

The Hon Josh Frydenberg MP
Minister for the Environment and Energy
Parliament House
Canberra ACT 2601



26 July 2016

Dear Minister,

**MANAGEMENT PLAN – TASMANIAN WILDERNESS WORLD HERITAGE AREA
NON-COMPLIANCE WITH
AUSTRALIAN WORLD HERITAGE MANAGEMENT PRINCIPLES**

Launched in September 2001, the Tasmanian National Parks Association (TNPA) is a non-profit, non-government organisation which gives the public a voice on issues that affect Tasmania's National Parks and other conservation reserves.

The TNPA welcomes you to your new portfolio. One of your first tasks in your new role is likely to be a request from the Tasmanian government (in accordance with the joint Commonwealth – State Government arrangements for management of the area) for your agreement to the finalisation of a revised Tasmanian Wilderness World Heritage Area Management Plan (TWWHAMP).

The purpose of this letter is to ensure that you are aware that the revised management plan¹ will not comply with the Australian Government's principles for management of world heritage areas.

In particular, the TNPA draws your attention to the Australian World Heritage Management Principles (s3.02 of schedule 5 of the *Environment Protection and Biodiversity Conservation Regulations 2000*) which state that the assessment of an action that is likely to have a significant impact on the World Heritage values of a property should be undertaken by a statutory process. The absence of a statutory development assessment process in the revised management plan is not acknowledged in the Commonwealth's recent State of Conservation report to the World Heritage Committee. This deficiency also implies that the State of Conservation report's statement (page 15) that "the assessment process for proposed activities on reserved land will require an assessment of the following criteria ..." cannot be substantiated.

Tasmanian legislation currently lacks a defined assessment process for developments on reserved land and the development assessment measures proposed in the 2014 draft TWWHAMP are much less robust than those in the current 1999 TWWHAMP. To explain:

- The 1999 TWWHAMP defines the assessment process for new development proposals (New Proposals and Impact Assessment Process on page 67). This

¹ The Tasmanian Government's stated position is that the revised management plan will reflect the content of the 2014 draft management plan modified to incorporate public comment as summarised in the [PWS] Director's Report on that comment. The TNPA's statements in this letter are based on the assumption that the revised management plan will contain no other major changes.

includes a requirement for public comment on the key documentation for all but the most minor proposals. The 1999 TWWHAMP is a statutory management plan under Tasmanian legislation; therefore any process defined within it is statutory, and is potentially subject to legal challenge if abused.

- The 2014 draft TWWHAMP will also become a statutory management plan once finalised but, unlike the 1999 TWWHAMP, it does not define an assessment process for new development proposals, and the Tasmanian Government has given no indication of any intention to address this deficiency. The draft plan appears (the wording is unclear) to defer to the Tasmanian Parks and Wildlife Service's (PWS) Reserve Activity Assessment (RAA) process which requires public comment only on major proposals. The RAA is an internal PWS process, not a statutory process, so there is no possibility of legal challenge or appeals.
- The 2014 draft TWWHAMP also refers to the Tasmanian Government's Expressions of Interest (EOI) process. The description of this process is essentially a statement that all approvals required under relevant state or federal legislation must be obtained and that the Minister will be advised by a committee comprising mostly senior public servants. It is not statutory and does not require public disclosure of details of either the proposal itself or the assessment.

This concern regarding the absence of a statutory assessment process for developments on reserved land is also extremely pertinent to section 3.2.4 (Tourism and Recreation) of the report of the UNESCO Reactive Monitoring Mission (RMM) which acknowledges "concern about the perceived active encouragement of more intensive touristic use at the expense of impacts on the cultural and natural heritage". This summarises a major concern expressed by many representors in relation to the 2014 draft TWWHAMP. Recommendation 6 of the report of the Reactive Monitoring Mission seeks to address these concerns (emphasis added):

Recommendation 6

In line with a recent Committee request (Decision 39 COM 7B.35), the Management Plan should establish *strict criteria for new tourism development within the property*, which would be in line with the primary goal of protecting the property's OUV, including its wilderness character and cultural attributes.

The TNPA submits that the intent of the RMM recommendation, to protect the property's Outstanding Universal Value, including its wilderness character and cultural attributes, cannot be achieved without the definition of a statutory development assessment process to ensure that strict criteria for new tourism development within the property are enforceable.

While developments that are likely to have a significant impact on World Heritage values are also subjected to assessment by the Commonwealth Minister, it is inefficient to rely on that remote assessment to prevent inappropriate development. Consistent with your government's World Heritage Management Principles and the RMM recommendations, the *management plan itself* should explicitly set strict criteria and identify a clear, rigorous statutory process for ensuring that those criteria are met.

The TNPA's preferred solution (further details can be provided if requested) would be to incorporate an improved and more clearly defined RAA process into Tasmania's Resource Management and Planning System (RMPS) by means of an amendment to

the *National Parks and Reserves Management Act 2002* that defines the PWS assessment of impacts on reserve values and links with the provisions of the *Land Use Planning and Approvals Act 1993* in a manner analogous to the assessment of a Level 2 industrial development by the Environment Protection Authority according to the *Environmental Management and Pollution Control Act 1994*. This would end the current legal uncertainty concerning the applicability of the RMPS legislation to developments on reserved land and ensure that a development proposal on any reserved land (not just the TWWHA) receives the same scrutiny as an equivalent development on private land by means of an open and transparent assessment process which includes third-party appeal rights.

The TNPA appreciates that our preferred solution proposed above is not necessarily the only possible mechanism to achieve a statutory assessment process for developments on reserved land; the crucial point is that a statutory assessment process is required, in order to achieve both compliance with Australian World Heritage Management Principles and implementation of the Reactive Monitoring Mission's recommendation. Finalisation of the revised TWWHAMP must be delayed until an appropriate statutory assessment process is implemented.

The TNPA would welcome the opportunity to discuss further, or to provide additional information if requested.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'C Errey', with a long horizontal flourish extending to the right.

Catharine Errey
President
Tasmanian National Parks Association