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Federal Court to hear Tasmanian wilderness appeal

EDO Tasmania will appear tomorrow in the Federal Court for the Wilderness Society (Tas) (TWS), in its challenge to the federal government's decision that the proposed helicopter-accessed tourist development on Halls Island in the Tasmanian Wilderness World Heritage Area (TWWHA) does not require EPBC Act approval.

The Federal Court in Melbourne will tomorrow hear a legal challenge to the Federal Minister's decision (by delegate) that a proposal to build high-end tourist accommodation on Halls Island in the TWWHA to be accessed by helicopter, was not a controlled action and did not require further assessment or approval under the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*.

The Wilderness Society is the applicant for review, represented by barrister Emrys Nekvapil and lawyer Claire Bookless from EDO Tasmania.

The Federal Court hearing will start at 10.00am with the full day listed to hear the case.

"Our client is challenging the Federal government's decision that no Commonwealth approval is required for this development in the World Heritage Area," said Nicole Sommer, EDO Tasmania CEO and Principal Lawyer. "TWS has elected to challenge the decision because it is concerned that the delegate failed to apply the EPBC Act in the way it is intended to be applied."

Ms Sommer said:

"The Court will hear arguments that the delegate took the wrong approach in making his decision under the EPBC Act. Our client's case is that the delegate erroneously relied upon the Tasmanian Reserve Activity Assessment process. Our client simply wants the delegate to make a decision according to law."

Ms Sommer also noted that the decision was unconditional:

"In finding the action was not a controlled action, the delegate imposed no constraints. As a result, it is not clear how much flexibility exists regarding the number of flights, flight paths, or building and track design before the Minister should be asked to reconsider the significance of the impacts."

The TWWHA is an internationally listed World Heritage site and a listed national heritage place. The EPBC Act requires actions which are likely to have a significant impact on a matter of national environmental significance, such as World Heritage or national heritage values, to be subject to rigorous and transparent assessment.

The EPBC Act is the legislation which implements Australia's international obligations to protect World Heritage properties like the TWWHA. This case will test the responsibilities of the Federal Environment Minister in assessing development that puts internationally-recognised wilderness values at risk.

Further information:

- [Case summary on EDO Tas website](#)
- [Referral material \(search for 2018/8177\)](#)

For media inquiries, contact Nicole Sommer on (03) 6223 2770, 0437 284 909 or nicole.sommer@edotas.org.au

About EDO Tasmania

EDO Tasmania is a community legal centre specialising in public interest environmental law. We help people who want to protect the environment through law. More information about our work is available at www.edotas.org.au