



Department of Natural Resources and  
Environment Tasmania

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# **Request for Expression of Interest (EOI) for commercial educational tourism visits to Macquarie Island commencing the 2024-2025 season**

**March 2024**

**The Crown in Right of Tasmania as represented by the  
Department of Natural Resources and Environment Tasmania**

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# Macquarie Island Commercial Educational Tourism Operations Request for EOI

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**ENQUIRIES ABOUT THIS REQUEST FOR EOI SHOULD BE DIRECTED TO THE CONTACT OFFICER:**

Name: Macquarie Island Executive Officer  
Email: [Macquarie.Island@parks.tas.gov.au](mailto:Macquarie.Island@parks.tas.gov.au)

**EMAIL FOR LODGEMENT OF EOI:**

Email: [quotations.south@parks.tas.gov.au](mailto:quotations.south@parks.tas.gov.au)  
Subject line: "Macquarie Island EOI [*insert company name*]".  
**ISSUE DATE:** 2.00pm (Tasmanian time) Thursday 21 March 2024  
**CLOSING TIME AND DATE:** 5.00pm Tuesday 30 April 2024

# Macquarie Island Educational Tourism Operations

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## 1 Introduction and background

### 1.1 Request for EOI

The Crown is releasing this Request for EOI for interested commercial educational tourism operators to express their interest in obtaining educational tourist visits quota for the Macquarie Island Nature Reserve (the Reserve) for the 2024 – 2025 season. The educational tourism season, subject to Crown variation from time to time, is generally conducted between December and February each respective season.

### 1.2 Background

Macquarie Island is a restricted access nature reserve and World Heritage Area, managed by the Tasmania Parks and Wildlife Service (PWS) in accordance with the [Macquarie Island Nature Reserve and World Heritage Area Management Plan 2006](#) (Management Plan). The Australian Antarctic Division (AAD) manages the Macquarie Island research station and the scientific research program for the island. Access to the Macquarie Island is only permitted under Authority from the Director of National Parks and Wildlife.

Macquarie Island is sub-Antarctic, located roughly halfway between Tasmania and Antarctica. The island is subject to the full force of the Southern Ocean. It is an isolated location where weather and sea conditions can be hazardous. There are no harbours or landing facilities, and all anchorages are exposed to adverse weather. Although more sheltered than the west coast, the east coast is still subject to severe storms which bring strong winds and high seas. Swell and shore breaks often make landings difficult.

Macquarie Island is a unique, beautiful, wild and remote place. PWS has been supporting educational tourist visits to the island for many years, through the allocation of an educational tourist visits quota. The quota enables educational tourism to be appropriately balanced with protection of the unique values of the island. Educational tourism promotes conservation by allowing tourists to experience the landscapes and wildlife of Macquarie Island. Educational tourist visits are strictly controlled and conducted in accordance with the *Guidelines for Educational Tourist Visits to Macquarie Island Nature Reserve and World Heritage Area* (the Guidelines), which are updated annually.

PWS conducts an annual EOI process to allocate quota. This process involves inviting interested parties, who meet specific mandatory criteria, to apply for an allocation of educational tourist visits quota. Applications are assessed against selection criteria and the quota is allocated accordingly.

### 1.3 Educational Tourist Visits Quota

Proponents may apply for a portion of the approved quota, which includes:

- up to 12 Ships, with up to 2,000 Visitors in total, can enter the Reserve per financial year for the purpose of undertaking commercial Shore Visits;
- up to three (3) Ships can enter the Reserve per financial year for the purpose of conducting Small Boat Cruising Visits (no Shore Visits) to occur offshore at Lusitania Bay only; and

- up to two (2) Yachts can enter the Reserve per financial year for the purpose of undertaking Shore Visits (including non-commercial trips).

Small Boat Cruising Visits are intended for commercial Educational Tourist Visit Operators seeking a more time-efficient visit and do not include Shore Visits. These are only to be conducted offshore at Lusitania Bay, in accordance with the designated Tourism Management Area in the management plan, directions from PWS rangers on island, Authority, Business Licence and all approval conditions.

In the event Shore Visit quota is allocated to any Ship/s. Those Ships allocated quota that may use small boat transfers between the Ship and the shore (and return). The transfer can involve some very limited additional boat-based viewing in line with established practices, and as endorsed by the PWS ranger or authorised officer. Boat-based viewing will be considered where reasonable and not likely to be problematic for management of visits or cause disturbance to values. The small boat locations must be consistent with the onshore boundaries of the Tourism Management Areas. It is strongly preferred that boat-based viewing occurs between the ship and the shore (or return) for only one transfer per location that is visited at Macquarie Island.

The Guidelines provide additional detail on Shore Visits and Small Boat Cruising Visits, including requirements and restrictions.

Once allocated, the quota cannot be reallocated, sold or transferred to another company.

#### **1.4 Guides**

Macquarie Island is a remote and rugged place with many safety hazards, particularly when managing groups of visitors. Educational Tourist Operators Guide staff provide a key role in educating tourists about the values of the reserve, safety requirements and minimising impacts. Operators should ensure guides are skilled and experienced to provide a high-quality educational product, have relevant experience on Macquarie Island or other sub-Antarctic islands, and have suitable qualifications for operating small boats in the challenging Macquarie Island coastal environment.

#### **1.5 Relevant documentation**

The following documents contain key information and details on Macquarie Island, the EOI process and educational tourism. It is highly recommended that the documents are read carefully and the details considered in applications to express an interest in obtaining quota for educational tourist visits to Macquarie Island.

- Guidelines for Educational Tourist Visits to Macquarie Island Nature Reserve and World Heritage Area 2024/2025; and
- this Request for EOI.

