



DEW F0002252701

Your ref: online form 7245341

Date: 14 MAY 2019

Hon Mark Parnell MLC
Parliament House
North Terrace
ADELAIDE SA 5000

Office of the Group
Executive Director, People
and Performance

81-95 Waymouth Street
Adelaide SA 5000

GPO Box 1047
Adelaide SA 5001
Australia

Ph: 08 8204 9473

www.environment.sa.gov.au

Dear Mr Parnell MLC,

RE: FREEDOM OF INFORMATION APPLICATION

I refer to your application pursuant to the *Freedom of Information Act 1991* (the Act) received by the Department for Environment and Water (DEW) on 25 January 2019, seeking access to:

"All reports in relation to development of private accommodation along or near the Kangaroo Island Wilderness Trail in Flinders Chase National Park."

As the agency did not determine the application within 30 days of receiving it, by the operation of section 19(2)(b) of the FOI Act, the agency is taken to have determined the application by refusing access.

However, section 19(2a) of the FOI Act, provides that an agency may give access to a document on an application after the period within which it was required to deal with the application (and any such determination is to be taken to have been made under this Act).

As confirmed with Ms Cate Mussared, of your office on 13 March 2019 the scope of the request was reduced to;

"1. Reports produced by the Department (eg reports on meetings relating to the proposed private accommodation near KI Wilderness Trail and reports on site visits to Flinders Chase National Park) and

2. Reports provided to the Department by the proponent of the proposed private accommodation near KI Wilderness Trail - the Australian Walking Company (AWC)

Timeframe: 1/2/2014 - 24/01/2019."

DETERMINATION

Searches of the Department's records have found that there are nine (9) documents held by this agency within the scope of your request as listed in the attached schedule.

As a DEW Accredited FOI Officer, I have determined to grant you partial access to two (2) documents and refuse access to seven (7) documents.

Section 20 of the Act provides that an agency may refuse access to a document if it is an exempt document under the Act. The documents, or parts of the document to which I am refusing access and the reasons for the refusal are summarised in the attached document schedule and explained in more detail below.

As confirmed with Cate Mussared, of your office, the mobile phone numbers and floor level location details have been marked as 'out of scope' from relevant documents.

Document numbers 1 to 4

Section 20(1)(b) of the Act states that if the documents are otherwise available for inspection (e.g. via internet sites, annual reports, newspapers, online publications etc.), access to the document can be refused.

I hereby determine to refuse access to documents 1-4 under Section 20(1)(b) the Act and direct you to the summary in the attached document schedule for the relevant internet site details.

Document numbers 5 and 9

Schedule 1, Clause 9(1) of the Act states that:

9 — Internal working documents

- (1) *A document is an exempt document if it contains matter—*
 - (a) *that relates to—*
 - (i) *any opinion, advice or recommendation that has been obtained, prepared or recorded; or*
 - (ii) *any consultation or deliberation that has taken place, in the course of, or for the purpose of, the decision-making functions of the Government, a Minister or an agency; and*
 - (b) *the disclosure of which would, on balance, be contrary to the public interest.*

Document numbers 6, 7, 8 and 9

Schedule 1, Clause 7 states:

7 — Documents affecting business affairs

- (1) *A document is an exempt document—*
 - ...
 - (c) *if it contains matter—*

- (i) *consisting of information (other than trade secrets or information referred to in paragraph (b)) concerning the business, professional, commercial or financial affairs of any agency or any other person; and*
- (ii) *the disclosure of which—*
 - (A) *could reasonably be expected to have an adverse effect on those affairs or to prejudice the future supply of such information to the Government or to an agency; and*
 - (B) *would, on balance, be contrary to the public interest.*

Schedule 1, Clause 13 states:

13—Documents containing confidential material

- (1) *A document is an exempt document—*
 - (a) *if it contains matter the disclosure of which would found an action for breach of confidence; or*
 - (b) *if it contains matter obtained in confidence the disclosure of which—*
 - (i) *might reasonably be expected to prejudice the future supply of such information to the Government or to an agency; and*
 - (ii) *would, on balance, be contrary to the public interest.*

Schedule 1, Clause 16 states:

16—Documents concerning operations of agencies

- (1) *A document is an exempt document if it contains matter the disclosure of which—*
 - (a) *could reasonably be expected—....*
 - (iv) *to have a substantial adverse effect on the effective performance by an agency of the agency's functions; or.....*
 - and*
 - (b) *would, on balance, be contrary to the public interest.*

Clause 7(1), 9(1), 13(1) and 16(1) of Schedule 1 of the Act requires me to weigh up the public interest when determining to allow access to the above information.

