



tasmanian conservation trust inc

Referral Business Entry Point
EIA Policy Section (EPBC Act)
Approvals and Wildlife Division
Department of the Environment, Water, Heritage and the Arts
GPO Box 787
Canberra ACT 2601

Email: epbc.referrals@environment.gov.au

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**Department of Primary Industries, Parks, Water and Environment/Tourism and recreation/Tasman National Park, Fortescue Road/TAS/Three Capes Track
Reference Number: 2011/6200**

The TCT asserts that the Three Capes Track Project has the potential to have significant impacts on numerous Matters of National Environmental Significance (MNES) – world heritage values, threatened species, migratory species and marine species – and is therefore a controlled action pursuant to Part 3 of the Environment Protection and Biodiversity Conservation Act (EPBC Act) and requires assessment and either approval or refusal by the Australian Government.

The TCT recommends that due to the numerous MNES which are at risk, the large scale and long duration of the project and the complex nature of the proposed mitigation measures, that the Three Capes Track Project be assessed under the most stringent assessment process i.e. a full Environmental Impact Assessment pursuant to Division 6 of the EPBC Act or, at the very least, through a Public Environmental Report pursuant to Division 5 of the EPBC Act.

In summary, the Three Capes Track Project is a controlled action for three reasons:

- there are potential impacts on MNES which the proponent has failed to identify, assess and provide avoidance or mitigation measures;
- a number of actions identified by the proponent have the potential to significantly impact on MNES and the claim that they can be entirely avoided or mitigated are not substantiated;
- claims by the proponent that the 'surety of mitigation measures is provided by the Parks and Wildlife Service (PWS) being the sole Management Authority' are an exaggeration and greater surety can and should be provided the Australian Government.

As identified by the proponent, the Three Capes Track Project has the potential to impact numerous EPBC Act listed values including:

- Six threatened flora species
- Three threatened fauna species
- Two migratory species
- The Port Author Historic World Heritage Site

The TCT's major concerns are regarding the potential for track and hut construction, track use by walkers and track and hut maintenance to:

- disturb the wedge-tailed eagle (EPBC Act listed endangered) at five identified nesting sites;
- disturb the white-bellied sea-eagles (EPBC Act listed migratory species) at 12 identified nest sites;
- increase the risk of *Phytophthora cinnamomi* to impact six EPBC Act listed threatened flora species;
- possibly cause non-threatened flora species to become EPBC Act listed threatened species through increasing the risk from *P. cinnamomi*; and
- impact on the view shed of the Port Author Historic World Heritage Site.

The claim by the proponent, in section 5.2 of the Referral of Proposed Action Form, that the avoidance and mitigation measures will ensure there will be not be any significant impacts on MNES cannot be supported. Unless the avoidance and mitigation measures are changed the project will have significant impacts on MNES.

Phytophthora cinnamomi

The biggest potential threat to EPBC Act listed flora species is through the project increasing the risk of spreading *Phytophthora cinnamomi* into susceptible areas.

There has been no assessment of the potential for the project to cause species to become threatened as required by the 'Threatened Abatement Plan for die-back caused by the root-rot fungus *P. cinnamomi*' (produced in 2001 by the Australian Government). The Australian Government cannot judge whether the proposed mitigation measures, e.g. buffers around susceptible plant species, has taken account of susceptible non-threatened species and whether the measures are acceptable.

- In the absence of such evidence, we recommend the Australian Government should determine that this project is a controlled action and require an assessment to be made of the potential for the project to cause species to become an EPBC Act threatened species through the spread of *P. cinnamomi*.

The documentation provided by the proponent claims that there will be no direct impact from *P. cinnamomi* on known listed species and that all indirect impacts can be mitigated through buffers and application of the *P. cinnamomi* management plan.

Clearly, by building, maintaining and using 40.6km of new tracks and a series of walkers' huts there is the potential over the life of the project to for *P. cinnamomi* to be introduced to susceptible vegetation and have an indirect

impact on one of the six identified EPBC Act listed flora species. The fact that all tracks will be routed to be at least 50 metres away from any known populations and that a management plan will be required will not guarantee zero significant impact. Over the many months of construction and decades of use and maintenance *P. cinnamomi* will almost certainly be introduced and have a significant impact on a listed species. Significant impact may occur if one worker or one walker introduces infected mud to one site and it is inconceivable that all workers and all walkers will follow the rules all of the time.

The Australian Government should assess for its self the proponent's basis for claiming 'there will not be a significant impact on listed species through the introduction of disease' (page 55).

