

Submission

19.9.2017

Re: Department of Primary Industries Parks Water and Environment/Natural Resources Management/Arthur-Pieman Conservation Area/Tasmania/DPIPWE - Arthur-Pieman Conservation Area - off-road vehicle mitigation actions, Referral reference No. 2017/8038

The Western Tasmania Aboriginal Cultural Landscape received national heritage protection in 2013. Vehicle access for recreation and associated works proposed in the Tasmanian Government's referral pose significant ongoing threats to the integrity of this fragile and remote coastal strip of takayna / Tarkine.

I strongly believe that the proposal to allow the off-road vehicle mitigation actions as per the referral should be rejected because it is 'clearly unacceptable'. In particular, the works will have an unacceptable impact on an area of deep cultural significance to the Tasmanian Aboriginal community, with values recognised by the Federal Court as being of importance not only to local indigenous heritage, but to Australia as a whole.

The proposed off-road vehicle (ORV) mitigation actions will have significant direct and indirect impacts on matters of national environmental significance under the EPBC Act, including:

- The indigenous heritage values of one of the richest and most significant Aboriginal cultural heritage landscapes present in Australia. While the referral relates only to the works, the works will facilitate, to a major extent, access to the area by off-road vehicles – an action opposed by the Tasmanian Aboriginal community, and likely to result in damage to cultural heritage values. This damage is an 'indirect consequence' of the referred action and must be considered by the Minister.
- The foraging habitat for the critically endangered Orange-bellied Parrot, and the threatened Hooded Plover
- Habitat of threatened species, including the Tasmanian Devil, Eastern-barred Bandicoot and Spotted-tail Quoll.
- Wetlands providing habitat for a range of aquatic species, including frogs and wader birds
- Migratory shore-feeding bird species, such as Latham's snipe. There are a number of these which migrate from Siberia and Alaska each year to survive on this shoreline in summer, just as an increased number of ORVs arrive.

Each of these matters of national environmental significance may be further impacted by weed species and root rot being brought into this fragile landscape on tyres. The referral does not set out how the state government plans to prevent such impacts.

Adequacy of referral documents

The proposal for off-road vehicle mitigation actions should be deemed 'non-compliant'.

The Department of Environment and Energy guidelines for making a referral provide that sufficient information should be included to provide an adequate basis for a decision on the likely impacts of the proposed action. The proponent has clearly failed to meet that standard.

In the proponent's referral there is an absence of any reports into impacts of the proposed track works,

which are, in law, the referred action. The environmental and heritage evidence tendered is years old and was used by the previous government on the question of whether to close the tracks. These reports, community consultation and surveys of the environmental and cultural landscape, identified values that justified the closure of the tracks to off-road vehicles, and clearly show why the tracks should remain closed.

The supporting evidence has not been updated to consider the referred works program, and makes no assessment of the impact of proposed works on the natural and cultural values identified.

On the basis of the documents provided, the Minister should decide that the proposal is clearly unacceptable. If not 'clearly unacceptable', the documents demonstrate that the proposal is a controlled action that should be subject to a comprehensive environmental impact assessment under the EPBC Act.

Significant impact on matters of national environmental significance

Significant impact will occur on matters of national environmental significance including; the globally significant and national heritage listed Aboriginal cultural heritage landscape and environmental values of the region, including listed threatened species. The referral notes that the most evident impact on this reserved and remote land is 'the historical establishment of the tracks and the resultant erosion and exposure of unstable sand deposits, and their ongoing illegal use, in particular the creation of alternative or secondary routes and areas of braiding.'

Damage to Aboriginal cultural heritage

Track 501 has extensive Aboriginal heritage, substantial in many places, in some cases hundreds of metres in length. Access over these sites is particularly contentious as they are likely to include human remains. Inland sections are in poor condition, deeply eroded and in places there are trenches several metres deep due to the combined impacts of vehicles and wind.

Track 601 has been subject to a specific policy prohibiting vehicles since the 2002 Arthur Pieman Conservation Area management plan was put in place. The track, which traverses habitat for the endangered Tasmanian Devil and Spotted-tailed Quoll, is in very poor condition, with extensive evidence of erosion and damage from illegal access. The proponent points out that south of the Interview River, vehicle tracks go over Aboriginal heritage (including a significant midden, identified in the referral documents) and re-routing is impossible. Proposed works on track 601 will have significant direct and indirect impacts on these heritage values, disturbing heritage and allowing access to a sensitive cultural and natural area where vehicle access has previously been prevented.

The referral admits that off-road vehicle use over decades has been 'inappropriately sited and impacts on cultural heritage, particularly middens.' It states that ORVs divert from the main existing track either to seek alternative routes or in an effort to seek driving challenges.'

Despite this, the state government claims that the proposed works will minimise impacts on Aboriginal cultural heritage. However, the official representative body for Aboriginal people in Tasmania has rejected the claim. The proposal to cover ancient midden sites with mats, to protect them from damage caused by reopening off-road vehicle tracks in takayna / Tarkine, is disrespectful and will cause further damage. Heather Sculthorpe, a pakana woman and Chief Executive of the Tasmanian Aboriginal Centre, said the proposed protections would not preserve the cultural sites. "Putting some rubber matting and plastic matting over middens and artefact scatters is not protection, it is destruction."¹

Damage from off-road vehicles present in this region

The reports and surveys that are attachments in the referral show the extensive and severe damage that has been caused to matters of national environmental significance in the area where these 'mitigation actions' are to be carried out. There has been an absence of survey and monitoring of these remote sites since two of the three tracks have been closed and ongoing illegal access has occurred.