Factors I have considered in favour of the public interest from any such release are:

- The importance of transparency and openness and the interest the public has in the operations of agencies and Government. In particular, the securing of the best value for and the cost to Government for the procurement of services.
- It would support the object and intent of the Act which promotes public access to documents and facilitation of more effective participation in law and policy making processes and administration.
- The public have an interest in the possible effects of the project on surrounding property.
- That the expectations of confidentiality are 'always subject to the provisions of the FOI Act' and cannot be affected by any representation.

Factors I have considered contrary to the public interest for any such release are:

- Disclosure could inhibit the provision of frank opinions and advice and unreasonably prejudice DEW's operations.
- Disclosure of business information would likely compromise competitive departmental contract negotiations and prejudice the future supply of offers to Government. This would also compromise the Government's ability to procure the best value for money.
- Disclosure of details contained within commercial negotiations with Government would likely have an adverse effect on the Agency's future business opportunities and impact existing relationships with the general public.
- Disclosure of documents containing information indicating an opinion or advice that has been obtained in the course of the decision making process would likely compromise future agency deliberations and communications.
- The documents are working documents that contain opinions and recommendations that have not been endorsed by a committee or executive group.
- Information discussed is preliminary in nature and is undeveloped and its release would hinder the deliberative process of the agency.
- The information within the document/s does not fairly disclose the reasons for making recommendations and may prejudice future decision-making and procurement processes.
- Information provided to the agency during a tender process is intended to remain confidential. Should an applicant form the view that any future confidential information they provide may be disclosed under the FOI Act, they would be unlikely to provide such detail. This would be contrary to the public interest in ensuring that the agency's strategic planning and decision-making functions were as sound as practicable.
- In this case the disclosure may lead to unnecessary debate of agencies processes and decisions.
- Disclosure of these document would likely provide a competitive advantage to interested third parties.

Factors I have considered contrary to the public interest for any such release are:

In making my determination, I have considered the public interest factors in favour of disclosure, particularly the objects of the Act which promote full disclosure of documents. I have weighed this against the factors contrary to the public interest and consider that there are real grounds for an expectation that disclosure would have an adverse effect on deliberative processes of the agency. I have also considered whether the public interest would be served by disclosure of the tentative views of agency officers expressed during the course of deliberations while still forming and developmental.

Based on the above considerations, I have determined that disclosure of parts of the documents could reasonably be expected to detrimentally affect full and frank deliberations within the agency and therefore those parts are considered exempt, pursuant to clause 7(1)(c), 9(1)(b), 13(1) and 16(1) of the Act, as disclosure would, on balance, be contrary to the public interest.

DISCLOSURE LOG

In accordance with [PC045 – Disclosure logs for Non-personal information](#) once a determination has been provided, the agency is required to make available on our website information and documents that have been disclosed. Information contained within this determination will be publicised online at <http://www.environment.sa.gov.au/about-us/freedom-of-information/foi-disclosure-log>.

FEES AND CHARGES

The department has assessed this application and has determined that there is no charge for processing this application pursuant to section 53(2)(b) of the Act and Regulation 6 of the *Freedom of Information (Fees and Charges) Regulations 2003* which states that access to documents by Members of Parliament (MP) is without charge unless the work generated by the application exceeds the threshold stated in the regulations, currently \$1000.

YOUR APPEAL RIGHTS

If you are dissatisfied with this determination, you are entitled to exercise your rights to internal review and appeal as outlined in the attached documentation, by completing the attached Application for Review of Determination. If you decide to apply to exercise your rights to review, the completed form must be returned within 30 days to:

Chief Executive (Principal Officer FOI)
Department for Environment and Water
GPO Box 1047
ADELAIDE SA 5001

If you have any queries in relation to the above please contact a Freedom of Information Officer on telephone (08) 8463 6625 or email DEW.FOI@sa.gov.au.

