

DOING BUSINESS IN PARKS

Nature-based tourism: New business opportunities 2017/18

FAQS FOR APPLICANTS

The following frequently asked questions have been developed to assist you in preparing your proposal to operate a business in a National Park. However, we also encourage you to make your own independent enquiries and to seek further information in relation to your application.

In South Australia, the *National Parks and Wildlife Act 1972* and its Regulations 2016 provide for the protection and enjoyment of Parks. Many Parks also have their own management plans, which help guide the strategic and site-specific level of development of tourism enterprises in that Park. For further information, please visit:

www.environment.sa.gov.au/parks and www.environment.sa.gov.au/topics/park-management/plans-strategies-and-policies/park-management-plans

LAND USE

What are the possible land use agreements I could apply for?

The Department for Environment and Water (DEW) will consider a range of land use agreements and work with you to determine the most appropriate type of tenure for your business. An agreement provides a formal relationship between you and DEW so that both parties are aware of their responsibilities and obligations, as well as security and confidence that you can grow your business over a set period of time.

The types of arrangements that you can apply for are:

a. Licences

A Crown land licence allows a person or organisation the right to use a specified portion of Crown land for a specific purpose. A licence does not grant an exclusive right to the land and members of the public cannot be excluded from licensed Crown land. In some circumstances, public access may be restricted in the interests of public safety. A licence is subject to an annual fee that is reviewed on a yearly basis.

b. Leases

A Crown lease is an agreement between the Crown and a lessee. The agreement allows for a person or organisation to have an exclusive right to occupy a specified portion of Crown land. Like most leases, a Crown lease can be cancelled for breaching a condition of the lease, abandonment of the land or non-payment of rent. A Crown lease can be transferred or sold with the consent of the Minister for Environment and Water. A lease is subject to annual rental fees and document preparation fees.

How long can my tenure term be?

The term of your Crown land lease, licence, permit or business tenure will depend on the nature of your proposal and what is appropriate for the site and opportunity. The DEW leasing framework provides that the total period of time that a business can operate through a lease or licence is a maximum of thirty years (including any rights of renewal). Please identify in your proposal your preferred tenure arrangements for your business.

What are my options for exclusive use?

DEW will review any proposals in good faith, to obtain exclusive rights over specific types of business within National Parks. The review to determine if the proposal is appropriate will take into consideration a range of factors, including:

- Community expectations for the site;
- Range of proposals received;
- Future development of the Park;
- Public value of proposal;
- Strategic benefits of competition;
- Any existing businesses within the Park; and
- Economic sustainability for Government.

If you wish to obtain exclusive rights over specific types of business within a Park site, please identify this in your proposal, illustrating how your business will balance the above considerations.

What if I only want to use part of the site identified?

DEW will consider all business proposals on the merits, for all or for part of the site area. If appropriate, this could include complementary businesses co-existing within the same site area. DEW is prepared to negotiate with the right proponent/s about how a site may be utilised. Please identify your preferred site location, size and requirements in your proposal.

What if my proposal is seasonal?

If you wish to operate your business during certain seasons of the year or only on specific days of the week, this is a business decision for you to consider when preparing your proposal. The seasonal nature of some sites may affect the financial viability of your proposal. Please identify your operating requirements in your proposal.

The opportunity I am interested in states that I need to partner with DEW to secure changes to a permitted purpose. What does this mean?

DEW is seeking any proponent interested in these opportunities to commit to partnering in the process of securing these changes, including

potential associated regulatory requirements. This may include undertaking a public consultation process at a State level. Please identify your business requirements in your proposal.

If I am successful, will Government help me secure my development approval?

Development approval is a separate process that must be obtained before the associated building development can commence. As partners in this process, DEW will work in cooperation with the required stakeholders. For further information about development plans, visit: www.sa.gov.au/topics/planning-and-property/development-plans

How will you treat my commercial-in-confidence information?

DEW will treat all proposals as commercial-in-confidence. This means that proposals will not be provided publicly without your consent and will only be shared to those within DEW who need to participate in the various assessment processes. However, DEW as a Government agency is subject to *Freedom of Information Act 1991* requirements and your information may be provided outside of Government if required by that Act or other legislation or a court order.

PARK ACCESS

If I want to operate my business in part of a Park, will the rest of the Park be closed off to the general public?

The Request for Proposal process and negotiations will generally only affect those sites and opportunities identified in this package and will not affect public access to the remainder of the Park areas. There may be future changes to Park services and facilities depending upon the outcomes of the proposal process, the area your business occupies on the site and the requirements of your business.

What happens to my business if a Park is closed due to fire danger or extreme weather conditions?

