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SUBMISSION TO THE INQUIRY INTO THE EFFECTIVENESS OF THREATENED SPECIES AND ECOLOGICAL COMMUNITIES' PROTECTION IN AUSTRALIA

INTRODUCTION

This submission primarily addresses the two terms of references (b) and (c) which are the most important to our organisation's involvement in the protection of threatened bird species. Inevitably some issues are more general in nature and these are addressed in section (g) of the submission.

The Hunter Bird Observers Club (HBOC) strongly supports the threatened species protection and recovery actions orchestrated by the Federal Government. For reasons explained in this submission it is imperative that the Federal Government does not relinquish its environmental powers to state governments.

Continual loss of threatened species habitat is a primary cause of the ongoing decline in bird populations and an impediment to the recovery of listed bird species. The environmental laws of Australia are failing to provide protection, although their provisions are both sensible and balanced. The problem is the manner in which they are implemented. The pro-development stance of state and local authorities frequently sees the environment of secondary importance and opportunities for balanced outcomes are lost. The assessment of environmental assessments of projects should be more focused, more transparent and authorities more accountable for their decisions. Habitually legitimising threatened species habitat destruction by offsetting is a dangerous high-risk strategy. Offsets ratios are inadequate and conditions of consent are not rigidly enforced. Furthermore, offsets are not managed in perpetuity.

Habitat and its management are central to the recovery of threatened bird species. Success is possible, but requires continuity of action. Volunteers, including HBOC members are essential to the "citizen science" effort. Continuity of funding and programs which evolve rather than suffer radical change are the key to volunteer engagement and advocacy in the community.

(b) DEVELOPMENT AND IMPLEMENTATION OF RECOVERY PLANS

The Hunter Region hosts 74 threatened bird species or sub-species listed under the NSW *Threatened Species Conservation Act (TSC Act) 1995*, some present regularly, others only occasionally (Roderick & Stuart 2010). Threats, recovery objectives and required management actions for these species are outlined in the Action Plans for Australian Birds (Garnett & Crowley 2000; Garnett *et al.* 2010). For some, but not all species, detailed recovery plans have been developed and implemented in accord with the directions recommended in the Action Plans.

The development and moreover, the implementation of recovery plans, often involve volunteer effort, commonly referred to as "citizen science". Hunter Bird Observers Club (HBOC) members are actively involved in the citizen science effort, both as participants and where appropriate in leadership roles. A long-term commitment to the successful recovery of threatened species is central to HBOC's conservation ethic. We conservatively estimate that HBOC members commit 1000 hours/annum, valued at A$30,000/annum to projects involving threatened species. This effort involves research, monitoring and remediation of the

habitats of threatened bird species. HBOC informs land managers and government agencies of its results by publication in its journal *The Whistler*, in Special Reports and its Annual Bird Report series as well as in peer-reviewed national ornithological journals and by direct submissions to land managers. HBOC is an important stakeholder committed to the successful implementation of the recovery of threatened bird species. Its programs identify knowledge concerning the status of threatened bird species in the Hunter Region essential to the development of recovery plans and to assessment of the effectiveness of their subsequent implementation.

HBOC holds the optimistic view that species can be recovered to a situation where populations are stable and will survive with minimal ongoing intervention provided that their critical habitat is appropriately managed (see comments concerning the management of critical habitat; point (c) in the terms of reference). We briefly comment on the status and recovery of four threatened species occurring in the Hunter Region with respect to the extent to which the objectives of the Action Plans for Australian Birds have been addressed.

Gould's Petrel *Pterodroma leucoptera* (current NSW status: vulnerable; previously endangered)

The status of this species has improved dramatically following successfully implemented remedial actions based on long-term scientifically based research which identified threatening processes and potential recovery actions. The Gould's Petrel experience demonstrates that recovery programs can be successful.