Yours sincerely



Katrina Button
ACCREDITED FREEDOM OF INFORMATION OFFICER
DEPARTMENT FOR ENVIRONMENT AND WATER

Freedom of Information application: F0002252701 - Mark Parnell MLC

1. Reports produced by the Department (eg reports on meetings relating to the proposed private accommodation near KI Wilderness Trail and reports on site visits to Flinders Chase National Park) and
2. Reports provided to the Department by the proponent of the proposed private accommodation near KI Wilderness Trail - the Australian Walking Company (AWC)
Timeframe: 1/2/2014 - 24/01/2019.

No	Date	Author	Document Description	Determination	Clause	Reason
1	1/07/2015	DEW	Invitation to proposal: Eco-sensitive accommodation facilities, Kangaroo Island Wilderness Trail	Exempt	20(1)	https://www.ecotourism.org.au/assets/ki-wilderness-trail-accommodation-investment-opportunities-bro.pdf
2	1/08/2015	DEW	Flinders Chase National Park, Kelly Hill Conservation Park, Ravine des Cascoars Wilderness Protection Area and Cape Bouguer Wilderness Protection Area Management Plans Draft Amendment 2015	Exempt	20(1)	Final is available at https://www.environment.sa.gov.au/topics/park-management/state-wide-park-strategies/park-management-plans
3	1/12/2016	DEW	Analysis of public submissions in response to draft management plan.	Exempt	20(1)	https://www.environment.sa.gov.au/files/sharedassets/public/park_management/kangaroo-island-south-west-parks-management-plan-public-submissions-gen.pdf
4	1/02/2017	DEW	Flinders Chase National Park, Kelly Hill Conservation Park, Ravine des Cascoars Wilderness Protection Area and Cape Bouguer Wilderness Protection Area Management Plans Amendment 2017	Exempt	20(1)	https://www.environment.sa.gov.au/topics/park-management/state-wide-park-strategies/park-management-plans
5	2/04/2017	DEW (J O'Malley)	Briefing	Partial Release	Out of scope 9	Internal working documents
6	2/06/2017	Australian Walking Company	Request for proposal submission	Exempt	7 13 16	Documents affecting business affairs Documents containing confidential material Documents concerning operation of agencies
7	1/04/2018	Australian Walking Company	Additional document relating to request for proposal	Exempt	7 13 16	Documents affecting business affairs Documents containing confidential material Documents concerning operation of agencies
8	1/04/2018	Australian Walking Company	Additional document relating to request for proposal	Exempt	7 13 16	Documents affecting business affairs Documents containing confidential material Documents concerning operation of agencies
9	17/10/2018	DEW (G Grieger)	Coast Protection Board Item Agenda item 7 - KI Wilderness Trail	Partial Release	Out of scope 7 9 13 16	Documents affecting business affairs Internal working documents Documents containing confidential material Documents concerning operation of agencies



Government of South Australia
Department of Environment,
Water and Natural Resources

Document No. DEWNRD-00010170

**TO: KANGAROO ISLAND WILDERNESS TRAIL EOI/RFP PROJECT
ASSURANCE GROUP**

FOR ENDORSEMENT

**RE: EXPRESSIONS OF INTEREST – PRIVATE INVESTMENT
PROPOSALS KI WILDERNESS TRAIL**

THROUGH: CHAIR EOI/RFP PROJECT TEAM

Endorsed.
[Signature]
5/4/17

Critical Date: Urgent
Reason: A Request for Proposal will be
communicated to shortlisted proponents

1. ISSUE:

That you:
Endorse the recommendations of shortlisted EOI proponents for approval by the
Project Sponsor.

2. PRIORITY:

Urgent

3. BACKGROUND:

The Kangaroo Island Wilderness Trail (KIWT) opened for operation on 1st October 2016. Over 1,500 walkers have booked to walk the trail to date. Feedback from walkers and the media has been very positive and exceeding expectations.

The Minister approved calling for Expressions of Interest (EOI) followed by a Request for Proposal (RFP) in the development of eco-sensitive accommodation facilities and walking trail services associated with the KIWT on 22nd January 2017.

A Prospectus inviting investors to participate in the EOI and RFP was broadly publicised. SATC, SATIC, Investment Attractions South Australia and Tourism Australia have been assisting in promoting the Prospectus.