The Bureau of Meteorology forecasts the Fire Danger Rating each day. The higher the Fire Danger Rating, the more dangerous the fire conditions. Fire Danger Ratings and Total Fire Ban information are based on both weather and non-weather related factors. On Total Fire Ban days, all open fires, liquid fuel and gas stoves are banned in all Parks. Parks may also be closed to the public on these days or days of high bushfire, storm or flood risk. If the Park is closed, you will not be able to access your site without obtaining an exemption from the Director, National Parks and Wildlife. Closures are rare and often Park-specific. For further information about Park closures, visit: www.environment.sa.gov.au/parks/Safety/park-alerts

Fire management plans help guide fire management activities in high fire risk areas. These plans aim to assess the level of risk of a bushfire, identify objectives for fire management and outline strategies and propose works to increase the level of bushfire preparedness within the area. The plans emphasise the protection of life and property, and provide direction for land managers on the protection and enhancement of the natural and cultural heritage of the planning area. For region-specific fire management plans, visit: www.environment.sa.gov.au/managing-natural-resources/fire-management/bushfire-risk-and-recovery/fire-management-plans

If your proposal is successful, you may be required to develop fire and visitor management plans for your business, which outline the procedures to be carried out in the event of an emergency such as bushfire or extreme weather conditions.

Can I supply alcohol as part of my business?

To produce, sell or supply alcohol to your patrons, you may require a liquor licence. Consumer and Business Services is responsible for administering the *Liquor Licensing Act 1997* in South Australia. Please identify in your proposal if your business requirements include the sale of

alcohol. For further information on liquor licensing, visit: www.cbs.sa.gov.au/licensing-and-registration/liquor/

RATES

How does having a lease on a National Park affect my ability to secure a loan against the lease?

Proponents should be aware that leases cannot be registered against the land title of a National Park. This process of registration is ordinarily relied upon by financing companies (such as banks) as security for loans. DEW has a range of solutions to assist businesses and their financing company to facilitate security over the leased site.

The key issue is that if you are intending to seek a business loan against the lease, you should be aware of the process may take some additional time, however DEW can meet with you and your lending provider to guide them through this process.

How much rent will I have to pay?

This will depend on many factors, including the purpose for which you intend to use the site, which will become the permitted purpose under your agreement. In later stages of contract negotiation, an independent market valuation will be obtained to determine market value for your rent. Rent is also likely to have regular market reviews (such as every five years) with annual CPI increases.

Will I have to pay Council and utility rates?

The *Local Government Act 1999* requires that a business operating under a lease within a National Park is required to pay council rates to the local council for the area that is leased to the business.

You will also be required to pay for any electricity, gas and water that your business utilises. If you intend to construct or modify utility infrastructure such as pipelines as part of your business, please indicate this in your proposal, including planned connection and meter points.

Who will be responsible for waste management services?

South Australia's National Parks promote the 'leave no trace' and 'take it with you' philosophies of waste management and accordingly, no public rubbish bins are provided in our Parks. Please identify in your proposal what your waste management and collection arrangements will be, taking into account that your patrons may purchase goods from you and not otherwise have facilities in which to dispose of their waste.

What types of insurance do I need to have?

All businesses operating under a lease within a National Park are required to obtain public liability insurance for the life of the business at that site. You will also be responsible for obtaining any insurance required for ordinary risk management of your business, such as contents insurance or business interruption insurance.

NATIVE VEGETATION

What is required if want to remove native vegetation from the site?

If you are considering developing a proposal that involves the clearance of native vegetation, we encourage you to consult the Native Vegetation Council so that you are aware of the requirements under the *Native Vegetation Act 1991* and its Regulations. These requirements may include the provision of Significant Environmental Benefit conditions. Note that 'clearance' means any activity that could cause any substantial damage to native plants, including cutting down and removing plants, burning, poisoning, slashing of understorey, removal or trimming of branches, severing roots, drainage and reclamation of wetlands and in some circumstances, grazing by animals. For further information, visit: www.environment.sa.gov.au/topics/native-vegetation

HERITAGE VALUES

What is required if I want to operate in a Park that has heritage infrastructure requirements?

The state heritage values of a site are managed under the *Heritage Places Act 1993*. Heritage values may be historic, social, aesthetic or scientific in nature and contribute to an understanding of identified heritage values. If you would like to use or modify any heritage infrastructure on a site, please identify this in your proposal. DEW encourages compatible, adaptive reuse proposals, but these are subject to development approval in accordance with the *Development Act 1993*. For further information about the maintenance and conservation of heritage places, as well as guidelines for best-practice management of developments affecting state heritage places, visit: www.environment.sa.gov.au/our-places/heritage/conserving-our-heritage

NATIVE TITLE

What is Native Title?

Native Title describes the rights and interests of Aboriginal and Torres Strait Islander people in land and waters, according to their traditional laws and customs. As a common law right, Native Title may exist over areas of Crown land or waters, irrespective of whether there are any Native Title claims or determinations in the area.

Native Title rights may include the possession, use and occupation of traditional country, including the right of access to the area. It may also include the right for Native Title holders to participate in decisions about how others use their traditional land and waters. Native Title is a legal right that can be protected by legal action, where appropriate. DEW will assist the proponents to evaluate if there is the potential for any Native Title considerations for the proposed site.

Does Native Title apply to the sites in this package?

Native Title may exist over some of the sites identified in this package, however DEW will assist the proponents to evaluate if this is a consideration for the proposed site. Native Title is a necessary assessment requirement for Government, when Government is proposing or permitting any activity on or relating to Crown land that may affect Native Title rights.