

Tasmanian Conservation Trust Submission on the Arthur Pieman Conservation Area Management Plan

Hon. David Llewellyn MHA
Minister for Primary Industries,
Water and Environment
First Floor Franklin Square Offices
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Dear Minister

Arthur Pieman Conservation Area Management Plan - Consultation Draft - Submission

The Tasmanian Conservation Trust appreciates the opportunity to make a submission on the consultation draft of the Arthur Pieman Conservation Area Management Plan.

Could we make at the outset an observation regarding the place of 'squeaky wheel democracy' in our society. In our view it would be fair to say that, certainly in living memory, there has not been anything like the level of extensive, open, transparent and informative public consultation associated with the preparation of this management plan. It is a great pity that your department did not see fit to carry out the same level of community involvement in the preparation of two other very recent management plans, namely South Bruny National Park, Waterfall Creek State Reserve and the Pitt Water Orielton Nature Reserve. The quality of the draft management plans in these instances are a reflection of that lack of involvement.

We presume that in future all management plans will be prepared with the same levels of community consultation as the plan for the Arthur Pieman Conservation Area.

Submission

1.

We continue to be disappointed and frustrated that your department persistently ignores the pivotal role of the Resource Management and Planning System in the management of reserved lands. As you would know, the *Regional Forest Agreement (Land Classification) Act* amended the *National Parks and Wildlife Act* to provide that:

"In exercising any powers or performing any functions under this Act in relation to any reserved land, a person must have regard to the resource management and planning system objectives."

Those objectives are as follows:

- (a) to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity; and
- (b) to provide for the fair, orderly and sustainable use and development of air, land and water; and
- (c) to encourage public involvement in resource management and planning; and
- (d) to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c); and
- (e) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State

In clause (a), 'sustainable development' means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural well being and for their health and safety while -

- (a) sustaining the potential of natural and physical resources to meet the reasonable foreseeable needs of future generations; and
- (b) safeguarding the life-supporting capacity of air, water soil and ecosystems; and
- (c) avoiding, remedying or mitigating any adverse effects of activities on the environment.

2.

The objectives of the Resource Management and Planning System must be included in either Section 1 - Overview, or Section 2 - Vision, Objectives and Zones, and most importantly the plan must be underpinned by those objectives in addition to the values, purposes and objectives for a conservation area as provided by the National Parks and Wildlife Act.

3.

The matter of involving the community in the management of the area warrants close attention. The objectives of the Resource Management and Planning System require the encouragement of public involvement in resource management and planning, and promotion of the sharing of responsibility for resource management between the different spheres of Government, the community and industry. *The Regional Forest Agreement*

(Land Classification) Act amended the *National Parks and Wildlife Act* to provide for the establishment of Conservation Management Trusts to be the managing authority for conservation areas, nature recreation areas and regional reserves where there is a management plan. The functions and membership of a Trust are specified in the Act and we would support the establishment of such a body in the case of the Arthur Pieman Conservation Area, with certain vital caveats.

4.

Those caveats relate to the need to ensure that the area is managed for all Tasmanians and not just narrow sectional interests. In this regard we reject the silly and intellectually dishonest suggestion by the consultant for the Arthur Pieman Coalition for the establishment of an Arthur Pieman Management Authority supposedly similar to the Ben Lomond Ski Field Management Authority. The most cursory reading of the relevant Act and the Ben Lomond National Park Management Plan would show the total inappropriateness of this suggestion. An earlier submission from the same consultant proposing the establishment of a Conservation Management Trust was far more sensible. We agree with the sentiment at section 7.3 of the consultation draft that this is an area for which all Tasmanians have a stake in ongoing management.

5.

It goes without saying that whatever process is put in place to determine the membership of the Conservation Management Trust, it must be transparent, inclusive, equitable and fair.

6.

We would support the proposition at section 4.3 of the need for minor boundary modifications to provide for more sensible and appropriate management.

7.