The EOI is the first stage in the process and seeks general information regarding the proponent and a broad concept description of their development proposal. An evaluation criteria has been developed to ensure proposals meet the required standards for natural,

Page 1 of 4

social, economic, built and operating environments and has been used to shortlist proposals to go to the stage 2 RFP.

9 - Internal Working Document



No development will occur in the Wilderness Protection Areas.

4. DISCUSSION:

9 - Internal Working Document



5. CONSULTATION:

Consultation with the proponents has occurred and additional information has been sought and provided.

6. FINANCIAL IMPLICATIONS:

Page 2 of 4

Contact: John O'Malley Out of Scope or john.o'malley@sa.gov.au
Date: 2 April 2017

Are there financial implications?

Yes

Significant private investment is anticipated as a result of the Request for Proposal process.

7. ATTACHMENTS:

9 - Internal Working Document



8. RECOMMENDATIONS:

It is recommended that you:

Endorse the recommendations of shortlisted EOI proponents for approval by the Project Sponsor.

APPROVED / NOT APPROVED or NOTED



John O'Malley
Senior Project Manager
2 April 2017

Comments:	<div style="text-align: center;"> <hr style="width: 20%; margin: 0 auto;"/> <p>Grant Pelton Chair Project Assurance Group / / 2017</p> </div>
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AGENDA ITEM 7

FILE: CPB/ /.....

ORIGINATING OFFICER: ALISON TURNER

TO: PRESIDING MEMBER, COAST PROTECTION BOARD

MEETING DATE: 26 OCTOBER 2018

KANGAROO ISLAND WILDERNESS TRAIL – ECO-ACCOMMODATION

FOR DISCUSSION AND RECOMMENDATION

Recommendation

It is recommended that:

- 1) The Board note the information in this briefing which provides a background to the latest developments in the Eco-accommodation proposal associated with the final stage of the Kangaroo Island Wilderness Trail (KIWT).

Out of Scope

Background

One of the State Government Election Commitment priorities is to deliver on Ecologically Sensitive Development in National Parks. A focus has been on the promotion of nature-based tourism opportunities and along with it encouraging private business investment opportunities in SA's National Parks to increase tourism and provide for a range of eco-sensitive accommodation styles. The KIWT, within Flinders Chase NP (**Attachment 1**), has been identified as being 'One of Australia's Great Walks since it was opened in Oct 2016. It was also ranked 3rd on Lonely Planet's list of top travel destinations for 2017.

One element identified as missing from the KIWT experience compared with other States is a high-end 'Glamping' Style accommodation option with simple high quality design and superior comfort.

The consultation undertaken by the State Government so far indicates public support for the construction of accommodation in parks, as long as it is sensitive to the environment, sustainable, and reflects best practice in design, construction and management.

National Parks SA along with the South Australian Tourism Commission (SATC) gauged public sector interest in developing this style of high-end accommodation option for KIWT. The Australian Walking Company (AWC) was successful in winning the tender to develop a proposal for eco-sensitive high-end accommodation on the KIWT. AWC are recognised for

their work on the iconic 'Twelve Apostle lodge' walk in Victoria and the 'Three Capes Walk' and 'Bay of Fires' walk in Tasmania

<https://www.taswalkingco.com.au/bay-of-fires-lodge-walk/>

<http://www.threecapestrack.com.au/>

<https://twelveapostleslodgewalk.com.au/>

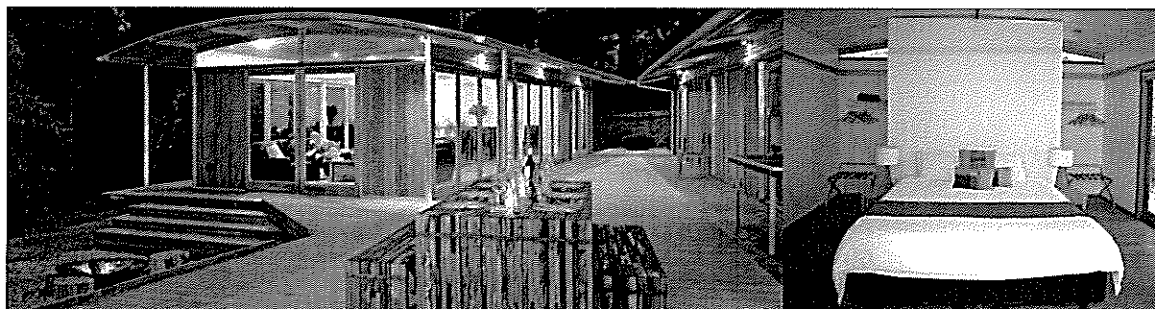


Plate 1. Showing an example of the communal buildings on the left and sleeping quarters on the right at the 12 Apostles Walk.

