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12 March 2024

***Leprena Trust Response to Tasmanian Planning Commission
Request for Submission (dated 26 March 2024) Huon Valley Council
LPS Proposed Blackswan Lagoon Scenic Protection Area:
Response to Department of Natural Resources and Environment
submission (dated 19 March 2024)***

To Mr Ramsay (Chair - Tasmanian Planning Commission (TPC),

I thank the TPC for providing the Leprena Trust a right of reply to the Department of Natural Resource and Environment (NRE) submission on the Blackswan Lagoon Scenic Protection Area (SPA) and Table 8.1 (dated 19 March 2024). I note that NRE are not supportive of the proposed Blackswan Lagoon Scenic Protection Area (SPA) being applied to public land and waters.

If the Scenic Protection Code cannot be applied to such a scenic and culturally significant area as the proposed Blackswan Lagoon Scenic Protection Area (SPA), it raises serious planning, cultural and ethical questions as to where on public land (if at all) can planning measures for scenic protection be applied? I request the TPC support in full the Leprena Trusts proposal for the Scenic Protection Code to be applied (as mapped (Appendix A) and with Table C8.1 (Appendix B)).

I have identified several items within the NRE submission, which warrant response and that justify my request for TPC support for the Blackswan Lagoon Scenic Protection Area.

Item 1: There is NO conflict with the Pigsties Bay marine farming zone.

NRE Tas submitted

.... without recognition in proposed Table C8.1 of existing oyster farming equipment and infrastructure in Pigsties Bay, most of which occurs between the high-water mark (HWM) and the 5m bathymetric contour, existing oyster farming activities (inc. farming equipment in Pigsties Bay) will not be compatible with proposed management objective

NRE are in error in their submission, as there is no conflict with the Pigsties Bay Marine Farming Zone 22A & 22B and the proposed SPA. The SPA Table 8.1 (Appendix B) 'Description' item (k) **stated that the SPA does not apply to Marine Farming Zone in Pigsties Bay**, see below:

*(k) The coastal land and foreshore from Big Lagoon Beach and around the coast to Pigsties Bay and extending to a water depth of 5m **but excluding the existing Marine Farming Zone within Pigsties Bay**;*

The Table 8.1 objectives do not require amendment as they do not apply to the existing oyster farms in Marine Farming Zone 22A & 22B. The SPA spatial map had a very minor inaccuracy with a very slight encroachment of a couple of meters along one edge into the marine farming zone 22A, this was a minor drafting error and has been corrected to remove any conflict with the marine farming zone (Appendix A).

Item 2: The SPA should be tenure blind and supported in full by the TPC for application across private and public land.

NRE Tas submitted

The SPA should only be applied to private freehold land, and not public land.

This NRE position is not supported by the private landholders or Huon Valley Council, as the SPA has been created 'tenure blind' to protect the important scenic values across the landscape here. The Table 8.1 also applies equally across private and public tenures, as requested by council within the Table 8.1 redrafting. I request that the TPC support for the SPA proposal in full across public and private land.

The NRE request fails to protect area of high scenic value on public land, notably the coastal foreshore areas adjoining the private land areas, and significant sites areas of high cultural and scenic value associated with the interactions between the Lyluquonny First Nation people and French in 1793 the French Garden, French Observatory, Quiet Cove, Little Lagoon Beach and Blackswan Lagoon, and areas of importance to today's First Nations people including living sites, cultural landscapes, burials and cremation sites, and other tangible and intangible connections linked to the locations scenic values.

The TPC are in the position to decide if to apply the Scenic Protection Code across the areas of Public Land, as it has done following the creation of other Code overlays by non-Government entities. For example, the Natural Asset Code's includes state wide (tenure blind) Waterway and Coastal Protection Area overlay and Future Coastal Refugia Area overlay, were created by the Derwent Estuary Program.

It is important to note that the private land holders are only willing to support SPA planning restrictions on their freehold land provided that such restrictions are also being placed over the proposed SPA areas of public land and water.

The proposed SPA should be tenure blind and supported in full by the TPC as it is:

- a) merit based,
- b) supported by technical assessment using approved guidelines,
- c) includes rigorous planning input has been provided from the Huon Valley Council, ERA Planning, Red Seal Planning and Erenic Planning, and
- d) has broad stakeholder support.

Item 3: NRE make an un-justified statement that '*the SPA could create the unreasonable potential of conflict with future reserve management planning*'

NRE Tas submitted

The application of the SPA over the public reserve land could create the unreasonable potential of conflict with future reserve management planning.

It is ironic that Tasmania's leading Conservation Agency, the TPWS, feels there is 'Unreasonable potential of conflict' being created by First Nations Organisations, adjoining Landholding entities, the French Ambassador and other stakeholders request for more scenic protection measures over public land and sea in the proposed Blackswan Lagoon Scenic Protection Area that includes areas of State and National Heritage Significance.

Proposed SPA is consistent with potential for future dual management and planning

The Leprena Trust and the Tasmanian Land Conservancy have actively participated in the facilitation of a Healthy Country Plan with Aboriginal Heritage Tasmania, First National organisations and individuals over the proposed SPA. Please open the film link below that was created by Aboriginal Heritage Tasmania, and hosted by the Leprena Trust. There are Aboriginal narratives on healthy country planning for this special place, and this plan had fabulous community support with many willing to share knowledge and assist the TPWS.