Regent Honeyeater *Anthochaera phrygia* (current NSW status: critically endangered; previously endangered)

Regent Honeyeaters have received considerable focus and conservation effort throughout south-eastern Australia. In the Hunter Region annual monitoring has identified important habitat which provides foraging opportunities in the non-breeding season as well as intermittent breeding opportunities (Roderick & Ingwersen 2012). During the last decade some critically important habitat has been inappropriately zoned for the Hunter Economic Zone (HEZ) industrial development (near Kurri Kurri) despite knowledge of its importance to Regent Honeyeaters and other threatened bird species. HEZ was an economic failure and subsequently entered administration, resulting in proposals to decrease further the already inadequate safeguards for Regent Honeyeater habitat. Within the Hunter Region appropriate reservation and management of critical habitat is the most important factor impinging on the success of the national recovery plan for this species. Unless the underlying issues are addressed, the probability of extinction in our region and indeed throughout the species' range is increased, as the Hunter has been identified as a key refuge for the species in times of drought and is increasingly becoming recognised as an important area generally. To those committed to the recovery of the Regent Honeyeater these actions appear both incomprehensible and contemptible in view of the contemporaneous increase in the threat level for this species from endangered to critically endangered.

Rufous Scrub-bird *Atrichornis rufescens* (current NSW status: vulnerable)

In the Hunter Region the Gloucester Tops area within Barrington Tops National Park is one of five montane habitat islands which provide critical habitat at the southern limit of the range of this rare species. Most of this critical habitat has National Park and Wilderness Area status. Although a formal Recovery Plan has not been developed the Barrington and Gloucester Tops area has been identified as vitally important Rufous Scrub-bird habitat and nominated as an Important Bird Area (IBA). It is fortunate that excellent baseline data exists, quantifying the status of the Rufous Scrub-bird at Gloucester Tops 30 years ago (Ferrier 1984). HBOC volunteers recently repeated the earlier monitoring and found that the density of territorial males had not changed significantly (Newman & Stuart 2011). This supports the recovery strategy advocated in the Action Plan for Australian Birds; namely that passive management of currently reserved areas should be sufficient to sustain the species. However, latent threats remain with respect to the Rufous Scrub-bird's ability to adapt to natural variations in habitat quality associated with climate change, fires and the impacts of land use change associated with passive management (e.g. the highest density of scrub-birds at Gloucester Tops are found in regrowth areas of eucalypt woodland which may progressively revert to unsuitable beech forest). Consequently there is a need for ongoing research and monitoring to remove these uncertainties before delisting could be contemplated.

Australasian Bittern *Botaurus poiciloptilus* (current NSW status: endangered; previously vulnerable)

The recovery objectives for this species suggested in the Action Plan were to maintain existing populations through the identification, protection and management of principal breeding wetlands. A recovery plan has yet to be developed but has been recommended at a national level. HBOC has collated records for this elusive species and there are sufficient to indicate that freshwater wetlands within the Hunter Estuary are core breeding habitat. While the Hunter Wetlands National Park contains important habitat many other important areas remain unprotected. Even within the Hunter Wetlands National Park management policies involving returning the waters of some areas to brackish/saline conditions by opening the floodgates on Hexham Swamp and at Tomago may have adverse long-term impacts on bittern habitat. Of even greater concern is the ongoing industrial development of potentially important marshland despite numerous submissions opposing the developments because they involve critical habitat important to the Australasian Bittern. The lack of action on this species is highlighted by the recent upgrading of the threat status from vulnerable to endangered.

Contrast between recovery effort and outcomes in the four case studies

These four cases demonstrate a broad spectrum of focus, allocation of resources and effectiveness of implementation.

Two of the four species, Gould's Petrel and Regent Honeyeater, have received focus, allocation of resources and publicity. In many ways they have become icons of the recovery process. In one case a species, the Gould's Petrel, has been resurrected from the jaws of extinction, while the future of the Regent Honeyeater becomes increasingly precarious. Below we reflect on why the effort made to recover these two species has such prominence and vastly different outcomes in terms of successful implementation.

Our first point is that both the Gould's Petrel and the Regent Honeyeater were endangered to the point of crisis when serious resources were assigned to their recovery. **The prospects of recovery might have been greater and the cost less if their plight had been recognised earlier and recovery had been implemented proactively. The lesson is that resources need to be allocated to vulnerable species before they become endangered.**

Our second point concerns differences in the issues associated with the challenges confronting the recovery teams in the two instances. Key features underpinning the successful recovery of Gould's Petrel include committed champions within an organisation which has absolute control of the land containing critical habitat and adequate resources to implement recovery. There are obvious analogies between the Gould's Petrel recovery work on Cabbage Tree Island in the Hunter Region and the "Island Arks" involving off-shore islands in New Zealand. **Land management strategies may involve the need to restrict or prohibit public access to important areas of habitat for success to be achieved. However, successful projects, as was the case with Gould's Petrel recovery, involve the public by having a "citizen science" volunteer component.**

