

DEPARTMENT OF AGRICULTURE, WATER AND THE ENVIRONMENT

To: Minister for the Environment (for decision)

FOI LEX 20795
Document 1

Referral Decision Brief – Halls Island Standing Camp, Lake Malbena, Tasmania
(EPBC 2018/8177)

Timing: As soon as possible – decision is overdue

Recommended Decision	NCA <input type="checkbox"/> NCA(pm) <input checked="" type="checkbox"/> CA <input type="checkbox"/>												
Person proposing the action	Wild Drake Pty Ltd ACN: 623 714 545												
Controlling Provisions triggered or matters protected by particular manner	<table border="0"> <tr> <td>World Heritage (s12 & s15A) Yes <input type="checkbox"/> No <input type="checkbox"/> No if PM <input checked="" type="checkbox"/></td> <td>National Heritage (s15B & s15C) Yes <input type="checkbox"/> No <input type="checkbox"/> No if PM <input checked="" type="checkbox"/></td> </tr> <tr> <td>Ramsar wetland (s16 & s17B) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/></td> <td>Threatened Species & Communities (s18 & s18A) Yes <input type="checkbox"/> No <input type="checkbox"/> No if PM <input checked="" type="checkbox"/></td> </tr> <tr> <td>Migratory Species (s20 & s20A) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/></td> <td>C'wealth marine (s23 & 24A) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/></td> </tr> <tr> <td>Nuclear actions (s21 & 22A) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/></td> <td>C'wealth land (s26 & s27A) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/></td> </tr> <tr> <td>C'wealth actions (s28) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/></td> <td>GBRMP (s24B & s24C) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/></td> </tr> <tr> <td>A water resource – large coal mines and CSG (s24D & s24E) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/></td> <td>C'wealth heritage o/s (s27B & 27C) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/></td> </tr> </table>	World Heritage (s12 & s15A) Yes <input type="checkbox"/> No <input type="checkbox"/> No if PM <input checked="" type="checkbox"/>	National Heritage (s15B & s15C) Yes <input type="checkbox"/> No <input type="checkbox"/> No if PM <input checked="" type="checkbox"/>	Ramsar wetland (s16 & s17B) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/>	Threatened Species & Communities (s18 & s18A) Yes <input type="checkbox"/> No <input type="checkbox"/> No if PM <input checked="" type="checkbox"/>	Migratory Species (s20 & s20A) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/>	C'wealth marine (s23 & 24A) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/>	Nuclear actions (s21 & 22A) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/>	C'wealth land (s26 & s27A) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/>	C'wealth actions (s28) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/>	GBRMP (s24B & s24C) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/>	A water resource – large coal mines and CSG (s24D & s24E) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/>	C'wealth heritage o/s (s27B & 27C) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/>
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Public Comments	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Number: 940 See <u>Attachment J</u>												
Ministerial Comments	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Who: Tasmanian Government. See <u>Attachment I</u>												
Recommendations: <ol style="list-style-type: none"> Consider the information in this brief, the referral (<u>Attachment A</u>) and other attachments. <div style="text-align: right;">Considered / Please discuss</div> Agree that the proposed action is a component of a larger action. <div style="text-align: right;">Agreed / Not agreed</div> Agree to accept the referral under section 74A of the <i>Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)</i>. <div style="text-align: right;">Agreed / Not agreed</div> Note that the Department recommends that you decide that the proposed action is not a controlled action because it will be taken in a particular manner. <div style="text-align: right;">Noted / Please discuss</div> 													

5. If you decide that the proposed action is not a controlled action because it will be taken in a particular manner:

- a) Indicate whether you accept the reasoning in paragraphs 41-135 below as the basis for your decision

Accepted / Please discuss

- b) Sign the notice at Attachment B1 (which will be published if you decide that the proposed action is not a controlled action because it will be taken in a particular manner).

Signed / Not signed

- c) Sign the letters at Attachment C1.

Signed / Not signed

6. Alternatively, if you decide that the proposed action is a controlled action:

- a) Indicate whether you accept the reasoning in paragraphs 136-147 below as the basis for your decision

Accepted / Please discuss

- b) Agree that the controlling provisions for the action are sections 12, 15A, 15B, 15C, 18 and 18A of the EPBC Act.

Agreed / Not agreed

- c) Designate that 'Wild Drake Pty Ltd' (ACN: 623 714 545) is the proponent of the action.

Agreed / Not agreed

- d) Sign the notice at Attachment B2 (which will be published if you decide that the proposed action is a controlled action).

Signed / Not signed

- e) Sign the letters at Attachment C2.

Signed / Not signed

- f) Agree with the Department's recommendation (at paragraphs 167-173 below) that the proposed action be assessed by preliminary documentation (further information required) under Division 4 of Part 8 of the EPBC Act.

Agreed / Not agreed

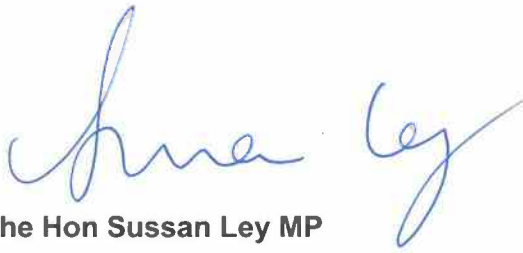
- g) Agree to the fee schedule with justifications (Attachment L) and that the fee schedule be sent to the person proposing to take the action

Agreed / Not agreed

- h) Note that the person undertaking the action has declared an exemption under section 520(4C)(e)(v) of the EPBC Act.

Noted / Please discuss

7. Note that the Department will prepare and brief you with a statement of reasons for your decision.



**The Hon Sussan Ley MP
Minister for the Environment**

Noted / Please discuss

Date: 16th Sept 2020.

Comments:

KEY ISSUES

1. The Department's view is that the proposed action will not have a significant impact on listed threatened species and communities or the world heritage or natural heritage values of the Tasmanian Wilderness on the basis that it will be taken in a particular manner. However, the Department considers that it is open to you as the decision maker, having considered the adverse impacts the proposed action will have, or is likely to have, on the matters protected in Part 3 of the EPBC Act, to form a view that the proposed action is a controlled action.
2. The proposed action is locally contentious, with 132 individual public comments and 808 campaign submissions received during the public comment periods, and numerous additional comments and campaign submissions received outside of the public comment periods.
3. On 31 August 2018, a delegate of the Minister determined that the action was not a controlled action (and did not specify the particular manner under s 77A). This decision was set aside by order of the Federal Court of Australia on 4 December 2019.

BACKGROUND

Description of the referral and procedural background

4. A referral was received on 28 March 2018. The action was referred by Wild Drake Pty Ltd (**proponent**), which set out its position that the proposal is not a controlled action for the purposes of the *Environment Protection and Biodiversity Conservation Act 1999* (**EPBC Act**).
5. The Department considered that the proponent had not provided sufficient information on the referral to make a decision on whether the proposed action is likely to have a significant impact on matters of national environmental significance. On 24 April 2018, a delegate of the Minister agreed, under section 76(1) of the EPBC Act, to suspend the statutory timeframe for making a decision under section 75 of the EPBC Act (the referral decision) to request additional information from the proponent (Attachment D1).
6. On 26 June 2018, the proponent provided a response to the additional information request which met the Department's requirements (Attachment D2), restarting the referral decision time period under the EPBC Act. The statutory timeframe for a decision on the referral was 2 July 2018.

7. On 5 July 2018, the additional information was published on the Department's website and public comment was sought for 10 business days until 19 July 2018.
8. On 31 August 2018, a delegate of the Minister decided that the proposed action was not a controlled action under section 75(1) of the EPBC Act. On 17 October 2018, The Wilderness Society (Tasmania) Inc commenced proceedings in the Federal Court of Australia seeking review of this decision. On 4 December 2019, following a hearing and publication of reasons, Justice Mortimer made orders by consent setting aside the decision made on 31 August 2018.
9. On 5 December 2019, the Environmental Defenders Office (**EDO**) wrote to the Minister on behalf of The Wilderness Society (Tasmania) Inc to provide a submission and further information for the Minister's consideration in remaking the decision ([Attachment E1](#)). This further information comprised expert statements filed in a proceeding before the Tasmanian Resource Management and Planning Appeal Tribunal concerning the proposed action.
10. On 7 January 2020, the proponent provided the expert evidence it filed in the Tasmanian Tribunal proceedings in response to the submission from the EDO ([Attachment E2](#)).
11. On 7 February 2020, the proponent provided additional information directed at the form of 'particular manner' which could be specified in a notice to be provided under section 77, in accordance with section 77A of the EPBC Act ([Attachment E3](#)). On 24 February 2020, s22, then Assistant Director, Victoria and Tasmania Assessments, Assessments and Governance Branch of the Department, spoke with Daniel Hackett, the Director of the proponent, to clarify certain aspects of the proposed action ([Attachment E4](#)). Further clarification was provided on 5 June 2020 ([Attachment E5](#)).
12. On 2 April 2020, the proponent provided further information including a document dated 4 March 2020 and entitled 'Wilderness Quality Assessment' which was prepared by the Tasmanian Parks and Wildlife Services (**PWS**) ([Attachment E6](#)).
13. In addition to further information provided by the Wilderness Society (Tasmania) Inc and the proponent, a number of individual and campaign submissions were received by the Department since the first referral decision was set aside on 4 December 2019 ([Attachment F1](#)). The Department considers that the issues raised in these comments are considered in this recommendation.

Description of the proposal (including location)

14. The proposed action is to construct and operate a small-scale tourist operation, including a standing camp, on Halls Island, Lake Malbena, approximately 20 km northeast of Derwent Bridge, and to access the camp via helicopter.
15. The proponent proposes to take six tourists per trip, via helicopter from Derwent Bridge, to Halls Island. There will be a maximum of 30 trips per year.
16. Halls Island is within the Walls of Jerusalem National Park in the Meander Valley region of the Tasmanian Wilderness World Heritage Area (**TWWHA**). The national park border runs along the adjacent edge of Lake Malbena and the proposed helicopter landing site is on the mainland opposite Lake Malbena, in the TWWHA Central Highlands region and outside of the national park. Visitors will walk approximately 100 m from the helipad to the edge of Lake Malbena and will cross the lake in a row boat to Halls Island.