7 - Documents affecting business affairs, 9 - Internal Working Document, 13 - Documents containing confidential information, 16 - Documents concerning the operations of agencies

The DEW Strategic Projects Group had been overseeing the development of the KIWT. However, in recent months, the KIWT Eco-accommodation proposal has been overseen by a DEW Steering Committee, appointed to manage the State Government Election Priorities.

7 - Documents affecting business affairs, 9 - Internal Working Document, 13 - Documents containing confidential information, 16 - Documents concerning the operations of agencies

The project is approaching lodgement for development approval in order to meet the project brief for the eco-accommodation development to be operational by October 2019.

Discussion

A considerable level of background investigations have taken place to arrive at the current site selection. DEW Coastal Management Branch, Heritage Branch, Native Vegetation Branch, and Kangaroo Island Region staff as well as CFS have all been consulted on early stages of the proposal. An inspection by the CFS and a number of DEW Officers, including Alison Turner from the CMB, took place in June 2018, to inspect the Sandy Creek, Sanderson Bay and Cape Du Couedic sites.

The CMB has only viewed concept drawings at this stage and is yet to receive anything along the line of a draft Environmental Impact Assessment or Site Management Plans for review.

While the Coast Protection Board's assessment of any development application for the KIWT will be based on its policies, this development proposal also needs to be viewed in light of the government election commitment and the public benefit in providing a high-end accommodation option to experience the KIWT.

Issues for Board Consideration

At this stage, a number of key investigations and approvals are still required to determine the best placement of buildings and track routes into the Sandy Creek and Sanderson Bay sites. The aim is to create minimum disturbance to sensitive coastal landscapes, minimise impacts on wildlife, avoid any threatened vegetation communities and minimise impacts on wilderness views.

9 - Internal Working Document, 13 - Documents containing confidential information, 16 - Documents concerning the operations of agencies

The clearance of native vegetation requires the prior consent of the Native Vegetation Council. The sites will need to undergo a native vegetation assessment by an accredited consultant to assess the Significant Environmental Benefit (SEB).

- The proposed structures will be relatively small in scale and constructed to a high level of design, however it is imperative that they are sited to minimise any visual impact on the landscape. The sites should be not highly visible from vantage points such as the Sandy Creek Walk, valued for its beautiful remote beach, or detract from the KIWT experience for all walkers.
- Liaison with relevant Aboriginal Committees will need to be undertaken by the Strategic Projects Group. The Aboriginal Heritage Branch of the Aboriginal Affairs and Reconciliation Division of the Department of the Premier and Cabinet (as

delegate of the Minister) should be notified under Section 20 of the Aboriginal Heritage Act 1988.

- 7 - Documents affecting business affairs, 9 - Internal Working Document, 13 - Documents containing confidential information, 16 - Documents concerning the operations of agencies

Pursuant to Section 25 of the Heritage Places Act 1993 a permit is required from the SA Heritage Council to (a) excavate or disturb a State Heritage Place designated as a place of archaeological significance; or (b) remove archaeological artefacts from such a place. The applicant shall obtain a permit prior to any disturbance of the site.

7 - Documents affecting business affairs, 16 - Documents concerning the operations of agencies

- An Environmental Impact Assessment and Site Management Plans should be developed to identify and mitigate potential impacts, improve land management and environmental outcomes and reduce visitor impacts on coastal environment.

7 - Documents affecting business affairs, 9 - Internal Working Document, 13 - Documents containing confidential information, 16 - Documents concerning the operations of agencies

In closing, it is suggested that the Eco-Accommodation sites associated with the KIWT be included in the CPB itinerary as part of the Board's plans to visit KI in Autumn 2019.



Gayle Grieger
Acting Manager, Coastal Management

Date: 17 October 2018

References

Short, A. D, 2001. Beaches of the South Australian Coast and Kangaroo Island : a guide to their nature, characteristics, surf and safety. Produced by the Australian Beach Safety and Management Program, a joint project of Surf Life Saving Australia Ltd and the Coastal Studies Unit, University of Sydney.