It may be argued that the Regent Honeyeater has also been well resourced (although with less continuity), has similarly sound scientifically based design and effective leadership**. This suggests that the lack of success primarily lies with other issues particularly with tenure and management control of important areas of habitat**. In part the issue lies with the diffuse spread of important habitat associated with the nomadic lifestyle of the Regent Honeyeater in response to variations in climatic conditions / food resource availability. A point has probably been reached where the species can no longer sustain any further loss of existing habitat and it is irresponsible to approve unsympathetic developments in areas of habitat vital to the Regent Honeyeater based on high-risk offset strategies [see section (c)]. However, key areas of important habitat like those in the Hunter Region have been identified and it is clear that habitat alternatives are not available. Hence the actions to zone areas like HEZ for unsympathetic development can only be viewed as stemming from incompetence or a blatant disregard for the provisions of the laws of Australia protecting threatened species and their habitats. We believe the latter to be the case and consider **it is essential that there is no further weakening of the environmental law by the Federal Government; for instance by abdicating their powers to State authorities.** An important feature of the Regent Honeyeater recovery plan

is the creation/restoration of important habitat in its core breeding areas outside the Hunter Region. However this is a long-term initiative which is undermined by any loss of extant habitat elsewhere in the short-term.

The remaining two cases involve cryptic, poorly known threatened species (Rufous Scrub-bird and Australasian Bittern) which are extremely difficult to monitor. As a consequence the true status of these species is uncertain. In addition both species lack funded recovery plans. However, the Action Plan indicates that the first step in their recovery involves identification of important habitat, allowing its reservation. HBOC has committed considerable volunteer resources to determining the important habitats and status of these species in the Hunter Region. As indicated above there are reasons for optimism, but not complacency, concerning the future of the Rufous Scrub-bird because much of its known habitat is already reserved and not subject to competition from conflicting land-use priorities. Nevertheless funds are required for research and remote area monitoring beyond the scope of "citizen science" to confirm these conclusions. In contrast, extreme concern must be expressed about the Australasian Bittern which lacks baseline data against which comparisons can be made and involves ill-defined potential habitat often in areas which lack reservation. Worse still in the Hunter Estuary these unreserved wetlands are subject to conflicting land-use priorities and are being continually rezoned for industrial development; the concept of the Precautionary Principle with respect to the habitat of Australasian Bitterns appears meaningless when these developments are evaluated. Again issues associated with habitat reservation and management are central to the successful future recovery of this species and lack of focus on this species is exacerbating the situation.

For the sake of brevity the above analysis has been limited to four threatened species in situations which involve birds living on off-shore islands, woodlands, wilderness and wetlands. Similar comparisons could be drawn for shorebirds inhabiting estuaries and coastal systems (Herbert 2007). Such case studies would further highlight issues associated with lack of funding, failure to identify and protect important habitat, both in terms of reservation and its management in a manner which prioritises the need to sustain threatened species.

In summary we have identified the reluctance of the authorities to protect the identified important areas of habitat as pivotal to the successful recovery of threatened species in the Hunter Region. HBOC believes this to be an issue common to all threatened species inhabiting woodlands, wetlands and the coastline of our region. Management of "critical habitat" for threatened species may require unpopular decisions which block inappropriate developments and restrict public recreational activities (e.g. vehicles on beaches when shorebirds are breeding).

References

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(c) MANAGEMENT OF CRITICAL HABITAT ACROSS ALL LAND TENURES

In this section we define "critical habitat" as habitat so important to bird species that its loss or unsympathetic management may result in the decline of bird populations to an extent such that either they become threatened and require listing or their recovery or eventual delisting is prevented. It should be noted that "critical habitat" is used here under the definition provided herein and should not be confused with the statutory "critical habitat" as defined under Section 3 of the *TSC Act 1995*.