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## **2 Definitions and Interpretation**

### **2.1 Definitions**

In this Request for EOIs, terms are defined as follows unless the context otherwise requires:

<b>Definition</b>	<b>Meaning</b>
<b>AAD Station</b>	means the Australian Antarctic Division station located on the northern end of the Macquarie Island isthmus known as “Macquarie Island research station”.
<b>Application</b>	means an application lodged by a Proponent in response to this Request for EOI.
<b>Business Licence</b>	means the contractual arrangement to be entered into between the Crown and the Preferred Proponent/s for Educational Tourism Operation at Macquarie Island pursuant to the <i>National Parks and Reserves Management Act 2002</i> (Tas).
<b>Closing Time</b>	means the closing time (Tasmanian time) and date for submitting Applications shown in the Details of this Request for EOI or as extended under clause 8.4(c).
<b>Contact Officer</b>	means the person identified as the Contact Officer on the cover (page 1) of this Request for EOI.
<b>Crew</b>	means all persons employed or engaged to work on a Vessel.
<b>Crown</b>	for the purposes of this Request for EOI, is taken to be a reference as the context requires to the Crown in Right of Tasmania as represented by the Department of Natural Resources and Environment Tasmania, the Tasmanian Government and any officer, employee and agent of any of the same lawfully acting on any of their behalf.
<b>Educational Tourism Operations</b>	means the educational tourism operation as more fully set out in clause 3 of this Request for EOI.
<b>Educational Tourist Visit</b>	means any non-AAD or PWS visit to the Reserve.
<b>Government Observer</b>	means a government representative who is on every Educational Tourist Visit voyage, at no cost to the Crown. PWS and the New Zealand Department of Conservation (DOC) run a joint government observer program to monitor tourism and compliance with approvals and permits for the sub-Antarctic Islands of both countries.
<b>Guide Staff</b>	means guiding and support staff engaged by the Visit Organisers to conduct the Shore Visits and who are not part of the Crew.
<b>Laws</b>	include acts, ordinances, regulations, by-laws, orders, awards, local laws, statutes, proclamations, codes, standards or guidelines of any regulatory agency, principles of law or equity established by decisions of courts; and provisions of the Constitution of Tasmania, and the Constitution of the Commonwealth of Australia.
<b>Person</b>	includes a natural person, a corporation, a partnership, a board, a joint venture, an incorporated association, a government, a local government authority and an agency.

<b>Preferred Proponent</b>	means the Proponent/s selected to enter into Business Licence to be signed by the Crown for the carrying out of the Operation.
<b>Proponent</b>	means a Person who lodges an Application instrument.
<b>Registration Form</b>	means the registration form attached hereto as Attachment 1.
<b>Request for EOI</b>	means (as the context requires) this Request for EOI instrument or the request for Applications processes set out in such instrument.
<b>Ship</b>	means the vessel approved to go to the Reserve, whether commercial or non-commercial.
<b>Shore Visit</b>	means a type of Education Tourist Visit where Visitors land ashore for educational tours within the boundaries of the defined Zones A and B of the Tourism Management Area as defined in the Management Plan, and subject to PWS and AAD approval, which may include a AAD Station visit.
<b>Small Boats</b>	means Ship-to-shore transport and offshore cruising operation vessels used during each Educational Tourist Visit as specified in the Application by the Proponent.
<b>Small Boat Cruising Visits</b>	means a type of Education Tourist Visit where Visitors cruise in Small Boats, offshore at Lusitania Bay within the boundaries of the defined Zone C of the Tourism Management Area Zone C as defined in the Management Plan, and in accordance with directions from PWS rangers on island and the Business Licence.
<b>Tourism Management Areas</b>	Refers to the three areas on Macquarie Island, which are located at the Isthmus, at Sandy Bay, and offshore at Lusitania Bay, where Visitors, Guide Staff and Crew with the opportunity to view wildlife, vegetation, geological formations, natural landscapes and historic sites.
<b>Visitor</b>	means any person, not being Crew or Guide Staff, entering or intending to enter the Reserve, whether making payment or not.
<b>Visit Organisers</b>	means the person/s that is organising the visit to the Reserve whether commercial or non-commercial.
<b>Vessel</b>	means a Ship and/or Yacht.
<b>Yacht</b>	means any vessel carrying 12 or fewer passengers.

## 2.2 Interpretation

In this Request for EOI unless the contrary intention is expressed or the context requires otherwise:

- (a) a reference to this Request for EOI includes its schedules, appendices, annexures and attachments, and any variation or replacement of any of it;
- (b) a reference to a statute, ordinance, code or other legislative instrument includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (c) the singular includes the plural and conversely;



- (d) a reference to a gender includes reference to each other gender;
- (e) a reference to a clause, paragraph, schedule, annexure, attachment or appendix, is a reference to a clause, paragraph, schedule, annexure, attachment or appendix in or to it;
- (f) words or phrases derived from a defined word have a corresponding meaning to the defined word;
- (g) a reference to any thing or any property includes a part of that thing or property;
- (h) a reference to a person includes, as the context requires, a natural person, a corporation, a partnership, a board, a joint venture, an incorporated association, a government, a local government authority and an agency
- (i) a term of inclusion is not to be interpreted to be a term of limitation; and
- (j) it operates under Tasmanian time.

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### **3 Tourism Operation and Application requirements**

#### **3.1 General**

It is required that Proponents take into account and where relevant address in their Application the matters set out in this clause 3 (including in completing Schedule 1 of the Registration Form as applicable). Such matters (and the Proponent's response to them in their Application) will inform the evaluation process as well as the drafting of the Business Licence.

#### **3.2 Term of Business Licence**

It is currently the Crown's preference that the term of the Business Licence/s will be one (1) or three (3) years commencing on the date of the Business Licence.

The Crown may consider an alternative term, provided it is no more than three (3) years (including any period of extension or renewal).

