



Appendix 4 - General Terms and Conditions of EOI

Important Notice

The information in this document has been compiled on behalf of Rottnest Island Authority (RIA) for the guidance of parties interested in participating in the Expression of Interest for A. Recreational activities and experiences; B. Water-based activities or C. Aboriginal cultural tourism experiences on Rottnest Island (EOI).

This document does not, and does not purport to, contain all the information that interested parties, or their advisors would desire, or require, in reaching decisions in relation to submitting an EOI. Interested parties must form their own views as to what information is relevant to such decisions and make their own independent investigations in relation to any such information.

This document outlines RIA's expectations in relation to the EOI process and the terms and conditions of the process. RIA reserves the right, in its absolute discretion, at any stage, to terminate further participation in the EOI process by any party, to change the structure, procedures and timing of the EOI process, to refuse or admit entry of a particular party to the next phase of the EOI process and to withdraw from and end the proposed EOI process.

Proponents and their advisors must not, under any circumstances, make any enquiries of, or hold any discussions with the media in connection with the site or the EOI process, except as provided for in the EOI or with the prior written consent from RIA.

Costs Borne by Proponents

All costs and expenses incurred by Proponents in any way associated with the EOI process, including development, preparation, and submission of the EOI Proposals, including but not limited to attendance at meetings, travel, discussions, and providing any additional information required by RIA, will be borne entirely and exclusively by the Proponent.

Ownership of Proposal Documents

All documents submitted in the EOI process become the property of RIA on lodgement. Such intellectual property rights of the Proponent(s) or other parties, as may be clearly demonstrated by the Proponent(s) to exist in the information contained in materials submitted by the Proponent(s) will remain the property of the Proponent(s) or those other relevant parties.

The Proponent(s) conveys a royalty-free licence and authority to RIA, its officers, employees, advisors, consultants, and agents to copy, adapt, disclose, or do anything else necessary (in RIA's opinion) to all material (including that which contains intellectual property rights of the Proponent(s) or other parties) contained in the documents or materials submitted, for the purposes of the EOI Process including, without limitation, for use in:

- Evaluation of EOI Proposals; and
- Other related matters; and
- Complying with applicable laws.

RIA's Rights

The RIA reserves the right, at its absolute discretion, and at any time to:

- Consider any information from its own and other sources in evaluating an EOI Proposal
- Accept or reject any EOI Proposal at any time irrespective of the extent to which it satisfies any of the Evaluation Criteria
- Question any Proponent(s) to clarify any matter relating to the Proponent(s) EOI Proposal
- Request additional information from any Proponent as RIA sees fit relating to the Proponents EOI Proposal
- Conduct due diligence investigations in relation to an EOI Proposal or its Proponent or Relevant Parties;
- Draw on outside expertise as required



- Invite presentations from Proponents and conduct question and answer sessions with one or more Proponents if considered necessary; and
- Decline to consider any EOI Proposal that does not fully comply with the EOI process terms and conditions, important notice or other items set out in the EOI document.

Errors and Omissions

Where an EOI Proposal contains an accidental 'error or omission', Proponents must bring this to the attention of RIA and its Agents immediately upon its identification. RIA may allow the Proponent to amend the accidental error or omission at its sole discretion.

General Terms and Conditions of EOI continued

Return or Destruction of Information

RIA reserves the right, in its absolute discretion, at any stage following termination of the Proponent(s) participation in the EOI process to require that material and other information provided to Proponent(s) (and copies or reproductions of such information)

be either destroyed by the Proponent(s) or returned to RIA. RIA may require that the Proponent(s) provide evidence (in a form satisfactory to RIA) that any RIA requirements in this respect have been fully complied with.

Right to Amend Process

RIA reserves the right to amend the process set out in this document by notice emailed or otherwise in writing to Proponents who have not withdrawn or been excluded from the process. Such amendment may include cancellation, variation, or supplementation of the process.

No Obligation

No legal or other obligation other than those associated with this section shall arise between a Proponent(s) and RIA unless and until formal documentation has been signed. RIA is not obliged to proceed with any EOI Proposals, and no compensation will be payable. Nothing in this EOI obliges RIA to carry out any works to any premises or infrastructure or to provide any contribution to or fund any works.

Confidentiality

All information submitted by Proponents will be examined and assessed by RIA's evaluation team, including any specialist consultant advisors and other party from whom the evaluation team may seek advice.

The confidentiality of any information submitted by Proponents, which is not available to the public, will be respected except where disclosure is permitted or required by law. All Proponents will be required to maintain confidentiality with respect to their own EOI Proposals and should not seek details of competing proposals.

Proponents must not make any public statements whatsoever in relation to the EOI. Proponents may be required to sign a Confidentiality Deed prepared by RIA's solicitors. RIA reserves the right to make public announcements, including to the media.