The 74 threatened species of birds which occur in the Hunter Region are found across a wide range of habitat types including offshore islands, beaches, estuaries, marshes and wetlands including ponds of anthropogenic origin, woodlands, wilderness and, in the case of raptors, airspace. Nearly all of these habitats critical to the survival of threatened species are under threat from alternative and conflicting land-use pressures. These conflicts range from habitat destruction to provide sites for industrial development to permitting recreational activities which alienate birds at critical periods of their life-cycle (such as breeding). **The management of critical habitat within the Hunter Region is often inadequate across all habitat types with the possible exception of off-shore islands, wilderness and the airspace.**

Identification of critical habitat

Since 1977 BirdLife Australia (formerly Birds Australia) has conducted Bird Atlas projects and the distributions of species are well known in the Hunter Region at the macro level. The process for listing threatened species draws on these distributions and changes in distribution over time to identify species which are at risk. The Action Plans for Australian Birds provide details of critical habitat and key threats. HBOC dedicated Volume 4, 2010 of its journal *The Whistler* to the "Thematic Issue – Threatened Species in the Hunter Region". This volume was widely distributed to land managers, regulators and politicians and is available from the HBOC website: www.hboc.org.au. Volume 4 contains statements on the status of all threatened species in the Hunter Region (Roderick & Stuart 2010) and maps of their distribution in the region (Newman *et al.* 2010). **There is no excuse for any developer or land manager being unaware of potential issues with threatened bird species in the Hunter Region.**

However, this does not mean that the status and ecology of threatened species and threatening processes are understood at the micro level. While development proponents should be responsible and accountable for investigating the status and evaluating the impacts on threatened species where potential critical habitat will be adversely impacted or destroyed, in HBOC's experience this does not always occur. Indeed, too often there is an unrealistic time limit placed on environmental consultants to prepare environmental assessments, preventing a thorough seasonal analysis of habitat use by threatened species. In order to redress these deficiencies in the protection of critical habitat HBOC members regularly monitor the bird populations of a number of threatened species habitats in the Hunter Region, including shorebird habitat in estuaries and coastal areas, waterfowl and waterbird populations in wetlands and bush-bird habitat in woodlands. This has generated a number of long-term datasets involving collection throughout the year (e.g. monthly surveys, some exceeding 10 years' longevity). In some instances these surveys directly address issues concerning threatened species, **in other instances they indicate the appalling inadequacy of the basis on which some land-use decisions involving threatened species habitat are made.**

Destruction of Threatened Species habitat for development

The stated policy of the NSW government is to adopt a decision-making hierarchy involving "avoid, mitigate and as a last resort offset threatened species habitat"; a stance which gives precedence to the environment in the decision-making process. **Unfortunately this seldom occurs and offsetting is commonly tabled by the proponents of developments with limited explanation or justification for rejecting the preferred avoid and mitigate options.** In **Appendix 1** HBOC lists recent major development proposals which involve offsetting for destruction of threatened species habitat.

Limitations of offsetting

Offsetting often involves the provision of alternative areas of habitat for reservation in the National Parks Estate. While such additions are valuable, **they do not prevent the net loss of critical habitat and hence**

declines in threatened species populations which in the case of birds are already at levels of concern, sometimes on the brink of extinction (e.g. Regent Honeyeater).

In other instances habitat restoration and creation are proposed. In a recent paper (Marone *et al.* 2012) it is questioned whether these are "Faustian Bargains" in terms of restoration realities. As this paper points out many of the expectations set by current offset policy for ecological restoration remain unsupported by evidence. Basically they are high risk, subject to considerable time lags and involve outcomes which are difficult to measure. The Offsets (Biodiversity & Native Vegetation) Policy recently developed by BirdLife Australia sets out the need for large multipliers in terms of offset sizes and the need for provisions to ensure that habitat restoration promises are delivered, which include funding ongoing habitat monitoring and maintenance. Our contention is that in the Hunter Region most development approval consent conditions involving offsets have requirements which fall well short of delivering these ideals. A specific concern in the Hunter Region is ongoing destruction of woodland habitat supporting threatened bird species (e.g. including Regent Honeyeater etc.) where offset arrangements appear flawed in the following respects:

- Areas previously set aside as biodiversity offsets are subsequently subject to further development applications following changes in economic conditions. **Offsets must be set aside "in perpetuity" on the premise that "in perpetuity" means forever.**
- Proposed offsets are remote from the destroyed critical habitat and lack continuity of critical habitat corridors.
- Habitat is being destroyed more rapidly than habitat can be restored or created (i.e. extant, functioning habitat is of far greater value to species currently threatened than the chance of recreated habitat being available in the future).
- The time scale for habitat restoration/creation may exceed the economic life of the development potentially leaving legacy issues associated with operation closure.
- Multipliers in terms of the area of offset habitat do not reflect the risk and may be an order of magnitude too low.