17. The original referral documentation refers to 'Stage 2' activities requiring additional State assessment and approval. Stage 2 was said to comprise:
- a walking route to Mt Oana
 - a walking route to an Aboriginal Heritage site, and cultural interpretation activities at that site, subject to further engagement with the Aboriginal Heritage Council and Aboriginal communities.
 - other additional walking routes.
18. On 7 January 2020, the proponent advised the Department that the referral does not include these Stage 2 activities, and that these potential future activities have not progressed.

Description of the environment

19. Halls Island, an area of approximately 10 ha, is located within Lake Malbena, which is one of many lakes in the high alpine plateau area of the TWWHA. Vegetation comprises *Eucalyptus subcrenulata* forest and woodland (7.8 ha), highland low rainforest and scrub (1.18 ha), lichen lithosphere (0.18 ha), *Athrotaxis selaginoides* rainforest (0.03 ha) and *Sphagnum* peatland (0.6 ha). The *Sphagnum* peatland meets the definition for the EPBC Act listed endangered Alpine *Sphagnum* Bogs and Associated Fens Threatened Ecological Community (TEC).
20. There is an existing small wooden hut (to remain) on the island, built in 1954. This was used by the previous leaseholder and more recently by bushwalkers. The island has areas of level, exposed sheetrock and the standing camp structures are proposed to be located within this area. There is a natural sheetrock jetty that will be used as the boat jetty. The proposed helipad is to be located on or nearby sheetrock on the adjacent mainland. There are also small patches of the TEC near the proposed helipad site.

Tasmanian Wilderness World Heritage Area Management Plan 2016

21. The Tasmanian Wilderness World Heritage Area Management Plan (2016) (**TWWHA Management Plan**) (Attachment G1) has been developed in accordance with the Tasmanian *National Parks and Reserve Management Act* (2002) and to meet the requirements of the EPBC Act with respect to management plans for World and National Heritage properties.
22. Before it was finalised, the Department reviewed the TWWHA Management Plan and determined that it is not inconsistent with the Australian World Heritage Management Principles as set out in Schedule 5 of the *Environment Protection and Biodiversity Conservation Regulations 2000* (**EPBC Regulations**) (Attachment G2). In addition to managing for World and National Heritage, the TWWHA Management Plan also contains management measures for other matters such as recreational use, commercial tourism, hunting and fishing.
23. The TWWHA Management Plan sets out what uses may occur within the TWWHA. It manages activities according to four area Management Zones; Visitor Service, Recreation, Self-Reliant Recreation (**SRRZ**) and Wilderness. The proposed action area is located within the SRRZ. Activities allowable within the SRRZ include commercial aircraft landing, bushwalking, camping, commercial tourism, standing camp accommodation, kayaking and non-motorised vessels.

State and local government assessment process

24. The PWS is undertaking a 'Reserve Activity Assessment' (**RAA**) of the proposed action. The RAA process is the system PWS uses to assess whether activities proposed on PWS-managed land are environmentally, socially and economically acceptable.
25. Undertaking an RAA is a condition of the proponent's lease over Halls Island. The proponent has enclosed with the referral to the Department a copy of the documentation submitted to PWS as part of the RAA (Attachment A5).
26. The RAA has no status under the EPBC Act, and the RAA process requires referral of the action under the EPBC Act. The RAA process will be finalised after the EPBC Act referral decision.
27. The proponent applied for a planning permit through the Central Highlands Council Development Application process and in February 2019 the Central Highlands Council refused to grant a permit. This decision was appealed by the proponent in the Tasmanian Resource Management and Planning Appeal Tribunal. On 21 October 2019, that Tribunal ruled that the development could proceed, and on 18 December 2019 the Tribunal issued a permit with conditions. Documentation from the Tribunal process, including expert testimony, has been provided to the Department (see paragraphs [9] and [10] above).
28. In January 2020, the EDO filed proceedings challenging the Tribunal's decision in the Tasmanian Supreme Court. The Department understands that a hearing took place on 24– 25 June 2020 and that on 13 July 2020, the Tasmanian Supreme Court dismissed the EDO's application. The Department understands that the EDO has filed an application to appeal the decision to the full Tasmanian Supreme Court.

SECTION 74A – REFERRAL OF A LARGER ACTION

29. Section 74A(1) of the EPBC Act states that if the Minister (or delegate) is satisfied the action that is the subject of the referral is a component of a larger action, the Minister (or delegate) may decide not to accept the referral. This is a discretionary decision and, as such, you are not obliged to exercise the power.
30. The *Policy Statement: Staged Developments – Split referrals: Section 74A of the EPBC Act* (Attachment G3) states that "[a] referred action that is part of a larger action can be refused only if there is a reasonable basis for doing so. The key question for the Minister is: does the splitting of the project reduce the ability to achieve the objects of the Act?"
31. The Department considers that the Stage 2 activities may go ahead at some point in the future and, as such the referred action (construction and operation of the standing camp) and the activities described as Stage 2 comprise a larger action proposed to be undertaken by the same person.
32. However, the proposed Stage 2 activities are presently merely hypothetical, and would require separate authorisation under both State legislation and the EPBC Act. There could accordingly be a significant delay between completion of the referred action and commencement of the Stage 2 Activities, if they proceed at all. Furthermore, the referred action is a standalone action, and is not dependent on Stage 2, and the Stage 2 activities as described in the referral would be undertaken outside the footprint of the referred area.
33. For these reasons, consistently with the *Policy Statement Staged Development – Split referrals: Section 74A of the EPBC Act*, it is recommended that the referral be accepted.

34. The Department notes that, in accordance with Section 74A(4) of the EPBC Act, if you agree to accept the referral, you must give written notice of the decision to the person proposing to take the action and publish in accordance with the EPBC Regulations (if any), a copy or summary of the decision. The Department has included with this brief a written notice in the letter to the person proposing to take the action (Attachment C1). The EPBC Regulations do not specify that publication is required.

SECTION 75 - RECOMMENDED DECISION

35. Under section 75 of the EPBC Act, you must decide whether the action that is the subject of the referral is a controlled action, and which provisions of Part 3 (if any) are controlling provisions for the action. An action that a person proposes to take is a controlled action if the taking of the action by the person without approval under Part 9 for the purposes of a provision of Part 3 would be prohibited by the provision. Relevantly for present purposes, provisions in Part 3 prohibit actions which have or will have a significant impact on specified matters of national environmental significance.
36. In making your decision, you must consider all adverse impacts the action has, will have, or is likely to have, on the matters protected by each provision of Part 3.
37. You must not consider any beneficial impacts the action has, will have or is likely to have on the matter protected by each provision of Part 3.
38. The Department recommends that you decide that the proposal is not a controlled action for the purpose of the following controlling provisions, provided it is undertaken in the particular manner recommended in this brief and specified in the draft notice attached for your signature. The basis for this recommendation is explained in detail below in relation to the relevant protected matters.
39. However, it is for you as the decision maker to determine whether the proposed action would have a significant impact on matters protected in Part 3. The EPBC Act does not specify when an impact is regarded as 'significant', however the *EPBC Act Policy Statement 1.1 Significant Impact Guidelines – Matters of National Environmental Significance* (December 2013) (**Significant Impact Guidelines**) state:

What is a significant impact?

A 'significant impact' is an impact which is important, notable, or of consequence, having regard to its context or intensity. Whether or not an action is likely to have a significant impact depends upon the sensitivity, value, and quality of the environment which is impacted, and upon the intensity, duration, magnitude and geographic extent of the impacts. You should consider all of these factors when determining whether an action is likely to have a significant impact on matters of national environmental significance.

When is a significant impact likely?

To be 'likely', it is not necessary for a significant impact to have a greater than 50% chance of happening; it is sufficient if a significant impact on the environment is a real or not remote chance or possibility. If there is scientific uncertainty about the impacts of your action and potential impacts are serious or irreversible, the precautionary principle is applicable. Accordingly, a lack of scientific certainty about the potential impacts of an action will not itself justify a decision that the action is not likely to have a significant impact on the environment.

40. The Department acknowledges that you may come to a different view about whether the potential adverse impacts of the proposed action will amount to significant impacts on matters of national environmental significance, particularly in relation to the impact the proposed action will have on the natural heritage values of the TWWHA, and on the

Endangered Tasmanian Wedge-tailed Eagle, as a result of the use of helicopters. These issues are noted throughout the analysis below, and addressed in more detail at paragraphs [136]-[147].

Listed threatened species and communities (s18 & s18A)

41. The Department's Environment Reporting Tool (**ERT**) indicates that a total of 20 threatened species and two ecological communities may occur within 5 km of the proposed action (see the ERT reports at Attachment H). Based on the location of the action, the likely habitat present in the area of the proposed action, and the nature of the action, the Department considers that impacts potentially arise only in relation to the following matters.

Tasmanian Wedge-tailed Eagle (*Aquila audax fleayi*) – Endangered

Species information

42. The Tasmanian Wedge-tailed Eagle (*Aquila audax fleayi*), is endemic to Tasmania and is known to occur in all habitats throughout the state. A population decline is inferred due to loss of nesting habitat, nest disturbance from land clearance and other inappropriate land management practices and from unnatural mortality, including persecution. Further information can be found in the Threatened Tasmanian Eagles Recovery Plan: 2006-2010 at <http://www.environment.gov.au/resource/threatened-tasmanian-eagles-recovery-plan-2006-2010>.
43. There is no listing advice or Approved Conservation Advice for the species.

Proposed action area

44. The locations of most active Wedge-tailed Eagle nests are known and recorded by the Tasmanian Department of Primary Industries, Parks, Water and Environment (**DPIPWE**). Mapping included in the referral indicates known nesting sites approximately 2 km from Halls Island and 4 km from the proposed helicopter flight route.

