with appropriate knowledge of the activity/location;
- a Tourism WA representative; and
- any other independent person with appropriate specialist skills as required.

If necessary, the panel also has the option of seeking other specialist advice.

## **4. The selection criteria**

Selection criteria are developed by Parks and Wildlife and appropriate stakeholders, which may include other government agencies or organisations that do not have a conflict of interest with potential applicants. Consultation with tourism industry representatives and/or existing licence holders usually takes place.

There are usually two types of criteria:

### Compliance criteria

These criteria usually require a clear "yes" or "no" response.

The applicant should be able to demonstrate their compliance or ability to comply with these criteria. Should an application be received where a compliance criterion is not clearly addressed, Parks and Wildlife may request the applicant to provide further appropriate information after consultation between the Project Manager and the Probity Auditor. Subject to the applicant being assessed as preferred, any offer of a licence would be subject to complete compliance with criteria.

**Where the word "demonstrate" is used in the selection criteria, this normally means that evidence other than a statement from the applicant is expected. Where possible, applicants should aim to provide independent documentary evidence to support any statements made in their application.**

#### Weighted/qualitative criteria

These criteria are weighted in accordance with their importance to Parks and Wildlife. Applicants should therefore aim to place more emphasis on responding to criteria with higher weightings. These criteria are scored on a scale of 0-9, with 5 being a score that meets the criterion to an acceptable level. A score of less than 5 means the application does not satisfactorily address the criteria and could result in the application being unsuccessful. A score of more than 5 means the application goes beyond the minimum acceptable requirement.

Qualitative criteria usually seek details about the level of skills and experience the applicant has or will provide through all key personnel in the applicant's business. This usually includes a criterion that seeks information about marketing, local community benefits (including for local Aboriginal people) and providing for people with disabilities. There may also be requirements to address other government social policies.

### **5. Requests for proposals**

More complicated projects that require a higher level of assessment may be conducted in two stages. This usually applies to projects that involve the development of semi-permanent infrastructure such as safari camps.

In this case the first stage (EOI) is designed to qualify the applicant by determining their qualifications and capacity to finance and operate the project and also whether the applicant's proposal is appropriate.

Successful stage one proponents might then be invited to submit a higher level of information for further assessment that might involve a greater commitment of time and funds to prepare.

**Parks and Wildlife may, at its discretion, enter into direct negotiation with successful EOI stage 1 proponents should it consider this appropriate and not require these proponents to complete the RFP stage.**

### **6. Panel contact with applicants**

Applicants should not contact individual panel members in regard to the process as this may threaten the integrity of the process. Should applicants have questions, the EOI Project Manager may be contacted in writing or if the question relates to probity issues, the Probity Auditor. Contact with the Project Manager by email is acceptable.

The panel may decide to contact applicants to seek clarification of information provided in an application but would not seek extra information over and above that in the applicant's application. The panel may choose to request an interview with an applicant to clarify some information but this is not common. Any interviews would be conducted in such a way that would not disadvantage any other applicant to the EOI.

### **7. Lodging submissions**

**Do not assume that because it has been posted that it will get to the Tender Box on time.** Faxed or electronic applications will not be accepted. Arriving at Parks and Wildlife's Post Box on the closing day does not mean it will make it to the Tender Box on time. If posting, address the package as per the instructions in the guidelines. The words TENDER BOX should be highlighted. Do not assume that

Express Post services from regional areas will be next day delivery. Contact the Project Manager for clarification if you are concerned your application will not be received in time.

## **8. Process results**

If there is only one applicant that meets the criteria, Parks and Wildlife has the right to enter into direct negotiations with that applicant without further assessment.

Parks and Wildlife reserves the right to amend the EOI process that includes cancellation, variation or supplementation. If there are no suitable applications, then there may be no licence offered from the process.

Parks and Wildlife is required to consult with the appropriate vested body (Conservation Commission of WA/Marine Parks and Reserves Authority) and gain the approval of the Minister for Environment before it is in a position to offer a licence.

Applicants cannot be notified of the result until Ministerial approval is obtained by Parks and Wildlife. Where further negotiations are required before Parks and Wildlife can consult or seek Ministerial approval, "Preferred Applicant" status may be offered to an applicant.

All unsuccessful applicants will then be advised and offered a debriefing on their application. Debriefings cannot include a direct comparison to any other application as all applications are treated in strict confidence except where the law requires otherwise.

## **PART D**

### **TERMS AND CONDITIONS**



## **1. TERMS AND CONDITIONS**

### **Disclaimer**

Applicants must make and rely upon their own investigations and satisfy themselves in relation to all aspects of the project. The department will not be liable for any incorrect or misleading information or omission to disclose information in relation to any part of this document and reference documents thereto.

### **Costs borne by applicant**

All costs and expenses incurred by applicants in any way associated with the project, preparation and submission of applications, including but not limited to attendance at meetings, discussions etc., and through provision of any additional information required by the department will be borne entirely and exclusively by the applicants.

### **Addendum/General Advice**

Addendums and notices of General Advice may be issued during the process. These will be distributed to all registered applicants and notification will be advertised via Parks and Wildlife's website or email broadcast system. If a proposed applicant is not registered, they risk not receiving addendums or notices of General Advice.

### **Rights to amend process**

The department reserves the right to amend the process set out in this document by notice in writing to applicants who have not withdrawn or been excluded from the process. Such amendments may include cancellation, variation or supplementation of the process.

### **Absence of obligation**

No legal or other obligation other than those associated with this section shall rise between the applicant and the department unless and until formal project documentation has been signed and all necessary Ministerial approvals and consents have been obtained. The department is not obliged to proceed with any application or applicant.

### **Cultural/heritage/environmental issues (if appropriate)**

The department takes no responsibility with respect to any site impediments including but not restricted to encumbrances on title, heritage status, native title claims and environmental, planning and other approvals. Applicants must satisfy themselves in regard to heritage status or native title claims with respect to the project area. Applicants will be obliged to comply with the requirements of the Environmental Protection Authority as these affect the project area.

### **Confidentiality**

All information submitted by applicants will be examined and assessed by a panel appointed by the department, its specialist consultant advisers and any other party from whom the department may seek advice.

The confidentiality of any information submitted by applicants, which is not available to the public, will be respected except where disclosure is permitted or required by law.

All applicants will be required to maintain confidentiality with respect to their own bids and should not seek details of competing bids.