The proposed Warkworth Mine Extension is an example of all of the above issues. **However, the problem is generic across the coal mining industry in the Hunter Region where the current rate of habitat restoration fails to match the rate of destruction** as evidenced by the moonscape nature of large areas of the valley floor which has largely been created in the last 20 years.

Another major shortcoming of the concept (and practice) of offsetting is attempting to offset a habitat feature that is unique. The NSW State Government promulgates that it is not possible to offset a unique habitat feature that has been shown to be of such significance that no other areas of similar habitat exist. This surely is common sense. Logically developing an area of habitat that can be shown to be unique causes an extinction of that habitat type. It was largely on this basis that the statutory concept of "critical habitat" was defined.

Cumulative impacts ignored

The adverse impact of the issues discussed above with respect to offsets is exacerbated by the failure to consider the cumulative impacts of individual developments at the regional landscape scale. While consent conditions for an individual project may seek to ensure there is no net loss of habitat for affected threatened species and communities no consideration is given to the cumulative impact of multiple developments. Currently in the Hunter Region the intention is to triple the rate of coal production. **While the risks associated with any one project may appear reasonable with maintaining sufficient habitat to sustain the future of a threatened species this may not be the case at the landscape scale.** The cumulative impact of multiple projects may result in habitat fragmentation to an extent where there is insufficient connectivity to ensure the survival of species in a landscape increasingly prone to environmental catastrophes like drought and fire.

Avoidance

As indicated previously NSW policy is that developments should avoid the need to destroy or adversely impact threatened species habitat. There are instances in the Hunter Region where development proponents

have not vigorously pursued avoidance and/or mitigation opportunities. In extreme cases it can be questioned why development sites need to be on or adjacent to important threatened species habitat. Wetland habitat often attracts development as it can be acquired cheaply. Unfortunately the environmental value of threatened species habitat is seldom appreciated, understood or appropriately costed into development studies at the conceptual stage. Thus the Hunter Estuary often attracts inappropriate infrastructure developments which could be located in less environmentally sensitive areas. The recent proposed rail hub at Hexham is in HBOC's opinion a project for which alternative locations in less environmentally sensitive locations were not adequately investigated. In contrast coal export terminals are of necessity located at port sites. However, HBOC questions whether they have excessively large environmental footprints at the port site resulting in the need to destroy and adversely impact estuarine habitat. As an example we question whether the combined environmental footprints of the Port Waratah Coal Services (PWCS) and Newcastle Coal Infrastructure Group (NCIG) coal loaders and their planned expansions presently under evaluation could be decreased, thus avoiding or reducing the need to destroy vitally important shorebird and waterbird habitat in the Hunter Estuary. HBOC suggests that potential opportunities to decrease the footprint of these operations include decreasing the size of storage stockpiles and rationalising shared facilities between the two competing operations, particularly with respect to scheduling the delivery of coal. Indeed there appear to be instances where mediated cooperation between development proponents could result in major benefits to the environment by reducing footprints and streamlining final layouts.

Earlier it was stated that during the last 20 years much of the floor of the central Hunter Valley had become a moon scape with vast areas of unrestored habitat. This has occurred because of a change from underground to open-cut mining which has exacerbated issues associated with threatened species' habitat destruction. In addition, there appears to be a lack of determined will from government authorities to ensure that open-cut coal mines are progressively rehabilitated whilst operating.

Development potential blocks habitat reservation

In the Hunter Estuary the reservation of land which has been identified as important threatened species habitat has been repeatedly blocked by the NSW government and proponents of development in view of possible future infrastructure requirements. The declaration of State Environmental Planning Policy (Major Projects) in 2007 sequestered land for a potential major infrastructure corridor across Ash Island which, if implemented, will adversely impact on habitat for migratory shorebirds and other threatened species in this area of the Hunter Estuary. Its presence is a contradiction across the newly declared Hunter Wetlands National Park, bisecting a large reserved area. Furthermore, the government arbitrarily excised a section of the National Park adjacent to the industrial railway line on Kooragang Island to allow for expansion of rail lines to service the proposed increased capacity coal loaders. The excision affected Swan Pond, existing known habitat for threatened species - another example of development proposals over-ruling environmental values.

