



DEW-D0014563

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Dear Mr Tembel,

Thank you for the opportunity to provide a submission on the South Australian Productivity Commission, *Tourism Regulation Review*, Draft Report, August 2021.

The Department for Environment and Water (DEW) is committed to improving regulatory processes related to nature-based tourism development that will benefit both industry and the wider community. We recognise nature-based tourism as a key driver of the South Australian economy, creating jobs and delivering a range of broader benefits for the state.

DEW is generally supportive of the Draft Report and our submission contains detailed responses to the draft recommendations and specific information requests relevant to DEW, noting we look forward to ongoing consultation with the Commission during the finalisation of the report.

In summary we would make the following observations:

DEW's commitment to adopting a more flexible and proactive approach to supporting tourism operators and customers

Our response highlights a range of examples of DEW's commitment to simplify processes and improve turnaround times for our customers and business partners, including:

Unsolicited proposals

Improvements have been made in the last two years to reduce timeframes in assessing unsolicited proposals (USP), including more effective engagement of proponents pre-application, increased scrutiny in stage 1 to determine early "no's" to avoid protracted stage 2 assessments for non-viable proposals.

USP involves contribution from multiple parties and stakeholders. DEW endeavours to process these types of proposals in a reasonable timeframe, however we are obligated to undertake due process and be fair and transparent in the allocation of Crown land and to ensure activities are appropriate.

Nature-based Tourism Co-Investment Fund

In our submission, we have highlighted a number of customer-centric approaches the department has developed through the implementation of the Nature-based Tourism Co-investment Fund. We believe the pilot program has been an exemplar in supporting new or innovative proposals for nature-based tourism ventures. These approaches include a dedicated support service and a suite of resources to assist potential proponents in the application process, development in association with the Tourism Industry Council of South Australia. We believe these approaches, now piloted, could be applied more broadly across DEW where there is benefit.

Nature-based Tourism Reference Group

DEW has formed a reference group comprised of representatives of the tourism industry, conservation sector and regional development experts. The Nature-based Tourism Reference Group was formed in 2019 and meets quarterly and provides independent advice, to guide DEW's decision making in relation to activating nature-based tourism on public lands.

Review of licensing

DEW is currently reviewing its invoicing processing for CTOs, to ensure consistent and efficient service provision while the broader licensing review is undertaken. We are keen to move to a fully digital system for licensing and fee payments, which should overcome the issues raised by some CTOs. We therefore welcome the recommendation in the draft report to prioritise the roll-out of digital services in those agencies that are most involved with nature-based tourism, as this will make a significant difference in DEW's ability to streamline applications and improve processing times.

Consolidated guidance to prospective nature-based tourism businesses

With respect to *Recommendation 8.1.5: Greater clarity about approval guidelines*, DEW noted the Commission's recommendation that DEW "provide consolidated guidance to prospective nature-based tourism businesses covering all the relevant regulatory requirements, including those from regulators outside the portfolio, and evaluate delivering this guidance through a business concierge."

DEW's primary role and responsibility is to the activation, development and management of nature-based tourism on public lands. As such, it is not resourced or best placed to provide a broader business concierge service across the state. Furthermore, significant additional resources would be required to provide a broader business concierge service to assist proponents navigate the relevant regulatory requirements and therefore we would specifically highlight this issue as one which needs further and deeper consideration.

Thank you again for the opportunity to contribute to this process. If you have any questions, please contact Ms Jo Podoliak, Director, Tourism and Economic Development Branch, DEW on jo.podoliak@sa.gov.au or 8463 6949.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Schutz', with a large, stylized initial 'J'.

