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Submission re-Independent Biodiversity Legislation Review Panel

Theme 1: Objects and principles for biodiversity conservation

1. Should there be an aspirational goal for biodiversity conservation?

We believe that it is essential to aspire to conserve areas of the state where threatened or vulnerable species are found. It is also of vital importance to fight to stop the destruction of the states wetland areas as over 50% of NSW wetlands that were originally found in the state now no longer exist.

4. Could the objects of the current laws be simplified and integrated? If so, how?

We feel it is extremely difficult to simplify these laws as with nature survey work it is necessary to conduct field surveys over at least a 12 month period to ensure all species such as migratory birds and wildlife that hibernates can be included when assessing an area.

The current laws have been developed over many years in order to try to conserve, preserve and protect our flora and fauna for future generations. While we understand the urge to expedite development and cut out 'red tape' it is also important to consider the full impact development will have on a piece of land and this is impossible without sufficient research and field studies being conducted.

Theme 2: Conservation action

1. Is the current system effective in encouraging landowners to generate public benefits from their land and rewarding them as environmental stewards? Or are current mechanisms too focused on requiring private landowners to protect ecosystem services and biodiversity at their own cost?

The current system definitely works in some areas of the state and some landowners are working to preserve tracts of their land for conservation and turning to tourism, particularly nature-based tourism to supplement their lost income. Turlee Station near Mungo National Park is a prime example of this where part of the land is preserved in order to protect the endangered Malleefowl and tourists are provided with accommodation choices to enjoy the property and the near-by National Park. We believe this landowner is given assistance from the government to compensate for the land preserved for the Malleefowl.

3. What should be the role of organisations and bodies, such as the Nature Conservation Trust, in facilitating and managing private land conservation through mechanisms such as conservation and biobanking agreements?

Biobanking and biodiversity offsets should always be a last resort – i.e. When all other avenues to protect the land have failed. The Nature Conservation Trust has a valuable role to play to help and advise private landowners in relation to land conservation.



4. How should the government determine priorities for its investment in biodiversity conservation while enabling and encouraging others (e.g. community groups) to contribute to their own biodiversity conservation priorities?

Priority should always be given to lands with a high conservation value or a large diversity or number of species. Endangered and Vulnerable wildlife and fauna species should also be of high importance when priorities are being determined. Connecting corridors need to be added or adequately maintained. These must be well vegetated with good ground cover to enable genetic mixing to occur.

Community groups are usually keen to be involved if they can see a benefit for their neighbourhood. Bush Regeneration groups are a good example of this. Education programs run through local councils and schools are a good way to teach people about biodiversity conservation and encourage them to contribute to their community conservation initiatives.

5. How can the effectiveness of conservation programs be monitored and evaluated?

Effectiveness of conservation programs can be monitored through surveys to determine if species counts numbers are stable or growing. Declining statistics in population are a warning sign that action plans may need to be developed for an area. There are many groups who voluntarily conduct surveys in their local area and it may be possible for the government to request surveys be conducted or to analyse data that is regularly gathered by these groups for areas they wish to focus on (See Theme 6 for ways this can be done). Our club conducts surveys at no charge for four of our local council's and reports to them the birds we find. This is also useful as we can let the council know if there are any problems in these areas – we recently contacted one council to inform them of our concern that builder's waste from a nearby housing development was blowing into a woodland they had asked us to survey. As a result action was taken to ensure the rubbish will be removed.

6. How should any tradeoffs be assessed?

Trade-offs and biodiversity offsets should be used as a last resort and have to be as close to like-for-like as is possible because it is necessary that they mirror the habitat that will be lost. They need to be assessed in direct comparison with the biodiversity capacity of the lands that will be lost and need to be of equal or greater value.

It is also vital that consideration is given to any maintenance of trade-off areas at the time consent is given as often after the development has gone ahead funds for maintenance dry up and the land becomes neglected. It is vital that these areas are maintained e.g weed control, removal of problem feral species and rubbish removal.



8. To what extent does current practice (rather than the legislation) determine outcomes?

Current practice, unfortunately sometimes does not comply with legislation. Leard State Forest is a classic example of this and many of the farmers from the area who have protested over the mine expansion have said the government prevents them from clearing any of their land that is equivalent to that in Leard yet has given permission for thousands of hectares to be cleared in the State Forest. The federal government had declared that the Grassy-box woodland areas of Leard and the nearby Pilliga forests are significant for their high biodiversity value yet permission was given to clear it for mining.

