



Submission on the Edgar Dam Strengthening Project

Thank you for the opportunity to provide a comment on the proposed works by the Tasmanian Hydro Electric Commission (**Hydro**) on the Edgar Dam in the Tasmanian Wilderness World Heritage area (**the Project**).

Lawyers for Forests Inc. (**LFF**) is an incorporated association of legal professionals advocating for over 20 years for the protection of Australia's native forests, including the species that inhabit them.

LFF strongly opposes the proposed work and proposes restoration of Lake Pedder as a safe and rightful alternative to the Project.

At a minimum, the Project must be treated as a controlled action under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (**the EPBC Act**), and as such requires a full environmental assessment.¹

The importance of restoring Lake Pedder

The ecological integrity of Lake Pedder was significantly (but not irreparably) compromised following the 1972 efforts by Hydro to dam the Serpentine and Huon Rivers. This created an overflow of water which inundated Lake Pedder and caused drastic disturbance to its ecosystems (**The new Huon Serpentine impoundment**).²

A 2020 scientific scoping study to determine the feasibility of restoring Lake Pedder to its pre-disturbance conditions confirmed that restoration is both ecologically and scientifically possible.³

Given the escalating environmental and biodiversity crisis, an opportunity to revive an environmental stronghold is invaluable. The benefits of restoring Lake Pedder include but are not limited to supporting viable platypus populations,⁴ threatened flora species,⁵ and organic

¹ *Environment Protection and Biodiversity Conservation Act 1999* (Cth) Ch 4.

² House of Representatives Standing Committee on Environment, Recreation and the Arts 'Inquiry into the proposal to drain and restore Lake Pedder' (PDF, June 1995) *Australian Government Publishing Service* 1.

³ 'The Science' *Restore Lake Pedder* (Web Page 2020) <<https://lakepedder.org/thescience/>>.

⁴ Dr Anita Wild, 'Platypuses Factsheet' *Restore Lake Pedder* (PDF, August 2020). <https://restorelakepedder.files.wordpress.com/2020/10/factsheet_platypuses_final.pdf

⁵ Dr Anita Wild, 'Flora Factsheet' *Restore Lake Pedder* (PDF, August 2020) <https://restorelakepedder.files.wordpress.com/2020/10/factsheet-flora_final.pdf>.

soils and peatlands.⁶ Beyond revitalising the local ecosystem, this restoration would guide future conservation efforts,⁷ and have broader social benefits.⁸

The alternative, Hydro's Proposal, is to reinforce the existing dams at a projected cost of over AUD \$100 million.⁹

Why the project should be declared a 'controlled action'

The Project is likely to have an adverse impact on the Tasmanian Wilderness World Heritage Area, listed migratory species, a national heritage place, threatened species and ecological communities. Accordingly, the project should be deemed a controlled action.¹⁰

If declared a controlled action, the Project would require environment assessment and approval.¹¹

Utility of an environmental assessment

LFF submits that the 'Natural Values Assessment'¹² submitted by Hydro fails to comprehensively identify the environmental impacts of the Edgar Dam, which would be perpetuated by its restoration.

Environmental assessments under the EPBC Act allow for a holistic decision on whether to approve a project. In assessing a project, the Minister must consider the principles of ecologically sustainable development and associated factors.

Under Part 9 of the EPBC Act, the assessment and approvals process is rigorous: such a process should ensure adequate consideration of the potential harms of the proposed works. During this time the Minister may invite comments from other Ministers, Hydro, and the public, in addition to requesting further information to make an informed decision.¹³

This period of assessment would allow for the contribution of further research and evidence. We submit that an adequate assessment would expose risks to the flora, fauna, and other natural values of the World Heritage Area of Lake Pedder.

⁶ Dr Anita Wild, 'Organic Soils and Peatlands Factsheet' *Restore Lake Pedder* (PDF, August 2020) <https://restorelakepedder.files.wordpress.com/2020/10/review_organic_soils-and-peatlands.pdf>.

⁷ Cresswell ID, Janke T & Johnston EL 'Australia state of the environment 2021: overview, independent report to the Australian Government Minister for the Environment' (PDF, 2021) <<https://soe.dcceew.gov.au/sites/default/files/2022-07/soe2021-overview.pdf>>.

