

# Chapter 3

## Other key issues

### Introduction

3.1 This chapter examines other key issues raised in evidence to the inquiry, including:

- the process followed for the 2014 modification;
- cultural heritage issues;
- the potential impacts of the excision proposal; and
- the possible international reaction to the proposal, including the World Heritage Committee's likely response.

### Process followed for the 2014 modification

3.2 As noted in the previous chapter, the Department of the Environment's evidence made clear that the starting premise for the boundary modification proposal was the commitment made by the coalition during the 2013 federal election campaign to seek a reduction in the World Heritage boundary.<sup>1</sup>

3.3 The Department of the Environment advised that it was asked to undertake a review of the 2013 extension after the Minister wrote to the Chair of the World Heritage Committee on 18 December 2013. The Minister requested the Department of the Environment to prepare the minor boundary modification for submission to the World Heritage Centre by 31 January 2014.<sup>2</sup>

3.4 In response to the committee's questioning on this issue, the Department of the Environment indicated that it was given only a few weeks to prepare the dossier provided to the World Heritage Committee:

In early January 2014, departmental staff met with the Minister for the Environment, the Hon Greg Hunt MP to discuss principles for preparing the first draft of the minor boundary modification. The first draft map of the proposed excisions was prepared by the Department following this meeting and provided to the Minister on 21 January 2014. The final map was provided on 29 January 2014.<sup>3</sup>

3.5 The Department also advised that it:

...consulted with the Department of Agriculture in relation to data. The Department and the Department of Agriculture also sought information from the Tasmanian Government. Beyond this, the review was largely

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1 Dr Kimberley Dripps, Deputy Secretary, *Committee Hansard*, 6 May 2014, p. 20.

2 Department of the Environment *Submission 14*, p. 3.

3 Department of the Environment, *Response to written questions taken on notice*, 7 March 2014, p. 1.

informed by information that the Department already had access to including composite aerial photographs and other remotely sensed imagery, and data publicly available from the Tasmanian Government.<sup>4</sup>

3.6 The Department advised that 'a range of factors were considered in preparing the minor boundary modification proposal to meet the Government's election commitment'. The Department indicated that this included:

- a review of the world heritage values;
- use of available maps and data to identify areas within the extension that clearly show signs of previous disturbance from forestry activities;
- the need to create a coherent and sensible management boundary;
- connectivity between the property and national parks or other formal reserves that existed prior to June 2013; and
- the retention of as much tall wet eucalypt forest, giant trees and habitat for nationally listed threatened species as possible while also providing access for improved economic returns for Tasmania.<sup>5</sup>

3.7 In terms of consultation processes and expert advice on the proposal, the Department of the Environment advised that:

Departmental staff provided advice on the values and the requirements for the Australian government's submission. No independent scientific or heritage expert peer review was undertaken.<sup>6</sup>

3.8 A departmental representative added that:

...the consultation with the community around the government's election commitment was undertaken by members of the now government during the election campaign. The department did not add to that consultation between the period of being asked to prepare the dossier and its submission at the end of January.<sup>7</sup>

3.9 The Department also advised that it 'did not undertake any field visits as part of preparing the revised boundary modification requests', and nor did it have access to Forestry Tasmania's coupe data.<sup>8</sup>

3.10 During the committee's Canberra hearing, the Department of Agriculture advised that it had provided data to the Department of the Environment on the

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4 Department of the Environment, *Submission 14*, p. 3; see also Dr Kimberley Dripps, Deputy Secretary, *Committee Hansard*, 6 May 2014, p. 24.

5 Department of the Environment, *Submission 14*, pp 3–4.

6 Department of the Environment, *Response to written questions taken on notice*, 7 March 2014, p. 4.

7 Dr Kimberley Dripps, Deputy Secretary, Department of the Environment, *Committee Hansard*, 6 May 2014, p. 18.

8 Dr Kimberley Dripps, Deputy Secretary, Department of the Environment, *Committee Hansard*, 6 May 2014, p. 24.

distribution of plantations, and also data relating to special species timber resources.<sup>9</sup> In response to the committee's questioning as to the need for the data relating to special species timber, the Department of the Environment advised:

In advising the government on the possible options that might be available for a minor boundary modification, we wanted to take into account the potential alternative uses that had raised concern in Tasmania, and so we used all of the available data layers that we had. The process of reserve boundary design often involves overlaying competing issues...<sup>10</sup>

3.11 However, several submitters and witnesses queried the adequacy of this process. Concern was expressed that the 2014 proposal 'has not been through any consultation process whatsoever'.<sup>11</sup> It was also suggested that the motivation for the proposal was purely political and not based on scientific evidence nor world heritage criteria and values.<sup>12</sup> In their joint submission, The Wilderness Society, ACF and Environment Tasmania submitted that the 2014 proposal fails to identify or address the Outstanding Universal Values affected by the proposed excision and is 'demonstrably flawed in its arguments, lacks genuine evidence and supportive information and is politically motivated'.<sup>13</sup>

3.12 Indeed, the process for the proposed 2014 modification was contrasted by some with the process leading up to the 2013 listing, as discussed in the previous chapter.<sup>14</sup> For example, the Wilderness Society, ACF and Environment Tasmania submitted that the 2014 minor boundary modification proposal:

...provides a stark contrast to the comprehensive and persuasive arguments of 2013. Very little real information is provided. The claim that the areas proposed for excision 'contain logged/degraded' areas is used *ad nauseum* as a one-size-fits-all argument irrespective of context or validity. No statistics or maps pertaining to the 'logged/degraded areas' are provided. No arguments of substance are advanced. Key issues are ignored. No back-up materials in the form of references, illustrations or appendices are provided.