<https://www.aboriginalheritage.tas.gov.au/tasmanian-wilderness-world-heritage-area/healthy-country-plans>

The TPWS has only recently showed their support, seeking grant funding to advance this Healthy Country Plan. The TPWS should also recognise that the Healthy Country Plan participants (notably the *South East Tasmanian Aboriginal Corporation (SETAC)* and *Weetapoonna Aboriginal Corporations*), are supportive of the SPA proposal that aims to protect the values of importance to First Nations people and other stakeholders.

Conflict will sadly occur between the TPWS and a broad range of stakeholders if in the future the TPWS undertake changes to the statutory management plan to facilitate development and works contrary to the request for scenic protection and the Table C8.1 Management Objectives.

Item 4: The Leprena Trust does not support the NRE claim that the NRE cited 'legislation' appropriately considers or protects scenic values.

NRE Tas submitted

Scenic values are already appropriately considered and protected under the legislation [NRE cite the *Nature Conservation Act 2002* the *National Parks and Reserves Management Act 2002* and the *National Parks and Reserves Management Regulations 2019*].

Since the creation of the *Nature Conservation Act 2002*, *National Parks and Reserves Management Act 2002* and *National Parks and Reserves Management Regulations 2019* there has been a blatant disregard by the TPWS and NRE for the scenic values of the Southport Conservation Area and the proposed Blackswan Lagoon SPA as evident from:

- A) For many years TPWS allowed unmanaged 4WD vehicle access to Blackswan Lagoon causing serious damage in some areas up until 2006 (**Figure 1**). This activity was finally banned due to serious threats to a threatened plant species (Swamp eyebright, *Euphrasia gibbsiae* spp. *psilantha*), but this protection only occurred once serious threats and damage was created and well after the date of the above legislation taking effect. The scenic value in many areas were seriously neglected and unprotected by the above acts, or the TPWS inability to apply them correctly. Poorly managed 4WD access continues in many Conservation Areas in Tasmania, damaging heritage, natural and scenic values The above Acts, or inability to apply them correctly, continues to fail in the protection of scenic values. The impact flowed over into other private lands, including that now owned by the Leprena Trust.



Figure 1. Image from TPWS 2006 management plan (taken from the northern edge of the proposed SPA). TPWS allowed unmanaged 4WD vehicle access to Blackswan Lagoon causing serious environmental damage in some areas up until 2006. The damage was allowed to get progressively worse over a 20 year period, with total disregard for impacts on scenic value and neighbouring property owners. No active on-ground efforts have been made by the TPWS to assist natural site rehabilitation. The TPWS has and continues to lag behind social values in relation to the protection of scenic values here and the presence of the NRE cite legislation provided no protection from this damage.

B) TPWS approved in 2002 the creation of a logging road through the Southport Conservation Area and damaged scenic values, for the intended purpose of logging the land that is now owned by the Tasmanian Land Conservancy. The above Acts, or inability to apply them correctly, failed to protect the scenic values here at that time (**Figure 2**).



Figure 2. image from 2002 (north western corner of proposed SPA) showing a TPWS approved road construction through the Conservation Area, for the purpose of facilitating logging of the land that is now owned by the Tasmanian Land Conservancy. This road was constructed with total disregard for the impacts on scenic value. Public protest and philanthropic support prevented logging and social pressure resulted in the TPWs needing to rehabilitate this road. The TPWS has and continues to lag behind social values in relation to the protection pf scenic values here and presence of the NRE cite legislation provided no protection from this damage.

C) The TPWS continue to allow unauthorised roading, works and development in the Southport Conservation Area (foreshore in front on Title Ref 245734/1), causing loss of scenic value in this area outside of the SPA, but otherwise lacking development. The above Acts, or inability to apply them correctly, continue to fail in the protection of the scenic values here (**Figure 3**).



Figure 3. Google Earth image from 2023 (north of proposed SPA, west of Southport Lagoon). The highlighted area showing illegal works in the Conservation Area that the TPWS has failed to regulate or see rehabilitated. The TPWS has and continues to lag behind social values in relation to the protection pf scenic values here and presence of the NRE cite legislation provided no protection from this damage.

D) In recent years a TPWS fuel reduction burn in the proposed Blackswan Lagoon SPA was highly inappropriate from First Nations fire management and cultural perspective, causing damage to scenic and other cultural and natural values. The TPWS burned almost all the moorland in the proposed SPA in a landscape scale fire, setting all this vegetation to a single fire age, and badly damaged the Eucalyptus woodland on fragile sand-dunes along half the length of Little Lagoon Beach (**Figure 4**). The TPWS created a high intensity fire in the Little Lagoon Beach sand-dune that killed many of the mature *Eucalytus* trees along this part of the National and State Heritage listed area – badly damaging the scenic values here. The NRE Cited legislation achieved nothing here in relation to appropriate management and scenic protection.