Potential impacts

45. The helicopter flight from Derwent Bridge to the proposed action area is approximately 11 minutes one way. It is proposed that helicopters be used to:
- transport materials to the proposed action area, using slings to deposit and collect goods
 - maintain and re-supply the standing camp once it is operational, again using slings – approximately 8 trips taking 4 hours per year
 - transport visitors to and from the standing camp from Derwent Bridge – up to 120 return trips per year (four return flights for each of the 30 bookings), primarily between November and May, totalling approximately 44 hours per year.
46. The Threatened Tasmanian Eagles Recovery Plan (the **Plan**) identifies nest disturbance as a threat affecting eagle species in Tasmania. The Plan does not specifically identify management actions for helicopter flights, but does recommend implementing breeding season buffers of 500 m and 1000 m in line-of-sight to protect nests from potential disturbance.

47. In a submission received on 6 April 2018 ([Attachment I1](#)), DPIPWE state:

While it is acknowledged that helicopters are constrained by their operational parameters and their capacity to avoid flying near eagles nest is constrained by conditions; it is recommended that, where possible, helicopters do not fly within 1 km line-of-sight of known eagles nests during the breeding season June to January inclusive), and specifically that tours do not include a 'viewing' of the nest.

48. The Freycinet Peninsula Fly Neighbourly Advice (**FNA**) issued by the DPIPWE (approved 28 June 2012) ([Attachment G4](#)) Annexes 'Guidelines for flying in the vicinity of eagle nests' which describes how timing, proximity, altitude, speed/ time and flight path affect the impact of flights on the species. FNAs are a voluntary code of practice negotiated between aircraft operators and authorities to reduce disturbance caused by aircraft. The Freycinet Peninsula FNA identifies various management measures to avoid impacts to the Wedge-tailed Eagle from helicopter flights, including:

- not circling around or hovering near eagles nests or potential nests
- flying as high, swiftly and directly over the nests as possible during breeding season (July to January), and
- avoiding flying within 1,000 m of the nests, horizontally or vertically, particularly from July to January.

49. The proponent engaged wildlife biologist and raptor specialist Nick Mooney to prepare a report entitled '*Assessment for Minimum Impact on Nesting Eagles of the Proposed Helicopter Flight Route from Derwent Bridge to Halls Island, Lake Malbena*' (26 September 2017) ([Attachment A7](#)). Mr Mooney designed a flightpath to meet the prescriptions of the Freycinet Peninsula FNA and to avoid identified nests. He considered two possible management options: undertaking active searches and tailoring the route to avoid nests, and overflying potential nesting habitat by at least 1000 m and surveying the area immediately around the take-off and landing sites for nests. Both of these options would be dependent on favourable weather. Mr Mooney made the following recommendations:

- Helicopter operations follow the proposed route, climbing and descending steeply to stay within the end point 'safe zones'.
- Wherever possible, use flight landing and take-off routes at Derwent Bridge already established by Parks and Wildlife Service Helicopter use.
- Transient operational height be 1000+ m.
- Close manoeuvring, hovering and other 'lingering' to be avoided en route and minimised during landing and take-off.
- During weather conditions not allowing 1000+ m overflight, the route chosen [i.e. the flightpath Mr Mooney designed] to be followed (since it has a very low chance of encountering nests).
- Eagles flying at or above operational heights to be circumvented. The Department understands that by circumventing eagles Mr Mooney means that eagles observed flying in the flight path of a helicopter will be avoided by flying around them.

50. These recommendations are reflected in the Customised Fly Neighbourly Advice Subplan provided by the proponent ([Attachment D2.4](#)).

51. More recently, Mr Mooney prepared an expert report for the Tasmanian Resource Management and Planning Appeal Tribunal ([Attachment E2](#)). He concludes that the proposed activity will have 'little or no measurable impact on either wedge-tailed eagles or white-bellied sea eagles' in light of the 'minimisation, mitigation and amelioration' measures proposed, which include:
- 'fly predictable routes at transit speeds at 1000 m plus whenever possible'
 - 'standard operating procedure of moderate angles of ascent to and descent from 1000 m plus transit'
 - 'biannual nest searches of route' and biannual or annual nest monitoring around the take-off and landing sites.
52. In relation to nest surveys, the Director of the proponent has subsequently clarified with the Department that the proposal is to conduct a biennial (i.e. once every 2 years) survey of the lift-off and landing zones from the ground, and a biennial survey of the flight route as part of an operational helicopter flight. The survey of the flight route would involve having an eagle expert in the helicopter on an operational trip (with visitors), and flying at treetop level to identify any nests ([Attachment E4](#)).
53. The Department is conscious of the need to balance the requirement to identify new eagle nests with the need to limit the use of helicopters in the TWWHA (see further below). The Department considers that conducting a survey every 2 years appropriately balances these competing requirements, and is consistent with common practice in the TWWHA. However, the Department acknowledges that this is contrary to the expert advice provided by Mr Mooney, and that you may form a different view as to whether this frequency of surveys would reduce the likely impact of the proposed action on the Tasmanian Wedge-tailed Eagle due to helicopters overflying nests below the level of 'significant'.
54. The Significant Impact Guidelines provide that an action is likely to have a significant impact on an endangered species if there is a real chance or possibility that it will
- lead to a long-term decrease in the size of a population
 - reduce the area of occupancy of the species
 - fragment an existing population into two or more populations
 - adversely affect habitat critical to the survival of a species
 - disrupt the breeding cycle of a population
-
- modify, destroy, remove, isolate or decrease the availability or quality of habitat to the extent that the species is likely to decline
 - result in invasive species that are harmful to a critically endangered or endangered species becoming established in the endangered or critically endangered species' habitat
 - introduce disease that may cause the species to decline, or
 - interfere with the recovery of the species.

Conclusion

55. Noting that there are currently no known eagle nests within the vicinity of the standing camp or proposed flight route, the Department considers that the proposed action will not have a significant impact on the Wedge-tail Eagle if it is taken in the particular manner specified in the proposed decision notice, specifically in accordance with the following measures:
- i. total helicopter flight time will not exceed 48 hours in any calendar year, across no more than 60 days in any calendar year
 - ii. the proponent will engage a suitably qualified person to conduct a survey to identify any nests within 1 km of the route (by way of a flight) and within 1 km of the take-off and landing area (by searches done on the ground) before the action commences and every 2 years thereafter
 - iii. all helicopter flights, other than the survey undertaken every 2 years, will avoid known eagle nests by at least 1000 m (measured from nest to helicopter)
 - iv. all helicopter flights, other than the survey undertaken every 2 years, will not include any circling or 'viewing' of any nests.
56. On 22 June 2020, the proponent confirmed by email that these measures can be implemented (Attachment E8).
57. The Department acknowledges that you may come to a different view about the significance of the likely impacts of helicopter use on the Tasmanian Wedge-tailed Eagle – this is addressed further below at paragraphs [144]-[147].

Alpine Sphagnum Bogs and Associated Fens – Endangered

Community information

58. The Alpine *Sphagnum* Bogs and Associated Fens TEC is found in small pockets across alpine, subalpine and some montane areas of Tasmania, Victoria, New South Wales and the Australian Capital Territory. It is usually defined by the presence or absence of *Sphagnum* species on a peat substratum, however *Sphagnum* is not always a major floristic component. The TEC is listed as Endangered because its geographic distribution is restricted and the nature of its distribution makes it likely that multiple demonstrable threats could cause it to be lost in the near future.
59. Further information about the TEC in the Approved Conservation Advice at <http://www.environment.gov.au/biodiversity/threatened/communities/pubs/29-conservation-advice.pdf>.

Proposed action area

60. The proposed action involves the construction and operation of a standing camp over approximately 800 m², consisting of:
- three pre-fabricated twin-share accommodation structures, nominally described in the referral as having a footprint of 4 m x 3 m, and described in the Cumulus Studio design at Attachment E2.9 as having a footprint of 6 m x 3.3 m each
 - one pre-fabricated central kitchen or communal building, described in the referral as having a footprint of 8 m x 4 m, and described in the Cumulus Studio design as having a footprint of 8.78. m x 5.4 m
 - 75 metres of raised perforated board walks, including between the structures above.

61. There are patches of the TEC on the eastern half of Halls Island, outside the proposed area of the standing camp (see North Barker Flora and Fauna assessment at [Attachment E2.6](#)).
62. The proposed helicopter landing site is on the mainland adjacent to Halls Island within an elongated natural clearing, approximately 400 m x 50–80 m. The north-western end and central part of the clearing (outside the proposed area of the helicopter landing site) is predominantly covered by the TEC, the south-east end is exposed flat bedrock, sedgeland and heathland (see North Barker Proposed Helicopter Landing Site and Access to Halls Island Vegetation Survey at [Attachment E2.6](#)).

Potential impacts

63. The Approved Conservation Advice identifies the main threats to the TEC as fire, exotic weed invasions, grazing and trampling by non-native animals, tourism and increased human infrastructure. The proponent has identified potential impacts on the TEC from the proposed activity to be from fire, trampling, weeds, construction and infrastructure location.
64. The North Barker Flora and Fauna assessment ([Attachment D2.3](#)) recommended that areas of TEC not be used for hut or helicopter landing site placement, and that:
- Permanent tracks should not be formed within the areas of the TEC identified, and visitors should instead be routed around the margins of these patches. If necessary, patches on the island may be traversed with boardwalks that have minimal footprint and block very little light.
 - Any proposal to guide visitors to the island should include hygiene measures to prevent the introduction of weeds.
 - Any intention to equip the huts with fireplaces would need to be done with strict specifications to prevent a bushfire.
 - Steps be taken during construction to avoid inadvertent and unnecessary impact beyond the proposed action site.
65. In the comment provided on 6 April 2018, the DPIPWE supported the recommendations and mitigation measures in the North Barker report ([Attachment I1](#)).
66. The proponent has provided a 'Protected Matters Environmental Management Plan' (**PMEMP**) (page 62 of [Attachment D2.4](#)) which sets out the measures that will be undertaken to avoid and mitigate potential impacts of the proposed actions on protected matters. The PMEMP relevantly includes subplans and requirements relating to:
- site selection and track formation (see 2.2 and 2.3(a)-(f))
 - construction method (see 2.3(g)-(i) and 2.4)
 - weed management and hygiene (see 2.6 and 3)
 - fire management (see 6).