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9 Mr Mark Tucker, Deputy Secretary, Department of Agriculture, *Committee Hansard*, 6 May 2014, p. 25.

10 Dr Kimberley Dripps, Deputy Secretary, *Committee Hansard*, 6 May 2014, p. 25.

11 Mr Vica Bayley, Tasmanian Campaign Manager, The Wilderness Society, *Committee Hansard*, 31 March 2014, p. 6.

12 See, for example, Florentine Protection Society, *Submission 18*, p. 3; Mr Vica Bayley, Tasmanian Campaign Manager, The Wilderness Society, *Committee Hansard*, 31 March 2014, pp 1–2; Mr Alec Marr, *Submission 106*, p. 3.

13 The Wilderness Society, ACF and Environment Tasmania, *Submission 23*, p. 1; see also Mr Vica Bayley, Tasmanian Campaign Manager, The Wilderness Society, *Committee Hansard*, 31 March 2014, pp 1–2.

14 See, for example, Mr Vica Bayley, Tasmanian Campaign Manager, The Wilderness Society, *Committee Hansard*, 31 March 2014, pp 1 and 6.

It is devoid of references to past requests made by the World Heritage Committee with respect to the Tasmanian Wilderness.<sup>15</sup>

3.13 Ms Anne McConnell, Vice-President of the Tasmanian National Parks Association, similarly told the committee of the Association's concern:

...that the proposal for withdrawing some of those areas does not seem to have gone into a lot of detail on what the existing values in those areas are and what will be lost and what will not be lost.<sup>16</sup>

3.14 In same vein, Australian ICOMOS submitted that it is:

...alarmed that this proposal by the Australian Government fails to respect that due process was followed by the World Heritage Committee and that Outstanding Universal Value has been established as the prerequisite for the decision to support the 2013 Boundary Modification. We hence query how the Australian government states it believes the excision of identified areas from the property will enhance the credibility of the World Heritage listing. The opposite seems more likely.<sup>17</sup>

3.15 Australian ICOMOS concluded that:

...the proposal appears to be driven by political and economic imperatives arising from the recent change of Federal government in Australia, and by ongoing lobbying in relation to the proposed changes to the way logging is managed in the State of Tasmania. This is made clear in points 5 and 6 of the Australian Government submission to UNESCO.<sup>18</sup>

### ***Minor or significant boundary modifications***

3.16 As noted in Chapter 1, modifications to boundaries of World Heritage properties are covered under the Operational Guidelines and can be considered either 'minor' or 'significant'. There was some discussion during the committee's inquiry as to whether the Government's current proposal can be considered a minor boundary modification, and indeed whether the previous 2013 extension should have been treated as a significant rather than a minor modification.

#### *2014 proposal*

3.17 Several submitters and witnesses suggested that the proposal would not qualify as a minor modification but should be considered a significant modification due to its impacts on the Tasmanian Wilderness World Heritage Area.<sup>19</sup> For example, Mr Peter Hitchcock, a world heritage consultant, told the committee that paragraph 163 of the Operational Guidelines:

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15 The Wilderness Society, ACF and Environment Tasmania, *Submission 23*, p. 13.

16 Ms Anne McConnell, Vice President, Tasmanian National Parks Association, *Committee Hansard*, 31 March 2014, p. 30.

17 Australian ICOMOS, *Submission 12*, p. 2.

18 Australian ICOMOS, *Submission 12*, p. 2.

19 See, for example, Mr Peter Hitchcock AM, *Committee Hansard*, 31 March 2014, p. 38; Mr Tom Baxter, *Committee Hansard*, 31 March 2014, p. 51; ANEDO, *Submission 17*, p. 10.

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...requires that any proposal for a minor modification of a boundary does not affect its outstanding universal value. My advice is that the proposal does affect the outstanding universal value of the World Heritage area. Therefore, arguably, it should not be considered a minor modification.<sup>20</sup>

3.18 Mr Adam Beeson from the EDO (Tas) noted that an application by Tanzania for removal of an area, for the purposes of building a uranium mine, was considered a significant modification by the World Heritage Committee even though it was removing only one per cent of the area in question.<sup>21</sup> He therefore suggested that:

...this proposal should not be framed as a minor modification. The most relevant decision of the World Heritage Committee in relation to the Selous Game Reserve in Tanzania suggests that altering boundaries to allow for resource exploitation, which plainly this application is, should be done via the significant modification process. It would strengthen the convention for this to be the position, as applying for a significant modification is a longer and more in-depth process than for a minor modification.<sup>22</sup>