Representations and Warranties

By submitting an EOI Proposal, each Proponent(s) is deemed to have agreed to be bound by and to observe all the requirements and obligations on the part of a Proponent(s) set out in this EOI Document. Each EOI Proposal and/or Detailed Proposal is submitted and taken to be received on the basis that the Proponent(s) represents and warrants to RIA that:

- No information and records provided by or on behalf of the Proponent(s) (including any subcontractor, sub consultant or advisor nominated by the Proponent(s)) to RIA at any time in relation to the



Proponent(s) or its EOI Proposal is or will be false or misleading and all such information and records are and will be true and accurate in all material respects

- The information contained in its EOI Proposal may be relied upon by RIA in determining whether or not to invite the Proponent(s) to participate further in the EOI process
- It is satisfied as to the correctness, accuracy, adequacy, and sufficiency of its EOI Proposal
- It does not rely on the currency, authenticity, accuracy, suitability, or completeness of any of the documents annexed to, or exhibited by, the EOI Document or disclosed through or in connection with the EOI process
- It has relied entirely on its own independent enquiries in connection with its EOI Proposal
- It has not infringed on the intellectual property of any third party in preparing or submitting its EOI Proposal
- It has no conflict of interest or anticipated conflict of interest in doing all things required of it under the EOI Process which has not otherwise been disclosed in writing to RIA prior to or at the time of lodging its EOI Proposal
- It, or any of its associates, has, or have, not entered into any collusive tendering arrangement, anti-competitive conduct or any similar conduct with another Proponent(s) or any other person in connection with its EOI Proposal, and in that regard it has not and will not provide information to or communicate with another Proponent(s) in connection with its EOI Proposal (or any document associated with them)
- It has no knowledge of the EOI Proposal and/or Detailed Proposal made by any other Proponent(s)
- Except as disclosed in its EOI Proposal:
 - It has not entered into any contract, arrangement or understanding to pay or allow any money; it has not paid or allowed any money; or it will not pay to or allow any money, directly or indirectly to or for the benefit of:

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- A trade or industry association (above the published standard fee); or
- Any other Proponent(s) in connection with this EOI, its EOI Proposal or any contract to be entered into consequent thereon; and
- It has not entered into any contract, arrangement or understanding to receive any money directly or indirectly from or on behalf of any other Proponent(s) nor received any money or allowance from or
- on behalf of any other Proponent(s) in relation to any EOI Proposal or any contract to be entered into consequent thereon, nor will it receive any money as aforesaid.
- It is a solvent legal entity and is not under any form of administration or legal disability of any kind; and
- Unless otherwise disclosed in writing by the Proponent(s) to RIA, the Proponent(s) and its participants, contractors, consultants, or advisors have not entered into any arrangement with, and as far as it is aware it is not related to, another Proponent(s) or participant, contractor, consultant or advisor of that other Proponent(s)
- It has not:
 - Entered into any agreement or arrangement with any competing Proponent(s); or
 - Competitor to fix prices, other terms, or conditions of supply; and
 - Given any assistance to any competing Proponent(s) or competitor to issue an EOI Proposal or to make a proposal or submission to RIA which has been deliberately priced or framed in order to be unsuccessful; and/ or
 - committed a breach of the provisions of the Competition and Consumer Act 2010 (Cth).
- If a Proponent is a trustee of a trust ("Trust"), such Proponent makes the following additional representations and warranties:
 - the Proponent submits its EOI Proposal in its own capacity and as trustee of the Trust
 - the relevant Trust document is valid and complies with the law
 - any copies of the Trust document the Proponent has submitted are true and complete copies and disclose everything about the Trust



- the Proponent is properly appointed and is the only trustee(s) of the Trust
- the Proponent has always complied with the terms of the Trust, and its duties and powers
- the Proponent has a right of indemnity from the Trust assets in respect of the transactions contemplated by EOI Proposal
- it is proper for the Proponent, as trustee, to submit the EOI Proposal and do anything
- the EOI Proposal contemplates that the Proponent will do. Those things do or will benefit the beneficiaries of the Trust
- none of the Trust assets have been resettled or set aside; and
- the Trust has not terminated nor has any event for the vesting of the assets occurred.

Freedom of Information Act 1992 (WA)

RIA shall be entitled to make public the identity of any Proponent. All or any part of an EOI Proposal may be disclosed to members of the public if RIA is required to do so under the Freedom of Information Act 1992 (WA).

Proponents must not apply under the Freedom of Information Act 1992 (WA) for information regarding other EOI Proposals.

Disclaimer

Each Proponent, by lodging an EOI Proposal, acknowledges and agrees with RIA that:

RIA and its respective officers, employees, consultants, contractors, and agents:

- Make no representation or warranty as to the accuracy or completeness of information, statements and representations contained in this EOI including appendices, or other documents referred to in this EOI Document; and
- Will not be liable for any loss, cost or expense of any kind suffered or which may be suffered by Proponents arising directly or indirectly from any inaccuracy or incompleteness of the information in the EOI Document or those other documents.

Any reports and plans included in the EOI Document have been prepared for the use of RIA only. Any reports and plans are provided as background information only and may be subject to further changes. Proponents should undertake their own enquiries in relation to all matters to do with the EOI and the subject of these reports; and

There may be other documents and information of which RIA and their respective officers, employees, consultant's contractors or agents are aware and which may be relevant to the EOI, but which have not been provided or to which no reference has been made in, or in connection with, this EOI; and

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The Proponent(s) has made, and relied on, its own independent assessment of the suitability of the information in this EOI for the purpose of lodging its EOI Proposal and any other document or material pursuant to this invitation for EOI Document and the information and as to the attributes of, and risks associated with doing so.

Privacy

By submitting an EOI Proposal, each Proponent(s) acknowledges and agrees that:

Personal information about individuals connected with the Proponent may be collected by RIA for the purpose of assessing the EOI Proposal.

The intended recipient of the information is RIA, and RIA may disclose the information to its external advisers and other agents engaged by RIA to assist it with the EOI process.



ROTTNEST ISLAND AUTHORITY

Each Proponent warrants that each individual whose information is submitted with the Proponent's EOI Proposal has authorised RIA to collect and the Proponent to supply RIA with, that individual's personal information