Recreational use of National Parks

National Parks often contain vital threatened species habitat. Indeed the existence of threatened species often justifies the creation of National Parks. However, National Parks (and other reserves) are often managed to meet the requirements of recreational stakeholders whose activities are detrimental to threatened species and their habitat as exemplified by the following example.

At Stockton Beach, in the Worimi Conservation Lands north of Newcastle, Australian Pied Oystercatchers *Haematopus longirostris* (current NSW status endangered; previously vulnerable) have made several attempts to breed, almost invariably unsuccessfully. A primary cause of breeding failure is vehicular traffic along the beach where the birds would normally take their flightless young to feed and on the dunes where they nest on the ground. In peak periods daily vehicle movements through the park exceed 1000. There is also constant public pressure to decrease restrictions on the harvesting of "pipis" which are an important food source for oystercatchers. **Within NSW there is a lack of political will to make land management decisions which are unpopular.** Victoria is unique in being the only Australian state which bans vehicles from beaches. This ruling, along with targeted management of nesting sites, has resulted in improved fledging rates for threatened Hooded Plovers.

Private Land

Habitat on private land is essential to many species, particularly threatened woodland birds attempting to survive in a landscape where their habitat is increasingly fragmented. The ability to influence and regulate the management of threatened species habitat on private land is spread across all levels of government; Federal, State and Local. At the lower end of this hierarchy local councils are the predominant interface with private land owners. While the environmental awareness of local councils has undoubtedly increased greatly it is questioned whether the power and influence of local government officers is sufficient to redress issues, particularly the ongoing destruction of threatened species habitat. In many cases, development applications are assessed by staff qualified in town-planning and not ecology, and there are examples of consultants' reports which have claimed that a proposed development would not have a significant impact upon threatened species, even though threatened species habitat has been identified in the development area. With acceptance of this argument by council planning staff, threatened species habitat has been approved for development. The clearing of woodland is an insidious threat because of uncertainties with respect to the actual impact of each small development. While regulations exist to limit the extent of clearing land owners have strategies to negate or ignore them (e.g. shifting fence lines to obtain permits to clear boundaries and loopholes in "regrowth" management definitions). A further issue is the ongoing consent to construct residential buildings in fire-prone areas, where consent conditions require substantial cleared zones around proposed dwellings.

Summary comments

Reservation and sympathetic management of critical habitat is pivotal to limiting the decline and to effecting the recovery of threatened bird species. In the Hunter Region and in NSW more generally, there is continual loss of such habitat. Of greatest concern is the destruction of habitat known to be important and perhaps essential to threatened species including the critically endangered Regent Honeyeater. There appears to be systemic dysfunction in the approval processes which permit rather than avoid critical habitat destruction. Sanction is frequently based on habitat offsets, a high-risk strategy which should be the option of last resort rather than being the most convenient to developers and regulators. Offsetting often results in a net loss of critical habitat and ratios of compensatory to destroyed habitat agreed in consent conditions are often totally inadequate in view of the risks. Even when critical habitat is reserved in national parks and reserves their management sometimes favours recreational stake holders to the demise of threatened bird species. There appears to be a lack of political will to make "unpopular" decisions and where compromise is necessary threatened bird species usually lose out; they have no voting power!

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(g) ANY OTHER ISSUES

Lack of continuity of direction and funding

There are ongoing shifts in the Federal Government's philosophical approach to managing biodiversity. Examples include debate as to whether to focus on threatened species, threatened species habitat or threatening processes and a reluctance to acknowledge monitoring as a valuable activity. We address the last point first by pointing out the well-known adage "if you don't measure it you can't manage it". This is particularly true for birds where populations are dynamic, which highlights the need for ongoing monitoring. Returning to the first point, namely that philosophical differences concerning the approach to conserving biodiversity should not undermine continuity of effort. Programs should be adapted in an evolutionary

manner rather than by polarised shifts in direction. HBOC wishes to emphasise the important and economically valuable contribution its members make as volunteers. Lack of consistent leadership and support for this effort is extremely damaging to volunteers who deserve and require encouragement. Feedback on their efforts is essential and in this respect it is important that governments fund not only data collection, but its analysis and dissemination to the community. This is an important component of engaging volunteers and public education, which is essential to changing community attitudes. The track record of government in the area of engagement with the citizen science effort and with private land owners who manage important threatened species habitat could be greatly improved.