Conclusion

67. The Department considers that, because of the nature and location of the proposed action, it is not likely to have a significant impact on the TEC, including as a result of fire, exotic weed invasions or trampling, if undertaken in accordance with the particular manner outlined in the decision notice. The Department therefore recommends that you determine that the proposed action will not have a significant impact on the TEC on the basis that it will be undertaken in accordance with the following measures:

Siting and design:

- i. All structures and the helicopter landing site will be located in areas that do not contain the TEC, as identified in the North Barker reports.
- ii. Where it is necessary to facilitate movement across an area of the TEC, raised, perforated board walks will be installed.

During construction:

- iii. Areas of TEC will be clearly identified to staff and contractors.
- iv. Construction of the camp will not involve any excavation (other than the use of drill-hole and epoxy-bolt systems), earthworks or changes to water-courses.

Generally:

- v. Visitors will be excluded from areas of TEC, and advised not to enter areas of this TEC, unless using boardwalks.
- vi. There will be no open flames at the camp, including no smoking.
- vii. No aviation or boat fuel will be stored on Halls Island or on the adjacent mainland.
- viii. The standing camp will be equipped with fire retardation and fire-fighting equipment and devices, and all staff will be trained to operate this equipment.
- ix. The proponent will adhere to and require that all visitors act in accordance with the Tasmanian Government's 'Weed and Disease Planning and Hygiene Guidelines' and NRM South's 'Keeping it clean' field hygiene manual.

68. On 22 June 2020, the proponent confirmed by email that these measures can be implemented (Attachment E8).
69. In the PMEMP and other materials provided, the proponent has agreed to take further mitigation and avoidance measures, for example installing the camp using hand and battery operated tools only, to be recharged via a four-stroke generator located on exposed bedrock. The Department has carefully considered all of the mitigation and avoidance measures proposed by the proponent, and considers that, although the measures additional to those described in the decision notice as the particular manner (and summarised above) are desirable and should be encouraged, the proposed action would not be likely to have a significant impact on the TEC even if they were not implemented.
70. The Department has also considered the advice from Heritage Branch that the standing camp be constructed using materials with very low flammability. The Department does not consider that it is necessary to specify low-flammability materials in the particular manner set out in the decision notice to avoid a significant impact on the TEC, in light of the other measures being taken to address the risk of fire.

Other listed threatened species

71. In the referral the proponent stated that the following listed fauna species are also known or likely to occur within 500 m of Halls Island:
 - Spotted-tailed Quoll (Tasmanian population) (*Dasyurus maculatus maculatus*) – Vulnerable

- Tasmanian Devil (*Sarcophilus harrisii*) – Endangered
 - Masked Owl (Tasmanian) (*Tyto novaehollandiae castanops*) – Vulnerable
72. The flora and fauna assessment undertaken by North Barker (Attachment D2.3) failed to detect the species on Halls Island. In their report, North Barker relevantly stated:
- Each of these species have average home range sizes that are too large for the island to support permanent populations. Based on the absence of available nesting and denning opportunities, it is likely that if any of these species use the island it would only be occasionally for foraging. Even if nesting or denning was attempted by any of the species [...], it is unlikely that the island would have sufficient prey to make raising a litter/brood there energetically viable.
73. The Department agrees with this assessment and considers that the proposed action area is unlikely to provide suitable denning or foraging habitat sufficient to support a population of the above species. The Department also considers that the nature of the proposed action means that it will not have a significant impact on any other listed threatened species, either in the vicinity of the proposed action area, or as a result of the proposed helicopter use.
74. With reference to the Significant Impact Guidelines, the Department considers that the proposed action is unlikely to adversely affect habitat critical to the survival of the above species. The Department considers that the proposed action is unlikely to have a significant impact on the above species.

World Heritage properties (s12 & s15A)

75. The Tasmanian Wilderness is inscribed on the World Heritage List under four natural heritage (vii, viii, ix and x) and three cultural heritage (iii, iv, vi) criteria. Further information on the TWWHA, including listing criteria, can be found at <http://www.environment.gov.au/heritage/places/world/tasmanian-wilderness>.
76. The Significant Impact Guidelines provide that an action is likely to have a significant impact on the World Heritage values of a declared World Heritage property if there is a real chance or possibility that it will cause:
- one or more of the World Heritage values to be lost
 - one or more of the World Heritage values to be degraded or damaged, or
 - one or more of the World Heritage values to be notably altered, modified, obscured or diminished.
77. The Department notes that when the Tasmanian Wilderness was included on the World Heritage List in 1982, a Statement of Outstanding Universal Value was not required. A Statement of Outstanding Universal Value is the key reference for the future protection and management of a World Heritage property and has been a requirement of the World Heritage Committee only since 2007. The Department has been working with the Tasmanian Government and the World Heritage technical advisory bodies to develop the Statement of Outstanding Universal Value for the TWWHA and it is close to finalisation. In the meantime, examples of attributes and values that contribute to the property's World Heritage values or Outstanding Universal Value are identified under each criterion.
78. The TWWHA was included on the World Heritage List on the basis of:
- three cultural heritage criteria:

Criterion (iii) Bear a unique or at least exceptional testimony to a cultural tradition or to a civilisation which is living, or which has disappeared

Criterion (iv) An outstanding example of a type of building, architectural or technological ensemble or landscape which illustrates (a) significant stage(s) in human history

Criterion (vi) Directly or tangibly associated with events or living traditions, with ideas or with beliefs, with artistic and literary works of outstanding universal significance

- four natural heritage criteria:

Criterion (vii) contain superlative natural phenomena or areas of exceptional natural beauty and aesthetic importance

Criterion (viii) be outstanding examples representing major stages of earth's history, including the record of life, significant on-going geological processes in the development of landforms, or significant geomorphic or physiographic features

Criterion (ix) be outstanding examples representing significant on-going ecological and biological processes in the evolution and development of terrestrial, fresh water, coastal and marine ecosystems and communities of plants and animals

Criterion (x) contain the most important and significant natural habitats for in-situ conservation of biological diversity, including those containing threatened species of Outstanding Universal Value from the point of view of science or conservation.

79. The key values and attributes of the TWWHA that were used to justify inclusion of the TWWHA on the basis of cultural criteria (iii), (iv) and (vi), and are relevant to the proposed action, are archaeological and rock art sites, including:

- Pleistocene sites that are unique and of great antiquity;
- sites showing how people practiced their way of life over long time periods; and
- sites that demonstrate the adaptation and survival of human societies to glacial climatic cycles and periods of long isolation from other communities.

80. The key values and attributes of the TWWHA that were used to justify inclusion of the TWWHA on the basis of natural criteria (vii), (viii), (ix) and (x), and are relevant to the proposed action, include:

- view fields and sites of exceptional natural beauty associated with the relatively undisturbed nature of the property;
- the scale of the undisturbed landscapes;
- the development of peat soils and blanket bogs;
- endemic members of large Australian plant families – the North Barker Flora and Fauna assessment at Attachment D2.3 identified Tasmanian endemic species belonging to the large Australian plant families *Epacridaceae*, *Myrtaceae* and *Proteaceae* on Halls Island;
- conifers of extreme longevity – the North Barker assessment identified the presence of Pencil Pine (*Athrotaxis cupressoides*) and King Billy Pine (*Athrotaxis selaginoides*). Of particular note is an area of *Sphagnum* peatland adjacent to rainforest communities that contains emergent pencil pines;
- examples of evolution in mainland mammals – the North Barker assessment noted the presence of the Tasmanian sub-species of Bennett's wallaby (*Macropus rufogriseus*) and common ringtail possum (*Pseudocheirus peregrinus*). (The Bennett's wallaby and

common ringtail possum are not listed species and as the proposed action does not involve any land clearing or other activity likely to remove their habitat, the Department considers it is unlikely that there are potential impacts in relation to these mammals from the proposed action); and

- undisturbed catchments, lakes and streams – Lake Malbena supports a large community of endemic species.

81. The Department has identified a range of factors under each of the cultural heritage and natural heritage criteria that are relevant to the proposed action, in light of the advice from Heritage Branch, which have been used to guide the significant impact assessment:

- Cultural heritage criteria (iii), (iv) and (vi): disturbance impacts to Indigenous archaeological sites from construction and operations;
- Natural heritage criterion (vii): impacts associated with noise from helicopter use and visual impacts from the standing camp;
- Natural heritage criteria (viii), (ix) and (x): impacts to ecological and biological systems from trampling of vegetation, unmanaged fires, introduction of pests, weeds and pathogens, sediment and erosion, and contamination of Lake Malbena from construction and operations.

82. The Department addresses each of these factors in turn.

Cultural heritage criteria (iii), (iv) and (vi) – potential impacts on Indigenous archeological sites

83. Aboriginal Heritage Tasmania (**AHT**), part of DPIPWE responsible for administering the *Aboriginal Heritage Act 1975* (Tas) and maintaining the Tasmanian Aboriginal Heritage Register, provided advice to the proponent dated 31 May 2018 (Attachment D2.9) stating:

The previous reviews and assessments concluded that there are no Aboriginal heritage sites recorded within or close to the proposed development and that, based on a review of previous reports and analysis of the landscape features, there is a low probability of Aboriginal heritage sites being present. Accordingly, there is no requirement for an Aboriginal heritage investigation to be undertaken.

84. The AHT noted that Tasmanian Aboriginal Heritage is protected under the *Aboriginal Heritage Act 1975* (Tas), and provided a copy of its 'Unanticipated Discovery Plan – Procedure for the management of unanticipated discoveries of Aboriginal relics in Tasmania' (**Unanticipated Discovery Plan**). The proponent separately provided a copy of this plan as part of the additional material on the referral (Attachment D2.7).

85. The Aboriginal Heritage Council (**AHC**) submitted two public comments on the referral (Attachments J2.51(a) and (b)). The AHC is a statutory body that provides advice and recommendations to the Director of National Parks and Wildlife, the Minister for Aboriginal Affairs and stakeholders on the protection and management of Aboriginal heritage in Tasmania. The AHC expressed concern particularly about the cultural interpretation activities undertaken at an Aboriginal Heritage site proposed as part of Stage 2. The AHC submitted:

In summary, apart from its very high significance to Aboriginal people, there is currently little known about the Aboriginal cultural heritage site which the proponent would like to showcase as part of the development proposal, or its context within the broader Aboriginal cultural landscape.

