



Jeffrey Peng  
NSW Department of Planning and Environment  
[jeffrey.peng@dpie.nsw.gov.au](mailto:jeffrey.peng@dpie.nsw.gov.au)

18<sup>th</sup> October 2023

Dear Mr Peng,

**Objection to proposed modification 3 of Emirates One & Only Resort, Wolgan Valley (MP06\_0310)**

Wilderness Australia (formerly known as the Colong Foundation for Wilderness) objects to the proposed increase in helicopter flights to 30 helicopter movements per day and 210 helicopter movements per week as being excessive. Wilderness Australia considers that the temporary nature of the proposed modification of the consent can not be relied upon as temporary arrangements often become permanent. Furthermore, the applicant has failed to meet an important obligation to your Department and so the proposal to terminate this proposed increase in helicopter movements once 2WD vehicle road access to the Wolgan Valley is re-established should not be relied upon.

The Emirates originally proposed helicopter use in its Master Plan [section 5.7, p105] as follows:

*“The purpose of the helicopter flights will be to act as a shuttle to transport guests to and from the resort. The majority of guests will arrive by 4WD however. The alternative of not providing a helicopter shuttle service could have financial impacts for a 6 star resort as the helicopter shuttle would be an integral part of the service for important guests that are keen to maximize their time at the resort. A number of mitigation measures will be implemented to minimise any impacts on native wildlife and these include:*

- *Limiting flights to pick up/set down only;*
- *Limiting flights to daylight hours; and*
- *Running a maximum of four flights a week [my emphasis].*

*The flight path will be agreed with NPWS but is planned to run along developed areas only such as roads.”*

MP06\_0310, Modification 2 has increased flights to the resort to a maximum of 10 helicopter movements per day and 40 movements per week, with an option to seek 56 movements per week by application to the Secretary.

A critical obligation to the environment has not been met by the applicant. As you may know, the resort was relocated from its original position on private land beside an historic site to be partly on the Wollemi National Park and agreements then made regarding land swaps. These agreements have not been delivered.

According to a letter from the then head of National Parks and Wildlife Service, Dr Tony Fleming (NPWS ref: DOC07/21340), "The lease [of national park land] is not expected to run for more than about 2-3 years. It is expected that the transfer of lands between Emirates and DECC [now DPE] will occur well within this timeframe, subject to ongoing support from Government and of course subject to parliamentary approval."

Wilderness Australia has no confidence in the Emirates increased helicopter movements proposal not becoming a permanent arrangement as it has not met significant legal obligations regarding land transfer. The applicant is still in possession of national park land, apparently without a compensating land swap described as follows in Departmental correspondence (NPWS ref: DOC07/21340):

*"Both Emirates and DECC have agreed to negotiate the terms of, and to enter into, a form of conservation agreement, to protect the significant natural and cultural heritage values of the freehold land. Emirates have also agreed to capture their Crown leasehold and Crown licensed lands within the nature conservancy proposal and to protect and manage these significant natural and cultural heritage values of these lands consistent with the adjoining national park and World Heritage Area. The Minister for Lands has the ultimate decision-making role in relation to the future of both Crown leasehold and licensed lands within the Wolgan Valley.*

*Support from Emirates for the transfer of other Crown lands is anticipated, but only after they take possession of the land and after some of the planning referred to in both the State and proposed Australian Government conditions of approval, has been properly undertaken. Emirates have agreed to support a proposal to see the early transfer of at least some of the Crown leasehold land (eg the Crown land near the Glow Worm Tunnel) to the Minister for Climate Change, Environment and Water for reservation under the NPW Act. Our Minister's approval for such a transfer will also be required."*

The Department of Planning and Environment should ensure that these above important arrangements are met before any further modifications to this major project are considered. This is a reasonable approach given the length of time since the applicant occupied Wollemi National Park, in what was effectively a national park land grab through a major project application.