A detailed look at the NRE cited legislation indicates that protection of scenic value is either not included or at best vaguely implied through application of other parts of these Acts. These Acts are ineffective for enabling the required scenic protection of the proposed SPA, without the map, description, values and management objectives provided through application of the Scenic Protection Code (map in Appendix A and Table 8.1 in Appendix B). There appears to be no duplication between the cited Acts and the Scenic Protection Code, as noted below:

1. The *Nature Conservation Act 2002* makes no reference to 'scenic' values and this does not directly consider scenic values, thus is a clumsy legislative tool for protecting the implicit objectives in the proposed Blackswan Lagoon SPA Table 8.1
2. The *National Parks and Reserves Management Act 2002* makes no mention of 'scenic value', with one reference to 'scenic' in section 59 (d) "erect and maintain guideposts to any place ofscenic interest." This does not directly consider scenic values, thus is a clumsy legislative tool for protecting the implicit objectives in the proposed Blackswan Lagoon SPA Table 8.1.
3. The *National Parks and Reserves Management Regulations 2019* makes no reference to 'scenic' values and this does not directly consider scenic values, thus is a clumsy legislative tool for protecting the implicit objectives in the proposed Blackswan Lagoon SPA Table 8.1.

Other legislation relevant to the area also fails to protect the scenic values identified in the proposed SPA.

4. The proposed *Blackswan Scenic Protection Area* compliments *State and National Heritage Listing* (as detailed extensively in the Leprena Trust submission Appendix E dated 28-2-2024 to TPC Directive 4 (dated 21 Feb 2024)). Although the site is subject to the *Historic Cultural Heritage Act 1995*, the site is not listed within the Local Historic Heritage Code. Section 35(2) of the *Historic Cultural Heritage Act 1995*, requires a discretionary application unless a certificate of exemption is issued by Heritage Tasmania for development in the area that is within the Heritage Registry listing. As

such, more protective Management Objectives have been proposed to protect the natural undeveloped visual amenity of the area of the proposed *Blackswan Lagoon Scenic Protection Area*. Much of the proposed *Blackswan Lagoon Scenic Protection Area* also occurs within *National Heritage Register Site number 105665 'Recherche Bay (north east peninsula)'*. The National Heritage Listing for the site includes in the Summary Statement of Significance that the area “constitutes a significant, ‘associative’ cultural landscape” where there were friendly interactions between first Tasmanians Palawa/Pakana, of the Lyluquonny Nation, and the French during 1792 & 1793, and that the “*the predominantly undeveloped character of the landscape contributes to the appreciation of the [National Heritage] values*” of the site. Whilst the National Heritage Listing acknowledges the importance of the undeveloped character of the landscape, and the National Heritage management principles are set out in the regulations (schedule 5B) of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBc Act). There is no National Management Plan for the area, and as such no clear guidance on protection of the areas scenic values that have been recognised, which demonstrates the need for the proposed *Blackswan Lagoon Scenic Protection Area* and associated management objectives in Table C8.1.

5. The *Aboriginal Heritage Act 1975* provides protection of tangible Aboriginal heritage objects, but fails to protect scenic values associated with cultural landscapes and values. Scenic protection through the mapped area in the proposed *Blackswan Lagoon Scenic Protection Area*, and the associated Management Objectives in Table C8.1 will assist the protection of scenic values associated with sites of significance to Aboriginal people.

ITEM 5: TPWS proposed planning reforms will weaken the scenic value protections afforded through the current TPWS '*Southport Lagoon Conservation Area George III Monument Historic Site and Ida Bay State Reserve Management Plan 2006*'.

NRE Tas submitted

Scenic values are already appropriately considered and protected under the the statutory Management Plan [this being the TPWS '*Southport Lagoon Conservation Area George III Monument Historic Site and Ida Bay State Reserve Management Plan 2006*'].

The Leprena Trust acknowledges there is very strong scenic protection under the current statutory management plan, and that the proposed SPA is compatible with this management plan. The Leprena Trust submission Appendix C dated 28-2-2024 to TPC Directive 4 (dated 21 Feb 2024) provided a detailed comparison of the proposed *Blackswan Lagoon Scenic Protection Area* Management Objectives and the Statutory Plans objectives and management prescriptions of the Conservation Zone. These were found to be compatible in as far as can be achieved through the application of the Scenic Protection Code. The TPWS current Conservation Zone management prescriptions (Section 4.4.17) over the proposed *Blackswan Lagoon Scenic Protection Area*, states that ***new structures or any other type of development (including new tracks) will not be allowed***, but provides exemptions for certain management activities.

In January 2024 the TPWS recently released for public comment their Consultation Paper "*National Parks and Reserves Management Act 2002 Reserve Activity Assessment Process Reform Statutory Environmental Impact Assessment Process*" (see <https://nre.tas.gov.au/conservation/reserve-activity-assessment-reform/have-your-say-on-reserve-activity-assessment-reform>).

The Consultation Paper indicates that the TPWS is seeking an exemption from Tasmanian Planning Scheme Codes (including the Scenic Protection Code) on the basis the Codes may be incompatible with reserve management. The TPWS Consultation Paper (page 12) provides an example of incompatibility being between reserve land management objectives (vegetation protection) and the Bushfire Code (vegetation removal for built asset protection). However, the TPWS fails to acknowledge that most Tasmanian Planning Scheme Codes are compatible with reserve management objectives and as they address matters relating to C7.0 *Natural Assets Code*; C8.0 *Scenic Protection Code*; C10.0 *Coastal Erosion Hazard Code*; C11.0 *Coastal Inundation Hazard Code*; C12.0 *Flood-Prone Areas Hazard Code*; and C15.0 *Landslip Hazard Code*. These codes contain critical information that assists natural asset management, including scenic protection and as such it is

unjustifiable for the TPWS to assert that all the Tasmanian Planning Scheme Codes are incompatible with the management objectives for reserve land.