Economics

In the foreword to 'The Action Plan for Australian Birds 2000' (Garnett & Crowley 2000) Senator Robert Hill quotes the value of global ecosystems to be $33 trillion dollars/annum. Clearly biodiversity is extremely valuable, but when development projects are evaluated the environmental cost stemming from biodiversity loss is not taken into account. If the environmental cost was taken into account it would provide an improved basis for determining whether approval of projects was in the public interest. It would also allow a basis for comparing project options like underground versus open-cut mining on a basis which takes into account their environmental costs.

Deficiencies in evaluation of development projects

In our comments under section (c) of the terms of reference we alluded to the failure of the assessment of development projects to adequately protect threatened bird species and their habitat. HBOC perceives serious deficiencies with respect to the manner in which projects are evaluated at both local and state government levels.

The assessment of the environmental impact of a development involves the evaluation of statements which are usually prepared by specialist consultants acting on behalf of developers. The developer contracts the environmental consultant to facilitate an outcome which will result in project approval. This is a situation which places an onus on the consultant to obtain an outcome which is best for the developer rather than the environment. There are obvious risks in such situations where impacts are uncertain; e.g. is the occurrence of a threatened species and its habitat at a development site critical to the status of the species? How often would a proponent's consultant propose against a development because of uncertainties requiring the precautionary principle to be invoked? Put bluntly, some proponents would find another consultant prepared to support the development and the environmentally sympathetic consultant would risk continuity of business. Indeed many consultants are selected on the basis of their track record of obtaining project approvals. HBOC is aware of instances where consultants have been at least selective in the release of information which would be detrimental to their client's case, perhaps to the extent of being deliberately deceitful.

At the local council level there are difficulties with respect to the expertise available to evaluate the environmental impacts of development applications. Environmental impact issues are complex, and many applications will have unique ecological implications beyond the experience of council staff. A poor decision may provide an unfortunate precedent for other determinations.

Large projects where there is both high environmental impact and substantial investment cost are frequently dealt with at state and in some instances federal level. In these cases there is more expertise and assessments are more rigorous. However, difficulties remain with respect to the adequacy of data underpinning determinations which is often collected over short periods in a single year. This is inadequate in instances where there are seasonal and annual variations in bird populations. To address this difficulty HBOC has generated long-term datasets in environmentally sensitive estuarine and wetland habitat of the Hunter Region and ensured through publication that this information is available to developers and those involved in assessment (Herbert 2007, Hunter Region Annual Bird Reports, papers in its journal *The Whistler*). HBOC also regularly submits comment on development applications. However, those opposed to development applications see only the final determination and any attached consent conditions. They have no interaction during the assessment stage and receive no feedback on the manner in which their objections have been taken into account. There should be greater transparency in the assessment process which is predominantly

seen as government working with developers to facilitate their application. If this is a harsh judgement then it is a consequence of the lack of transparency in the process.

HBOC accepts that the assessment process does make a difference resulting in approvals being subject to conditions and including compensatory offsets. However, those conditions and compensatory habitat offsets seldom prevent a net loss in threatened species habitat and often involve high-risk strategies as discussed in detail in section (c). Furthermore in HBOC's experience there are limitations in monitoring and enforcing compliance with conditions of consent. There are also instances in which the same habitat has been offered as compensation for more than one project.

Above all else there is an overwhelming impression that the many EISs and opposing submissions contain superfluous information and argument which is irrelevant to the core issue of whether a development application will cause biodiversity loss and how this can be avoided. Approval of development applications should rest on the quality not the quantity of information submitted and the superfluous information often obfuscates the core issue.

HBOC makes the following proposition with respect to a potential manner in which the process could become more focussed with respect to birds. BirdLife Australia has identified 314 Important Bird Areas (IBA) across Australia on the basis of their importance as habitat for threatened bird species and large aggregations of waterfowl. The selection of these IBAs is based on rigorous protocols drawn up by BirdLife International and the Australian sites are a sub-set of global sites. Developers and their consultants should be informed of the existence of these IBAs and be aware that any developments involving threatened bird species and their habitat loss in these areas will be difficult to justify and will be strenuously opposed. **Those opposing developments will need to appreciate that opposition to developments outside IBAs based on threatened bird species records will only have merit in exceptional circumstances. This approach would give greater certainty concerning outcomes to all parties and hopefully streamline the application and approval process.**

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Red Tape

Developers claim that "red tape" is slowing down project evaluations and impeding economic progress in Australia. HBOC agrees that aspects of the Environmental Impact Statements and counter arguments have limited value. However, where core issues are at stake there must be strengthening rather than any weakening of the process, particularly where the destruction of critical threatened species habitat is concerned. For bird species the IBAs discussed above provide a valuable opportunity for screening projects containing important threatened species bird habitat. It is important that the focus of all parties is directed to actions and investigations which genuinely protect the environment. All too frequently it appears that environmental assessments are merely an expensive and meaningless exercise which legitimises environmental destruction.