### **Adverse Environmental Impacts of Emirates Resort proposed modification 3 to MP06\_0310**

The revised flight paths for the increased number of helicopter movements passes over Carne Creek, which the NPWS proposes to use as part of the route for the Wollemi Great Walk (Gardens of Stone Plan of Management 2022 and draft Master Plan 2022).

The NPWS proposes investment in a high standard walking track from the Western Boundary Road of the former pine forest in the Gardens of Stone State Conservation Area that will cross Carne Creek in two places and then join with the Glowworm Tunnel Road near the Old Coach Road. At this stage, the walk is being proposed with commercial tourist accommodation and remote bush camping as well. The commercial accommodation is being considered by Wild Bush Luxury at various places in the Carne Creek catchment. These future accommodation experiences in a remote natural environment are likely to be ruined by your proposed increase in helicopter flights that will drive visitors away from this location due to noise. It would also compromise the marketing for these proposed remote bush luxury accommodation facilities.

The Accommodation Nodes 3, 4 and 5 on page 13 (figure 2) of the Gardens of Stone State Conservation Area Plan of Management, November 2022, identifies the preferred locations of the Wild Bush Luxury facilities that shall be connected to the walk. Camping facilities shall also be provided in the Carne Creek catchment. Wilderness Australia does not support the proposed commercial facilities or the proposed route for the walk, however, this is an adopted plan of management that is being delivered by the National Parks and Wildlife Service (NPWS).

High-end tourists are unlikely to pay for a walking and bush accommodation experience that would then be subjected to noise from helicopters commuting to and from the Emirates resort in the Wolgan Valley. The arrangements outlined in modification 3 are likely to precipitate Wild Bush Luxury abandoning its plans in the reserve, if they have not already done so. Further, few bushwalkers will use the proposed walk or its associated campsites if their enjoyment is spoiled by helicopter noise.

The proposed increase in helicopter movements may also adversely impact the enjoyment of future visitors to the proposed Forest Park camping ground in the new Gardens of Stone State Conservation Area. This large camping ground with capacity for about 60 camp sites is in the headwaters of Carne Creek, apparently under the proposed flight path. Forest Camp is located at the north-western end of the former pine forest. These visitors also would not want to hear and perhaps see frequent helicopter movements. This proposed increase in helicopter movements is not acceptable to the future visitor use of the new reserve as defined by the plan of management. The establishment of these facilities is well funded by the NSW Government.

The proposed Helipad Southerly and Northerly Take-off and Landing flight paths (figure 2.2) would cause greater noise impacts on the future visitor use in the Gardens of Stone State Conservation Area than the existing flight paths (figure 2.1).

If modification 3 is approved, the NPWS would probably receive complaints from park visitors regarding offensive and intrusive helicopter noise.

The Emirates have made no undertaking to avoid overflights of the Gardens of Stone State Conservation Area to minimise noise impacts on visitors or wildlife. There should be no flights in the hour after sunrise and before sunset, as per the original EPBC Approval for the Emirates Resort. Modification 3 has no proposals for a no-fly zone around the proposed visitor facilities identified in the plan of management for the Gardens of Stone State Conservation Area.

Operational Management Plan does not ensure park users and birds are not adversely affected, for example birds of prey soaring on the thermals above the cliffs about the resort and Carne Creek. This potential bird hazard also needs to be considered in flight operations. There is no evidence in the modification report of a fauna study along the new proposed flight paths (figure 2.2). Several Peregrine Falcons may use the cliffs along the Carne Creek gorge. Helicopter operations may drive these and other raptors away from the flight path area. The potential impacts of alternative flight paths on native fauna, tourism, the amenity of the local communities are not adequately assessed, so as to minimise the impacts.