Cattle agistment in the Arthur Pieman Conservation Area ought to be a major concern in any management prescriptions. The objectives of conservation areas as set out in the NPW Act and the objectives of the Resource Management and Planning System would both suggest that there is no choice but to dramatically change past practices.

a) Any agistment has to be sustainable in accordance with the RMPS objectives. If this cannot be shown the activity must either cease or change to become sustainable. There is more than enough evidence to suggest the present activities are anything but sustainable.

b) The RMPS objectives also require that economic development must be fair, orderly and sustainable. The present situation where a very small number of farmers in the local area gain considerable economic advantage from a public asset, at a cost to the rest of the community is anything but fair and cannot continue.

c) If it were shown that the activity could be made ecologically sustainable it would still need to be shown that agistment fees met the real costs of managing cattle grazing in the area. These real costs must include at least rehabilitation and revegetation expenses, ongoing research and monitoring, maintenance and depreciation costs of infrastructure and equipment and weed control.

8.

It is hard to imagine how the consultation draft could have been released without one single reference to the State Coastal Policy - not even in the list of references. One would hope this is not because the department feels it is not bound by the provisions of the policy. The policy is the main tool for coastal management in the state and has the force of law. Not only that but the State Policies and Projects Act provides that a person who contravenes or fails to comply with a provision of a State Policy or a requirement or obligation imposed under a State Policy is guilty of an offence punishable by summary conviction. No doubt that would include a person preparing a management plan that was not consistent with the policy.

9.

For example clause 2.7.1 of the policy requires that all future use and development of public land will be consistent with the policy. Clause 2.6.2 requires public access to and along the coast to be directed to identified access points. Uncontrolled access which has the potential to cause significant damage to the fragile coastal environment and is inconsistent with this policy will be prevented. Clause 2.1.15 provides that the harvesting of marine plants shall be conducted in a sustainable manner in accordance with relevant state legislation and the policy. Clause 2.1.5 requires that the precautionary principle will be applied to development which may pose serious or irreversible environmental damage to ensure that environmental degradation can be avoided, remedied or mitigated.

10.

You would be aware that the precautionary principle, as defined in the policy, means where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle the policy provides that public

and private decisions should be guided by careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment and an assessment of the risk-weighted consequences of various options.

11.

You would also be aware that development is defined in the policy as including:

- *the construction, exterior alteration or exterior decoration of a building;*
- *the demolition or removal of a building or works;*
- *the construction or carrying out of works;*
- *the subdivision and consolidation of land, including buildings or airspace;*
- *the placing or relocation of a building or works on land;*
- *the construction or putting up for display of signs or hoardings.*

Works are defined as including

"any change to the natural or existing condition or topography of land including the removal, destruction or lopping of trees and removal or vegetation or topsoil, but does not include forest practices, as defined in the Forest Practices Act 1985, carried out in State Forests."

12.

It is at least reassuring to note that the consultation draft acknowledges the existence of the State Policy on Water Quality Management. As with the State Coastal Policy the Crown is bound by the provisions of the policy which has the force of law. Two of the objectives of the policy are particularly relevant with respect to the matter of stock agistment. They are to ensure that diffuse source and point sources pollution does not prejudice the achievement of water quality objectives and that pollutants discharged into waterways are reduced as far as is reasonable and practical by the use of best practice environmental management; and secondly to ensure that efficient and effective water quality monitoring programs are carried out and that the responsibility for monitoring is shared by those who use and benefit from the resource, including polluters, who should bear an appropriate share of the costs arising from their activities, water resource managers and the community. In addition the precautionary principle applies to that part of the policy dealing with actions to achieve water quality objectives.

13.

One upshot of the need to be bound by the provisions of the State Coastal

Policy and the State Policy on Water Quality Management, the objectives of the Resource Management and Planning System and the values, purposes and objectives of conservation areas (all of which are statutory obligations we might add), is that the notion of management zones goes out the window. These objectives and policies are applicable across the whole of the Arthur Pieman Conservation Area.

14.