JOHN SCHUTZ

Chief Executive, Department for Environment and Water

23/09/2021

Encl: Attachment 1 – Response to SA Productivity Commission, Tourism Regulation Review

Regulatory Area	Information requests / Draft recommendations	Comment / Response
4.2.2 Crown land assessments	<p>Information request 4.1</p> <p>a) How accurate and complete is the Commission's description of the process for receiving approval to access or use Crown land?</p> <p>B) What other elements of the approval process should be included?</p>	<p>4.2.3 DEW suggests the following re-wording or amendments:</p> <p>Page 53 Other Legislation The Development Act has been repealed, replace with the: <i>Planning, Development and Infrastructure Act 2016</i>. Add: <i>Retail and Commercial Leases Act 1995</i></p> <p>Page 54, paragraph 1, Add: For an unsolicited bid the process would be managed by the Department for Environment and Water, or the agency responsible</p> <p>P 54 para 2, Add: Access to land granted for a tourism business may still be subject to obtaining development approval.</p> <p>Overall comments:</p> <p>There are generally three ways to gain access to Crown land for a tourism proposal and we suggest making mention of the ability to :</p> <ul style="list-style-type: none"> - Seek access through existing process through application to the Crown lands program pursuant to the Crown Land Management Act 2009. - Seek access as part of a government program. <p>Page 53 - Crown Land is generally leased or licensed from the Government for a certain fee.</p> <p>4.2.2 DEW suggests adding:</p> <p>The Native Title status of a parcel of Crown land is a significant consideration of any proposal along with the Department's future direction of a site, existing interests and development requirements.</p> <p>The USP Governance Committee endorsement is not necessarily an approval of proposal. Proposals may be subject to legislative and/or require Chief Executive, Ministerial or Cabinet approvals.</p> <p>The example given in relation to Martindale Hall requires amendment: It is not a Crown land example but a National Parks example. Further the USP was put to the State Coordinator-General, not to the Minister.</p>

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4.2.5 Issues identified regarding access to Crown land for nature-based tourism and agritourism businesses	<p>Information request 4.2</p> <p>The Commission requests additional examples of unsolicited proposals to access Crown land for nature-based tourism or agritourism including:</p> <ul style="list-style-type: none"> • how long it took to resolve them; and • what is an appropriate timeframe for responding to unsolicited proposals? 	<p><u>Example 1:</u> Community group proposal to renovate old cottage in conservation park for tourism/educational (schools) accommodation. The assessment process took approximately 12 months.</p> <p><u>Example 2:</u> Tourism business proposal to operate tours and sales from existing NPW building. Decision made not to approve the proposal made in less than 2 months, as the proposal lacked the necessary uniqueness to justify direct negotiation.</p> <p>Considerations and proposed timeframes:</p> <p>There have been improvements made in the last two years to reduce timeframes. This includes engagement of proponents pre application, increased scrutiny in stage 1 to determine early "no's", avoiding protracted stage 2 assessments for non-viable proposals.</p> <p>USP involves contribution from multiple parties and stakeholders. While the department endeavours to process these types of proposals in a reasonable timeframe, it is obligated to undertake due process, be fair and transparent in the allocation of Crown land and to ensure activities are appropriate. Common causes for extended timeframes include: incomplete detail provided by applicants which may require a level of “back and forth” to get the full detail required and a lack of social licence or opposition to proposals which may need further stakeholder engagement. DEW's USP process aligns to that of the Department of Treasury and Finance.</p> <p>Timeframes:</p> <p>Acknowledgement of receipt should be within 2 business days.</p> <p>Stage 1 – 6 weeks, provided sufficient information is available.</p> <p>Stage 2 - Exclusive negotiation and detailed proposal - up to 12 weeks, with longer timeframes noted/reported to the USP Committee. This timeframe may vary significantly depending on the complexity of the proposal. For example, if DEW is waiting for additional information from the proponent or require valuation advice from the Office of the Valuer General.</p> <p>Stage 3 – Contract Negotiation - up to 12 weeks, with longer timeframes noted/reported to the USP Committee. This timeframe will vary depending on how quickly parties agree to Commercial terms (e.g. Lease) and complexities of the site.</p>