A single Proponent may only apply for a maximum of three (3) Ships to be eligible for multi-year visits to the Reserve.

Of the 12 Ships that can enter the Reserve, per financial year for the purposes of undertaking commercial Shore Visits, six (6) of those Ships are eligible for a Business Licence to conduct educational tourism in the Reserve for up to three (3) years (subject to conditions listed in the Guidelines).

Multi-year licences are only available for commercial educational tourism operators who continue to meet all standards and requirements for visits to the Reserve, and have a good history and reputation of educational tourism to the Reserve. The Guidelines contain additional details on information that is required to be assessed annually to ensure compliance with educational tourism regulations for multi-year licenses.

Environmental conditions may require alterations to visitation conditions from year to year. Applications will be assessed by an evaluation panel and quota allocated based on assessment against mandatory selection criteria.

Proponents are requested to detail in Schedule 1 of the Registration Form the term they would seek for the Business Licence (taking into account the above), and as necessary provide any further detail in their Application.

### **3.3 Date for Educational Tourism Operation**

The Business Licence will include obligations on the Preferred Proponent to only conduct Tourism Operations between specified operating hours and dates.

At the date this Request for EOI is issued, the season for Tourism Operation commences in December 2024 and ends in February 2025, which may be varied at the Crown's discretion. In the event Shore Visits are permitted, the visits are only permitted between the hours of 0700 hrs and 1900 hrs.

Proponents are requested to detail in Schedule 1 of the Registration Form their proposed base operating hours as from the commencement of Tourism Operations and provide further detail in their Application as necessary on the Proponent's position on the above matters.

### **3.4 Visit details**

Proponents must provide the following information in respect to all visits:

- (a) type of visit (Shore Visit or Small Boar Cruising Visit); and
- (b) number of visitors (per visit).

Visits are subject to the Authority to access the Reserve, which will be reviewed annually, and the Business Licence.

### **3.5 Vessel Information**

Proponents must provide the following information in respect to all Vessels used for Tourism Operations:

- (a) name and registration of Vessel/s;
- (b) originating port;
- (c) proposed stops prior to entering the Reserve;
- (d) number of Visitors (must be 200 or less); and
- (e) number, make and model of Small Boats on the Vessel.

### **3.6 Business Name and marketing**

Proponents are requested to provide details of:

- (a) the Proponent's proposed business operating name for the Operation;
- (b) ASIC Registration (for International companies);
- (c) Australian Company Number (ACN) and/or Australian business number (ABN) (for Australian companies);
- (d) Business postal address and contact details; and

- (e) names and positions of company officers permitted to sign Licence.

Any business name ultimately chosen and marketing activities ultimately undertaken by the Preferred Proponent must not be derogatory to the Crown or the Reserve.

### **3.7 Nature of Proponent, experience and Guide Staff**

Proponents are required to address and provide details in their Application of:

- (a) the legal identity and status;
- (b) contact names and addresses, telephone and email addresses together with any other relevant information about the Proponent's principals;
- (c) the proposed team members (if known) who are to work undertake the Tourism Operation and proposed levels of staffing for the Tourism Operation; and
- (d) demonstrated experience (if any) of the Proponent, and any applicable team members and Guide Staff, in the operation and management of similar ventures to the proposed Tourism Operation, including in particular any experience and suitable qualifications in the operation of small boat cruises.

Proponents should be aware that the Crown will require that the Preferred Proponent be responsible for all matters related to the employment or engagement of Guide Staff used in the conduct the Tourism Operation at the and requirements may also be imposed under the Business Licence to ensure all Guide Staff are fit and proper persons to work within the Macquarie Island Nature Reserve.

The Crown also reserves the right to seek and obtain further information at any time during the Request for EOI process from one or more of the Proponents regarding their financial capability, their ability to fund their proposed fit out and their proposed financial approach to setting up and operation of the Tourism Operation, which information may also be taken into account by the Crown in assessing an Application.

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## **4 Contract framework**

### **4.1 Proposed Business Licence framework**

The exact terms of the contractual arrangements forming the Business Licence will depend on the outcomes of evaluation and negotiation as set out in clause 6.1 of this Request for EOI.

Notwithstanding the above, the Crown currently proposes that it will seek to grant the following rights to the Preferred Proponent/s under the Business Licence (as may be relevant) licence rights to undertake Tourism Operations within the Macquarie Island Nature Reserve.

The Crown will prepare the Business Licence (as per clause 6.1).

### **4.2 General contractual requirements for Business Licence**

Proponents are advised that in addition to the matters addressed in clause 3 and elsewhere in this Request for EOI the Crown at this time will require inclusion of a number of commercial terms in the Business Licence:

- (a) a requirement that the Preferred Proponent/s hold appropriate levels of public liability insurance (\$20,000,000.00), workers compensation insurance and other insurances of a type usually held by persons carrying our business similar to the Tourism Operation in similar circumstances;
- (b) restrictions on assignment, transfer, subleasing, licensing and other dealings (including change in control of a Proponent company);
- (c) requirements that the Preferred Proponent obtain and maintain all relevant licences, permits and authorisations relevant to the carrying out of the Tourism Operation and otherwise complies with all applicable Laws and requirements to regulatory agencies in its use of the Available Space and Terrace and carrying out of the Business;
- (d) a requirement that the Preferred Proponent keep appropriate records and for the provision of reports as may be reasonably required by the Crown;
- (e) appropriate default, termination and (potentially) step in rights for the Crown;
- (f) exclusion of implied covenants and terms and warranties and representations by the Crown; and
- (g) a requirement that Proponents must ensure that all relevant Laws and requirements of relevant regulatory authorities are complied with in respect of the Operation.