The TPWS Consultation Paper also proposes that a new 'statutory Reserve Activity Assessment (RAA) Process' will be created to avoid planning duplication, and thus the TPWS are seeking the exemption of Code assessments through Local Government processes under LUPAA (the current process). However, the proposed RAA process does not have any defined planning criteria resembling a Scenic Protection Code, or any other Code, therefore there is no planning criteria duplication. The RAA process instead proposes to use an 'Independent Assessment Panel' to create bespoke planning assessment criteria for each individual development proposal, and the panel has the ability to fully ignore Planning Codes, such as the Scenic Protection Code. Our public reserves holds out most precious cultural, natural and scenic values, and the proposed planning changes seek to erode the protections afforded from Code assessment by local government.

The TPC should support in full for the proposed Blackswan Lagoon Scenic Protection Area, noting that:

1. If the TPWS planning reforms do not gain support the assessment of works and development within the SPA will remain with the Huon Valley Council through LUPAA.
2. If the TPWS planning reforms do proceed, It is hoped that the RAA 'Independent Assessment Panel' would undertake a consultation process with relevant regulators and authorities, which hopefully would include the Huon Valley Council. The presence of the SPA in the LPS would at least provide a map where scenic protection Planning Code prescriptions and Management Objectives have been identified, which should be included in potential assessment criteria for works and development in future RAA in the absence of stronger statutory management plan protections.

The TPWS service has shown that they cannot be trusted to look after the scenic values of the proposed SPA due to the risk from their proposed ad-hoc management plan amendments and desire for exemption from the Tasmanian Planning Scheme Codes. We therefore seek the TPC support in full for the proposed *Blackswan Lagoon Scenic Protection Area* and Table C8.1 and it is hoped that Tasmanian Planning Scheme Codes remain assessed by Council's under LUPAA.

ITEM 6: TPWS pro-tourism development agenda indicates that TPWS and NRE are a threat to the scenic value protections afforded through the current TPWS '*Southport Lagoon Conservation Area George III Monument Historic Site and Ida Bay State Reserve Management Plan 2006*'.

NRE Tas submitted

Scenic values are already appropriately considered and protected under the the statutory Management Plan [this being the TPWS '*Southport Lagoon Conservation Area George III Monument Historic Site and Ida Bay State Reserve Management Plan 2006*'].

The TPWS recently released for public comment their *Proposed Management Planning Process* (see <https://nre.tas.gov.au/Documents/Information%20Sheet%20-%20Proposed%20Management%20Plan%20Planning%20Processes.pdf>) that can easily erode the scenic value protection afforded through the current statutory management plan. The TPWS may need at times easier management plan amendment processes when there is an implicit need for urgent work for the sole purpose of reserve management for the protection of scenic, cultural and natural values. Non-urgent works should be part of longer term strategies within stable statutory management plans with infrequent but thorough review, which do not require an ability for ad-hoc changes to statutory management plans. The TPWS *Proposed Management Planning Process* would enable ad-hoc changes to statutory management plans for exclusive commercial developments to sneak into our reserves through TPWS reserve management zone changes (that seek to amend the management zone aim, location or management prescriptions)), and which the public may not have opportunity to comment upon if viewed by TPWS as minor amendments. There is now a clear risk in relying upon TPWS statutory management plans for scenic protection.

The TPWS *Proposed Management Planning Process* will enable commercial developers to request statutory plan management zone change as part of their private commercial development proposal in the Southport Conservation Area, and that an 'Independent Assessment Panel' (the panel) of the Tasmanian Planning Commission would consider the Management Plan amendments that are required, in tandem with a statutory Reserve Activity Assessment (RAA). It appears the Independent Assessment Panel would prepare the assessment criteria to determine whether a proposal is acceptable or not. The TPWS RAA consultation paper implies that there will be a set of standard assessment criteria, as well as specific criteria that will apply for individual proposals, but these are not defined. Representations can only be administrative based and **merit based submissions (that would request protection scenic value) will not be considered**, and once the 'Independent Assessment Panel' has made a ruling there are no merit based rights of appeal.

The TPWS *Proposed Management Planning Process* makes a very weak comparison to planning amendments that occur on private land when a development may seek to obtain a Local Planning Schedules (LPS) amendment concurrent with a development application, under the *Land Use Planning and Approvals Act 1993* (LUPAA) Part 3B - Amendments to LPSs, Division 4 – Combined permit and amendment process.