For example the definition of the coastal zone in the State Coastal Policy is that the coastal zone includes at least the following primary elements:

- *the seabed, tidal waters and foreshore,*
- *dunes, beaches, sea cliffs, wave cut platforms and hard rock areas,*
- *the water, plants and animals,*
- *the atmosphere above,*
- *wetlands, marshes, lagoons and swamps along, and immediately inland of, the coast,*
- *associated areas of vegetation*
- *associated areas of animal habitat, and*
- *associated areas of human habitat and activity.*

The zone extends seaward to the outer limits of the territorial sea adjacent to Tasmania, embracing islands and outcrops within the jurisdiction of the State, excluding Macquarie Island, and extends inland to the extent necessary to embrace activities, uses and developments which may have a significant effect upon the amenity and environment of the coast as constituted by the primary elements listed above.

The zone extends inland to the extent necessary:

(a) to embrace proposed activities, uses and developments which in the opinion of the relevant planning authority may, if allowed to proceed, impact on the coast; and

(b) to achieve the principles, objectives and outcomes of this Policy.

The management plan cannot legally make distinctions between different parts of the coastal zone on the basis of arbitrary management zones. Likewise the objectives for conservation areas, the RMPS objectives and the objectives of the water quality policy do not allow arbitrary management zoning to vary statutory responsibilities.

15.

The matter of leases and licences is vexed. It would be fair to say, at the moment, there is a lack of transparency, equity and fairness in the way in which leases and licences are issued and managed. The question of publicly accountable performance criteria is also very relevant. It is our view that the matter of leases and licences should be dealt together with those activities described under the proposed business enterprise committee. The difference is that there should not be a business enterprise committee.

16.

We believe that responsibility for leases and licences as well as business enterprises should be given to the Conservation Management Trust. The NPW Act provides that the instrument establishing a Trust may specify any matter that the Minister considers necessary, and this could, and should, include leases, licences and business enterprises.

17.

Any recreation practiced in the Arthur Pieman Conservation Area must meet the objectives of the State Coastal Policy, the State Policy on Water Quality Management, the objectives for conservation areas and the RMPS objectives. This may seem to be stating the obvious but it is the case that when all these objectives are met, the way in which recreation is "traditionally" practiced in the area will be vastly different. Camping and off road vehicles spring immediately to mind.

18.

"Traditional" users of the Arthur Pieman Conservation Area must accept that we still live in a democracy in Tasmania and that their use of public land has to be tempered by the law. The right to exercise that legal use brings with it a responsibility to act within the law as it applies to us all.

19.

The section dealing with off road vehicle use in the consultation draft is most depressing. The document acknowledges that many current practices in the conservation area are unlawful including:

- use of unregistered vehicles;
- operation of a vehicle without permission of the land manager;
- underage unlicensed drivers; and
- almost universal operation outside of the areas covered by authorisations.

It further acknowledges that impediments to better application of the current regulation system include:

- a strong local culture of the acceptance of the legitimacy of their uncontrolled use in the conservation area;
- the current high degree of ambiguity/uncertainty in the community concerning the current regulative environment;
- the large number of people currently operating vehicles off-road in the conservation area;
- the concentration of use around and between the many shack communities on the coast; and
- the evasiveness of some users, particularly those on high speed, high powered bikes.

Unfortunately there does not appear to have been any attempt at "thinking outside the square" with respect to policing.

20.

We would like to suggest that as part of the establishment of a Conservation Management Trust there is a strictly user pays policing system to enforce the law. This might take the form of local residents employed to staff on a permanent basis all principle access points to the area with the authority to issue on the spot fines for any person who does not have a registered vehicle, is underage, is unlicensed or does not have the permission of the Trust where required. The level of on the spot fines must be sufficient to cover all costs associated with this policing system. This would include the obvious costs such as salaries, on costs, administrative overheads etc but also a component to provide for sustaining the resources of the Arthur Pieman Conservation Area to meet the reasonably foreseeable needs of future generations.

21.

In our view the objectives of the Resource Management and Planning System will not be fully met unless once approved, the management plan provides for appeal rights regarding activities undertaken in the management plan area. The RMPS is predicated on public involvement in and sharing responsibility for resource management and planning. Without statutory appeal rights, logically to the Resource Management and Planning Appeal Tribunal, the involvement and shared responsibility is hollow.

Yours sincerely
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Director