The above matters are indicative only and the Crown is not bound to include such matters in the Business Licence (or anything else discussed in this clause 3), nor is the Crown prevented from seeking the inclusion of any other terms and conditions it considers appropriate when negotiating the Business Licence.

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## **5 Proponent Due Diligence**

### **5.1 Responsibility for due diligence**

The Proponent:

- (a) must, and is entirely responsible for, conducting its own independent investigations, analysis and other due diligence in respect of all matters associated with this Request for EOI and the proposed Tourism Operation;
- (b) is reliant entirely on its own investigations, analysis and other due diligence, in respect of all matters associated with this Request for EOI and the proposed Operation; and
- (c) must form its own independent opinion including as necessary subject to its own independent professional advice, as to whether or not to submit an Application and on what basis.

### **5.2 Disclaimer**

All guidelines and any other materials ("Material") set out in, or provided with, or for the purposes of this Request for EOI is provided to the Proponent subject to the following conditions:

- (a) it is strongly recommended that the Proponent make its own enquiries, investigations and examinations and obtaining its own appropriate professional advice before using or placing any reliance upon the Material;

- (b) the Crown accepts no liability whatsoever for any loss, damage or other consequences, whether caused by its negligence or not and whether arising in tort, contract, equity or any other, resulting directly or indirectly, from the Proponent's reliance upon, or use of, the Material;
- (c) the Material is provided to the Proponent strictly on the condition that the Proponent waives all present and future right to claim against the Crown and its servants, agents and contractors, for all liability, whether in contract or in tort, arising from any defects or errors in the Material, or any use of, or reliance upon, the Material;
- (d) the Material has not been prepared to meet the Proponent's particular requirements;
- (e) the Material is not warranted as being correct, free from any errors or defects or fit for any purpose;
- (f) the Proponent is entirely responsible for obtaining and confirming all necessary information of whatever nature, including technical, operational and financial in relation to the matters set out in this Request for EOI, including the potential operation of the Tourism Operation; and
- (g) if the above conditions upon which the Material is provided to the Proponent are not acceptable to it, the Material must not be used or relied upon by the Proponent.

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## 6 Evaluation Process

### 6.1 Request for EOI Process

Subject to the Crown reservations listed elsewhere in this request for EOI, the process relating to Application under this Request for EOI (including as to submission and evaluation) will be conducted in the following stages:

- (a) **Request for EOI:** Proponents are invited to submit Application in response to, and in accordance with, the terms and requirements of this Request for EOI, including:
  - (i) completing the Registration Form (including Schedule 1 of the Registration Form); and
  - (ii) ensuring the Application addresses (and contains all relevant details) the matters set out in Schedule 1 of the Registration Form and clauses 3, 7.2 and 7.3 of this Request for EOI; and
  - (iii) is otherwise compliant and lodged in accordance with the terms of this Request for EOI, in particular clauses 8.1 and 8.11 of this Request for EOI.

Applications must be submitted no later than the Closing Time on the Closing Date.

- (b) **Evaluation process and negotiations (where necessary):** The Crown will evaluate the Applications received in the manner set out in clause 7 and arising from such evaluation process will (at the Crown's absolute discretion and subject

to approval from New Zealand to visit sub-Antarctic island within New Zealand's territory):

- (i) select the Preferred Proponent/s to seek to enter into Business Licence/s in accordance with the process set out below in subclause (c), where that Proponent's Application has been evaluated as one of the Applications at a standard satisfactory to the Crown or where it is satisfactory to the Crown and evaluated to be of a greater standard than any other Application;
- (ii) in the event the Preferred Proponents Educational Tourism Visits dates, as proposed in their Applications overlap, then the Crown may direct the Preferred Proponents to negotiate the dates with one another to ensure only one Proponent is in the Reserve at any one time;
- (iii) select two or more Proponents as a group of short-listed Proponents, where the Applications of those Proponents have been evaluated to be at a standard satisfactory to the Crown and represent the best possible outcomes for the crown after evaluation; or
- (iv) exercise its rights under clause 8.4(d).

In the event that subclause (ii) applies and the Crown selects a short-listed group of Proponents, then:

- (v) the Crown reserves the right to, and may, entirely at its discretion, concurrently conduct commercial negotiations with one or all of such short-listed Proponents after such short-listing or in any other manner (including as to timing) the Crown chooses;
- (vi) the Crown may exercise its rights under clause 8.2 and 8.8 at any time during any such negotiation processes with short-listed Proponents;
- (vii) the Crown may prepare (one or more) draft versions of the Business Licence and/or a term sheet from which such Business Licence will be prepared, based on:
  - (A) the requirements set out in clauses 3 and 4 of this Request for EOI;
  - (B) other contractual terms required by the Crown; and
  - (C) the relevant final short-listed Application (including any clarification about that Application arising from clause 8.2);

for the purposes of commercial negotiation with relevant final short-listed Proponents (including in respect of determining whether the terms of an Business Licence can be agreed with a relevant short-listed Proponent on terms acceptable to the Crown).

- (c) **Finalisation and signing of Business Licence:** The Crown will seek to settle the terms of the Business Licence on terms acceptable to the Crown with the Preferred Proponent/s selected in accordance with subclause (b)(i) and deal exclusively with that Preferred Proponent/s for this purpose, provided however that if the Crown and that Preferred Proponent/s selected under subclause (b)(i) or (b)(vii) fail to settle and finalise an Business Licence on terms acceptable to the Crown within a time period reasonably acceptable to the Crown, then the Crown will have the right to cease negotiations with such Proponent and may, deal and negotiate with, entirely at the Crown's discretion, any previously unsuccessful

final short-listed Proponent, any other Proponents, or any other Person to settle the terms of an Business Licence on terms acceptable to the Crown (provided further for the avoidance of doubt that the Crown is under no obligation to seek to settle any such Business Licence). Such process will also be sought to be conducted in accordance with the requirements of the Code as relevant, including as to the preparation and signing of a disclosure statement as relevant.