The TPWS *Proposed Management Planning Process* is not as rigorous as that on private land, and does not allow for merit based representations or appeals. Under LUPAA (Part 3B, Div.4, 40T) an application for an LPS amendment on private land can only be sought with land owner consent, and in most instances on private land the developer and owner are one and the same. This is not the case when commercial development may be proposed on public land in the Southport Conservation Area (TPWS consent required). Under LUPAA Part 38B, Div.4, 41, representations about the LPS amendment may be received by a person or body, and the EPA. Under LUPAA Part 38B, Div.4, 42, the planning authority then provides each representation a response and a report on all the representations is provided to the Tasmanian Planning Commission. This includes (b) a statement of its opinion as to the merit of each representation including, in particular, its views as to the need, in light of that representation, for modification of the planning authority's decision in relation to the application for a permit; and (c) the recommendations, in respect of the decision in relation to the application for a permit, that the planning authority thinks fit. Under LUPAA Part 38B, Div.4, 42A and 42B, the commission considers the permit application, representations and council report and then makes a ruling. It is noteworthy, that in the case of seeking land zone changes under the LPS a very rigorous review process occurs with very clear guidelines that determine land zoning (*Guideline No. 1 local provision schedule (LPS) zone and code application*). This includes many biophysical and landscape influences and is not influenced by aspirational land use agendas (such as commercialisation of wild undeveloped areas in our reserve network to drive management zone changes). Under LUPAA there are also rights of appeal, which will be lacking in the proposed TPWS reserve management plan amendments assessment ruling.

The TPWS have solicited commercial development ideas inconsistent with the current statutory management plan for the Conservation Area, demonstrating a clear threat to the scenic values identified in this area.

1. The Office of the Coordinator-General Tourism Expression of Interest (EOI) process has prioritised the interests of commercial development over the views of other stakeholders. Despite the Department of State Growth's 'opportunity' statement from the EOI process is to provide 'sensitive and appropriate' developments in the Tasmanian reserved land estate, the fact that a project proposal may not comply with an existing statutory management plan for a particular reserves does not appear to be a significant factor that

determines the 'sensitivity or appropriateness' of commercial development projects.

In 2017 the proponents of a floating hotel in Recherche Bay (supposedly with a 99 year lease option) have explored the potential for additional private commercial leases for exclusive commercial development in the Conservation Area (within the proposed SPA). This included foreshore walking tracks over highly sensitive areas, a day shelter on the foreshore of Little Lagoon Beach and a French tower inspired bird hide at the entrance of Black Swan Lagoon, all having high levels of impact on areas of very high scenic value and are inconsistent with the current statutory management plan (**Figure 4**).



Figure 4. Highlighted areas or impact proposed by EOI associated developments, would have significant impacts on the scenic value and other values associated with this location (photo courtesy of B.Brown).

In November 2017 the private landholders adjoining the potential commercial lease and developments (the Tasmanian Land Conservancy, Mr Vaughan and the Leprena Trustees), meet with relevant TPWS representatives to see how we may have representation of our concerns. The TPWS advised that they would not discuss the private commercial development proposal with adjoining land holders, as the potential commercial lease and development was commercial-in-confidence, and if the private landholders wanted information about the potential development they needed to approach the commercial development proponent. The TPWS advised that the only avenue for comment about the development would be to comment at the time of a future statutory management plan review.

The Tasmanian Audit Office *Report of the Auditor-General No.3 of 2020-21 Expression of interest of tourism investment opportunities* 22 Sept 2020. found: *“that stakeholder consultation undertaken through the Reserve Activity Assessment (RAA) is primarily proponent-driven and unstructured. This increases the risk of positive bias by the proponent (either conscious or otherwise) in reporting on the outcome of consultations”* The Tasmanian Audit Office recommended that the TPWS ***“increase the rigour of the public consultation as part of the RAA process to improve the level of transparency or objectivity”***. In direct contradiction to the recommendation of the Tasmanian Audit Office, it is now apparent that under the TPWS *Proposed Management Planning Process* that the public may not have any opportunity to comment upon statutory management amendments if viewed by TPWS as minor. If opportunity to comment is provided only those representations raising administrative matters will be considered, a merit/technical based representation containing the scenic value assessment and management objectives of the proposed SPA would not be considered.

2. In February 2018 the TPWS actively solicited a call for iconic walk proposals, which resulted in a proposal being submitted by Destination Southern Tasmania that was inconsistent with the statutory management plan being proposed for the Conservation Area. At the time of the proposal creation and submission a DST board member was also employed by TPWS to manage the call for iconic walk proposals and the issuing of commercial leases and licences on TPWS land, an apparent conflict of interest that also reflect the ongoing TPWS pro-commercial development agenda. The TPWS July 2019 *Tasmania’s Next Iconic Walk Assessment Report* noted some impediments to the proposal, which including that the statutory management plan would need to be amended. The Minister for TPWS at that time stated in correspondence to Minister O’Connor (letter 20 May 2019) *“If a proposal was deemed appropriate then consideration would be given to amending the [statutory] plan as required”*. The TPWS July 2019 *Tasmania’s Next Iconic Walk Assessment Report* failed to identify any impediments associated with impacts to National and State Listed Heritage values or the impacts to scenic value arising from the proposed huts, tracks and other infrastructure.
3. In 2019 the private landholders alerted the TPWS of a commercial tourism operation being run by one of the DFST iconic walk proponents (un-licensed, un-insured, and using the Conservation Area and our respective private lands without our consent). The TPWS then provided a commercial licence to this company to continue operating in the foreshore areas directly in front of our respective private properties without communicating or consulting with us. It is highly likely that this operator is continuing to trespass onto our private properties. This is of great concern as the TPWS cannot demonstrate good monitoring of their commercial leases and licences, noting the Tasmanian Audit Office (when auditing the current process for assessing commercial