NSW State Government lacks environmental credibility

In HBOC's opinion there are occasions when the NSW state and local governments lack credibility with respect to environmental decisions involving threatened bird species and their habitat. Specific issues have been raised in earlier sections of this submission. Of greatest concern is the NSW State Government's tendency to see environmental considerations of secondary importance to development. For instance, when the NSW State Government encourages industrial development and related infrastructure in areas like the Hunter Estuary it becomes the de-facto proponent for development hubs and even the champion for specific projects. In such instances it is inappropriate for state government to be the authority determining conditions of consent without any overview or court of appeal for the environmental lobby. For this reason it is

essential that the Federal Government does not further relinquish its environmental powers to state governments. The recent compromise with the Shooters Party in NSW allowing shooting in national parks and other reserves and the listing of game birds for slaughter without any apparent scientific basis demonstrates that the NSW State Government will not allow environmental considerations to obstruct its political objectives. It simply cannot be trusted to manage the environment of NSW.

APPENDIX 1 - Major Development Proposals in the Hunter Region which involve offsetting for destruction of threatened species habitat

Sandgate Rail Flyover - Option to rehabilitate former Latham's Snipe habitat offset by financial contribution to Hunter Wetlands Centre

NCIG Coal Loader and Rail Flyover - destruction of Australasian Bittern habitat and migratory shorebird habitat not acknowledged. Destruction of Green and Golden Bell Frog habitat offset by creation of new Green and Golden Bell Frog habitat within Hunter Wetlands National Park - habitat destroyed is above flood levels, habitat created is on flood-prone land

Warkworth Extension - proposed open-cut mining of an area previously set aside as a biodiversity offset. Offset by reservation of land at Putty and adjacent to Goulburn River National Park comprising completely different vegetation communities and at considerable distance (c. 100km) from the area to be destroyed.

Queensland National Rail proposed Rail Support Facility at Hexham offers two offsets which are separate from each other, lacking continuity of habitat. Furthermore, one is located immediately adjacent to the proposed future extension of the F3, so it cannot be considered to be reserved 'in perpetuity' as the final F3 route is yet to be determined.

Port Waratah Coal Services proposed T4 Coal Loader - proposed destruction of Deep Pond to be offset with land at Tomago to be managed as shorebird habitat by construction of wetlands and manipulation of tidal floodgates. Although this proposal is one of the better attempts to offset bird habitat, it will not provide deep water habitat that is to be destroyed - therefore it will only partly offset the habitat. Furthermore, Deep Pond is considered to be a good example of a unique, functioning habitat that would be extremely difficult to offset in any case.

Hunter Economic Zone – rezoning of one of the largest intact areas of valley-floor woodland in the lower Hunter Valley, south of Kurri Kurri. Area known to support populations of several threatened bird species and has been shown to be regularly used by Regent Honeyeaters (including for breeding) and has been recognised as one of the most important mainland sites for Swift Parrots. Falsified claims by proponent that adjacent State Forest areas were reserved as part of the project. No offsets seen to date.

Compensation for the inevitable destruction of Big Pond within the industrial-zoned area of Kooragang Island was granted by the NSW government in the 1990s. Unfortunately, the funds were used for assessing options for habitat enhancement and did not result in any compensatory habitat being provided. NPWS nominated the "Rice Paddy", part of the original Tomago Aluminium Buffer Lands, as possible compensatory habitat for Big Pond. Although this land was purchased by the NSW Government from Tomago Aluminium and initially regarded as environmental land (and part of the Kooragang Wetland Rehabilitation Project), it quickly became possible industrial land for the ill-fated Austeel Project. Subsequently, the land was offered for sale as potential environmental offset land and is now privately owned by major developers in the Hunter Region. An example of the NSW Government lacking commitment to the environment and protection of threatened species.

Submission prepared by Mike Newman on behalf of Hunter Bird Observers Club