⁸ Healthy Landscapes Research Group, 'Ecological Restoration Activities and the Benefits for Human Health and Wellbeing' (PDF, 2022) <<https://restorelakepedder.files.wordpress.com/2022/05/utas-nebn-impacts-on-wellbeing-report-may-2022-1.pdf>>.

⁹ Adam Morton, 'Fork in the road: can Tasmania unwind the environmental damage at Lake Pedder?' *The Guardian* (online, 17 September 2022) <<https://www.theguardian.com/australia-news/2022/sep/17/fork-in-the-road-can-tasmania-unwind-the-environmental-damage-at-lake-pedder>>.

¹⁰ EPBC Act s 75(3).

¹¹ EPBC Act s 66.

¹² *Hydro Electric Corporation ABN 48 072 377 158*, 'Edgar Dam Strengthening Project – Natural Values Assessment' (17 November 2023) <<https://epbcpublicportal.awe.gov.au/open-for-comments/project-decision/?id=678480d9-09d5-ee11-904d-0022489309b5>>.

¹³ EPBC Act (n 1) ss 131 – 132.

This recognition is essential given the necessity to mitigate the rise of habitat loss which continues to threaten the survival and recovery of species and communities within Australia.

Conclusion

The Project should not be permitted to continue in the absence of an environmental assessment. The Project involves Matters of National Environmental Significance given its implication of Tasmanian Wilderness World Heritage Area, listed migratory species, a national heritage place, threatened species and ecological communities. As per the EPBC Guidelines, the Project is likely to have a significant impact on protected matters and so is a controlled action and the EPBC Act is enlivened. LFF strongly contends that Hydro is accordingly required to refer the action to the minister to determine whether assessment and approval is required under the EPBC Act.

Please see the attached submission from Restore Lake Pedder for further detail.

Yours sincerely
Executive Committee for Lawyers for Forests Inc.

Authored by Eve Fitzgerald for Lawyers for Forests Inc.

13 March 2024

Attachment: Submission by Lake Pedder Restoration Incorporated

Dear Minister Plibersek,

The Edgar Dam referral, ENTURA23902C, must be treated as a controlled action under EPBC because strengthening the dam (excavation down to bedrock and complete removal and replacement of cement dam face), will have a significant impact on several Matters of National Significance namely: The Tasmanian Wilderness World Heritage Area; a National Heritage Place, Threatened Species and Ecological communities.

Hydro states that there is no alternative to 'strengthening' the dam with its 'high risk' status to downstream residents. There is an unstated and untested assumption that the dam remains necessary for hydroelectric power supply and that assumption is sufficient to justify the ongoing compromising of the natural, cultural and wilderness values for which the TWWHA was listed.

Alternatives

Hydro has failed to assess the alternative action of decommissioning the dam and has proactively decided against giving permanent safety assurance to downstream residents and against enhancing the integrity of the TWWHA by removal of Hydro infrastructure.

World Heritage Area

The Edgar 'strengthening' is the first stage of revamping the man-made Pedder impoundment which the World Heritage Committee included in the TWWHA boundaries on the assumption that it would be removed and Lake Pedder restored when the dams reached the end of their useful life. Keeping it undermines the Natural and Wilderness values of the TWWHA.

'As it sits now the lake [the Huon-Serpentine storage] is an insult upon the land. We initially thought it should be excised from the existing World Heritage site but our 1989 evaluation foreshadowed the eventual prospect of restoration and on that remote (at that time) prospect we left it in. On earth in general and in Tasmania in particular it is time for healing. I would hope this process can begin with the successful restoration of Lake Pedder' - Jim Thorsell Senior Advisor, Natural Heritage IUCN, 1995

Failure to provide full project description

Hydro intends to conduct major repair works to Scotts Peak dam as well and hence the Edgar referral is only a partial referral. The whole project must be considered as one and not in parts.

Natural Values of the TWWHA

Rejigging the dams is deliberately significantly impacting the integrity of the TWWHA and the natural values of exceptional natural beauty, distinctive landforms, paleoendemic species and communities, unusual threatened plants and animals and ecological processes.