## 6.2 Timetable

The following timetable is provided to provide an outline of the proposed timing of this Request for EOI process, on the basis that all dates (aside from the issue and Closing Date) are indicative only and the Crown reserves the right to, and may, entirely at its discretion, clarify and amend such dates as it considers necessary.

Activity	Indicative Dates
Request for EOI	21 March 2024 - 30 April 2024
Closing time and date for enquiries	5.00pm 19 April 2024
Closing Time and Date for Applications	5.00pm 30 April 2024
Written notification of Preferred Proponents	Mid - July 2024
Finalisation and signing of Business licence	October 2024

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## 7 Evaluation Criteria

### 7.1 Purpose

The objective of the evaluation process is to identify Applications that best meet the Crown's requirements and objectives as detailed in this Request for EOI, in particular as set out in clause 3 of this Request for EOI, where such are satisfactory to the Crown.

### 7.2 Mandatory Criteria

Proponents must demonstrate, to the satisfaction of the Crown, adherence to the following mandatory criteria:

- (a) membership of the International Association of Antarctica Tour Operators (IAATO) for term of Business Licence;
- (b) the Vessel must visit an Australian or New Zealand port prior to entering the Reserve;
- (c) the Vessel must not have more than 200 passengers on board; and
- (d) the Vessel must have a Parks and Wildlife Services endorsed Government Observer on board the Vessel, at the Proponent's cost, while in transit to and within the Reserve and World Heritage Area.

### 7.3 Selection Criteria

- (a) The Crown reserves the right to conduct the evaluation of Applications received, and any short-listing and evaluation of Proponents, in any manner the Crown thinks fit.

- (b) Applications must be fully developed in response to the matters in clause 3 of this Request for EOI, including ensuring all requested information referred to as being required in those clauses is addressed and provided for in full in an Application.
- (c) The quality of evidence and standards demonstrated by Proponents in their Applications will be important determinants in the evaluation process. For example, simply stating that the Proponent has a required attribute, or just repeating information in the REQUEST FOR EOI without providing examples that the Proponent has the relevant capability and/or experience, may be assessed (depending on the matter) as being of little or no weight. Similarly, general information or statements that do not demonstrate success, experience, ability or explain a person’s actual roles and responsibilities or their contribution to a previous operation’s success may also be given little to no weight in the evaluation process.
- (d) Proponents are required to demonstrate their experience, capability and capacity as applicable in their Application, and not seek to rely on the Crown to extrapolate from general information provided in an Application as to whether the Proponent may have the required attributes, experience and/or ability to carry out the proposed Operation.
- (e) Subject to subclause 7.2(a), Applications will be evaluated against the following criteria (which criteria are subject to the weightings specified):

No.	Selection Criteria	Weighting (%)
1	Clearly demonstrate an understanding of biosecurity risks and how the operator manages them before and during the visit to Macquarie Island. Include any relevant protocols, facilities and gear on board to conduct inspections, and biosecurity measures for the ship and small boats (including in port prior to departure, during the voyage and at the reserve).	20
2	Demonstrate an understanding of Macquarie Island’s unique environment and conservation values and what mitigations are in place to reduce the impact of the operator’s visit and visitors to the environment and values, including when anchored and when on shore.	20
3	Demonstrate adherence to strict safety guidelines and the degree of self-reliance in such matters, including regarding the use of small boats in the challenging Macquarie Island conditions.	15
4	Describe the operator’s educational tourism ethos and program, including specialities of guides, information presented to visitors, seminars, and messaging and communications to educate the visitors. Demonstrate the skills and competencies that the company requires of their guiding staff to ensure that they help deliver a safe and educational experience for visitors. Provide a list of tourism qualifications and accreditations for the company and staff.	15



5	Demonstrate how the operation benefits the state of Tasmania and the management and conservation of the Macquarie Island Nature Reserve and World Heritage Area.	10
6	Demonstrate the ability of the operator to be flexible with operating timetables due to weather constraints or timing clashes with AAD shipping or other vessels.	10
7	Provide evidence of past performance in this or related operations. In this, PWS reserves the right to consider known past performance of the operator and previous interactions, including Ranger in Charge or ship-based government representative observations and reports, as well as company history of submitting the required reports and documentation to PWS or providing notification on incidents to PWS.	10

**(f) Applications for multi-year terms**

Applications for Business Licences with multi-year terms will be evaluated against, in addition to the criteria in clause 7.3(e), the Proponents statement (and any relevant evidence) addressing the following:

- (i) Demonstrate proven capacity to deliver high quality and safe educational experience to Macquarie Island, with a history of visitation over multiple years and a good reputation for adhering to all standards, requirements, and Business Licence conditions for visits to the Reserve and working effectively with the PWS Rangers and staff.

**7.4 Evaluation of Response**

Applications will be evaluated for completeness in response to the Crown’s requirements and objectives evaluated against the evaluation criteria and the requirements set out in clause 3 of this Request for EOI.

The Crown also reserves the right to limit evaluation, or further evaluation, of Applications to a restricted number as selected by the Crown.

**8 Submission of Applications**

**8.1 Lodgment Details**

- (a) Applications must be lodged via email. The email for lodgment is as per the details page of this Request for EOI.
- (b) The time and location for lodging Applications are as detailed on the cover page of this Request for EOI.
- (c) Lodgment of Applications to any other email address, employee or agent of the Department of Natural Resources and Environment Tasmania may not be accepted.

**8.2 Further Information on Request**

Without limiting or being limited by clause 7.4 of this Request for EOI, the Crown reserves the right to seek clarification (including requesting the provision of and

consideration of further information as part of that clarification) of Applications through a written request and/or by a structured interview. However, Proponents must ensure that the Application addresses all requirements set out in this Request for EOI to enable evaluation of the Application by the Crown without further reference to the Proponent.