developments on public land in the *Report of the Auditor-General No.3 if 2020-21 Expression of interest of tourism investment opportunities* 22 Sept 2020) stated that **“We found it difficult to substantiate some of the assertions made to us by PWS in regards to monitoring and operation of leases and licences.”** The TPWS lease and licence section staff informed the Leprena Trust that they were under no obligation to communicate with adjoining private land holders when issuing commercial licences or leases. The recent TPWS proposal for more flexibility in their statutory management planning amendment processes will most likely result in TPWS making minor statutory management plan amendments (without consultation), which will impact the scenic value (and other values) of the proposed SPA – notably the sensitive foreshore areas adjoining Pigsties Bay, Quiet Cove, Little Lagoon Beach and Blackswan Lagoon – for the purpose of works and development for the benefit of commercial tourism operators.

The TPWS statutory management plan prescription 6.2.1 recognise that **“the local community has a stake, and that working closely with the community can reap significant advantages of local knowledge, goodwill and on-ground stewardship”**. The statutory plan states that stakeholders would have representation to TPWS through the establishment of a Management Committee, but this has never occurred. The plans prescription 2.8.8 states that TPWS will **“Adhere to the Burra Charter, its associated guidelines and the commentary on the charter in Kerr (2000) in all conservation and management works”**. However, the TPWS soliciting of commercial developments, their issuing of commercial licences (and potentially leases), and the culturally inappropriate and damaging fire management in the Conservation Area (including National and State Heritage listed areas) have occurred without consultation with key stakeholders, neighbouring landholders and First Nation organisations. The TPWS have ignored the aims and prescription in their own statutory management plan and as such they pose an ongoing risk to the scenic values in the proposed SPA.

The TPWS have ignored their own statutory management plan, in particular those areas relating to consultation. The plan section 6.2 *Community Support & Liaison* aim is to “**achieve community ownership through involvement in policy development, planning and on ground management**”. In keeping with this aim, the TPWS/NRE should have fully supported the proposed SPA.

This application seeks TPC support for the Blackswan Lagoon Scenic Protection Area, as this may be the last opportunity for stakeholders to have a merit and technical based request for scenic protection over this important area.

Please acknowledge receipt of my representation.

Regards,

Jason Whitehead

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Copied to:

Huon Valley Council

James Hattam, Leigh Walters, Tasmanian Land Conservancy

Michael Vaughan, private landholder at Quiet Cove

Jamie Currie, James Shaw, Rodney Dillion South East Tasmanian Aboriginal Corporation and Weetapoona Aboriginal Corporation