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	<p>Information request 4.3 To what extent is the process for dealing with multiple regulatory agencies coordinated when considering proposals and how does this differ between solicited and unsolicited proposals? Please provide examples.</p>	<p>DEW does make consistent efforts to streamline processes where multi-agency approvals are required. For example, the allocation of 10-year shark cage diving licences for tourism operators was conducted via an expression of interest process (solicited proposals). The Department worked closely with PIRSA and the Commonwealth Government to ensure that all necessary approvals were issued to the successful applicants through a single process.</p>
	<p>Information request 4.4 What is the experience of nature-based tourism businesses regarding the duration of Crown Land leases? What improvements can be made regarding the process for obtaining longer term leases for Crown land?</p>	<p>Lease term is negotiated considering a number of factors, including the level of investment offered by interested parties, the nature and complexities of the site and policy and legislation. Leases of up to 15+ years have been granted previously. As stated above, DEW is obligated to undertake due process and be fair and transparent in the allocation of leases over public land.</p>
<p>4.3.5 Issues identified regarding national park access for nature based and agritourism business</p>	<p>Information request 4.5 The Commission requests additional feedback on the experience of proponents and regulators on several issues related to accessing national parks and ideas for improvements including:</p>	
	<ul style="list-style-type: none"> • the functionality of park management plans; 	<p>Park management plans set out the Minister's directions for the future management of a park. They are strategic documents that provide broad scope for proponents to identify what activities could be undertaken, based on the purpose and values of the park. In management plans expressing broad management objectives for the park, there is considerable scope for what can occur, including broad zoning of areas for more intensive visitor use.</p> <p>Where a level of specificity is required, it is in relation to tourism accommodation in parks, which is a specific requirement of the new Planning Code. The Department has a</p>

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		robust process for amending park management plans if required to facilitate new directions in management, whether they be for tourism, conservation or other reasons. The process of amending a management plan for a particular tourism development is entirely dependent on certainty about the development occurring, to enable the planning process to commence.
	<ul style="list-style-type: none"> the efficiency of the public consultation process; 	The <i>National Parks and Wildlife Act</i> (NPWA) prescribes a three-month public consultation process. The purpose of consultation is to obtain community views on the management of the park going forward. This consultation process should be viewed as a means of obtaining social licence for activities in a park and understanding community and stakeholder views. The Department tailors the community engagement depending on the park and stakeholder interest - e.g. pre-release engagement on specific issues, or targeted processes during the statutory consultation period, all with the intent of achieving a good outcome for adopting the management plan. The NPWA would need to be amended in order to change the public consultation period.
	<ul style="list-style-type: none"> the effectiveness of the current process for co-management of parks; and 	Co-management boards work within the adopted management plan for a park and in managing a park, delegate significant responsibilities to the Department - for example, issuing of CTO licences (where there is no cultural component which would require board consideration) is delegated to the Department to issue licences within its existing processes. Without understanding the particular concerns raised, it is difficult to provide a more detailed response to this issue.
	<ul style="list-style-type: none"> the monitoring of tour operator accreditation. 	As part of the CTO licence renewal process, CTOs are asked for copies of their eco tour accreditation. Park rangers monitor accreditation on site in parks when undertaking tourism operations. Accreditation is undertaken by a third party, typically Ecotourism Australia, who provide a report to DEW quarterly of accredited CTOs.
4.3.6 Issues identified regarding change in land use	Information request 4.6 The Commission seeks additional information on Crown lands of interest to	National parks are special places that are protected by legislation to ensure their ongoing conservation and considered use. Under the new Planning and Design Code, all national parks are designated Conservation areas. DEW has worked with AGD PLUS to provide a