- We recommend the Australian Government should determine that this project is a controlled action and require an assessment be made of the potential for the project to cause significant impacts on EPBC listed flora species through the spread of *P. cinnamomi*.

The proponent fails to consider some avoidance strategies to reduce the risk of *P. cinnamomi* impacting listed flora.

- We recommend the Australian Government should determine that this project is a controlled action and require that tracks or sections of tracks be closed permanently if it is found that compliance with *P. cinnamomi* measures by commercial operators or walkers are not sufficient to prevent introduction of the disease.

Eagle disturbance

On page 13 of the Referral of Proposed Action Form, the proponent states that there is 'A helipad located within the BPZ that will also potentially service the private huts'. In Section 3.1 (d) of the Referral of Proposed Action Form, the proponent fails to identify the potential impact of ongoing use of helicopters for servicing commercial huts as a potential threat to nesting eagles. Clearly if the proponent admits there is potential impact from helicopters during construction there will also be impacts from helicopters during the project's operation. Given that the huts may operated indefinitely and the helicopters may be operated by, or under the direction of, the commercial operators a range of unique management and mitigation issues arise which we assert must be separately addressed.

- The Australian Government should determine that this project is a controlled action and that an assessment should be made of the potential impact on eagles of helicopters servicing huts during the operation of the project.

On page 55 of the Referral of Proposed Action Form, the proponent states that the 'mitigation proposed for these species (wedge-tailed eagles and white-bellied sea-eagles) during construction is a measure that is required to be applied within the regulation activities in Tasmania under the Forest Practice Act 1985'. Although these measures may currently be best practice, there are concerns within the scientific community that even where successfully applied they are not proving effective for ensuring breeding success for eagles. We

understand that further information regarding these concerns will be provided to the Threatened Eagle Recovery Team when it meets next.

We have an additional concern that, while the forestry measures may be current best practice, it is arguable that many of the potential activities associated with construction and operation of this project are not specifically addressed by the forestry prescriptions.

- The TCT recommends that the Australian Government require specific prescriptions be developed to ensure that this project will not have a significant impact on wedge-tailed eagles and white-bellied sea-eagles and that these be subject to regular auditing and review to ensure they are being effective.

Port Arthur World Heritage Area site

On page 55 of the Referral of Proposed Action Form, the proponent states that there will be 'no or minimal visual impact' on the view shed of the Port Arthur World Heritage Site. This is supported in part by reference to the fact the proposed new tracks will be shielded by dense surrounding vegetation. However the proponent fails to state that the density of vegetation may change, e.g. the vegetation being burnt by bushfire, and therefore there may be an impact on the World Heritage Area site view shed.

- The TCT recommends that the Australian Government should determine that this project is a controlled action and that an assessment should be made of the potential impact on the view shed of the Port Arthur World Heritage Site and recommend appropriate avoidance or mitigation measures.

Surety of mitigation measures

On page 55 of the Referral of Proposed Action Form, the proponent states that 'Surety of mitigation measures is provided by the Parks and Wildlife Service (PWS) being the sole Management Authority for the Tasman National Park'. The PWS is the proponent for this project and cannot be assumed to be entirely objective in regard to supervising and regulating this project. Nor can it be assumed to be beyond political or commercial influence.

Without EPBC Act assessment the project will be assessed and approved primarily through the proponent's internal processes and this is not sufficient considering the numerous MNES which are at risk, that the project is proposed to be constructed with \$25 million dollars of public money and the highly controversial and political nature of the project.

A permit from the Tasman Council under the Land Use Planning and Approvals Act will also be required but the Tasman Council has very limited capacity to assess the range of highly technical issues related to the project and they are strong supporters of the project.

The mere existence of regulations and management plans cannot guarantee that all mitigation measures will be effectively applied by the PWS. This is especially the case where so many actions are not within the control of the PWS even though they may be legally responsible. For example, the construction activity will be carried out by contractors, under the supervision of

the PWS, and ongoing maintenance and servicing of huts will be done by commercial operators. There will also be thousands of walkers over the life of the project who cannot be relied upon to implement mitigation measures effectively all of the time. The capacity of the PWS to carryout the required supervision and enforcement of contractors and walkers is limited due to limited funding and competing priorities.

- The TCT recommends that the Australian Government should determine that this project is a controlled action and that an assessment should be made of the potential of the PWS to implement and maintain mitigation measures.

Ours sincerely,

A handwritten signature in black ink, appearing to read 'Peter McGlone', written in a cursive style.

Peter McGlone
Director
Tasmania Conservation Trust