The noise studies in the modification report did not locate relevant future noise receivers in the Gardens of Stone State Conservation Area, such as at the three accommodation nodes in the Carne Creek catchment or at proposed campsites. No data at these sites or an assessment as to whether the helicopter is visible from these close receiver locations was undertaken. Noise measurements in the modification report for residential buildings or other non-direct line of site measurement points are located on the other side of Donkey Mountain and to north from the heliport and proposed flight paths. These noise measurement points would be impacted far less than those future noise receivers

for the proposed accommodation hubs that are in direct line of sight to the helicopter flight paths in Carne Creek gorge (see figure 2.2, modification report).

There were no flight path alternatives presented in the modification report. The proposed flight path changes would reduce impacts on day visitors to the Glowworm Tunnel precinct but greatly increase impacts on camping visitors at proposed accommodation hubs in the Carne Creek catchment (see the Gardens of Stone SCA, plan of management). Overall, the impacts are apparently greater than the current flight arrangements.

Key areas for any existing and future ground based eco-tourism will be affected by the increase in helicopter flights, creating the potential for serious disturbance to the sense of peace and solitude for these visitors, and potentially, a net economic loss to the region.

This modification proposal fails to adequately describe and assess the noise impacts of the proposal on National Parks and reserves, particularly at visitor nodes (see page 13 of the plan of management on the following page). It is not possible for the Department to make site-specific recommendations regarding control and regulation relating to these proposals regarding the potential impacts to the accommodation nodes on Carne Creek.

### **Risk analysis for the proposed flight paths**

The modification report does not identify the particular hazards along the proposed flight paths and outline how these risks are minimise these hazards.

The risk of inbound and outbound helicopters passing close to each other in a confined gorge is not assessed. Helipad Southerly and Northerly Take-off and Landing flight paths (figure 2.2 below) show these paths are within Carne Creek gorge. The passing of inbound and outbound helicopters should be subjected to a detailed risk analysis. Inbound and outbound helicopters are known to collide in good weather at Sea World on the Gold Coast on 2 January 2023. The proposed flightpath arrangement seems to be an unacceptable collision risk as there is little room for helicopters to manoeuvre in Carne Creek gorge. What if an inbound helicopter uses the outbound helicopter flightpath and there is confusion between on-coming helicopter pilots as to who gives way to whom? A patron flying their own helicopter to the resort may not know the relevant protocols.

Newnes Plateau is 1100 metres high, which is over 500 metres above the Wolgan Valley floor. Figure 2.2 (above) indicates that helicopters would operate at 770 feet AGL (235 metres AGL) when flying in the Carne Creek gorge. This indicated on Figure 2.2 shows a flight path height of 2750 feet (838 metres) that is below the cliff tops at 1000 metres.

Wilderness Australia believes that the operational considerations are not specified in nearly enough detail to enable the Department to regulate the proposed activity through consent conditions.

Wilderness Australia understands that when operating on 'preferred scenic routes' pilots can operate down to 500 feet and be consistent with the Fly Neighbourly Agreement (FNA). In any event, a reference to the Fly Neighbourly Agreement is irrelevant unless it applies to the area proposed for flight paths, which it apparently does not. The FNA applies to the World Heritage Area and not to the Gardens of Stone State Conservation Area.

Wilderness Australia believes that the Department should regulate helicopter operations and specify where flight operations can occur and in what manner, to ensure aircraft safety and limit noise impacts on park visitors, residents and wildlife.