3.19 ANEDO argued that because the objective of the World Heritage Convention is preservation, the process for removing areas should be more rigorous than the process of extending boundaries. ANEDO therefore believed that 'applications to reduce the area of a listed property, particularly if motivated by resource exploitation, should be characterised as significant modifications'. ANEDO argued that this view 'is supported by the past practice of the World Heritage Committee'.<sup>23</sup>

3.20 In relation to this issue, representatives of the Department of the Environment advised that the Operational Guidelines:

...distinguish between minor and significant modifications on the basis of their impact on the outstanding universal value of the property. Boundary modifications should enhance protection of the property's outstanding universal value through contribution to the criteria for which the property was inscribed on the World Heritage List, the integrity and/or authenticity of the property and aspects of its protection and management.<sup>24</sup>

### *2013 extension*

3.21 Some witnesses also suggested that the 2013 extension should not have been treated as a minor modification, since it was an increase of over 10 per cent of the

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20 Mr Peter Hitchcock AM, *Committee Hansard*, 31 March 2014, p. 38.

21 Mr Adam Beeson, Solicitor, EDO (Tas), *Committee Hansard*, 31 March 2014, p. 27.

22 Mr Adam Beeson, Solicitor, EDO (Tas), *Committee Hansard*, 31 March 2014, p. 23.

23 ANEDO, *Submission 17*, pp 11–13.

24 Dr Kimberley Dripps, Deputy Secretary, Department of the Environment, *Committee Hansard*, 6 May 2014, p. 17.

original area.<sup>25</sup> For example, Mr Denman of the Tasmanian Special Timbers Alliance suggested that, given that the 2013 extension was around 12 per cent of the original area, it was a not a 'minor' adjustment and, as such, it should have undergone a full assessment.<sup>26</sup> The Huon Resource Development Group called the 10 per cent figure an 'absolute upper limit'.<sup>27</sup>

3.22 Other witnesses described the number of 10 per cent as a 'rough guide' and a 'rule of thumb'.<sup>28</sup> For example, Mr Tom Baxter advised that the Operational Guidelines indicate that it is not just about the size of the modification, but also the impact of the modification on the outstanding universal value.<sup>29</sup> Mr Beeson from the EDO (Tas) similarly explained that modifications need to be considered in the context of the objectives of the convention, and as such 'it is not just about the land area, it is about the purpose for the modification'.<sup>30</sup>

3.23 ANEDO pointed out that the IUCN advisory report to the World Heritage Committee had in any case addressed this issue in 2013. The advisory report stated:

IUCN notes that the size of the property is around the unofficial upper level for consideration as a minor boundary modification (which has been considered as typically c.10%). IUCN considers that it is reasonable and appropriate for the Committee to approve the proposal through the minor modification process, given (a) the clear and established position of the World Heritage Committee noted in its past decisions, (b) the degree of past consideration of these issues by the Committee and Advisory Bodies, including via both evaluation and monitoring missions, and (c) clear analysis provided in the proposal regarding its values, integrity, protection and management.<sup>31</sup>

3.24 A representative from the Department of the Environment confirmed that 'the 10 per cent figure in the operational guidelines for minor boundary modification is a general guide to state parties'.<sup>32</sup> She further advised that the World Heritage

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25 See, for example, Huon Resource Development Group, *Submission 31*, pp 1 and 2; Ms Alison Carmichael, Chief Executive Officer, Institute of Foresters Australia, *Committee Hansard*, 6 May 2014, p. 1; Mr Andrew Denman, Spokesman, Tasmanian Special Timbers Alliance, *Committee Hansard*, 31 March 2014, p. 17.

26 Mr Andrew Denman, Spokesman, Tasmanian Special Timbers Alliance, *Committee Hansard*, 31 March 2014, p. 17.

27 Huon Resource Development Group, *Submission 31*, p. 2.

28 Mr Vica Bayley, Tasmanian Campaign Manager, The Wilderness Society, *Committee Hansard*, 31 March 2014, p. 5; Mr Geoff Law AM, Expert Consultant, The Wilderness Society, *Committee Hansard*, 31 March 2014, p. 5; Mr Adam Beeson, Solicitor, EDO (Tas), *Committee Hansard*, 31 March 2014, p. 24.