### **8.3 Contact Details**

Unless specifically provided for elsewhere in this Request for EOI, all enquiries regarding this document must be made in writing to the Contact Officer (and no other person as per clause 8.4(i)). Enquiries received later than 5.00pm 19 April 2024 may not be answered. The Contact Officer's contact details are as per the details page of this Request for EOI.

### **8.4 Reservations**

#### **(a) No warranty as to accuracy**

The Crown does not warrant the completeness or accuracy of the content of the Request for EOI and is not liable for any omission from it. Accordingly, potential Proponents should not rely solely upon the information contained herein and should satisfy themselves as to the correctness by such independent investigations as they see fit.

#### **(b) Right to vary Request for EOI**

The Crown may (and reserves all rights in respect thereof) vary this Request for EOI (including by changing the structures, procedures and/or timing of this Request for EOI process and/or amending its scope) at any time by:

- (i) informing all Proponents; and
- (ii) notifying all Persons:
  - (A) to whom the Crown has issued the Request for EOI; or
  - (B) who have downloaded a copy of the Request for EOI;

at the contact address they have provided to the Crown, where such Persons have provided a contact address to the Crown.

#### **(c) Right to extend Closing Time**

The Crown may extend the Closing Time by:

- (i) informing all Proponents via email; and
- (ii) on the PWS website.

#### **(d) Right to discontinue or suspend**

The Crown may abandon, discontinue, or suspend this Request for EOI process at any time.

#### **(e) No obligation to enter into any binding contract**

This Request for EOI is not be construed as making any express or implied representation, undertaking or commitment by the Crown that it will enter into the Business Licence with any Person in connection with the Tourism Operation or any other operation.

**(f) Right to reject or otherwise**

(Without limiting any other Crown right), the Crown may:

- (i) reject an Application that does not provide all information requested under clause 3 of this Request for EOI or otherwise does not comply with the terms of this Request for EOI; or
- (ii) ignore any apparent lack of fulfilment of all requirements of an Application and nonetheless evaluate the Application in accordance with the evaluation criteria as applicable.

**(g) No obligation to accept any Application**

The Crown is not obliged to:

- (i) consider any Application (including those Applications lodged by means other than in accordance with this REQUEST FOR EOI, those not conforming with this Request for EOI in any respect or those lodged by a Proponent who has not complied with this Request EOI); or
- (ii) endorse, select for shortlisting or otherwise accept any Application.

**(h) No representation is to be binding**

No representation made by or on behalf of the Crown about the Application or this Request for EOI (or their subject matter) binds the Crown.

**(i) Unauthorised communication**

The Proponent must direct all communications through the Contact Officer, unless the Crown (including through the Contact Officer) directs otherwise. Unauthorised communication by a Proponent with other Crown officer, employee, staff or agent may lead to disqualification of the Application.

**(j) Other reservations**

The Crown reserves the right to:

- (i) take into account any information from the Crown's own and other sources in evaluating an Application;
- (ii) request further information from any Proponent in order to clarify any matter relating to an Application;
- (iii) conduct due diligence investigations as required and in any manner considered appropriate;
- (iv) make its own enquiries to verify a Proponent's claims, and may refer to its own experiences with a Proponent; and
- (v) take such other action as the Crown considers at its absolute discretion

appropriate in relation to the Request for EOI process.

(k) **Late Applications**

Late Applications will not be accepted unless the Contact Officer is satisfied that:

- (i) circumstances beyond the Proponent's control caused the lateness; and
- (ii) accepting a late Application will not compromise the integrity of the Application process or provide an unfair advantage to that Proponent lodging the late Application.

(l) **Feasibility and other matters**

- (i) The Crown does not warrant the commercial or other feasibility of any carrying out of the Tourism Operation generally. All business and commercial aspects of the Application are at the sole risk of the Proponent.
- (ii) Proponents are responsible for noting the matters set out in this Request EOI and for making all necessary enquiries concerning the potential carrying out of the Tourism Operation. Each Proponent should acquaint itself with all conditions relating to this Request for EOI and areas that will be used in providing the Tourism Operation prior to submitting an Application. In lodging an Application, a Proponent is deemed to have:
  - (A) examined carefully and to have acquired full knowledge of this Request for EOI and any other information made available in writing by the Crown to the Proponents for the purpose of this Request for EOI;
  - (B) examined all information relevant to the risks, contingencies and other circumstances having an effect on the Application;
  - (C) made interpretations, deductions and conclusions as to the difficulties, risks and cost of carrying out the Tourism Operation as required by this Request for EOI and to have allowed for them in its Application;
  - (D) accepted and agreed with the terms and conditions of this Request for EOI; and
  - (E) acknowledged that it has relied solely upon its own enquiries and considerations in respect of the viability of the carrying out of the Tourism Operation.
- (iii) The Crown takes no responsibility for the relevance, accuracy, adequacy, currency or content of, and makes no representation or warranty of any kind or assumes any duty of care in respect of the information provided in and with this Request for EOI, and the Crown is not liable for any omission from this Request for EOI.

## **8.5 Confidentiality and Intellectual Property**

### **(a) Request for EOI remains property of the Crown**

This Request for EOI remains the property of the Crown and may be used only to prepare an Application.

### **(b) Use of Request of EOI is restricted and information is not to be disclosed**

Except for information available to the public generally (other than by breach of this Request for EOI):

- (i) a Person receiving this Request for EOI must not publish, disclose or copy any of its content, except to prepare an Application and use it only for the purposes of consideration of, and preparation of, an Application; and
- (ii) a Proponent must keep confidential all information provided by the Crown, as part of, or in connection with, this Request for EOI.