Until there has been a thorough Aboriginal cultural values and significance assessment, and further work has been done to address the concerns outlined above, it is the Council's view that there should be no approval for the current proposal by Wild Drake Pty Ltd.

86. The advice from the AHT to the proponent noted that the proponent had identified a number of potential opportunities for the direct involvement of and collaboration with the Aboriginal community on the project, and encouraged the proponent to formally contact, engage and consult with the AHC and the Aboriginal community on the proposed development and any proposed plans for activities (referring to the Stage 2 activities).
87. The referral states that as part of a Tasmanian approval process, the proponent has already consulted with the Tasmanian Aboriginal Centre and members the Tasmanian Regional Aboriginal Communities Alliance. The additional material provided by the proponent states that 'the proponent has and will continue to formally engage and consult with the [AHC], and the Aboriginal community to outline the details of the proposed development and any proposed plans for activities including site visits'. It also states that '[the] proponent and staff have attended/ undertaken a number of formal and informal cultural awareness and familiarisation activities, including On Country sessions with respected Tasmanian Aboriginal elders and Tasmanian Aboriginal tourism operators' (see the 'Indigenous Heritage – Protected Matters Environmental Management Subplan' at page 67 of Attachment D2.4).
88. The Department notes that Stage 2 activities are not part of the referred action and as such consideration of the potential impacts of these activities is not relevant to whether the referred action is likely to have a significant impact on the TWWHA. The Aboriginal Heritage site referred to as part of the possible Stage 2 activities (see paragraph [17]) will not be visited or otherwise impacted by this proposed action.
89. In its advice, Heritage Branch note the comments from the AHT and AHC described above, and state:

An Unanticipated Discovery Plan has been provided to the proponent to enable them to meet requirements under the *Aboriginal Heritage Act 1975* during the project's construction and operation. Adherence to the Unanticipated Discovery Plan at sites used for the tourism operation will be crucial to the protection of the cultural values that contribute to the property's Outstanding Universal Value under World Heritage criteria (iii), (iv) and (vi).

If the measures proposed above are implemented and adhered to, impact on the cultural heritage values as a result of the proposed development should be effectively mitigated.

Conclusion about impacts on Indigenous archaeological heritage sites

90. Given the low probability of Aboriginal heritage being present on the proposed action area, the Department considers that the risk of matters of indigenous heritage being disturbed or interfered with as a result of the proposed action would be adequately addressed by the proponent following the procedure for management of unanticipated discoveries of Aboriginal relics set out in the Unanticipated Discovery Plan published by the Tasmanian Government (version dated 6 April 2018). The Department considers that the proposed action will not have a significant impact on the relevant cultural values of the Tasmanian Wilderness because it will be performed in a particular manner, namely that the proponent will follow this procedure.
91. On 22 June 2020, the proponent confirmed by email that this measure can be implemented (Attachment E8).

92. The Department notes the submissions and advice about the desirability of the proponent continuing to engage with AHC and the Aboriginal community more generally, and the proponent's intention to do so. While the Department agrees that this is a desirable course, the Department does not consider that this engagement will have any material effect on the impact which the proposed action is likely to have on the relevant cultural criterion.

Natural heritage criterion (vii) – potential impacts of helicopter use

93. The use of helicopters to access the standing camp will have noise and visual impacts.
94. In the referral information the proponent states (Attachment A):

A helicopter flight-path has been developed to ensure minimal airtime (11 minutes each way from Derwent Bridge), and minimal potential impacts on other users in the area. The flight path avoids overflying the TWWHA Wilderness Zone, or any recognised walking routes for any extended distances. Additional Fly Neighbourly practices have been specifically developed to further minimise potential impacts. ...

Required usage levels have been designed to minimise and limit use, mitigate any point impacts to other users in the TWWHA, and in doing so protect the Wilderness Character of the TWWHA. The flight path avoids lengthy crossing of the TWWHA Wilderness Zone, walking routes and key recreational fishing waters, and customised Fly Neighbourly prescriptions further minimise impacts to other users.

95. Additional material provided by the proponent on 26 June 2018, titled 'Halls Island – Amendments and further information in relation to helicopter use. Prepared by the Proponent 11/01/2017 for inclusion in Halls Island RAA' (page 79 of Attachment D2.4) relevantly stated:

To the user on the ground, each helicopter trip would produce a point-impact: a specific noise footprint and potential visual impact to those within audible / visual range of the flight path. A brief desktop study of helicopter sound-monitoring studies indicates that a discernible noise footprint is detectable within an approximate 4km lateral distance of a B2/B3 Squirrel helicopter. With the recommended manufacturer's flight speed of just over 200km/h, we can then determine that each flight would potentially create a point-impact (noise footprint and visual impact) of a maximum 2 minutes per trip, in the unlikely event that a user is directly under the flight path. This noise footprint when graphed is a bell-shaped curve, with maximum noise experienced when directly overhead, graduating to no noise at either end of the 4km lateral distance.

...

In summary, careful flight-path selection combined with the documented low-usage of the area ensures that it is unlikely that other users will be over-flown by helicopter operations relating to Halls Island. In the unlikely event that this does occur, by using the Halls Island specific FNA prescriptions, the overall potential impact on wilderness values to other users will be minimised to a ~2 minute, once-off point-impact. Due to the location of the flight corridor, there are no anticipated impacts to any Wilderness Zones in the TWWHA.

96. In the further material provided on 7 February 2020, the proponent stated that it would be impractical to nominate a specific flight path as part of a particular manner, because of the possibility of new eagle nests being identified during the biennial surveys (Attachment E4). In correspondence received 5 June 2020 (Attachment E5), the proponent committed to not flying over the Wilderness Zone or any recognised walking route. There are no recognised walking routes in the immediate vicinity of Halls Island. The Department understands that people do access Halls Island on foot, but this is not via any formally recognised or managed walking track.

97. The proponent has also proposed that:

- Helicopter operation will be limited to no more than 60 flying days per calendar year and no more than 48 flying hours per calendar year.
- Wherever operational safety considerations permit, helicopters will fly at altitude of more than 1000 m (other than when conducting the aerial survey of eagle nests every 2 years) except for take-off and landing.

98. The submission provided to the Minister by the EDO on 5 December 2019 (Attachment E1) referred to and enclosed reports prepared by Gustaf Reutersward dated 5 June 2019 and 17 June 2019, and noted that:

The modelling showed that helicopter noise with a volume of 10dBA or more has the potential to be audible up to 16km away from the proposed flight path, and helicopter noise of a volume of 20 dBA or more is likely to audible up to 11km from the flight path;

The likely length of time a person likely to be within an audible distance of a flight (i.e. a person within 11km of the flight path) would experience the aircraft noise would be 5 ½ minutes per flight, or 7 ½ minutes if the helicopter is sling-loading material (noting there would be multiple flights per day). This evidence refutes the 2-minute estimate relied upon in Wild Drake's Referral.

99. The proponent provided the Department with a copy of a 'Response to Statements of Evidence' filed in the Resource Management and Planning Appeal Tribunal dated 19 June 2019 (Attachment E2) in which the Director of the proponent disagrees with the assessment methodology used by Mr Reutersward, and noted that the area is already impacted by noise from mechanised activities such as helicopter use and commercial logging.
100. On 2 April 2020, the proponent provided a Wilderness Quality Assessment prepared by PWS which assesses the change in Wilderness Quality likely to result from the proposed action (Attachment E6.2). In this assessment the PWS use an established model which defines Wilderness Quality on a scale from 0 to 20 using four parameters:
- Apparent Naturalness – Remoteness from features that impinge on the perception of naturalness such as settlements, roads, impoundments and transmission lines.
 - Remoteness from Settlement – Remoteness from towns, settlements and isolated residences.
 - Time Remoteness – Walking times from points of mechanised access such as roads, airstrips, motorised vessels.
 - Biophysical Naturalness – The extent to which a defined area (the grid square) is free from evidence of changes caused by modern technological society.
101. Output values from the model are based on a grid cell lattice size of 500 m x 500 m (representing 25 ha).
102. Areas with a Wilderness Quality equal to or greater than 12 are considered high quality wilderness areas, and this value was the threshold for inclusion into the Wilderness Zone boundaries for the property in 2015.

103. The PWS assessment predicts that, if the proposed action is undertaken, the Wilderness Quality of 700 ha of land in the vicinity of Hall's Island would decrease to 10–12. Further, the Wilderness Quality of 1150 ha would decrease from 16–18 (which results in subsequent increases in the area of land within wilderness quality classes 10–12, 12–14 and 14–16). A total of 4200 ha of land would have a reduction of Wilderness Quality of 1 or more. The main element of the proposed action likely to impact Wilderness Quality are the landing of helicopters to transport clients to the standing camp, which will result in a decrease of the Time Remoteness parameter of the model.
104. Although the parameters of the Wilderness Quality Assessment do not relate directly to the attributes and values associated with natural criterion (vii), the Department considers that it provides a useful demonstration of the possible extent of the impacts on exceptional natural beauty associated with the relatively undisturbed nature of the property, and the scale of the undisturbed landscapes.
105. When the proponent provided the Wilderness Quality Assessment it noted in covering correspondence (Attachment E6) that the potential impacts to the Time Remoteness parameter are potential or perceived in nature and temporal in their occurrence, as the parameter will only be affected while helicopters are operating. The Department accepts that a decrease in Wilderness Value associated with helicopter use will be temporary and indirect. The Department also notes that the proposed action area is situated on the edge of the Wilderness Zone, immediately adjacent to areas of lower Wilderness Quality, and that the 700 ha of land which will have a decreased Wilderness Quality of below what is considered 'high quality wilderness' is located within a World Heritage property of over 1 million hectares.
106. In information provided by the EDO on 5 December 2019 (Attachment E1.3), the EDO provided an assessment of wilderness impacts undertaken by Mr Martin Hawes using the same methodology as that employed in the PWS assessment at Attachment E6.2. Mr Hawes' assessment was that 'time remoteness' would be measurably affected by the proposed action, and that the proposed action would result in values of Wilderness Quality being reduced by at least 1 (on the scale of 0 to 20) over an area of 4900 ha, and by at least 2 over 2200 ha. He assessed that the loss of Wilderness Quality in the immediate vicinity of Lake Malbena would be 3.9. Mr Hawes assessment states:
- Hawes et al (2018) argue that remoteness, including Time Remoteness, is a defining characteristic of wilderness and is a crucial ingredient of what can broadly be termed the 'wilderness experience'. There is a huge difference in the perceived wildness of a place that one can access and leave by helicopter, compared to a place that can only be accessed by hours or days of non-mechanised travel. Similarly, for visitors who access a place like Lake Malbena on foot (and potentially also by pack-raft), the sense of solitude and isolation would be dramatically impacted by the arrival of helicopters – disgorging clients fresh from civilisation – and even by the knowledge that such landings can occur there.
- In quantitative terms, TR would be reduced to the lowest category (0-0.5 days) within half a day's walk from the helipad. This encompasses an area that is at present partly within the current 0.5-1.0 day zone and partly in the 1-2 day zone. Between a half day and a full day's walk of the helipad, TR would be reduced in areas that are currently in the 1-2 day category. The latter are mostly located west of a line running roughly north-south and intersecting the lake along its eastern shore – hence they are located mostly within the Wilderness Zone and the Walls of Jerusalem National Park.
107. While the proponent called into question the data underlying the assessment provided by the EDO (Attachment E6.1), the Department considers that the outcomes of the PWS assessment are broadly consistent with the outcomes of Mr Hawes' assessment, in that

they both show a reduction in wilderness quality as a result of the proposed action, specifically that component of wilderness characterised by Time Remoteness.