29 Mr Tom Baxter, *Committee Hansard*, 31 March 2014, p. 51.

30 Mr Adam Beeson, Solicitor, EDO (Tas), *Committee Hansard*, 31 March 2014, p. 27.

31 ANEDO, *Submission 17*, p. 12; see also IUCN Evaluation Report, 2013, p. 3.

32 Dr Kimberley Dripps, Deputy Secretary, Department of the Environment, *Committee Hansard*, 6 May 2014, p. 22.

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Committee had been 'disposed to accept' Australia's application in 2013, particularly since it 'had requested for a number of years that it receive such an increase in the property's area'.<sup>33</sup>

### **Cultural heritage issues**

3.25 A number of submitters raised cultural heritage as an issue, both in relation to the original June 2013 extension and the current proposed modification. As Australian ICOMOS pointed out:

Any assessment of World Heritage values and the current proposal for a boundary modification in the TWWHA [Tasmanian Wilderness World Heritage] cannot be undertaken in isolation of the significant cultural heritage values related to the WHA and its surrounds.<sup>34</sup>

3.26 In approving the June 2013 extension, the World Heritage Committee noted that:

...the proposed minor boundary modification has been submitted under natural criteria only although it appears to contain significant cultural attributes that relate to those located within the inscribed property.<sup>35</sup>

3.27 The World Heritage Committee requested that Australia address the following concerns regarding the cultural values of the property:

- a) Undertake further study and consultation with the Tasmanian Aboriginal community in order to provide more detailed information on the cultural value of the additional areas and how these relate to the Outstanding Universal Value of the existing property;
- b) Provide detailed information on the legal provisions for the protection of cultural heritage in the extended property;
- c) Provide detailed information on the management arrangements for cultural heritage and in particular for the control of access to archaeological sites and sites of cultural significance.<sup>36</sup>

3.28 At the time the Tasmanian Wilderness World Heritage extension proposal was approved by the World Heritage Committee, the then Minister for the Environment, the Hon Tony Burke MP, acknowledged that, while the natural values had been listed,

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33 Dr Kimberley Dripps, Deputy Secretary, Department of the Environment, *Committee Hansard*, 6 May 2014, p. 23.

34 Australian ICOMOS, *Submission 12*, p. 1; see also, for example, Ms Ruth Langford, State Secretary, Tasmanian Aboriginal Centre, *Committee Hansard*, 31 March 2014, pp 21–22.

35 UNESCO World Heritage Committee, *Decision 37 COM 8B.44*, <http://whc.unesco.org/en/decisions/5174> (accessed 9 April 2014).

36 UNESCO World Heritage Committee, *Decision 37 COM 8B.44*, <http://whc.unesco.org/en/decisions/5174> (accessed 9 April 2014).

'there was still more work to be done in protecting the cultural values'.<sup>37</sup> On 19 June 2013, the Minister therefore announced funding for a study to 'help identify cultural values in the Tasmanian Wilderness World Heritage Area'. The Minister noted that:

There are known sites of Aboriginal cultural heritage value recorded within the proposed boundary modification...However, further work is required to better understand and articulate how these sites, especially those in the proposed boundary modification, contribute to the Tasmanian Wilderness' Outstanding Universal Value.<sup>38</sup>

3.29 The Minister stated that 'the study will be designed and undertaken in close consultation with the Aboriginal community in Tasmania' and would be 'forwarded to the World Heritage Committee in February 2015'.<sup>39</sup>

3.30 The Australian Government's 2014 proposal acknowledges that the cultural values of the 2013 extension:

...require further study and consultation with the Tasmanian Aboriginal community in order to better document and understand how these relate to the Outstanding Universal Value. The current proposal retains many of these important features within the property.<sup>40</sup>

3.31 Australian ICOMOS submitted that:

While we had concerns that the 2013 proposed boundary modification did not include an assessment of cultural values, the 2013 decision has more by accident than design provided for the inclusion and hence protection of some places of significant cultural value...<sup>41</sup>

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37 The Hon Tony Burke MP, then Minister for Sustainability, Environment, Water, Population and Communities, *Tasmania's precious forests protected forever*, media release, 19 June 2013, <http://www.environment.gov.au/minister/archive/burke/2013/mr20130624.html> (accessed 2 April 2014).

38 The Hon Tony Burke MP, then Minister for Sustainability, Environment, Water, Population and Communities, *Study to help identify cultural values in Tasmanian Wilderness World Heritage Area*, media release, 19 June 2013, <http://www.environment.gov.au/minister/archive/burke/2013/mr20130619.html> (accessed 2 April 2014).

39 The Hon Tony Burke MP, then Minister for Sustainability, Environment, Water, Population and Communities, *Study to help identify cultural values in Tasmanian Wilderness World Heritage Area*, media release, 19 June 2013.

40 Australian Government, *Proposal for a Minor Modification to the Boundary of the Tasmanian Wilderness World Heritage Area*, 31 January 2014, p. 5.

41 Australian ICOMOS, *Submission 12*, p. 1.



3.32 Indeed, several submissions and witnesses identified culturally significant sites in the areas proposed to be excised from the extended World Heritage Area.<sup>42</sup> For example, Australian ICOMOS identified sites such as:

- Nanwoon Cave (in the Mount Wedge-Upper Florentine Section);
- Navarre Plains area (Upper Derwent Section); and
- the Recherche Bay West area (Recherche Section).<sup>43</sup>

3.33 Mr Peter Hitchcock informed the committee that his research indicated that at least 24 Aboriginal cultural sites may be adversely impacted by the proposed delisting.<sup>44</sup>

3.34 The Law Council of Australia strongly supported ongoing consultation with Tasmanian Aboriginal communities regarding the management of the listed property and recommended the Australian Government:

- undertake the cultural heritage protection studies, reporting, and consultation activities requested by the World Heritage Committee; and
- ensure adequate resources are made available for the identification of cultural heritage values in the Tasmanian Wilderness World Heritage Area and development of management strategies to protect those values.<sup>45</sup>

3.35 However, as the Tasmanian National Parks Association submitted, 'the full significance of the cultural values relating to previous Aboriginal occupation in the areas marked for revocation is yet to be determined'.<sup>46</sup>

3.36 For this reason, a number of submitters and witnesses told the committee that it is premature for the Government to be pursuing this modification prior to the completion of the assessment of the cultural values assessment. For example, Australian ICOMOS noted that Australia is required to report on its assessment of cultural values to the 39<sup>th</sup> session of the World Heritage Committee in 2014, and as such 'it is premature to be proposing any modification before that time'.<sup>47</sup>

3.37 The Tasmanian Aboriginal Centre agreed, stating that it is 'stunned' that the Government is:

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42 See, for example, Australian ICOMOS, *Submission 12*, p. 2; The Wilderness Society, ACF, Environment Tasmania, *Submission 23*, p. 11; Ms Anne McConnell, Vice President, Tasmanian National Parks Association, *Committee Hansard*, 31 March 2014, p. 30; Florentine Protection Society, *Submission 18*, p. 4.

43 Australian ICOMOS, *Submission 12*, p. 2; see also Ms Anne McConnell, Vice President, Tasmanian National Parks Association, *Committee Hansard*, 31 March 2014, p. 36; Mr Peter Hitchcock AM, *Committee Hansard*, 31 March 2014, p. 42.

44 Mr Peter Hitchcock AM, *Submission 25*, p. 17 and *Committee Hansard*, 31 March 2014, p. 38.

45 Law Council of Australia, *Submission 27*, p. 14.

46 Tasmanian National Parks Association, *Submission 15*, p. 2.

47 Australian ICOMOS, *Submission 12*, p. 2; see also, for example, Florentine Protection Society, *Submission 18*, p. 4.

...seeking to repeal the TWWHA boundaries without undertaking full and proper consultation with the Tasmanian Aboriginal Community, in order to determine the Aboriginal Cultural values as requested by the WHC [World Heritage Committee]. Until an extensive assessment of the Aboriginal Cultural Values conducted by the Aboriginal Community has occurred, both the Government and the World Heritage Council will not be able to make informed decisions.<sup>48</sup>

3.38 Several submitters also expressed concern as to the status of the study to help identify cultural values in the Tasmanian Wilderness World Heritage Area.<sup>49</sup> For example, Australian ICOMOS submitted that:

We have not been able to gain a reassurance that the \$500,000 committed last year by the Federal Labour government to undertake the cultural assessment will be forthcoming under the Federal Coalition government.<sup>50</sup>

3.39 In response to questioning on the status of the cultural heritage assessment, the Department of the Environment advised that that the 'project has not yet commenced and funding has not yet been provided'.<sup>51</sup>

### **Impacts on the Tasmanian Wilderness World Heritage Area**

3.40 Several submitters and witnesses expressed concern about the impact that the proposed removal of areas would have on the values and integrity of the Tasmanian Wilderness World Heritage Area. It was suggested that the removal of areas alone would diminish the values and seriously damage the integrity of the Tasmanian Wilderness World Heritage Area.<sup>52</sup> Mr Hitchcock told the committee that:

The proposed delisting will have a serious impact on the outstanding universal values—as defined in the operational guides—of the World Heritage area. Firstly, there will be a serious impact on the integrity of the World Heritage area, especially in regard to the tall eucalypt forests. I should point out that at present the tall eucalypt forests in the Tasmanian World Heritage area represent the world's premier example of temperate tall eucalypt forests. The truncation of these forests by the proposed delisting would seriously detract from the outstanding universal value of these magnificent forests.<sup>53</sup>

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48 Tasmanian Aboriginal Centre, *Submission 103*, p. 2.

49 See, for example, Ms Ruth Langford, State Secretary, Tasmanian Aboriginal Centre, *Committee Hansard*, 31 March 2014, p. 22; Australian ICOMOS, *Submission 12*, p. 2.

50 Australian ICOMOS, *Submission 12*, p. 2.

51 Dr Kimberley Dripps, Deputy Secretary, Department of the Environment, *Committee Hansard*, 6 May 2014, p. 18.

52 See, for example, Mr Peter Hitchcock AM, *Submission 25*, pp 2 and 13; Florentine Protection Society, *Submission 18*, p. 3; Professor Brendan Mackey, *Committee Hansard*, 6 May 2014, p. 14.