Boris Toucas, French Embassy Cultural Attaché

David Shelley, Honorary Consul for France in Tasmania

OTHER Stakeholders

Greg Lehman,

Joe Shemesh,

Jean-Philippe Beaulieu

Ochre Rain,

pakana Services

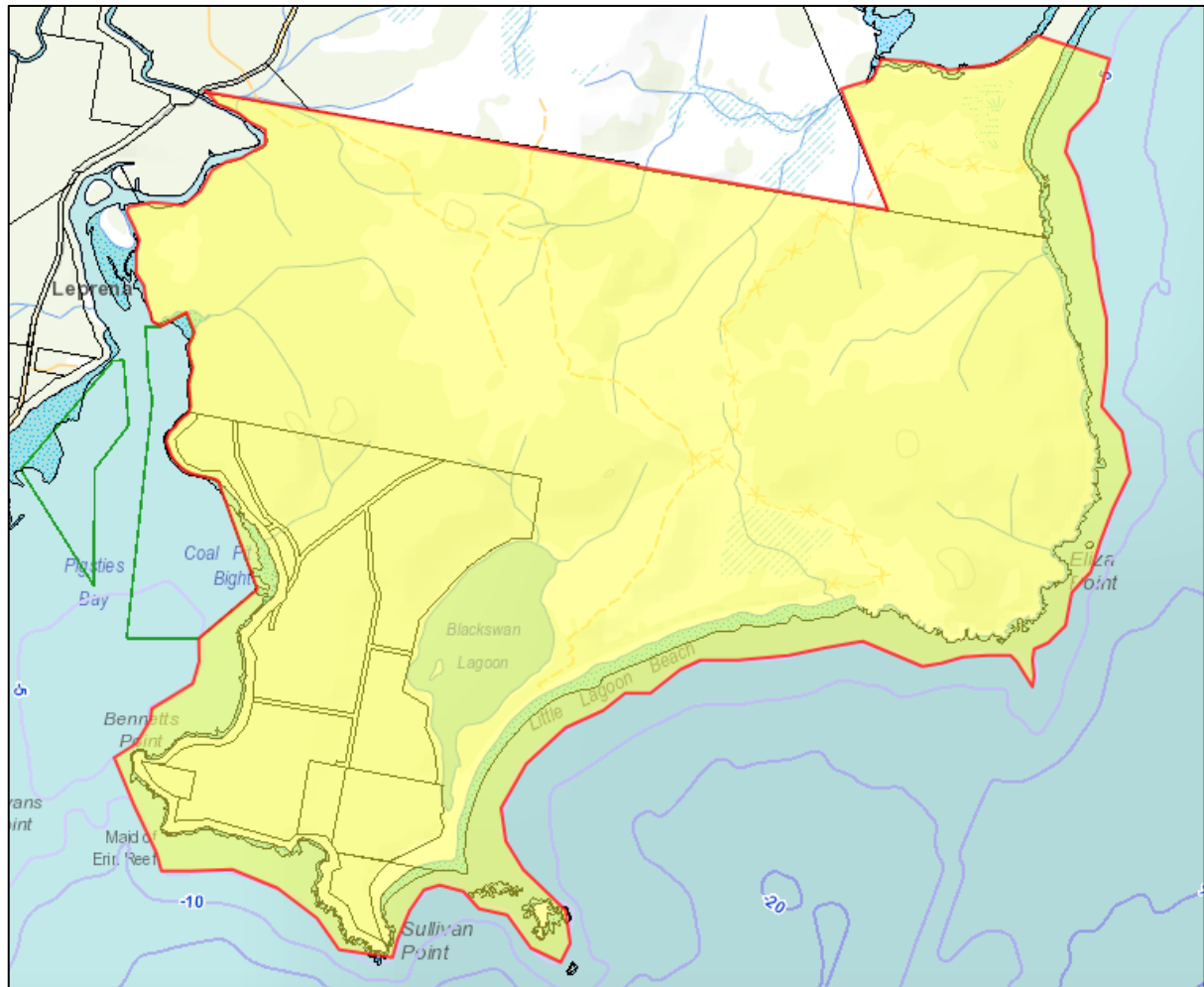


Image from Piron Feb 1793 of Lyluquonny elders at Quiet Cove, Leillateah, within the propose SPA,

The Trustees of the Leprena Trust acknowledge that Leillateah, Recherche Bay, and surrounding lands and waters is the Country of the Lyluquonny palawa Nation (the areas First Nation people). We recognize that today's palawa and pakana peoples (First Nations Tasmanians) are the traditional custodians of Lutruwitta, Tasmania, and we pay our respects to elders past, present and emerging.

APPENDIX A: proposed *Blackswan Lagoon Scenic Protection Area*

The extent of the proposed *Blackswan Lagoon Scenic Protection Area* is (red outline and highlighted), includes parts of the TPWS managed Southport Conservation Area (Conservation Zoned), and area of State waters, and private land (Title References 137404/1, 203443/6, 203411/1). Please note there is no overlap with Marine Farming Zones (outlined in green). Map created using ListMap information.



APPENDIX B:

Table C8.1 (also endorsed by the Huon Valley Council). Please note that the SPA area description (k) **highlighted below** clearly indicates **the SPA** (including the management objectives) **does not include the Marine Farming Zine in Pigsties Bay.**

C8.1 Scenic Protection Area

Reference Number	Scenic Protection Area Name	Description	Scenic Value	Management Objectives
To be determined	Blackswan Lagoon	<p>Low lying coastal peninsular, covered in native forest, moorland and button grass plains and includes coastal dunes, wetlands, scrubland, sandy beaches, rocky shorelines, tidal flats, rivers, streams, and coastal lagoons.</p> <p>Evidence of development on the peninsular is now limited to a few revegetated ruins only visible when standing at these locations and most have heritage significance. There are a few disused vehicle tracks present within the landscape that are evident from the air but are less visible from coastal and water locations.</p> <p>Description of the scenic protection area includes:</p> <p>(a) the forested hills north and east of Eliza Point and Bowdens Mistake (up to approximately 63m elevation), the connecting saddles and adjacent spurs that descend to sea-level to the south and east, and to open plains to the north and west;</p> <p>(b) An open ridge east of Blackswan approximately elevation, northward via a forested saddle and approximately 48m elevation and then descends north as an open vegetated spur;</p>	<p>(a) The natural undeveloped visual aesthetic are values of importance within the National and State Heritage Listed area and larger scenic protection area that are associated with the 1792 and 1793 D'Entrecasteaux expeditions, including the French garden site, Bennetts Point observatory site, other activity sites and historic recording of ethnographic and scientific discovery and friendly interactions with First Nation's people in 1793. A public campaign to prevent logging in the area, and obtain national and state heritage listing, saw iconic aerial imagery of the area used that raised the international awareness of the undeveloped scenic value associated with the area's cultural heritage, vegetation, water forms and landform features.</p> <p>(b) Ethnographic records were made between the 1790s to 1840s from European contact with First Nations people, and contemporary oral histories indicating the location of burials and sites of cultural importance in an area with high scenic aesthetic due to lack of development currently in use:</p> <p>i) The forested areas and foreshore around Blackswan Lagoon, Little Lagoon Beach, Quiet Cove, Pigsties Bay, Bennetts Point and Southport Lagoon are where important French and First Nations interactions occurred in 1793;</p> <p>ii) Bennetts Point where French Astronomical observations occurred in 1792 and important French and First Nations interactions occurred in 1793;</p> <p>iii) Quiet Cove where First Nations houses were drawn in 1792 and important French and First Nations interactions occurred in 1793;</p> <p>iv) The eastern coastline of Pigsties Bay is where the French Garden is located and the d'Entrecasteaux expedition shore-based encampments occurred in 1792;</p>	<p>(a) Development, excepting works related to currently existing access tracks, must occur so that no visual evidence of development is evident on the peninsular, to respect and enhance the scenic integrity and cultural historic landscape associated with the scenic values, including all the following:</p> <p>i) No vegetation removal or any disturbance to forest canopy cover, including bushfire protection measures related to use or development, that results in visual impact when viewed from a site identified within the Description or Scenic Value of this Scenic Protection Area.</p> <p>ii) Development must not include roofed buildings and if non-roofed buildings or structures are proposed they are only to be located where existing use rights for camping exists under Nature Conservation Covenant at the effective date, excepting traditional Aboriginal huts for the purpose of cultural use and knowledge sharing that does not involve the construction of a permanent structure.</p> <p>iii) No development is to be located between high water mark and the 5m bathymetric contour, except for mooring ropes and buoys, to prevent visual impact from marine facilities or the like.</p> <p>iv) New vehicle or bicycle tracks must not be established.</p> <p>v) New walking tracks must not be established around the coastal foreshore, or the foreshore of Blackswan Lagoon, or inland between Quiet Cove and Blackswan Lagoon or Little Lagoon</p>