The state government's proposals to lay plastic matting and re-route tracks to facilitate access will exacerbate problems already felt on this remote and fragile coast. Proposed rerouting of tracks would create new impacts in essentially undisturbed areas, and encourage increased damage to the National Heritage listed place.

There is no evidence to support the claim that improving education, compliance and enforcing restrictions on access (in place of a complete prohibition on access) will adequately protect the natural and cultural values affected by the proposal.

The proponent claims, 'fencing will be used to protect cultural heritage sites, wetlands, herbfields and grasslands from vehicle incursions.' There is evidence that fences along this coast have been pulled down by off-road vehicle users so they can drive through the prohibited areas. Twenty years of signage and fencing have failed to prevent damage. The suggestion that repeating failed strategies will yield a different outcome, and adequately protect matters of national environmental significance, is ludicrous.

Significant impacts on threatened, critically endangered, endangered and vulnerable species: Orange-bellied Parrot, Tasmanian Devil, Spotted-tail Quoll, Hooded Plover.

The impacts on shorebirds on this coast from ORVs is especially severe because breeding periods coincide with the time most favoured by recreational vehicle convoys.

The Hooded Plover is regularly observed through the length of Track 501. This species is vulnerable to general disturbance while nesting and foraging and the destruction of nests from ORV use. While the referral claims 're-routing and signage will direct users away from potential nesting habitat wherever practical and driving will be restricted to daylight hours', it also acknowledges 'there is likely to be some unavoidable disturbance to foraging birds with heightened risk to foraging juvenile birds'.

It is misleading to say disturbance is unavoidable - disturbance to the Hooded Plover is avoidable by keeping the tracks closed and providing resources to better police and prevent illegal access.

Critically endangered species

Any impact on a critically endangered species is significant and unacceptable. The takayna / Tarkine coast, where these works are proposed, is an important part of the Bass Strait migratory corridor for many bird species including the federally listed critically endangered Orange-bellied Parrot. The proponent admits that disturbance from activities associated with the proposed works or track routing in proximity may have an impact on the utilisation of habitat for the Orange-bellied Parrot. They state 'It is not a certainty that annual survey, optimal route establishment, regulation and compliance will ensure protection of the habitat for the critically endangered species.'

Given the critically low population numbers of the species, any proposal that potentially compromises its protection should be refused.

Significant impact on globally rare ecological communities

Globally rare natural values need protection from invasive and intrusive impacts such as ORVs. Outstanding natural features of this region include geomorphological features of the coastal strip. Track 501 if opened would see ORVs travel across what the proponent describes as 'one of the most impressive examples of sandy coastal and aeolian landforms in Tasmania'. These are dramatic landforms produced by either the erosive or constructive action of the wind, dune fields that extend inland for up to 2km and can be up to 60m high. The proponent also states 'Track 503 traverses 'Western Tasmania Blanket Bogs, soils that are part of a more extensive blanket bog soil system in western Tasmania that are globally rare'.

These ecological communities contribute to the landscape and cultural heritage values of the national heritage listed Western Tasmania Aboriginal Cultural Landscape.

Policing and Compliance

The Minister is required to consider the environmental track record of the proponent. When assessing the likely impacts of the proposal, it is also necessary to consider the environmental record and attitudes of those using the area.

Illegal use of these tracks since 2012 closure of 503 and 501 and since 2002 closure of 601 has shown that the attitude of some ORV users is going to make it impossible to prevent ongoing impacts, vandalism and desecration to the Aboriginal cultural heritage landscape and nationally significant environmental values.

The proponent proposes to police ORVs on this remote coastline by increasing the number of rangers by two people. However, this policing effort relates to the entirety of the coastline, including areas with no restriction on numbers. There are hundreds of people per day in peak season accessing many fragile places along the coast. The remote and dangerous nature of tracks 501, 503 and 601 raise significant safety issues for PWS staff, making active policing impossible. Additionally, the provision of access to track 601 from a Pieman River crossing will make policing and monitoring impossible, as is the current experience in relation to illegal access on this section. The state government has not demonstrated a record of preventing access to completely closed tracks, or shown how it will improve policing where legal requirements are more nuanced (e.g. depend on demonstrating that a driver has a permit and is complying with it, rather than being clearly in breach of the law simply by being on the site).

The proponent also makes this referral based on a restricted number of vehicles permitted, however notes that this number is subject to change. Increases in usage would increase damage, but no further referral would be made unless additional works were required. The current proposal carries an entrenched risk that numbers will be increased without further assessment of additional impacts on MNES.

Conclusion

The Western Tasmania Aboriginal Cultural Landscape is on the national heritage list because it exhibits spectacular and enduring evidence of Aboriginal occupation and connection to country. The area has suffered a range of impacts attributable to ORV activity including, damage to middens, marsupial lawns, wetlands and habitat for threatened and endangered species.

The state government claims that illegal use of the tracks will decrease once they are formally opened and policed. There is an inherent conflict in safeguarding cultural and natural values on the takayna / Tarkine coast while encouraging recreational uses that have caused extensive damage for decades.

Having regard to the significance of these values, and inevitability of extensive and irreversible impacts from off road vehicles, the Minister should decide that the proposed works are clearly unacceptable. Taxpayer funds spent on the proposed actions to facilitate vehicle access to this area would be better spent on rehabilitating the already damaged cultural and natural values.

If the proposal is not assessed to be 'clearly unacceptable', then the Minister should be satisfied that the scale and significance of potential impacts make the proposal a controlled action that should be subject to a full Environmental Impact Statement under the EPBC Act.