The Department considers it appropriate to base its conclusions on the Wilderness Quality Assessment prepared by PWS and provided by the proponent.

Conclusion about impacts of helicopter use

108. The Department's Significant Impact Guidelines state that an action is likely to have a significant impact on the 'wilderness, natural beauty or rare or unique environment values' of a World Heritage property with natural heritage values if there is a real chance or possibility that the action will:

- involve construction of buildings, roads, or other structures, vegetation clearance, or other actions with substantial, long-term or permanent impacts on relevant values, and
- introduce noise, odours, pollutants or other intrusive elements with substantial, long-term or permanent impacts on relevant values.

109. The Department considers that the use of helicopters will impact on the natural heritage values of the TWWHA, in particular the attributes associated with the undisturbed nature of the property. However, the Department does not consider that these impacts will be substantial, long-term or permanent because helicopters will not fly over the Wilderness Zone, will, where possible, fly at altitude of more than 1000 m, and flight time will be limited. The Department considers that the use of helicopters as part of the proposed action will not have a significant impact in relation to the values and attributes of the TWWHA used to justify World Heritage listing under natural criterion (vii) if the proposed action is taken in the particular manner specified in the proposed decision notice, specifically in accordance with the following measures:

- i. total helicopter flight time will not exceed 48 hours in any calendar year, across no more than 60 days in any calendar year
- ii. wherever operational safety considerations permit, helicopters will fly at altitude of more than 1000 m (other than when conducting the aerial survey of nests every 2 years), excluding take-off and landing
- iii. helicopter flight paths will avoid overflying the Wilderness Zone or any recognised walking route.

110. On 22 June 2020, the proponent confirmed by email that these measures can be implemented (Attachment E8).

111. The Department acknowledges that you may come to a different view about the significance of the likely impacts of helicopter use on the natural heritage values of the TWWHA – this is addressed further below at paragraphs [138]-[143].

Natural heritage criterion (vii) – potential visual impacts of standing camp

112. The proposed site for the standing camp is a naturally secluded setting. There are no walking paths near or within sightline of the proposed development on Halls Island. A line of sight to the proposed standing camp site is likely only possible from a boat on Lake Malbena and this may still be concealed by the existing vegetation.

113. The description of the proposed action in the referral relevantly provided:

All buildings will be of sympathetic design and scale reflecting key features of the existing Halls Hut, and will incorporate:

- Minimal internal 12v lighting, no external lighting (beyond those required for safety). Where possible, lighting will be floor-level, and use red light to minimise light transmission etc.

...

- A mixture of timber and steel construction in muted bush-tones ...

114. The PMEMP includes a 'Wilderness Characteristics' subplan which echoes this description (page 72 of Attachment D2.4).

115. The proponent's Lease and Licence conditions (Attachment D2.4) require that the standing camp design must minimise environmental impacts through the following:

- appropriate footprint and design for the three accommodation huts and the communal kitchen hut
- use of low-visibility materials for external surfaces (i.e. timber and steel materials in muted bush tones), and
- the retention of existing vegetation and topography.

116. In its advice (Attachment K1) Heritage Branch note that the proposed standing camp meets the definition of a 'Type C' Standing Camp under the *Tasmanian Parks and Wildlife Service Standing Camp Policy* (2006), and the conditions in the proponent's Lease and Licence. Heritage Branch advised:

The proposed standing camp (as designed by Cumulus Studios) is intended to meet these requirements. It is proposed to have a footprint of approximately 800m², incorporating three pre-fabricated twin-share accommodation buildings ("tent like" pods), each with associated toilet and shower areas. An additional pre-fabricated central kitchen / communal building, with associated equipment storage, guide accommodation and toilet areas will also be within the 800m² standing camp footprint.

The highest elevation of the proposed buildings is 4.275 metres. The Statement of Evidence provided to the Resource Management and Planning Appeal Tribunal by Todd Henderson of Cumulus Design Studio indicates that the "Discrete positioning of the Standing Camp amongst natural features will ensure the infrastructure when viewed from the original Halls Hut is minimised".

There is some likelihood that removal of vegetation will be required to allow the placement of the pre-fabricated buildings. However, Mr Andrew North a Tasmanian consultant ecologist (since 1991), provided independent expert opinion (Statement of Evidence in the Resource Management and Planning Appeal Tribunal 3 June 2019), that shrubs that overhang the area may need to be pruned, but vegetation clearance can be kept to a minimum. Mr North also notes that an existing footpad is present in sphagnum peatland between the boat launching site and the existing hut and that this will be protected by a boardwalk.

If these proposed design elements of the standing camp are implemented as described and maintained to this standard, the impact of the proposed development on the view fields and sites of exceptional natural beauty associated with this area of the TWWHA should be effectively mitigated.

117. On 24 February 2020 (Attachment E4) and 5 June 2020 (Attachment E5), the proponent clarified that the 4.275 m maximum height of buildings is indicative only, and that building

heights are expected to exceed 4.275 m at certain points to navigate the topography. The proponent advised that the total height of buildings would not exceed 5 m.

Conclusion about visual impacts of standing camp

118. The Department considers that in light of the naturally secluded setting of the standing camp, the proposed action will not have a significant impact on the exceptional natural beauty and aesthetic importance of the TWWHA if it is taken in the particular manner specified in the proposed decision notice, specifically in accordance with the following measures:
- i. the external surfaces of the standing camp will be constructed out of low-visibility materials (for example timber or steel materials in muted bush tones)
 - ii. the maximum height of buildings within the standing camp will be minimised to the greatest extent practicable and will otherwise not exceed 5 metres.
119. On 22 June 2020, the proponent confirmed by email that these measures can be implemented (Attachment E8).
120. In the PMEMP and other materials provided, the proponent has undertaken to take further mitigation and avoidance measures, for example, using specialised lighting. The Department has carefully considered all of the mitigation and avoidance measures proposed, and considers that, although the measures additional to those described in the particular manner in the decision notice and summarised above are desirable and should be encouraged, the proposed action would not be likely to have a significant impact on the values and attributes of the Tasmanian Wilderness that justified its inclusion on the World Heritage List under natural heritage criterion (vii), even if they were not implemented.

Natural heritage criteria (viii), (ix) and (x) – potential impacts to ecological and biological systems

121. Heritage Branch advised that potential threats to the values and attributes used to justify World Heritage listing under natural heritage criteria (viii), (ix) and (x) arise from trampling of vegetation, unmanaged fires, and the introduction of pests, weeds and pathogens (Attachment K1).
122. The Department considers that if the proposed action is taken in the particular manner specified in the proposed decision notice, and specifically in accordance with the measures identified in relation to the TEC above at paragraph [67], it will not have a significant impact on the ecological and biological systems referred to in paragraph [80] above.

Natural heritage criteria (viii), (ix) and (x) – potential impacts to Lake Malbena

123. Heritage Branch advised that there is the potential for impacts on the water quality of Lake Malbena from sediment and erosion during construction and operations, and contamination from sewage, greywater, garbage and boat fuel.
124. In the submission received on 6 April 2018 (Attachment I1), DPIPWE relevantly state:
- It is recommended that it be clearly stated that no helicopter refuelling operations or fuel storage etc. is to be undertaken on site
- No sewerage, grey water, and sediment should be allowed to enter lake/streams in order to protect aquatic fauna (which has high endemism)

125. The summary of the proposed action in the referral documentation (Attachment A) relevantly provides that it will include 'Associated toiletry building(s), designed as complete-capture pod systems for removal of all sewage and grey-water.'
126. The construction subplan in the PMEMP contains an 'Effluent and Rubbish Plan' (Page 65 of Attachment D2.4) which provides:
- 2.7.1 At the commencement of construction activities, a complete-capture pod should be installed to ensure that all sewage and greywater is captured during the construction process, for complete removal off-site.
- 2.7.2 During Construction and Operations, the Operator shall:
- (a) maintain all toilets constructed as part of the Development in a proper safe and working manner;
 - (b) ensure all persons accommodated in the Land use the toilets constructed within the Land where practicable;
 - (c) ensure all garbage, rubbish and refuse generated on the Land and/or as a result of the Approved Use is:
 - (i) pending disposal, properly collected (with the Operator to provide adequate refuse receptacles on the Land and take all reasonable steps to ensure that they are used appropriately);
 - (ii) stored in a manner that it cannot be accessed by animals;
 - (iii) properly disposed of (and not burnt on the Land) at an authorised waste disposal site at the end of each stay on the Land;
 - (d) provide and use recyclable, compostable and/or reusable containers and wrappers wherever possible, and not use any plastic bags (unless they are of the fast-degradable type) or single use plastic bottles;
127. Heritage Branch advised that if these measures are implemented and adhered to, 'water quality impacts resulting from the proposed activity site should be effectively mitigated'.
128. There are references in the material provided by the proponent to greywater being back-loaded either as required, or at the end of each trip. The Director of the proponent has more recently clarified verbally that greywater and sewerage will be disposed to an authorised receiving facility as required, and not necessarily be back-loaded at the end of each trip. Similarly, rubbish generated will not necessarily be disposed of at the end of each trip. The Department considers that this is acceptable so long as it is disposed of to appropriate off-site receiving facilities within the limitations of helicopter flying previously discussed.
129. The Director of the proponent has advised the Department that there will be no motorised boats used at the standing camp, and therefore no boat fuel (Attachment E4).
130. The Department is satisfied from information provided by the proponent that there are no risks of sediment or erosion as no excavation will be required during construction. The Department notes that the building will be fixed to the rock by drilling into the rock and using epoxy-bolt systems to secure the buildings, however the Department does not consider that this minor work is likely to result in erosion or sedimentation impacts.
131. The Department considers that the proposed action will not have a significant impact on the natural values that justified inclusion of the Tasmanian Wilderness on the basis of natural heritage criteria (viii), (ix) and (x) if it is taken in the particular manner specified in the proposed decision notice, specifically in accordance with the following measures:

