



BirdLife Northern NSW

ABN: 75 149 124 775

PO Box 449

Bellingen, NSW 2454

northernnsw@birdlife.org.au

June 24, 2016

Biodiversity Reforms – Have Your Say
Office of Environment and Heritage
PO Box A290
Sydney South, NSW 1232

Dear Sir

Re: Draft Biodiversity Conservation *Bill* and Draft *Local Land Services Amendment Bill*

I am making this submission on behalf of the members of BirdLife Northern New South Wales (BLNNSW). This regional network represents more than 800 members of BirdLife Australia, the peak organisation in Australia for research and conservation of birds and their habitats.

Members of BLNNSW welcome the opportunity to comment on the draft *Biodiversity Conservation Bill* and the draft *Local Land Services Amendment Bill*. We have a number of issues with the proposed legislation.

Members of BLNNSW strongly oppose any self-assessed land clearing, since this will cause long term loss of irreplaceable bird habitat. Replacing the current *Native Vegetation Act* with the draft *Land Services Amendment Bill* will result in a significant downgrading from the current Environmental Outcomes Assessment Methodology, to self-assessment codes and discretionary clearing, without clear environmental targets. Members of BLNNSW believe that the NSW Government must make accurate calculations of the area of land likely to be cleared under the new legislation and provide this information to the public before the legislation is presented to Parliament. In particular, the NSW public needs to know how much land, listed as Endangered Ecological Communities or Critically Endangered Ecological Communities, will be cleared.

There is also conflict between the draft *Biodiversity Conservation Act* and the draft *Land Services Amendment Bill*. The two Bills will be in conflict over reducing the impact of listed key threatening processes and permitting increased land clearing. For example, “loss of hollow bearing trees” remains listed as a key threatening process under the draft *Biodiversity Conservation Act*, but clearing of paddock trees without requiring approval is allowed under the draft *Land Services Amendment Bill*.

Members of BLNNSW believe that the proposed legislation should include provisions to prevent extinction and promote recovery of threatened populations and ecological communities. The draft *Biodiversity Conservation Act* has the aim of maintaining biodiversity rather than improving it. This represents an important downgrading of environmental legislation in NSW, which previously aimed to restore biodiversity by preventing extinction and promoting the recovery of threatened species, populations and ecological communities.

Without the powers to ensure that the impact of any action affecting threatened populations is properly assessed, clearing of land may result in loss of core habitat for birds throughout NSW. For example the Superb Parrot is listed as Vulnerable under current NSW legislation. This species depends on large old paddock trees for nest sites. Clearing of these paddock trees (both dead and alive) will be allowed under the draft *Local Land Services Amendment Bill*. This will reduce nesting site availability and further threaten the Superb Parrot. Similarly, relaxation of current standards would allow increased clearing of Mallee habitat, leading to fragmentation of habitat important for critically endangered bird species such as the Regent Honeyeater. Among threatened bird species listed as vulnerable under legislation in NSW, several woodland species, including Brown Treecreeper, Hooded Robin, Speckled Warbler and Diamond Firetail, will be adversely affected by increased clearing of woodland remnants on farmland.

Members of BLNNSW believe that downgrading of environmental legislation in NSW could adversely impact upon bird species (including shorebirds), which have had their listings upgraded under the Federal Government's *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*. Of these the Regent Honeyeater, Swift Parrot, Plains-wanderer (all upgraded to critically endangered) and Painted Honeyeater (now listed as vulnerable) will be negatively impacted by an increase in self-assessed land clearing, where land managers may not be familiar with the vegetation required by these species.

In addition poorly controlled clearing and development in coastal areas of NSW will adversely affect shorebirds and contribute to decline in their numbers. Eight shorebird species found in NSW (Eastern Curlew, Curlew Sandpiper, Bar-tailed Godwit [two subspecies], Great Knot, Red Knot, Lesser Sand Plover, Greater Sand Plover) have been added, in 2015 and 2016, to the list of critically endangered, endangered and vulnerable species under the Federal Government's *EPBC Act*.

Members of BLNNSW believe that the current requirements for public consultation should be maintained, and that members of the public in NSW should continue to have the right to challenge environmental planning in the Land and Environment Court. The proposed reforms appear to remove avenues for appeals; for example, where environmental assessments have failed to identify endangered species identified as being present by experts in the field. While we welcome increased investment in private land conservation, we understand that such potential gains in biodiversity will be small unless guaranteed in legislation rather than depending on government policies and available funding.

Members of BLNNSW believe that offsets should be only used as a last resort and only when true "like for like" habitat based on species assessment is available. We believe that surveys

by experts are required to ensure that the species displaced by a development in one area are present in the area to be used as an offset. The draft *Biodiversity Conservation Act* is reliant on offsetting the impacts rather than preventing the negative impacts in the first place. The draft legislation proposes an offset-based system where developments will be approved, provided that funds are available to protect and restore biodiversity elsewhere via 'Biobanking'. However, we understand that when an area is assessed for offsetting, the Biobanking calculator assumes that a parcel of land contains important bird species based only on a vegetation survey of the site, and not on surveys by experts to determine that the birds and other species are actually present in the proposed offset. Therefore, under the proposed legislation, in protecting a patch of land with equivalent vegetation type in NSW, the offset is assumed to protect a suite of 'ecosystem credit species' even though there is no guarantee that those species are actually present on the site.

The draft *Biodiversity Conservation Act* also does not protect offsets in perpetuity. Offsets can be cleared by "offsetting the offset". In addition land can now be cleared with a payment into a Biodiversity Conservation Fund when offsets are not available. Therefore, we can expect progressive destruction of important habitat in woodlands and grasslands, or along the coasts, with increasing reduction and loss of bird and other species.

BLNNSW believes that future generations will view with astonishment this proposed legislation by the government of NSW, which will substantially reduce environmental protection at a time when biodiversity is under unparalleled threat from climate change.

Yours faithfully

A handwritten signature in black ink, appearing to read 'K. Lambert', written in a cursive style.

Dr. Kathryn Lambert
Conservation Officer on behalf of Members of BLNNSW