### **(c) Application becomes property of the Crown**

All Applications become the property of the Crown, which may reproduce all or any part of an Application. By making an Application a Proponent is taken to have assigned to the Crown all intellectual property rights (including moral rights) in its Application. Despite any confidentiality or intellectual property right of a Proponent in an Application, the Crown may reproduce all or any part of that Application without reference to the Proponent.

### **(d) Confidentiality of Application to be preserved**

The Crown and the Proponent must hold the Application in confidence, so far as the Law allows, except:

- (i) the information required to resolve any date clashes with another Proponent, as directed by the Crown;
- (ii) if the information is available to the public generally, other than by breach of this obligation;
- (iii) if a Law requires a party to file, record or register something that includes information in the Application;
- (iv) if disclosure is necessary or advisable to get a consent, authorization, approval or licence from a governmental or public body or authority;
- (v) if it is necessary or advisable to make disclosure to a taxation or fiscal authority;
- (vi) if it is necessary to provide the information in the Application in answer to a question asked of a Minister in the Parliament, or otherwise to comply with a Minister's obligations to Parliament;
- (vii) if it is disclosed confidentially to a party's professional advisers:

- (A) to get professional advice about this Request for EOI process; or
  - (B) otherwise to consult such professional advisers; or
- (viii) to the extent that the Crown reproduces or adopts in whole or in part any commercial model put forward by a Proponent as part of the Request for EOI stage.

## **8.6 Preparation of Application**

The Crown will neither be responsible for, nor pay for, any expense or loss incurred by a Proponent associated with this Request for EOI process, including in respect of:

- (a) any consideration, preparation and lodgment an Application;
- (b) the providing of additional information or clarification and carrying out of any negotiations (including as a result of any operation of clauses 8.2 and 8.8 and during any evaluation and negotiation processes in respect of an Application);
- (c) any resources used by a Proponent in the preparation of an Application; and
- (d) taking into account any variation to or discontinuance of the Request for EOI and its processes (including as a result of the exercise of any Crown reservation under clause 8.4),

and Proponents are taken to indemnify the Crown against any claim or demand of any nature whatsoever, or howsoever, arising with respect to any costs incurred by the Proponent in preparing, lodging, expanding upon or otherwise dealing with a Application.

## **8.7 Validity of Application**

An Application constitutes an irrevocable, unalterable offer by the Proponent to the Crown which must remain valid and open to be accepted for 120 days from the Closing Time of the Request for EOI (which period may be extended by written agreement).

## **8.8 Right to negotiate**

In addition to the Crown rights under clause 8.2, during the evaluation process, the Crown may negotiate with one or more Proponents to vary their Application.

## **8.9 Contractual relationship**

### **(a) Implied agreement**

By lodging an Application and in consideration of the Crown starting to evaluate the Application, the Proponent agrees to be bound by this Request for EOI document and in particular clauses 7.3, 7.4, 8.4, 8.5, 8.6, 8.7 and 8.8.

### **(b) No contractual relationship**

Subject to clause 8.9(a), no contractual relationship or other obligation arises as part of this Request for EOI process, between the Crown and a Proponent, in respect of the entering into of the Business Licence or any other any lease, licence or other similar rights in respect of the Available Area, the Terrace or anything else connected to the Tourism Operations. This clause applies despite any oral or written advice to a Proponent that their Application is successful or has been, or will be, accepted. A contractual relationship will only arise on the

completion and signing of the Business Licence by both the Crown and the Preferred Proponent.

## 8.10 Crown policy on Confidentiality Provisions in Government contracts

### (a) Meaning of certain terms

“**Confidentiality Provision**” means a provision which, if included in a contract to which the Crown is a party, would restrict or prohibit the capacity of any party to that contract to lawfully disclose any term of, or other information in, or concerning the contents of, that contract.

- (i) “**Crown Law Officer**” has the meaning in TI 1401;
- (ii) “**Head of Agency**” means the Head of Agency for the purposes of TI 1401;
- (iii) “**Responsible Officer**” means an officer within the Crown responsible for negotiation of any contract in relation to this Request for EOI;
- (iv) “**TI 1401**” means Treasurer’s Instruction No. 1401 issued under the *Financial Management and Audit Act 1990* (Tas).

### (b) Crown policy

- (i) The Crown is committed to ensuring that Government contracting is conducted in an open and transparent manner and that unnecessary Confidentiality Provisions do not fetter scrutiny of contracts. The Crown’s policy on confidentiality provides that in any contract between the Crown and another party, Confidentiality Provisions are not to be included except in limited circumstances approved by a Head of Agency.
- (ii) The restriction on Confidentiality Provisions does not apply to:
  - (A) pre-contract information which passes between the parties in order to enable the contract to be performed; or
  - (B) the services or products that flow from the performance of the contract, including information that is brought into existence pursuant to the contract.

### (c) Application for exemption

Only a Responsible Officer may apply for the Head of Agency’s approval for the inclusion of a Confidentiality Provision in a contract between the Crown and another party. The Responsible Officer will determine the need for an application, having regard to the Crown’s requirements and any request from the Proponent on a case-by-case basis. Any application for approval to a Head of Agency must be made by the Responsible Officer, and can only be approved by the Head of Agency before the Crown enters into a contract with the Preferred Proponent.

In accordance with TI 1401, the inclusion of a Confidentiality Provision may be approved by the Head of Agency where:

- (i) another party to the relevant contract requests confidentiality or a Crown Law Officer has certified, in writing, that there are good and sufficient reasons for the Crown to maintain confidentiality;
- (ii) the provisions of the relevant contract sought to be made confidential are specifically identified;
- (iii) the disclosure of the provisions of the relevant contract would cause unreasonable detriment to the Crown or another party to the relevant contract; and
- (iv) confidentiality, in part or in whole, is in the public interest.