Short, A. D. and Fotheringham, D. G. (1986). Morphodynamic, Hazard and Development Impact Assessment – Kangaroo Island Coast Protection District. Prepared for the Coast Protection Board South Australia. Coastal Studies Unit Department of Geography. University of Sydney, in conjunction with Coastal Management Branch, Conservation Programmes Division, Department of Environment and Planning, South Australia.

Attachment 1:



Attachment 2: 7 - Documents affecting business affairs

Attachment 3: Coast Protection Board Policy

As per the Coast Protection Board's Policy Document 2002, the Board seeks to:

- retain coastal open space
- minimise impacts of development on the coast
- maintain compact coastal settlements and restrain development 'sprawl' along the coastline
- protect scenic amenity
- protect coastal biodiversity
- minimise or stop development in areas subject to coastal hazards
- minimise future environmental protection costs
- minimise future protection costs by ensuring new development satisfies the Board's flooding and erosion policies
- conserve developed coastal areas for land uses that require a coastal location.

The Board's policies are generally reflected in Council's Development Plan.

Policy 1.4 The Board will seek to: (Continued) (e) Ensure that the siting and design of development on the coast minimises its impact on the environment, heritage and visual amenity of the coast. [In doing so the Board will have regards to areas of important visual significance, built heritage and aboriginal sites of significance.]

(f) Minimise development on public land. [In doing so, the Board will recognise the need for public facilities on the coast, for which a lower hazard risk standard may be acceptable for such facilities, providing the applicant is aware of and accepts the risk.]

Coastal Amenity

Coast Protection Board Policy 5.2 (a) states:

The Board opposes development that has significant visual impact on coastlines with significant landscape value [in doing so the Board will have regard to both the visual impact from the land and from the sea].

The Board has a duty to protect coastal environments of high scenic value and in doing so ensures that development does not detract from the aesthetic appearance of the coast.

Orderly Development

Board policy 1.5 includes:

The Coast Protection Board opposes:

(a) Linear or scattered coastal development, with the exception of tourist accommodation development or that which has a significant public or environmental benefit, as per Policy 1.6. The Board prefers development to be concentrated within existing developed areas or appropriately chosen nodes.

CPB Policy 1.6

Board policy 1.6 is:

The Coast Protection Board may support development, including tourist accommodation or that which has a significant public or environmental benefit, in coastal areas outside of urban areas provided:

- *It is sited and designed in a manner that is subservient to important natural values within the coastal environment;*
- *It is not subject to unaddressed coastal hazards;*
- *Adverse impacts on natural features, landscapes, habitats, threatened species and cultural assets are avoided or minimised; and*
- *It will not significantly impact on the amenity of scenic coastal vistas.*

[Guidelines for proposed coastal development outside of urban areas are contained in Appendix 3 of this Policy Document.]

- *it is sited and designed in a manner that is subservient to important natural values within the coastal environment;*
- *it is not subject to unaddressed coastal hazards;*
- *adverse impacts on natural features, landscapes, habitats, threatened species and cultural assets are avoided or minimised; and*
- *it will not significantly impact on the amenity of scenic coastal vistas.*

Appendix 3 of the Policy Document includes:

1.General Siting and Design Parameters

The Board's Policies address regular siting and design objectives. In addition, coastal development outside of urban areas should demonstrate measures to conserve and preferably enhance the coastal values of the site, for example through:

- Closure of unnecessary tracks and access points, and discouraging access to sensitive areas;*
- Being sited to avoid or minimise the clearance of native vegetation including for vehicle and/or pedestrian access;*
- Avoiding impact to threatened fauna and flora species and their habitat;*
- Being sited to avoid impacting on highly valued, undeveloped coastal vistas;*
- Being a type of development which will not impact on environmental water resources (including aquifers) to the detriment of wetlands, watercourses and other water-dependant ecosystems;*
- Being designed so that it is responsive to the landform and natural environment;*
- Implementation of a native flora revegetation program;*
- Implementation of a pest species management program; and/or*
- Establishment of a Heritage Agreement or Land Management Agreement over all or part of the allotment, to protect it from further development or ensure ongoing conservation management.*