Gardens of Stone State Conservation Area: plan of management

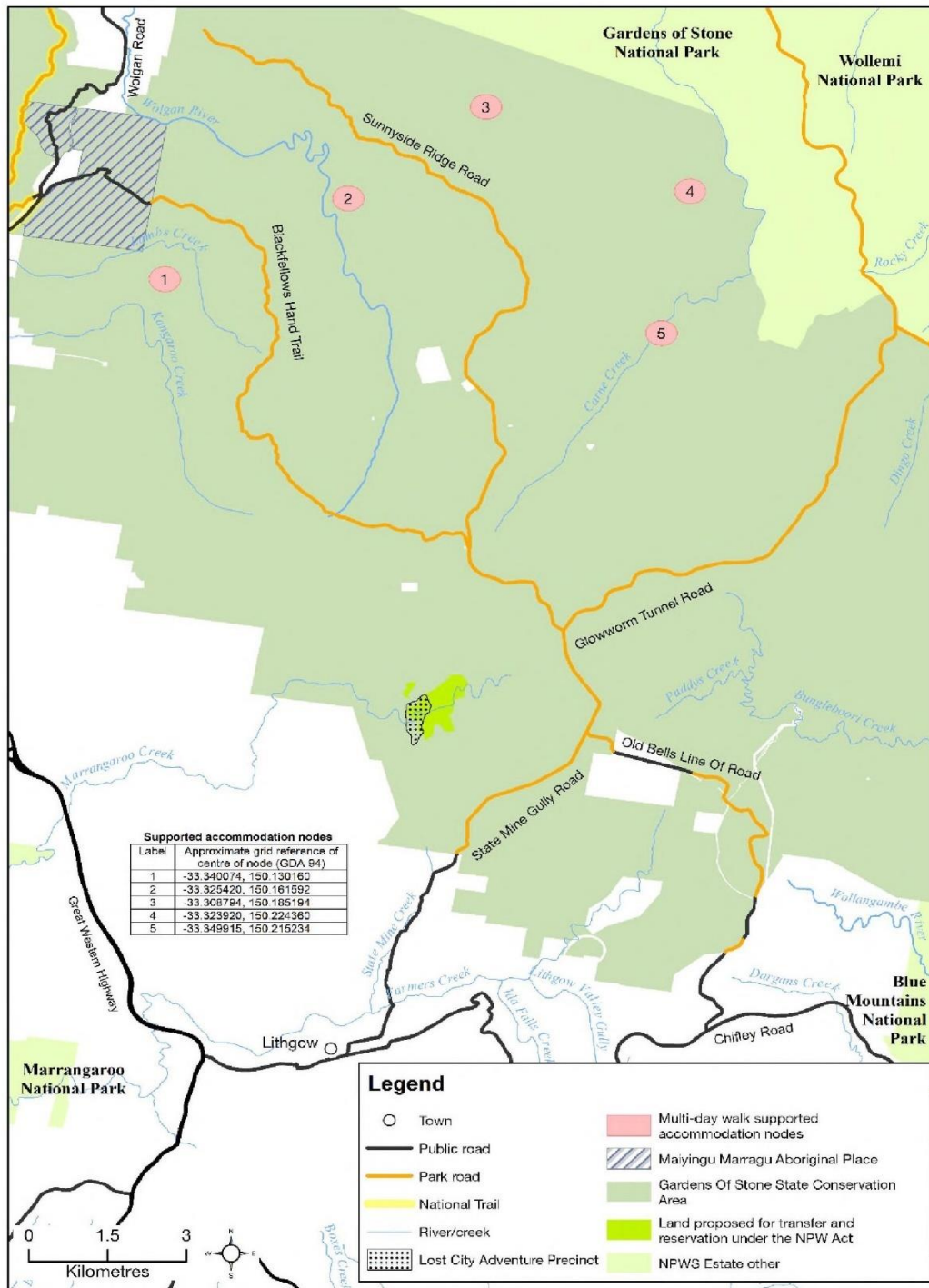
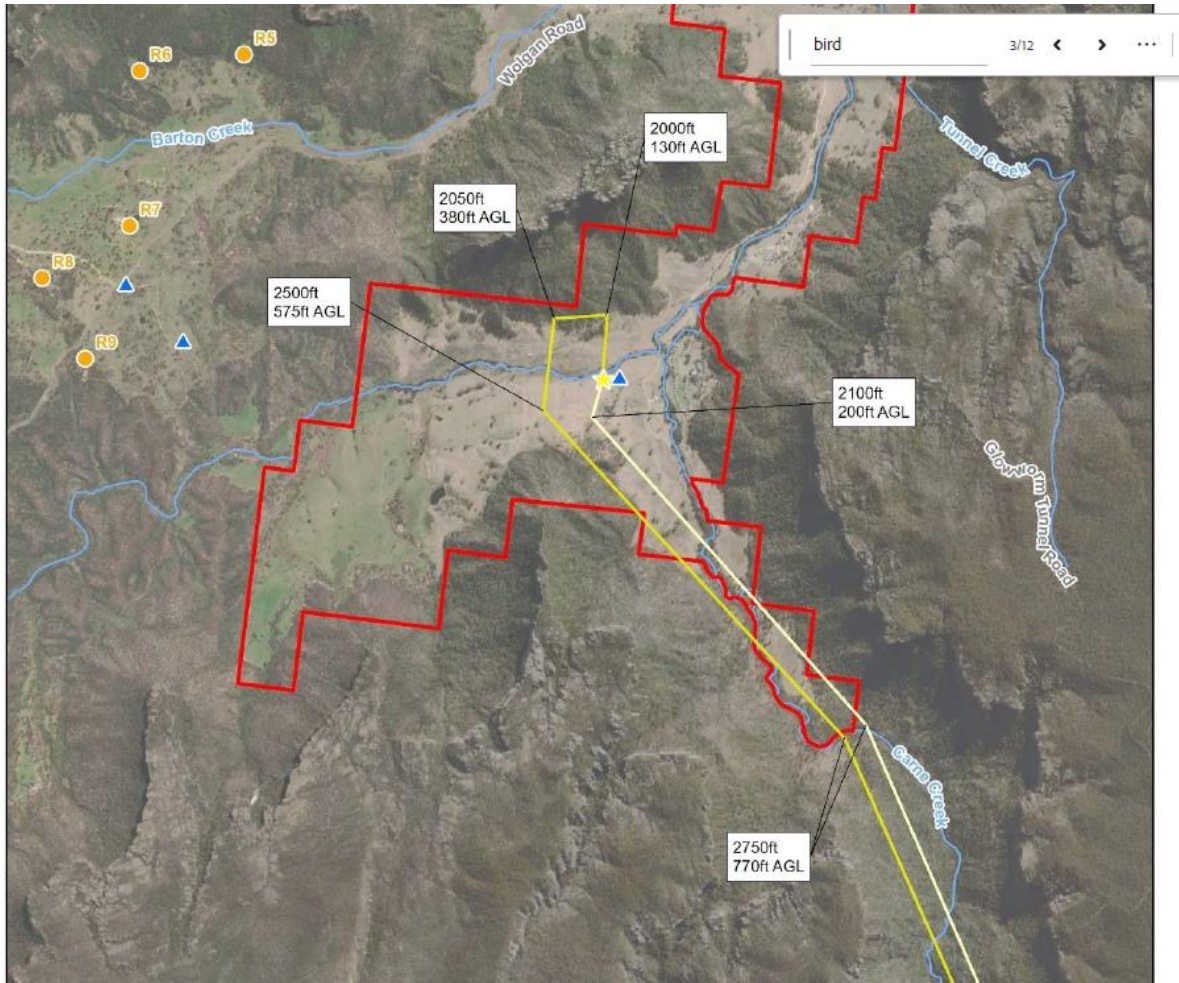