State forests can be sustainably harvested for hundreds of years while a coal mine only once and then is a liability requiring continual maintenance and rehabilitation.

Theme 3: Conservation in land use planning

1. How effective are current arrangements at ensuring biodiversity values are identified early and properly considered in strategic planning systems? How can they be improved?

There is one area we can suggest for improvement and that is the duration of a consent for development. A good example of this is the Shellharbour Marina development where an ephemeral wetland area utilised by several threatened species is being filled in for a housing development adjacent to the new marina.

The land in question was saltmarsh that was approved for and utilised to dump industrial waste by the council for many years. When the marina was given the go ahead the area was approved for development on the basis that the land did not need EPBC approval as there was nothing significant there – which was true. The land was excavated and the rubbish cleared from the tip. The marina project then stalled due to the financial climate at the time and it was more than seven years before the project was back on the agenda. During this time the land in question had reverted to an ephemeral wetland and was used by reptiles, frogs, long-necked tortoises and many birds including a Painted Snipe, Pectoral Sandpiper and Latham's Snipe. Because EPBC approval for the development had already been granted this wetland area was lost to the wildlife that lived there and the community. The point here is there needs to be a time limit after development is approved so that if land biodiversity values change this can be considered.

Theme 4: Conservation in development approval processes

2. Can we have a single, integrated approach to the approval of all forms of development, including agricultural development, that is proportionate to the risks involved? If yes, should one methodology (or a harmonised methodology) be used to assess all impacts? Does a need remain for some differences in assessment approaches?

Each assessment needs to be done on a case-by-case basis as each piece of land is unique in its biodiversity value and needs to be considered as such. Some differences need to remain in the assessment approaches to account for this uniqueness.



3. What are the advantages and disadvantages of the different biodiversity assessment methodologies? Are the rules transparent and consistent? Is the way data is used to underpin decisions transparent? Do the assessment methodologies appropriately accommodate social and economic values?

We believe the government is in the best position to determine this. We would suggest a good way to analyse this would be to analyse the data from complaints made both to the government and local council's in relation to the issue. Local NSW councils could complete a survey to generate valuable data to answer this question.

4. Does the regulatory system adequately protect listed threatened species, populations and ecological communities? Is there utility in specifically protecting these entities through the regulatory system?

No. Unfortunately statistics show that many species continue to decline while very few are increasing or maintaining their numbers. A prime example of this is the Regent Honeyeater whose population continues to decline despite many efforts, including captive breeding and release programs, that have been undertaken to try to save it. Birdlife Australia this year requested it's status be changed from endangered to critically endangered. Bush Stone-curlews are another example of a bird that was widely found across the state and has now all but disappeared. Habitat destruction and land clearing for development are major contributing factors to the decline of these and many of our other bird and wildlife species

7. Some impacts cannot be offset. What are they? Are these appropriately addressed in approval systems? What is the relevance of social and economic benefits of projects in considering these impacts?

The impacts to land where critically endangered, endangered or vulnerable species feed and breed cannot be adequately offset. The main reason for this is that it is unknown what combination of factors determine many species exact requirements for continued life. This can be illustrated by comparing two seemingly identical patches of forest – one will have a healthy population of a bird species while in the other the bird will be absent. More research is needed into our wildlife – species by species to ascertain the exact habitat requirements that will always provide them with the essential components to live and breed.

Some species will not travel over open areas and if in isolated pockets a species becomes extinct then it cannot be re-colonised and there are many examples of this. There is a lack of high quality remnant and protected habitat such as on river flats as most have been used for agriculture leaving the lower quality areas for NPs etc. which under extreme periods will not support a viable population of a specific species and without corridors will not be re-colonised.

Our group is concerned that offset land needs to be preserved and protected and that there is no chance that double-banking can occur where the same piece of land is utilised more than once as an offset. We are also worried that offset land should not be utilised for development years after the land that was lost has been developed.

There is a biobanking offsets register and it is vital that it is maintained so that problems like this and the maintenance of the offset land, as previously mentioned, be addressed and monitored.



8. How can offsets be more strategically located?

Offsets need to be as close in proximity to the development as is possible and it is essential they are like-for-like. This enables displaced species to be more easily re-located to the offset land. There MUST be an enforceable strategy in place for the relocation of species and it is essential that this is monitored carefully as development proceeds.

9. Are there areas currently regulated that would be better left to self-regulatory codes of practice or accreditation schemes?

If things are to be self-regulated who is responsible for checking and monitoring to ensure regulation is occurring. Often good intentions can become less important once approval is given and projects proceed or are finished. A good example of this is the maintenance of offset areas after development is finished.