53 Mr Peter Hitchcock AM, *Committee Hansard*, 31 March 2014, p. 38.

3.41 Mr Bayley from The Wilderness Society told the committee that the Tasmanian Wilderness World Heritage Area:

...was greatly enhanced by this 2013 minor modification—the giant hardwood trees of the Styx Valley; other extensive tracts of a connected band of tall eucalypt forests up the eastern boundary of the World Heritage Area; intricate and spectacular cave systems, such as in the Florentine and Mole Creek; rainforests in Dove River; and the forested slopes of the Great Western Tiers. It absolutely added to the integrity of the property.<sup>54</sup>

3.42 The Wilderness Society, ACF and Environment Tasmania submitted that 'the impact of the proposed excisions on the Outstanding Universal Values, integrity and management of the Tasmanian Wilderness would be severe', including:

- significant loss of old growth forest, including tall-eucalypts and rainforest;
- loss of scenic viewfields;
- loss and fragmentation of habitat of threatened species;
- loss of significant areas of karst and glacial landscapes;
- loss of integrity in certain key catchments;
- disrupted ecological processes involving the dynamic relationships between eucalypt forest, buttongrass and rainforest;
- loss of Aboriginal cultural heritage sites; and
- loss of effective management boundaries along several sections of the eastern and northern boundaries of the Tasmanian Wilderness.<sup>55</sup>

3.43 Several submitters and witnesses emphasised that the proposed excision would result in a 'serious loss of boundary integrity'. Mr Peter Hitchcock, for example, told the committee that:

Notwithstanding statements to the contrary in the submission, the new boundary that would result from the proposed delisting is ill-considered, and would be regarded as seriously compromising the integrity of the existing World Heritage boundary.<sup>56</sup>

3.44 Indeed, Mr Hitchcock described the new boundary as a 'very much more complicated boundary, as well as leaving out important items of conservation value'. He went on to state:

The proposed delisting creates absolute havoc, creating a boundary which in some cases is quite laughable, unfortunately. It would turn the clock back in a lot of places, adopting quite inappropriate boundaries. I tabled the

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54 Mr Vica Bayley, Tasmanian Campaign Manager, The Wilderness Society, *Committee Hansard*, 31 March 2014, p. 1.

55 The Wilderness Society, ACF and Environment Tasmania, *Submission 23*, pp 4, 24–25; see also, for example, Mr Peter Hitchcock AM, *Submission 25*, pp 11–12; Mr Geoff Law AM, Expert Consultant, The Wilderness Society, *Committee Hansard*, 31 March 2014, p. 3.

56 Mr Peter Hitchcock AM, *Committee Hansard*, 31 March 2014, p. 39.

matter of the Navarre Plains, where it re-creates a boundary which was previously seen to be quite inappropriate, not just in terms of management but in terms of protection of that important glacial precinct.<sup>57</sup>

3.45 Mr Hitchcock provided the revised boundary in the Great Western Tiers area as an example of an inappropriate change:

The removal, which appears to be very ad hoc, of a number of areas on the Great Western Tiers means that the boundary now becomes quite inappropriate. In places, the boundary runs along the top of the cliff, dives down to the bottom of the hill, down to the low lands, follows the low lands for a little while and then goes back up to the tops of the cliffs. In other words, it becomes a completely inappropriate boundary for any World Heritage area.<sup>58</sup>

3.46 Mr Law for The Wilderness Society agreed that the new boundary would be more complex and would complicate management of the property. Mr Law concluded that 'overall the integrity of the World Heritage Area will be reduced if that excision ahead'.<sup>59</sup>

3.47 Professor Brendan Mackey concluded that:

...any argument that excising these 74,000 hectares will somehow enhance the integrity and connectivity flies in the face of the facts and scientific understanding...the proposed excision will lead to worse not better outcomes for boundary coherence, connectivity and the retention of heritage values.<sup>60</sup>

3.48 Concerns about the impact of the proposed excision were exacerbated by the prospect that the areas are likely to be opened up for forestry activities, as discussed elsewhere in this report.<sup>61</sup>

3.49 In relation to the world heritage values, the Department of the Environment advised that:

The current boundary of the Tasmanian Wilderness World Heritage Area remains in place and the values of the property continue to be protected under national environment law until a decision on a new boundary is adopted by the World Heritage Committee, in which case any areas that the

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57 Mr Peter Hitchcock AM, *Committee Hansard*, 31 March 2014, p. 42.

58 Mr Peter Hitchcock AM, *Committee Hansard*, 31 March 2014, p. 42.

59 Mr Geoff Law AM, Expert Consultant, The Wilderness Society, *Committee Hansard*, 31 March 2014, p. 3.

60 Professor Brendan Mackey, *Committee Hansard*, 6 May 2014, p. 10.

61 See, for example, Ms Anne McConnell, Vice President, Tasmanian National Parks Association, *Committee Hansard*, 31 March 2014, p. 30; Tasmanian National Parks Association, *Submission 15*, p. 2; ANEDO, *Submission 17*, p. 7; The Wilderness Society, ACF and Environment Tasmania, *Submission 23*, p. 21.