Figure 2 Lost City adventure activity precinct and multi-day walk visitor accommodation nodes



*The inbound and outbound helicopter flight paths in Carne Creek gorge is a potential hazard to helicopter passengers and pilots, especially in poor light and weather conditions. The risk greatly increases when Emirate resort patrons fly their own helicopters to the helipad.*

Helicopter noise will reverberate through the Carne Creek gorge to the annoyance of park visitors and campers using this part of the reserve.

Wilderness Australia is unable to review the noise data or expert reports provided in the modification report on such a short exhibition period. Helicopter noise is intrusive and annoying and the claim that “helicopter operations are expected to be inaudible or only barely audible” is not our experience (conclusion, page 14, noise assessment in the modification report). The conclusion reached that the noise generated by the additional helicopter movements meet the noise criteria in the report is an unconvincing conclusion. The most sensitive noise recipients shall be the future Gardens of Stone SCA visitors to accommodation hubs proposed for Carne Creek and the impact of helicopter noise of these recipients in direct line of site to the proposed flight paths is not considered in the modification report.

The Gardens of Stone SCA could also be compromised if subjected to more regular noise pollution by helicopter flights, leading to a loss of any sense of solitude. The United States Department of Agriculture Forest Service ‘Report to Congress: Potential impacts of aircraft overflights of national forest system wilderness’ (July 1992) found that wilderness users were 10 dB(A) less tolerant of noise of aircraft overflying than in residential areas. This is an important finding as it identifies park visitors as the most sensitive noise recipients. The impacts on these recipients were not assessed in the modification report.



The limits of acceptable change in the acoustic environment for wilderness, national parks and reserves should be considered when determining this modification proposal.

Unregulated helicopter joy flights in the Blue Mountains were the subject of many complaints in 1994 and this resulted in these activities being restricted and joy flight helicopter operations out of the Katoomba airfield being curtailed. Such a scenario of drawn-out community conflict and dispute is likely to develop if the Emirates heliport is granted approval for additional flights without adequate prior consideration of air borne environmental impacts, and appropriate modification of the proposed helicopter flight paths.

The 'burden of proof' is on the proponent to show that a four-fold increase in flight movements will not damage the environment, the economy or the community. The proponent has not provided the required information in relation to the new Gardens of Stone reserve. The proposed helicopter flight path up Carne Creek will be very noisy and to have possibly to have significant impacts on bird life resident there. The proposal will impact on future visitor accommodation development in Carne Creek, ensuring that these do not proceed.

Wilderness Australia believes that regulating flight paths approaching the heliport is the responsibility of your Department, not that of the Civil Aviation Authority's ('CASA'). The role of CASA does not extend to environmental planning and assessment of airborne operations related to aircraft operating off private land. There is no inconsistency between your Department and federal responsibilities regarding the assessment of impacts for the proposed helicopter flight operations. Section 5 of the EP&A Act list the objects of the Act which include:

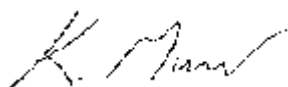
- (a) the promotion of a better environment;
- (b) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats; and
- (c) ecologically sustainable development.

The Department must be consistent with these objects when considering this proposed development and it is only possible to achieve proper consideration of the proposal by examining the main aspects of the proposed activity – the increase in helicopter flights and the revised location of these flight routes. The Department should not restrict its consideration to on-ground activities as doing so would ignore its duty to protect public safety, the environment and foster ecologically sustainable development under the EP&A Act. The Department would also be ignoring the main issue arising from the proposal, air borne noise emitted from flight operations.

Given that the proponent has not established their case for being allowed to operate potentially very noisy operations over the Gardens of Stone State Conservation Area, causing potentially high levels of land use conflict, and that the proposed flight paths have apparently not been subjected to a flight risk assessment, the Department should not approve this incomplete, potentially dangerous and controversial modification proposal.

Thank you for the opportunity to comment.

Yours sincerely,



Keith Muir  
Hon. Project Officer  
Wilderness Australia

Australian Foundation for Wilderness Limited. ACN 001 112 143 ABN 84 001 112 143  
Advocating as Wilderness Australia. Formerly The Colong Foundation for Wilderness Ltd.  
PO Box K335, Haymarket, 1240, NSW. Registered Office 10/154 Elizabeth Street Sydney NSW 2000.  
Telephone (02) 9261 2400  
[www.wildernessaustralia.org.au](http://www.wildernessaustralia.org.au)  
[contact@wildernessaustralia.org.au](mailto:contact@wildernessaustralia.org.au)