		<p>(c) Forested hills north of and west of Blackswan lagoon that continue to Sullivans Point;</p> <p>(d) A forested rise ascending from the coast east of Pigsties Bay and the D'Entrecasteaux River;</p> <p>(e) Numerous hills up to 54m elevation within a mosaic of forested and open vegetation;</p> <p>(f) The Little Lagoon Beach dune ridge;</p> <p>(g) The isthmus between Big Lagoon Beach and Southport Lagoon;</p> <p>(h) Blackswan Lagoon;</p> <p>(i) The islands known as The Images and to a surrounding water depth of 5m;</p> <p>(j) The coastal land and south eastern foreshore of Southport Lagoon down to the mean high water mark;</p> <p>(k) The coastal land and foreshore from Big Lagoon Beach and around the coast to Pigsties Bay and extending to a water depth of 5m but excluding the existing Marine Farming Zone within Pigsties Bay;</p> <p>(l) Land to the mean high water mark of the eastern bank of D'Entrecasteaux River to the former Leprena Track Bridge location.</p>	<p>v) Sullivans Point used by the French in 1792 as a coastal surveying location;</p> <p>vi) Type locations for historic plant and animal collections, including the forested area behind Little Lagoon Beach, the type of location for Tasmania's floral emblem (<i>Eucalyptus globulus</i>);</p> <p>vii) First Nation living and heritage sites along the coast, including the coastal area from Big Lagoon Beach to Little Lagoon Beach.</p> <p>(c) Scenic values include the undeveloped forest and open vegetation mosaic forming visually distinctive variations in vegetation patterns created through influence of past cultural fire management.</p> <p>(d) Blackswan Lagoon where there is year-round high abundance of black swans and is a water form and wildlife feature of high scenic value.</p> <p>(e) The natural undeveloped visual aesthetic is appreciated by locals and visitors for cultural and passive recreational uses when located at the following viewpoints:</p> <p>i) walking on former vehicle tracks, beaches and rocky foreshores within the scenic protection area,</p> <p>ii) flying over the area typically by people going to or from Melaleuca,</p> <p>iii) boating or kayaking around the coastal shoreline (including Southport Lagoon),</p> <p>iv) anchorages and moorings in Pigsties Bay and Quiet Cove,</p> <p>v) public roadside viewing from Moss Glen,</p> <p>vi) from private properties within the scenic protection area,</p> <p>vii) from private properties in Moss Glen, Finns Beach, Jones Beach and Catamaran,</p> <p>viii) from Finns Beach, Jones Beach and Gillams Beach near public camping grounds,</p> <p>ix) public viewpoints at Cockle Creek, Adams Point, Fishers Point and the walking track joining these locations, and</p> <p>x) the Bruny Island Lighthouse viewpoint.</p>	<p>Beach (including parts of CTs 203691/1, 137404/1, 203443/6 and 203411/1), due to the high visual sensitivity and significance of these areas.</p> <p>vi) Establishment of any new walking tracks and signage must be kept to a minimum and must follow the route of existing access tracks with minor deviations in route as necessary for the protection of natural, heritage or scenic values and must have minimal visual intrusion from the sky and avoid being seen from surrounding coastal and waterway locations.</p> <p>vii) Prevent development on sand dunes that would impact on the scenic values of the coastal dune, including through loss of coastal vegetation and or dune stability.</p> <p>(b) Development related to currently existing access tracks, must occur in a way which limits visual evidence of development on the peninsular to respect and enhance the scenic values of the area, including all the following:</p> <p>i) The upgrading of existing access tracks must have minimal visual intrusion from the sky and avoid being seen from surrounding coastal and waterway locations.</p> <p>ii) All works related to converting sections of former vehicle tracks into walking tracks must prevent erosion or other damage and must reduce visual impact from vegetation disturbance and prevent the exposure of rock and soil.</p> <p>iii) Former vehicle tracks other than areas being retained as walking tracks must either be left to continue natural recovery or actively rehabilitated through management actions where required.</p>
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