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	<p>agritourism and nature-based tourism businesses that are incorrectly zoned and on the opportunities being foregone. In addition, the Commission asks how long it took to resolve past issues.</p>	<p>pathway for tourist development in parks where the park management plan supports that type of development. In most instances, the Department only becomes aware of tourism development interest once an application or enquiry is made. Where appropriate, the Department has undertaken to amend management plans in order to facilitate appropriate tourism development in national parks. The amendment process is set out in legislation and can take 6 plus months to complete (including mandatory three months public consultation).</p> <p>In relation to incorrect zoning on Crown Land, DEW would require more specific information to be able to respond to this more accurately.</p>
<p>4.4.1 Issues identified regarding Coastal Protection</p>	<p>Information request 4.7 The Commission requests additional feedback regarding the experiences of local councils trying to develop coastal infrastructure to accommodate increased tourism demand. In addition, the Commission would like to understand the respective roles and responsibilities of the Coastal Protection Board, local councils and other agencies for maintaining and protecting the coastal environment.</p>	<p>We believe this has been addressed via a letter from the Coast Protection Board, dated 2 September 2021, sent to South Australian Productivity Commission.</p>
<p>7.2.2 General operating requirements Camping Issues with inconsistency in national park fees</p>	<p>Information request 7.2</p>	<p>The Department currently recovers fees from CTOs in various ways, including over the counter payments where a point-of-sale (POS) system exists (e.g. Cleland Wildlife Park), as well as invoicing after the fact in parks without a front counter. Some Certified Tour Operators (CTOs) are set up for online payments, whilst others are not. The Department is eager to move to a fully digital system for licensing and fee payments, which should overcome the issues raised by some CTOs. In the interim, the Department is currently reviewing its invoicing processes for CTOs, to ensure consistent and efficient service provision.</p>

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8.1.1 Developing a proactive culture in regulators	<p>Information request 8.1</p> <p>The Commission requests that regulators provide documentation of training programs or guidance material that is used to train or coach employees on working with businesses proactively to help develop applications. The Commission also requests additional feedback from businesses on their experiences in working with regulators on innovative proposals both from a positive and negative perspective.</p>	<p>The Department is planning to undertake a licensing review in 2021-22, which will consider staff training and development packages.</p> <p>One recent and successful example of providing additional assistance to tourism operators is through the Nature-based Tourism Co-investment Fund. To support operators applying for this fund, the department partnered with the Tourism Industry Council SA (TICSA). TICSA developed a suite of training videos and resources to assist applicants through all stages of the application process. TICSA also provide a service to potential applicants whereby they review the business proposal and application pre lodgement. This approach, now piloted, has the potential to be rolled out for other application processes managed by DEW.</p>
	<p>Draft Recommendation 8.1</p> <p>The Commission recommends that regulators relevant to nature-based tourism and agritourism have mechanisms, such as external reference groups, for consulting with stakeholders on regulatory matters and practice.</p>	<p>The Department established a Nature-based Tourism Reference Group in 2019, to assist with activating nature-based tourism in SA. The Reference Group is comprised of representatives from the tourism, conservation, local government and regional development sectors and meets quarterly or as required to provide guidance for DEW in their decision making in relation to nature-based tourism activation.</p>
8.1.2 More timely government decisions	<p>Draft Recommendation 8.2</p> <p>The Commission recommends that regulators relevant to nature-based tourism and agritourism, in conjunction with their regulated businesses:</p> <ul style="list-style-type: none"> • develop target timeframes for approvals and measures for efficient processes; and • publicly report their performance against these targets. 	<p>The Department will develop target timeframes for relevant approvals as part of a licensing review to be undertaken in 2021/22. A Customer Service Charter will also be developed as part of this process, to set minimum expectations.</p>