Hydro's own Natural Values assessment identifies some but not all of the threatened species to be impacted by the dam but argues the impacts will not be significant but provides no evidence to support that conclusion. It is clear the impacts will be significant and hence this is a controlled action.

Flora

The vegetation survey of impacted areas around the dam site including the proposed workers camp site is desk top. A two day field survey is completely inadequate. To conclude on the basis of a two day survey that none of the seven threatened flora species identified in the PMST as potentially occurring within a 5km radius are considered likely to occur within the disturbance foot print, is shoddy and untested.

Specifically, Hydro fails to refer to the threatened *Chiloglottis valida* orchid which is present on the site of the workers camp.

Fauna

Hydro admits the presence of threatened species in the areas to be disturbed but then argues that the impacts can be mitigated. They cannot and that is why the proposed works must be a controlled action.

Hydro's proposal fails to address the full area impacted and the risk to threatened species of 2,500 truck with trailer movements on Gordon River Rd, Scotts Peak Rd, Florentine Rd and between Boral Quarry at Bridgewater and the Edgar Dam, 150kms over an 18 month period. They pose a high risk and therefore significant impact from roadkill to listed threatened species of the Tasmanian devil, spotted and Eastern quoll. Restricting the truck movements to daylight hours is inadequate as the roads are in areas where these species are found and distances travelled between Bridgewater and the Dam site mean that the trucks will be on the road before sunrise and after sunset during a large part of the year. The roadkill surveys taken between Dec 2019 and Dec 2020 were during Covid travel restrictions and cannot be assumed to be a true survey during normal road use. The mitigation proposals of recording roadkill and removing carcasses do not bring the animals back to life. They merely record the numbers of threatened species killed. Using Covid lockdown roadkill numbers as a baseline to suggest that there are few roadkills and therefore this project will not be a significant impact on the species is wrong.

23 threatened fauna species were identified as being, or likely to be, in a five km radius of the disturbance site and the following in the disturbance area: namely Tasmanian devil (*Sarcophilus harrisii*), eastern quoll (*Dasyurus viverrinus*) and spotted-tailed quoll (*Dasyurus maculatus* subsp. *maculatus*) • three bird species: white-bellied sea-eagle (*Haliaeetus leucogaster*), Tasmanian masked owl (*Tyto novaehollandiae castanops*) and the White-

throated needletail (*Hirundapus caudacutus*) • one fish species: swamp galaxias (*Galaxias parvus*). In addition, two threatened invertebrate species (Ouse River caddisfly *Oxyethira mienica* and Tyenna River freshwater snail *Phrantela pupiformis*) listed under the TSP Act may occur within small tributaries within the disturbance footprint and intersecting creeks along Scotts Peak Road.

Hydro has failed to state the significant impact on the *Galaxias Parvus*, which it admits is present in the Edgar toe pond. Details of the dewatering process to translocate aquatic fauna are not available and this is a serious omission.

The dismissal of the recorded screechings of the Masked Owl in the camp ground on the basis that there are no habitat trees in the disturbance footprint is disingenuous. The Masked Owl has been recorded as present, Hydro acknowledges that it uses the area possibly for foraging. The likely significant impact on the Masked Owl of Hydro's construction of a worker's camp needs serious environmental assessment. The mitigation proposed, to minimise lighting and noise at night in a workers camp is unrealistic.

Nor does Hydro acknowledge the impact of the dam 'strengthening' as opposed to restoration on the habitat and foraging range of platypus, which prefers shallow streams to an impoundment.

Hydro also fails to outline the impacts on threatened fauna from the lights, noise, blasting and diesel generator vibrations from the workers camp which will be in place for 18 months to two years.

Consultation

Hydro's statements about having conducted adequate community and Aboriginal consultation are wrong. The Huon Valley consultation was attended by less than 20 people. The Council meeting on Feb gives the lie to Hydro's claims - <https://www.youtube.com/live/xhuljjUOEME?si=0D3LcEHZtbcMosJ>

Hydro also claims to have consulted the Tasmanian Aboriginal Community. Their form with the Huon Valley Council casts doubts on any claims. Various groups have been contacted by us as collaborative partners and will make public comments.

For all these reasons, the Edgar Dam ENTURA23902C, proposal will have significant impacts on matters of Environmental Significance, is a controlled action and must be subject to a full environmental assessment.