



Central Highlands Council decision on Lake Malbena wilderness lodge

February 2019

The proposed Lake Malbena wilderness lodge, within the Tasmanian Wilderness World Heritage Area (TWWHA), requires approval from all three tiers of government, state, federal and local. It has already been approved by the state (via the PWS' Reserve Activity Assessment [RAA]) and federal governments, although the federal approval is currently subject to legal challenge by the Wilderness Society. The Development Application (DA) to Central Highlands Council was advertised for public representations and council chose to hold a special meeting in the Town Hall at Bothwell on 26 February 2019 to make the decision – it was rejected by 6 votes to 3.

The special meeting was chaired by the Mayor. It was attended by Central Highlands Councillors and staff, Daniel and Simone Hackett (the proponents) and about 100 representors and members of the public. About two dozen of the representors accepted the invitation to address the meeting for 3 minutes each. Daniel Hackett had right-of-reply for 20 minutes, followed by questions from Councillors, followed by the council decision.

There were 1346 representations. 3 in support, the rest opposed. Of the 1346, about 250 were individual representations, the balance were proformas. The Planning Officer's report to council glossed over many of the criticisms and recommended approval, with conditions.

The representors were a diverse bunch and their presentations covered a wide range of issues. Most were fishermen or bushwalkers whose main concern was the noise and intrusion of helicopters. The idea that a cabin with solid walls and ensuite toilet and shower complied with the definition of a "standing camp" was ridiculed by several speakers. Others raised concerns which related directly to the Central Highlands Planning Scheme, the adequacy of the bushfire precautions, stormwater and greywater disposal and the question of compliance with the 2016 Management Plan for the TWWHA. Several, including [TNPA's submission](#), suggested that the RAA was so badly flawed that it could not be relied on to demonstrate compliance with the management plan and that it was not the responsibility of council to make this decision.

Some of the media coverage referred to heckling of Daniel Hackett without explaining the context: he started his right-of-reply with a description of the history of his business but then launched into a political attack on the "extreme conservationists" who he appeared to believe had orchestrated the opposition to his proposal (despite the range of views expressed by the representors who had spoken previously suggesting that opposition came from a wide range of sources). He was almost drowned out by interjections from the public before the Mayor pulled him into line and directed him to confine his comments to his proposal.

The 6-3 rejection by council does not convey the full picture. Only one councillor appeared fully supportive. The other two supporting councillors appeared reluctant to vote against the advice of the Planning Officer because of the potential cost to council of an appeal in these circumstances (one openly stated that this was his major concern).

Much of the media coverage emphasised the pressure on the councillors that resulted from making their decision in front of an audience who overwhelmingly opposed the proposal and suggested that the decision was based on emotion, not the merits of the proposal. The presence of an audience undoubtedly added to the drama of the decision but there were also sound reasons for rejection which were referenced by many of the councillors in their statements.

A common theme amongst the comments made by the Mayor and many of the councillors was the failure of process – the state and federal governments had shirked their responsibilities – a small rural council should never have been required to make the key decisions about impacts on World Heritage values.

At time of writing (2nd March 2019) it seems likely that Daniel Hackett will appeal the council decision. He has 14 days from the date of the decision to lodge an appeal.

19 years ago!

Daniel Hackett reminded the meeting that even the 1999 Management Plan with its stronger protection for wilderness made provision for some commercial helicopter landing sites in remote areas. He failed to mention why they were never taken up.

An expression of interest in at least one of these sites (for helicopter transported fly fishing on the Central Plateau) was received soon after the plan took effect in March 1999. The PWS called for expressions of interest in the landing sites from other operators, resulting in a total of 4 proposals in different parts of the TWWHA.

The proposals were assessed by PWS in accord with the New Proposals and Impact Assessment Process defined in the 1999 Management Plan. This required the proponents to prepare comprehensive Environmental Management Plans which were made available by the PWS for public comment in January 2000. 652 comments were received. 12 supported the proposals (3 of these came from proponents) and 640 opposed it. The government of the day acknowledged the overwhelming opposition and there was no further consideration of the commercial landing sites in the lifetime of the 1999 Management Plan. The process may have been criticised for being overly rigorous but there was no suggestion that it was other than open, transparent and fair.

One of the groups which formed to oppose these proposals was “Friends of the Quiet Land” which subsequently evolved into the Tasmanian National Parks Association.

Analysis

The overwhelming number of submissions opposing commercial helicopter or floatplane use in the TWWHA in both 2000 and 2019 demonstrates that support for wilderness and natural quiet within the TWWHA remains strong.

The contrast between the orderly and respected assessment process undertaken in 2000 and the shambles in 2018-19 demonstrates the urgent need for a clearly defined, open, transparent, appealable and challengeable statutory assessment process for development proposals on reserved land which TNPA has been advocating for several years. We have seen for the first time the effect of the omission from the 2016 TWWHAMP of any equivalent of the 1999 Plan's New Proposals and Impact Assessment Process.

The key decision is the compliance or otherwise of the proposal with the requirements of the 2016 TWWHAMP. This plan is prepared under Tasmanian legislation; it is the state's responsibility to assess compliance. A key role of the PWS' RAA is to document this assessment yet the RAA for this proposal was never subject to public comment and it appears that it was not intended to be released (which may explain its remarkably low standard and major omissions; see [TNPA's critique](#)). However, it was released as part of the supporting information for the Federal (EPBC Act) assessment. It clearly has a crucial role in informing both the Federal and Local Government decisions on compliance with the TWWHAMP, even if they are legally required to form their own opinion on this matter.

The responsibility of council acting as a Planning Authority is to assess compliance with its own Planning Scheme, it does not have the expertise and should not be expected to make decisions regarding impacts on World Heritage values.