- a) construction of the camp will not involve any excavation (other than the use of drill-hole and epoxy-bolt systems) or changes to water-courses
 - b) no aviation or boat fuel will be stored on Halls Island or on the adjacent mainland
 - c) the proponent will install complete-capture sewerage and greywater pods, and will dispose of all greywater and sewerage off site
 - d) the proponent will ensure that all rubbish and recyclable materials generated on site will be collected, stored so that it cannot be accessed by animals, and disposed of at an authorised waste disposal site.
132. On 22 June 2020, the proponent confirmed by email that these measures can be implemented ([Attachment E8](#)).
133. The Department notes the proponent's intention to provide and use recyclable, compostable and/or reusable containers and wrappers wherever possible, and not to use single-use plastic. The Department agrees that during both construction and operation it would be desirable to limit rubbish generated, including by avoiding single-use plastics, but does not consider that step is necessary to avoid a significant impact on the TWWHA in circumstances where all rubbish and recyclable materials will be collected, stored appropriately and disposed of at an appropriate waste disposal site.

Conclusion for World Heritage properties

134. With reference to the Department's Significant Impact Guidelines, the Department considers that the proposed action is unlikely to cause the World Heritage values or Outstanding Universal Value to be lost, degraded or damaged or notably altered, modified, obscured or diminished. The Department concludes there is unlikely to be a significant impact to the World Heritage values or Outstanding Universal Value of a World Heritage property.

National Heritage places (s15B & s15C)

135. The National Heritage values for the Tasmanian Wilderness National Heritage Place are substantially the same as the World Heritage values or Outstanding Universal Value for the Tasmanian Wilderness World Heritage Area. The Department considers that if the proposed action is undertaken in accordance with the measures specified in relation to the TWWHA above, the proposed action will not have a significant impact on the National Heritage values of a National Heritage place.

Other protected matters that are not controlling provisions

<p><u>Listed migratory species (s20 & s20A)</u></p>	<p>The flora and fauna assessment undertaken by North Barker concluded that of the eight migratory species listed in the ERT (Attachment H), only the Japanese Snipe (<i>Gallinago hardwickii</i>) and the Satin Flycatcher (<i>Myiagra cyanoleuca</i>) have a moderate likelihood of utilising the island. The Japanese Snipe is a non-breeding migratory species that may use the on-island bogs for foraging. The Satin Flycatcher may roost or nest in the <i>E. subcrenulata</i> forest.</p> <p>The Department considers the proposal area does not provide important habitat that would support an ecologically significant proportion of a population of migratory species. A significant impact on listed migratory species as a result of the proposed action is therefore considered unlikely.</p>
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<u>Ramsar Wetlands (s16 & s17B)</u>	<p>The ERT did not identify any Ramsar listed wetland of international importance within or adjacent to the proposed action area.</p> <p>Further, given the information contained in the referral documentation, the nature and scale of the proposed action and its potential impacts, and the distance to Ramsar listed wetlands of international importance, the proposed action is unlikely to have a significant impact on Ramsar listed wetlands of international importance.</p> <p>For these reasons the Department considers that sections 16 and 17B are not controlling provisions for the proposed action.</p>
<u>Commonwealth marine environment (s23 & s24A)</u>	<p>The proposed action does not occur in a Commonwealth marine area.</p> <p>Further, given the information contained in the referral documentation, the nature and scale of the proposed action and its potential impacts, and the distance to a Commonwealth marine area, the proposed action is unlikely to have a significant impact on the environment in a Commonwealth marine area.</p> <p>For these reasons the Department considers that sections 23 and 24A are not controlling provisions for the proposed action.</p>
<u>Commonwealth action (s28)</u>	<p>The referring party is not a Commonwealth agency. For this reason, the Department considers that section 28 is not a controlling provision for the proposed action.</p>
<u>Commonwealth land (s26 & s27A)</u>	<p>The proposed action is not being undertaken on Commonwealth land.</p> <p>Further, given the information contained in the referral documentation, the nature and scale of the proposed action and its potential impacts, and the distance to Commonwealth land, the proposed action is unlikely to have a significant impact on the environment on Commonwealth land.</p> <p>For these reasons the Department considers that sections 26 and 27A are not controlling provisions for the proposed action.</p>
<u>Nuclear action (s21 & s22A)</u>	<p>The proposed action does not meet the definition of a nuclear action as defined in the EPBC Act. For this reason, the Department considers that sections 21 and 22A are not controlling provisions for the proposed action.</p>
<u>Great Barrier Reef Marine Park (s24B & s24C)</u>	<p>The proposed action is not being undertaken in the Great Barrier Reef Marine Park.</p> <p>Further, given the information contained in the referral documentation, the nature and scale of the proposed action and its potential impacts, and the distance to the Great Barrier Reef Marine Park, the proposed action is unlikely to have a significant impact on the Great Barrier Reef Marine Park.</p> <p>For these reasons the Department considers that sections 24B and 24C are not controlling provisions for the proposed action.</p>
<u>Commonwealth Heritage places overseas (s27B & s27C)</u>	<p>The proposed action is not located overseas. For this reason, the Department considers that sections 27B and 27C are not controlling provisions for the proposed action.</p>

<u>A water resource, in relation to coal seam gas development and large coal mining development (s24D & s24E)</u>	The proposed action is not a coal seam gas or a large coal mining development. For these reasons the Department considers that sections 24D and 24E are not controlling provisions for the proposed action.
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SECTION 75 – CONTROLLED ACTION DECISION

136. As noted in the analysis above, the Department considers that it is open to you to come a different view about the impacts on matters of national environmental significance arising from the use of helicopters. Specifically, you may consider that:

- a) the impact on the natural heritage values of the TWWHA from the use of helicopters will be significant, and, relatedly
- b) there is a real possibility that the measures proposed to be undertaken by the proponent to avoid helicopter flights overflying nests of the Tasmanian Wedge-tail eagle will not effectively avoid disturbance to this endangered species from the use of helicopters.

137. If so, you may decide that the proposed action is a controlled action, and the controlling provisions are sections 12 and 15A (World Heritage properties), 15B and 15C (National Heritage places) and 18 and 18A (listed threatened species).

World Heritage properties and National Heritage places (ss 12, 15A, 15B & 15C)

138. The Department acknowledges that the proposed helicopter use will have impacts on the natural heritage values of the TWWHA, specifically natural criterion (vii): contain superlative natural phenomena or areas of exceptional natural beauty and aesthetic importance. The view fields and sites of exceptional natural beauty associated with the relatively undisturbed nature of the property, and the scale of the undisturbed landscapes, are particularly relevant in this regard. As discussed above, the use of helicopters during the construction of the camp, to transport guests and goods to and from the standing camp, and to conduct surveys for Tasmanian Wedge-tailed eagles, will create noise and visual impacts in the TWWHA, and will create a new point of mechanised access to the TWWHA.

139. The proponent accepts that there will be noise and visual impacts for other users of the TWWHA from helicopter use, notwithstanding its commitment to avoid overflying the Wilderness Zone and known walking tracks. There is conflicting material before you about the precise noise impacts of the proposed action. As set out above, the proponent considers that, if a helicopter overflies another user of the TWWHA, that user would experience noise and visual impacts for approximately 2 minutes. The EDO submits that any user within 11 km of the flight path would experience noise impacts for 5.5 or 7.5 minutes. Furthermore, while the proponent has committed to helicopters flying at more than 1000 m (other than when conducting the aerial survey of nests every 2 years), this will only be possible when operational safety considerations permit. This means that the precise nature of these noise and visual impacts cannot be predicted on a day-to-day basis.

140. You may determine that the relatively undisturbed nature of the TWWHA means that the noise and visual impacts from helicopter use are likely to have a significant impact on the natural heritage values of the TWWHA. While these noise impacts are temporary or

transient in the sense that they will only occur when helicopters are in flight, the intention is that helicopters will be used on an on-going basis, for as long as the standing camp continues to operate.

141. The Wilderness Quality Assessments undertaken by the PWS (provided by the proponent) and by Mr Hawes (provided by the EDO) both recognise that there will be a reduction in the 'Wilderness Quality' in the vicinity of the proposed action area as a result of the proposed action. The Department came to the view that the size and location of the area affected mean that the impacts on the natural heritage values of the TWWHA will not be significant.
142. You may determine that the anticipated loss of 700 ha of 'high quality wilderness area', and the reduction in 'Wilderness Quality' over at least 4200 ha would result in the scale of the undisturbed landscapes, and the view fields and sites of exceptional natural beauty associated with the relatively undisturbed nature of the TWWHA being notably altered, modified, obscured or diminished.
143. If you agree with the reasoning in paragraphs [140]-[142] above, you may decide that the action is a controlled action because it will or is likely to have a significant impact on the world heritage values and national heritage values of the TWWHA.

