

To Mr Mike Smith
Environment Assessments (Vic, Tas) and Post Approvals Branch
Department of Climate Change, Energy, the Environment and Water
Ngunnawal Country, John Gorton Building
King Edward Terrace, Parkes ACT 2600
By email only: mike.smith@environment.gov.au

21 September 2022

Dear Mr Smith

**Re: Public comment on assessment of proposed helicopter-accessed
visitor accommodation at Halls Island, Lake Malbena (EPBC ref 2018/8177)**

We refer to the above action which is to be assessed by way of preliminary documentation under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).

As we discussed yesterday afternoon, the Wilderness Society (Tasmania) Inc has an ongoing interest in ensuring that this proposal is assessed in accordance with the EPBC Act.

To ensure that the public can meaningfully engage in the assessment of this controversial proposal, the Wilderness Society is calling for the Department to urgently halt public comment on this proposal so that a number of fundamental problems with the assessment and the material provided by the proponent can be addressed, as well as how public comment has been invited.

We have outlined the problems in further detail below.

Fundamental problems with proponent's website and material

We understand that the public is currently being invited to comment on the proposal to privatise and develop Halls Island, Lake Malbena, for the purposes of a proposed helicopter-accessed tourism for the purposes of the assessment of that proposal on preliminary documentation under the EPBC Act.

We are aware that the public is currently being invited to comment on the

proposal through the proponent's website, with the documents accessed here: <https://hallsisland.com.au/fourthcomment/>

However, we are concerned that this website provides no contextual information to indicate:

1. The nature or purpose of the public comment – namely, that it is for the assessment of the proposal under the EPBC Act. The proponent's website does not include even basic information contained in the public notice advertised under the EPBC Act;
2. What information those commenting on the proposal must give about themselves to validly make a comment (e.g. name, address etc); how public comments on the proposal will be handled by the proponent once they are provided to it; and where they will be published "in full";
3. What the "Request for Further Information – response Halls Island Standing Camp, Lake Malbena, Tasmania (EPBC 2018/8177) V4.4" document is, and how it should be understood in the context of the long history of this proposal;
4. What the "Appendices Halls Island RFI v4.4" document is, and how it should be understood in the context of the long history of this proposal.
5. The lack of data protection requirements or guarantees about how public submissions will be handled.

The "Request for Additional Information – Preliminary Documentation" from the Department to Wild Drake Pty Ltd, dated 29 September 2020 ('the RFI'), which is referenced in the preliminary documents, is not available on the proponent's website, nor is it available on the EPBC Referrals page. (Indeed, the fact that both the old and new EPBC referrals portals remain live seems likely to add to the confusion.)

Without reference to this document, it is unclear what the proponent's documentation is referring to and must provide to the Minister in order to comply with the EPBC Act preliminary documentation assessment process.

The Wilderness Society has a copy of the RFI document through a previous FOI request to the Department.

In our respectful view, even on a cursory review of the material published by the proponent on its website yesterday does not comply with the requirements of the RFI because the proponent's material:

1. Does not contain information that avoids the need to search out previous or supplementary reports and is not written so that any conclusions reached can be independently and objectively assessed;
2. Does not have a covering summary of the information provided and identification within the summary where the requirements set out in the RFI are addressed in the consolidated documentation; and
3. Is not in a format that is objective, clear and succinct.

We also note, with concern, that there is at least one attachment in the document entitled "Appendices Halls Island RFI v4.4" that does not belong to the proponent, and that no effort has been made to obtain permission from the authors of those documents to publish the material.

Document 30 is "190605-Statement of Gustaf Reutersward (Noise) filed by Joined Parties".

As far as we are aware, the proponent has not sought permission to publish the report from either the author of that report or the Wilderness Society (as one of the "joined parties" that commissioned the report to respond to the proponent's appeal to the Resource Management and Planning Appeal Tribunal, when a planning permit for the proposal was refused by the Central Highlands Council).

As Mr Reutersward's report is currently described and referred to in the proponent's material, it appears that it was an independent expert report commissioned by the proponent when this is not the case.

Finally, we are concerned that the limitations on the form of public comments on the proposal imposed by Wild Drake Pty Ltd (including that comments may only be provided through the website form and be limited to 500 words, or otherwise be uploaded as a single pdf document with a maximum file size of 150MB), means that many members of the public will not be able to meaningfully comment on the proposal through this process and/or provide to the Minister relevant materials she ought to consider as part of her assessment.

It is our view that an email address should be provided by the proponent so that public comments can be made outside of the unreasonable restrictions that are currently imposed.

In conclusion, to give the community a reasonable opportunity to understand what they are commenting upon and how they might properly and reasonably do so, the Wilderness Society requests that this process urgently be stopped so these fundamental issues can be addressed before public comment is invited once again.

There is precedent in 'stopping the clock' for the EPBC assessment of the Lake Malbena proposal. The Department did so in 2018 because of lack of information provided by Wild Drake. (See [Statement of Reasons](#), p2, para 11.)

We also make the point that this EPBC is a dramatic departure from previous EPBC assessments, which have involved objective information published on the Department's website, inviting public comment.

We are unsure why this apparent latest EPBC assessment is such a dramatic departure.

We request that you respond to this letter urgently, or in any event by no later than Wednesday September 28, 2022.

Yours sincerely



Tom Allen
Campaign manager
Wilderness Society (Tasmania)