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	<p>Draft Recommendation 8.3</p> <p>The Commission recommends that regulators relevant to nature-based tourism and agritourism undertake periodic reviews of past approval applications, including unsuccessful applications, to identify possible changes to regulatory practice to improve success rates and reduce early cessation of unviable applications.</p>	<p>The Department <u>does</u> support the early cessation of unviable applications to avoid protracted assessments for non-viable proposals.</p> <p>The Department also seeks to improve the quality and suitability of applications before they are lodged, to minimise the likelihood of applications being deemed unviable. For example, through the Nature-based Tourism Co-investment Fund, the Tourism Industry Council SA (TICSA) provides coaching resources and a support service to potential applicants whereby they review the business proposal and application pre lodgement.</p>
<p>8.1.3 Government regulators working together</p>	<p>Information request 8.2</p> <p>The Commission requests feedback on the following options for improving coordination between regulators:</p> <p>Option 1: Designate a lead coordinator agency for nature-based tourism and a lead coordinator for agritourism initiatives whose role is to coordinate regulatory approvals. This role would be supported through a memorandum of understanding (MoU) between relevant regulators and senior committee of all relevant regulators.</p> <p>Option 2: Build on Option 1 by authorising Primary Industries and Regions South Australia (PIRSA), as part of its accountability for regional development, to facilitate regulatory coordination in its regions, incorporating local regulators and local government.</p> <p>Option 3: Establish a lead regulator model for nature-based tourism and agritourism, drawing on the experience of the</p>	<p>Each of these options have advantages and disadvantages. The Department's primary interest and responsibility is to activate, develop and manage nature-based tourism on public lands. As such, it is not resourced or well placed to provide a broader lead regulator role statewide. The Department would require further time to consider each option in detail, as well as other potential options, before suggesting a preferred option.</p>

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	Department for Energy and Mining (DEM) as lead regulator for mining.	
8.1.4 Facilitating new or innovative proposals	<p>Information request 8.3</p> <p>The Commission requests that agencies with regulations most affecting nature-based tourism, as identified at the beginning of this chapter, provide more feedback on their internal pathways and guidelines for reviewing non-standard proposals.</p>	<p>The department is seeking to continuously improve the support and guidance it provides to tourism operators.</p> <p>As previously mentioned, the processes established through the piloting of the Nature-based Tourism Co-Investment Fund are a successful example of improving the support available. Through this initiative, DEW has engaged with the Tourism Industry Council SA to run workshops led by specialists/ subject matter experts to assist proponents to understand the various local, state and federal government regulations and this approach has broader application across DEW.</p>
8.1.5 Greater clarity about approval guidelines	<p>Draft recommendation 8.4</p> <p>The Commission recommends that regulators relevant to nature-based tourism, in conjunction with their regulated businesses, review and improve the clarity and accessibility of their approval guidelines within 12 months.</p>	Timely review of approval guidelines and supporting documentation is supported.
	<p>Draft recommendation 8.5</p> <p>As the government has emphasised the development of nature-based tourism, the Commission recommends that:</p> <ul style="list-style-type: none"> • the Department for Environment and Water (DEW) provide consolidated guidance to prospective nature-based tourism businesses covering all the relevant regulatory requirements, including those from regulators outside the portfolio, and evaluate delivering this guidance through a business concierge. 	<p>The Department's primary role and responsibility is to the development and management of nature-based tourism on public lands. As such, it is not resourced or best placed to provide a broader business concierge service statewide.</p> <p>Significant additional resources would be required to provide a broader business concierge service to assist proponents navigate the relevant regulatory requirements.</p>

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	<ul style="list-style-type: none"> Primary Industries and Regions South Australia (PIRSA) provides similar support to agritourism. Draft Recommendation 	
8.1.6 More use of digital enhancement, including online applications	<p>Draft recommendation 8.6</p> <p>The Commission recommends that the government’s digital strategy incorporate the priorities of the tourism sector in regional South Australia by prioritising the roll-out of digital services in those agencies that are most involved with nature-based tourism and agritourism, and regional South Australia.</p>	<p>The recommendation in the draft report to prioritise the roll-out of digital services in those agencies that are most involved with nature-based tourism is welcomed. The Department is looking to roll out a full digital service as part of a planned licensing review in 2021-22. Additional funding will be required for this purpose, to avoid any business disruption to existing lessees and licence holders.</p>
	<p>Information request 8.4</p> <p>The Commission seeks clarity from nature-based tourism and agritourism businesses and their regulators regarding digitally enabled improvements to regulatory requirements and processes, especially those that make it easier to do business with the regulators.</p>	<p>Online licensing and fee payments are being considered as part of a planned licensing review in 2021-22. This will enable the Department to be more responsive to customers and make it easier to do business with the Department.</p>