Listed threatened species (s18 & 18A)

144. The Department considers that you may come to a different view on the impacts that the proposed action is likely to have on the Tasmanian Wedge-tailed Eagle. Nest disturbance, including by flights, and loss of nesting habitat is a key threat to the species. The regular and on-going use of helicopters during the construction and operation of the proposed action will create noise and visual disturbance, over and above existing potential disturbances to the species in the area.
145. The proponent has committed to limiting total helicopter flight time to 48 hours per year, and to all routine helicopter flights avoiding known eagle nests by at least 1000 m, and not circling or 'viewing' any nests. The effectiveness of these commitments to avoid nests is dependent on effectively identifying known nests along the flight route. Although the proponent has indicated that helicopters will generally fly at an altitude of more than 1000 m, this is also contingent on operational safety conditions, and so there is some risk that helicopters could come within 1000 m of a nest.
146. The expert advice put forward by the proponent recommended biannual (i.e. twice per year) aerial surveys conducted via helicopter along the flight path to ensure that no eagle nests were present and therefore would not be disturbed by being overflown. However, the proponent proposed, and the Department agrees that an aerial survey once every 2 years would be sufficient, noting the need to balance the competing interests in limiting the impacts of helicopter flights on the TWWHA. However, you may determine that this level of survey effort may not adequately address the risk that the proposed action may have a significant impact on the Wedge-tailed Eagle, given the additional flight time that is proposed each year along a specific flight path.
147. If you agree with this reasoning, you may decide that the action is a controlled action because it will or is likely to adversely affect habitat critical to the survival of the species or disrupt the breeding cycle of a population, and therefore have a significant impact on the Tasmanian Wedge-tailed Eagle.

Other matters of national environmental significance potentially impacted

148. Where it is determined that a provision is a controlling provision for an action, the assessment of the action under Part 9 of the EPBC Act will consider all of the impacts that the action has or will have, or is likely to have, on the matter protected by that provision (see definition of 'relevant impacts' in section 82(1)). This means that if it is determined that sections 18 and 18A are controlling provisions, the impact of the action on all listed threatened species potentially impacted by the action will be assessed. Similarly, if you determine that sections 12, 15A, 15B and 15C are controlling provisions, the impact of the action on all the world heritage values and national heritage values of the TWWHA will be assessed.
149. In this case, this means that if you decide that the proposed action is a controlled action and sections 18 and 18A are controlling provisions, the assessment that is conducted under Part 9 would consider the impact of the proposed action on the Alpine Sphagnum Bogs and Associated Fens TEC, amongst other matters. Similarly, if you decide that sections 12, 15A, 15B, and 15C are controlling provisions, the impact of the proposed action on all of the relevant world and national heritage values of the TWWHA would be assessed.

SUBMISSIONS:

Public comments

150. The proposal was published on the Department's website on 29 March 2018 and public comments were invited until 17 April 2018. Fifty public submissions were received on the referral during the public comment period. Four were received after the public comment period ([Attachment J1](#)).
151. No comments are supportive of the proposed action in its current form. Many of the submissions raised issues relating to State Government regulatory processes, Stage 2 activities, the revision of the TWWHA Management Plan and other matters that are outside the scope of this recommendation, such as continuing access to the existing hut on Halls Island for bushwalkers, concern that approving the proposed action would be contrary to the public's concept of wilderness and general opposition to more commercial tourist operations within the TWWHA. Key matters relevant to matters of national environmental significance raised in submissions are:
- helicopter noise
 - impacts on the Wedge-tailed Eagle from the helicopter flight path
 - potential increased risk of fire
 - damage to the sensitive bogs and vegetation from trampling, construction of infrastructure and the helipad
 - erosion from the boat landing site
 - impacts on physical wilderness values
 - impacts from the standing camp to visual amenity and undisturbed nature of the environment; and
 - impacts to aboriginal cultural heritage – mostly relating to Stage 2 (not referred).
152. The additional information provided by the proponent was published on the Department's website on 5 July 2018 and public comments were invited until 19 July 2018.

Seventy eight individual and 808 campaign submissions were received ([Attachment J2](#)). The matters raised were substantially the same as in the initial comment period.

153. On 5 December 2019, the EDO wrote to the Minister on behalf of The Wilderness Society (Tasmania) Inc to provide a further submission and additional information for the Minister's consideration in remaking the decision ([Attachment E1](#)). On 7 January 2020, the proponent provided additional information in response to the submission from the EDO ([Attachment E2](#)).
154. On 29 January 2020, the Hobart Walking Club provided a further 'submission' on the referral ([Attachment E7](#)), which reiterates the concerns raised in the submission it made during the first public comment period.
155. In the period between March and August 2020 a further campaign resulted in approximately 330 submissions made in opposition to the proposal. While these were not received within the public comment period, and do not raise new matters beyond those previously presented or considered, the submissions are included at [Attachment F1](#).
156. In preparing this brief, the Department has considered the relevant matters raised in public comments, including comments received outside of formal consultation periods. The Department considers that these matters have been adequately addressed in the referral and in the development of the particular manner in the proposed decision notice following consideration of the referral information and additional information provided by the proponent.

Comments from Commonwealth Ministers

157. By letter dated 29 March 2018, Senator the Hon Nigel Scullion, former Minister for Indigenous Affairs, was invited to comment on the referral. No comments were received in response to that invitation.

Comments from State Ministers

158. By letter dated 29 March 2018, the following State ministerial delegates were invited to comment on the referral:
 - Wes Ford, Director, Environmental Protection Authority, as delegated contact for the then Tasmanian Minister for Environment, the Hon Elise Archer MP, and
 - s22 [REDACTED], DPIPWE, as delegated contact for the then Tasmanian Minister for Environment, The Hon Elise Archer MP.
159. On 6 April 2018, Ms Alice Holeywell-Jones, (Acting General Manager, Natural and Cultural Heritage) responded on behalf of DPIPWE ([Attachment I1](#)). The key matters raised were:
 - the proposed management measures should be sufficient to minimise impacts from the increased number of visitors to the Halls Island
 - it is recommended to be clearly stated that no helicopter refueling operations or fuel storage be undertaken on site
 - no sewage, grey water and sediment be allowed to enter the lake or streams
 - where possible, helicopters do not fly within 1 km line-of-sight of known eagles' nests during the breeding season (June to January inclusive) and specifically that tours do not include a 'viewing' of a nest, and
 - the proponent should implement a biosecurity hygiene plan.

160. The Department considers that the issues raised by DPIPWE are addressed in the recommended particular manner described in the proposed decision notice and summarised in this brief.
161. On 9 April 2018, Mr Ford responded and noted that he did not intend to provide any comment on the referral and the referral would not be assessed under the bilateral agreement between the Tasmanian and Australian governments ([Attachment I2](#)).

OTHER MATTERS FOR DECISION-MAKING:

Significant impact guidelines

162. The Department has reviewed the information in the referral against the Department's Significant Impact Guidelines and other relevant material. While this material is not binding or exhaustive, the factors identified are considered adequate for decision-making in the circumstances of this referral. Adequate information is available for decision-making for this proposal.

Precautionary principle

163. In making your decision under section 75, you are required to take account of the precautionary principle (section 391). The precautionary principle is that a lack of full scientific certainty should not be used as a reason for postponing a measure to prevent degradation of the environment where there are threats of serious or irreversible environmental damage.

Bioregional Plans

164. In accordance with section 176(5), you are required to have regard to a bioregional plan in making any decision under the Act to which the plan is relevant. There is no bioregional plan that is relevant to your decision.

Management Plans for Commonwealth Reserves

165. In accordance with section 362(2), the Commonwealth or a Commonwealth agency must not perform its functions or exercise its powers in relation to a Commonwealth reserve inconsistently with a management plan that is in operation for the reserve. There is no Commonwealth reserve management plan that is relevant to your decision.

Cost Recovery

166. The person undertaking the action is exempt under section 520(4C)(e)(v) of the EPBC Act. The fee schedule with justifications for your consideration is at [Attachment L1](#). The fee schedule at [Attachment C2.1b](#) will be sent to the person taking the action.

SECTION 87 – ASSESSMENT APPROACH

167. If you decide that the proposed action is a controlled action, you must also decide on the approach for assessment in accordance with section 87 of the EPBC Act. Section 87(3) provides that in making this decision, you must consider:
- a) information relating to the action given to the Minister in the referral of the proposal to take the action; and
 - b) any other information available to the Minister about the relevant impacts of the action that the Minister considers relevant (including information in a report on the impacts of actions under a policy, plan or program under which the action is to be

taken that was given to the Minister under an agreement under Part 10 (about strategic assessments)); and

- c) any relevant information received in response to an invitation under subparagraph 74(2)(b)(ii); and
- d) the matters (if any) prescribed by the regulations; and
- e) the guidelines (if any) published under subsection (6).

168. The referral is at Attachment A. Other relevant information is discussed in the discussion of relevant impacts above, and attached. The comments received from State Ministers are summarised above at paragraphs [158] to [161]. In this case, no invitation has been given under section 74(2)(b)(ii). No relevant matters have been prescribed in regulations, and there are no guidelines.
169. The Department recommends that the proposed action be assessed by preliminary documentation (requiring further information). Under section 87(5) of the EPBC Act, you may decide on an assessment on preliminary documentation only if you are satisfied, having considered the matters in section 87(3), that the approach will enable an informed decision to be made about whether or not to approve the taking of the proposed action for the purposes of each controlling provision.
170. In this case, the Department considers the number and complexity of potential impacts are low and locally confined. This view is based on an analysis of the location of the matters of national environmental significance, the number of matters likely to be impacted, the scale of the proposed action, and potential impacts from the proposed action, as discussed above.
171. The Department notes information about the potential impacts of the proposed action has been provided through the referral and subsequent information obtained from the proponent, as well as submissions from third parties. While some additional information and analysis may be required to assess the potential impacts of the proposed action, such information could be obtained by a request under section 95A of the EPBC Act.
172. As such, the Department considers assessment by preliminary documentation is an appropriate method of assessment for the proposed action. It will provide sufficient information about the potential impacts of the proposed action, and proposed mitigation and management measures, to enable an informed decision to be made about whether to approve the proposed action for the purposes of each controlling provision.
173. For these reasons, the Department considers the relevant impacts of the proposed action should be assessed by assessment on preliminary documentation. The Department recommends seeking additional information to inform the assessment. An additional information request will be provided to the proponent if you decide that the proposed action is a controlled action to be assessed by preliminary documentation.



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