If an application for inclusion of Confidentiality Provisions is refused by the Head of Agency, or is granted by the Head of Agency on terms unacceptable to either party, the dissatisfied party may either withdraw from the negotiations and the Application process or waive its confidentiality requirements.

(d) **Terms of contract must give effect to decision**

Where inclusion of Confidentiality Provisions is approved by the Head of Agency, the terms of the relevant contract must be drafted to give effect to the decision of the Head of Agency, including any decision on any limit on the period of confidentiality.

## **8.11 Lodgement of Application Required Request for EOI documentation**

- (a) A Proponent who elects to lodge an Application must submit its Application as follows:

(i) **Format**

A Proponent lodging an Application must lodge the Application in accordance with clause 8.11(iv). Failure to comply with the format may result in the Application not uploading successfully or being rejected.

(ii) **Meaning of Closing Time**

A Proponent agrees that, to ascertain the time in which lodgement takes place, the date and time appearing on the Crown's email is the conclusive date and time for the lodgement. If that date and time is inconsistent with the date and time of the Proponent's email, then the former prevails.

(iii) **Waiver of liability for loss or damage**

Lodgement of an Application is at the Proponent's sole risk.

(iv) **Format requirements**

An Application lodged electronically must be submitted in one of the following formats:

- Rich Text Format (RFT);



- Adobe Acrobat – Portable Document Format (PDF);
- Microsoft Word (DOC);
- Microsoft Excel (XLS); or
- Image Files (JPG, GIFF, TIFF).

It is recommended that the Application file/s be compressed into a zip format.

- (b) Additional material that is not specific to the Applications (e.g. general resumes and company profiles) may be included as appendices to an Application. The Crown reserves the right to exclude such additional material from its evaluation of the Applications at its absolute discretion.
- (c) In addition to the application documents that addresses the matters set out in clause 3 of this Request for EOI, the completed Registration Form must be included as part of the lodgement of the Application.

# Attachment 1 – Registration Form

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Date: [                      ]

EMAIL LODGEMENT:

TO: [quotations.south@parks.tas.gov.au](mailto:quotations.south@parks.tas.gov.au)

SUBJECT LINE: “Macquarie Island EOI [*insert company name*]”.

## Request for EOI – Macquarie Island Educational Tourism

I/we

- (a) submit and lodge this Application (which includes this Registration Form and the completed Schedule 1 hereto, a Application document dealing with the matters provided for in this Request for EOI and in particular clause 3 (including those matters set out in the attached checklist in Schedule 2 at a minimum) as a Application in respect of the Tourism Operation and the matters specified in the above-mentioned Request for EOI;
- (b) agree to the conditions of the this Request for EOI, including those set out in clauses 5, 6, 7 and 8; and
- (c) declare that the information and particulars provided as part of this Application are accurate and correct.

Name of Proponent: [*Insert full name, and* .....  
*ABN and ACN and relevant*] .....

Address of Proponent: [*Insert address*] .....  
(Include address for notices, principal place .....  
of business, email and telephone no.) .....

**(If this Proponent is signed by a person for and on behalf of the Proponent)**

Signed for and on behalf of the Proponent  
by.....[Insert Name ] .....

(who by his/her signature duly warrants  
his/her authority to bind the Proponent)  
in the presence of:

.....

**Signature of Witness**

.....

**Full Name**

.....

**Address**

.....

**Occupation**

**(If the Proponent is a natural person)**

Signed by..... [Insert Name ] .....

in the presence of:

.....

**Signature of Witness**

.....

**Full Name**

.....

**Address**

.....

# Registration Form – Schedule 1

## Information Table to be completed by Proponent

Proponents should check that their Application addresses at a minimum, in addition to completion of the above Registration Form, the matters set out in the following information table. Proponents may wish to refer to matters in clauses 3, 7.2 and 7.3 (and as noted information table) through the use of equivalent headings or any other convenient manner in their Application. Proponents should not rely on the description of the information required in the Information Table (which is provided as a guide only) but ensure its Application provides all details required by this Request for EOI (and in particular clauses 3, 7.2 and 7.3).

Requirement	Description	Proponent Comment
Term of Business Licence (Clause 3.2)	Please advise if you are applying for a single year or multi-year Business Licence or a combination of both	
Preferred visit dates (Clause 3.3)	Please advise the preferred visit dates	
Number of visitors (per visit) (Clause 3.4)	Please advise the number of visitors (per visit)	
Type of visit (Clause 3.4)	Please advise the type of visit/s (ie Shore Visit or Small Boat Cruising Only)	
Vessel information (Clause 3.5)	Please provide the following vessel information: - name and registration of Vessel/s; - number of small boats, makes and model; and - for each proposed voyage to Macquarie Island advise the origin of each Vessel and proposed stops prior to entering Reserve.	
Mandatory criteria (Clause 7.2)	Please provide a statement demonstrating the mandatory criteria have been satisfied.	Please see attach statement.
Selection Criteria (Clause 7.3)	Please provide a statement addressing the Selection Criteria (including additional criteria for Applications for multi-year terms).	Please see attached statement.
Supporting Documentation	Please provide the following:	

(Clause 3.10)	<ul style="list-style-type: none"><li>- ASIC Registration (international companies);</li><li>- ACN or ABN (Australian companies)</li><li>- business postal address and contact details; and</li><li>- names and positions of company officers permitted to sign the Business Licence.</li></ul>	
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# Registration Form – Schedule 2

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## Registration Form – Schedule 2

### Checklist for Application

Prior to emailing your application please review the below checklist to ensure you have provided all the required documentation.

1. Completed Registration Form
2. Completed Information Table, Schedule 1 of the Registration Form
3. Attached mandatory criteria statement; and
4. Attached selection criteria statement (including additional criteria for multi-year term Applications).