Committee agreed to remove would no longer have World Heritage status.<sup>62</sup>

### **Possible international reaction to the proposal**

3.50 Another key issue raised in evidence was the impacts of the proposed excision on Australia's international reputation and obligations. Several submitters and witnesses expressed concern that the proposal and possible delisting of areas would damage Australia's international standing and reputation on matters of environmental protection.<sup>63</sup> Several witnesses described it as 'embarrassing'.<sup>64</sup> For example, Mr Law stated that:

...a proposal as threadbare and lacking in factual information and as oblivious to World Heritage values as the proposal before it this time will bring Australia into disrepute at that international level.<sup>65</sup>

3.51 Mr Bayley from The Wilderness Society was concerned that the excision proposal is 'incredibly insulting to the World Heritage Committee' and was 'snubbing the work that they have done over decades and the unilateral decision that they made last year to list this property on all four natural heritage values criteria'.<sup>66</sup>

3.52 ANEDO was similarly concerned that the 2014 proposal 'may be construed as insulting' because 'the clear implication would be that the Australian Government believes the [World Heritage] Committee got it wrong in 2013'.<sup>67</sup>

3.53 Several submitters were also concerned that the proposed removal would breach Australia's international treaty obligations. For example, the Tasmanian National Parks Association pointed out that, under the World Heritage Convention, Australia has acknowledged in article 4 its duty to 'do all that it can...to ensure the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage situated within its territory'.<sup>68</sup>

3.54 It was argued that the World Heritage Committee, by inscribing the extension on the World Heritage List, had 'legally acknowledged their outstanding universal

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62 Department of the Environment, *Submission 14*, p. 5.

63 See, for example, ANEDO, *Submission 17*, p. 15; Friends of the Earth, *Submission 7*, p. 2; Florentine Protection Society, *Submission 18*, p. 4; Mr Adam Beeson, Solicitor, EDO (Tas), *Committee Hansard*, 31 March 2014, pp 23 and 25; Mr Alec Marr, *Submission 106*, p. 4.

64 See, for example, Mr Vica Bayley, Tasmanian Campaign Manager, The Wilderness Society, *Committee Hansard*, 31 March 2014, p. 4; Ms Anne McConnell, Vice President, Tasmanian National Parks Association, *Committee Hansard*, 31 March 2014, p. 30.

65 Mr Geoff Law AM, Expert Consultant, The Wilderness Society, *Committee Hansard*, 31 March 2014, p. 4.

66 Mr Vica Bayley, Tasmanian Campaign Manager, The Wilderness Society, *Committee Hansard*, 31 March 2014, p. 3.

67 ANEDO, *Submission 17*, p. 9.

68 Tasmanian National Parks Association, *Submission 15*, p. 3.

value' and that 'delisting, then logging, these forests would contravene Australia's treaty obligations'.<sup>69</sup>

3.55 Mr Law for The Wilderness Society declared that:

By putting forward this proposal, the Australian government is in breach of its international obligations under the World Heritage Convention already and has been grossly misleading and deceitful towards the Australian public in its use of the term 'logged/degraded areas'.<sup>70</sup>

3.56 Mr Adam Beeson from the EDO (Tas) expressed further concern that the proposal could 'weaken the World Heritage Convention', and that it is inappropriate 'for state parties to be bringing in domestic political considerations to what they say to the World Heritage Committee'.<sup>71</sup>

### ***Precedents for reductions in World Heritage Areas***

3.57 Others were concerned about the potential precedent that Australia might be setting with its proposal. For example, ANEDO argued that:

Modifying properties on the basis of domestic political whim is a bad precedent to set...This precedent could open the flood gates for signatories to the Convention to seek modification or removal of properties to satisfy domestic political demands. More broadly it sets a precedent that matters not the subject of the Convention can be invoked in order to modify boundaries and, by extension, to list and de-list properties.<sup>72</sup>

3.58 Friends of the Earth also supported this argument and commented that:

...advanced economies like Australia should be leading the way globally on matters of environmental protection. If a country like Australia seeks to reduce existing environmental protections through de-listing of high conservation ecosystems, this would set a negative example to other nations in the world.<sup>73</sup>

3.59 Submitters, including the Law Council, noted that there are examples of request to modify boundaries to excise areas from listed World Heritage properties. However, these are small in number and modification is unusual. The Law Council

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69 Tasmanian National Parks Association, *Submission 15*, p. 3; see also Huon Valley Environment Centre, *Submission 8*, p. 6; Mr Geoff Law AM, Expert Consultant, The Wilderness Society, *Committee Hansard*, 31 March 2014, p. 3; Ms Anne McConnell, Vice President, Tasmanian National Parks Association, *Committee Hansard*, 31 March 2014, p. 30; Mr Tom Baxter, *Submission 105*, p. 6.

70 Mr Geoff Law AM, Expert Consultant, The Wilderness Society, *Committee Hansard*, 31 March 2014, p. 3.

71 Mr Adam Beeson, Solicitor, EDO (Tas), *Committee Hansard*, 31 March 2014, p. 25 and also p. 23; see also Mr Tom Baxter, *Committee Hansard*, 31 March 2014, p. 28.

72 ANEDO, *Submission 17*, p. 5; see also Florentine Protection Society, *Submission 18*, p. 4 and Mr Tom Baxter, *Committee Hansard*, 31 March 2014, p. 49 and *Submission 105*, p. 5.

73 Friends of the Earth, *Submission 7*, p. 2.

noted that there have only been a limited number of requests to modify boundaries to excise areas from listed World Heritage properties.<sup>74</sup>

3.60 For example, the Law Council noted that the World Heritage Committee approved Tanzania's request to exclude an area from the Selous Game Reserve in 2011 to facilitate mining, in light of the 'exceptional' economic situation facing Tanzania and included a number of conditions. According to the Law Council, a request by the Government of Guinea to reduce the Mt Nimba Nature Reserve to allow for mining was rejected in 1991 and the property was subsequently added to the World Heritage In-Danger list.<sup>75</sup>

3.61 On the other hand, in 1995, the Law Council observed that the Willandra Lakes World Heritage Area in Australia was reduced by around 30 per cent, because the World Heritage Committee 'was satisfied that the revised boundaries better reflected the areas in which the cultural and natural values of the property were located and would allow better management of those values'.<sup>76</sup>

3.62 Given these examples, the Law Council commented that 'it would be unusual for the boundary of a World Heritage Area...to be modified without evidence of a significant change in ecological conditions which compromises the world heritage values of the area'.<sup>77</sup> The Law Council further concluded that the previous examples demonstrate that boundary modifications:

...will be considered [by the World Heritage Committee] only in exceptional circumstances and where there is clear evidence of management strategies to improve management of Outstanding Universal Values across the balance of the listed property.<sup>78</sup>

3.63 ANEDO similarly noted that 'past practice indicates boundary modifications are usually sought in the form of extensions, rather than reductions'.<sup>79</sup> Mr Geoff Law agreed that 'the World Heritage Committee does not take lightly delisting areas'.<sup>80</sup>

3.64 In response to the committee's questioning on this issue, a representative of the Department of the Environment advised that:

...the operational guidelines state that they are required to enhance the property, and it is unusual, if not unprecedented, for that to be achieved

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74 Law Council of Australia, *Submission 27*, p. 9; see also Mr Geoff Law AM, Expert Consultant, The Wilderness Society, *Committee Hansard*, 31 March 2014, p. 4.

75 Law Council of Australia, *Submission 27*, p. 9; see also ANEDO, *Submission 17*, pp 12–14.

76 Law Council of Australia, *Submission 27*, p. 10; see also World Heritage Committee, Decision CONF 203 VIII.B.1, <http://whc.unesco.org/en/decisions/3077> (accessed 9 May 2014).

77 Law Council of Australia, *Submission 27*, p. 3.

78 Law Council of Australia, *Submission 27*, p. 10.

79 ANEDO, *Submission 17*, p. 11.

80 Mr Geoff Law AM, Expert Consultant, The Wilderness Society, *Committee Hansard*, 31 March 2014, p. 4.

through the reduction in area of a property, unless there is a corresponding addition of another area elsewhere.<sup>81</sup>

### **Possible response of the World Heritage Committee**

3.65 There was some speculation during the committee's inquiry as to the World Heritage Committee's likely response to the proposal, with some suggesting that it could reject the proposal.<sup>82</sup> ANEDO expressed the view that:

The approval of this minor modification request, in light of previous decisions of the World Heritage Committee, would be extraordinary and its prospects of success must be considered remote.<sup>83</sup>

3.66 Others warned that the 2014 proposal could ultimately result in the placement of the entire Tasmanian Wilderness Area on the 'World Heritage in Danger' list.<sup>84</sup>

3.67 The Department of the Environment advised that 'it is anticipated that a draft decision of the World Heritage Committee will be released on 16 May' 2014 and that the final decision will be made at the 38<sup>th</sup> session of the World Heritage Committee between 15 and 25 June.<sup>85</sup> The Department further advised that there are four possible decisions that the World Heritage Committee could make:

The World Heritage Committee could choose to accept the Australian government's request for the minor boundary modification. They could reject it outright. They could refer it back to us for additional information that would require us to submit it either the following year or, at the very least, within three years for further consideration by the committee. Or they could defer it for substantial revision or a more in-depth assessment, which would result in the request of the Australian government being evaluated over an 18-month period and then going to the meeting two years hence.<sup>86</sup>

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81 Dr Kimberley Dripps, Deputy Secretary, Department of the Environment, *Committee Hansard*, 6 May 2014, p. 20.

82 See, for example, Mr Peter Hitchcock AM, *Committee Hansard*, 31 March 2014, p. 44.

83 ANEDO, *Submission 17*, p. 15.

84 See, for example, Tasmanian National Parks Association, *Submission 15*, p. 3; see also Florentine Protection Society, *Submission 18*, p. 4; Mr Vica Bayley, Tasmanian Campaign Manager, The Wilderness Society, *Committee Hansard*, 31 March 2014, p. 8; Lawyers for Forests, *Submission 22*, p. 4; Mr Tom Baxter, *Submission 105*, p. 5.

85 Dr Kimberley Dripps, Deputy Secretary, Department of the Environment, *Committee Hansard*, 6 May 2014, p. 18.

86 Dr Kimberley Dripps, Deputy Secretary, Department of the Environment, *Committee Hansard*, 6 May 2014, p. 20.