Theme 5: Wildlife management

1. Have the threats to biodiversity posed by: (a) people taking animals and plants from the wild, (b) feral animals and weeds, and (c) illegally imported species, been effectively managed?

(a) The presence of park rangers and the erection of signs warning against taking plants or animals from parks do act as a deterrent to people who may wish to break these laws. The use of cameras in some locations also acts as a strong deterrent to those who wish to vandalise or remove plants or animals. Erection of fences and gates also assist in preventing vehicular access to areas where poaching and taking of plants could be a problem.

For (b) we would like to draw attention to the programs launched with some success across NSW to reduce the population of Indian Mynah's. In Canberra this has been particularly successful and traps made exclusively to trap the birds are sold in a variety of places across the state. In Canberra the bird was the number one on the most commonly recorded list and after several years now sits at number fourteen.

This is a great example of how education programs can be used to rally community support to enable people to have an impact in the control of feral species that compete with native populations for habitat.

People who utilise our state's National Parks and walking trails can also assist in weed management. Signs identifying weeds or warning of feral animals can be placed at the entrances to walking tracks asking people who use the tracks to either remove or report areas of infestation or the presence of feral animals to help target the places they are found.

National Parks do a fantastic job in organising programs to remove some feral animals and several of our members report seeing rangers involved in programs to eradicate pests. An example of this is helicopters being used in Cocoparra National Park to successfully access, target and shoot some of the large feral goat population that damages fragile areas of the park.



2. Has the NPW Act and the supporting policy framework led to a positive change in the welfare of native animals (captive and free-living)? What role if any should the government have in ensuring the welfare of individual native animals – particularly where there are already stand-alone welfare laws such as the Prevention of Cruelty to Animals Act 1979?

The government still has an important role to play in conjunction with the National Parks and Wildlife Act. The government needs to be seen to take a stand in its support of the work of National Parks and groups like WIRES and ORCA to assist them to ensure our native flora and fauna are protected. The government has the final say in these issues as it is seen by the community as the body ultimately responsible for upholding and enforcing our wildlife conservation laws through our justice and court system.

4. Is the current framework for wildlife licensing, offences and defences, including those applying to threatened species, easily understood? Is the current licensing system too complex? How can it be improved and simplified to focus on conservation outcomes?

There are still some problems to address. As was recently reported in the media it has come to light that almost 200,000 native ducks have been killed in this state in the past 5 years under the 'guise' of shooting them as a pest that harms rice crops. It was reported that many of these are amateur hunters who come from Victoria into the Riverina area. We have written letters to the state government relating to this issue as our club members feel that there is insufficient scientific evidence to prove that the ducks are a major or even a potential threat and also that shooting them is an effective method of control. Concerns were also raised that many species have the potential to be misidentified in the field resulting in the shooting of endangered species and also the worry that those not immediately killed escape to die an agonising death.

Theme 6: Information provisions

1. What information should be generated about the different kinds of value (for example, monetary and intrinsic value) of biodiversity and other natural assets in NSW?

It is difficult, if not impossible, to put a monetary value on land that is significant in its biodiversity value. "At What Cost?" to our wildlife should be of prime consideration when looking at this. Sometimes the cost is just too high!

2. What type, quality and frequency of data should be collected about biodiversity? Who should be responsible for such a system?

Data that is collected in ecological surveys is very valuable but concern was raised that it often does not paint a true picture of an area's complete biodiversity value. Surveys need to be conducted over a long period of time to ensure an accurate picture of the wildlife present.

Ideally significant research into an area includes a variety of survey types as well as some trapping – pitfall and Elliot traps and mist netting techniques can be most effective in showing us species that may have been undetected. Surveys should also be conducted in all seasons of the year and at different times of the day and night to gain an accurate snapshot of species in an area.



Flora is particularly difficult as some plant species lie dormant for several years and will only flower when a combination of conditions occur. Our club has several members very interested in botany and they will often point out species that are unusual on our walks.

Quality of data is very important and is an issue constantly discussed by our club members and committee. Birders contribute data to national and international databases (see below) and many have lists from walks they have done of species they have seen dating back to when they were children. The value of these lists cannot be underestimated in importance as they can show changes which have occurred in an area over long periods of time as well as migrations of species and the times of year they occur in certain areas.

A national database linked to an international database so that data could be readily shared between the two parties and would not overlap (i.e. duplication of data) would be ideal and we have 'The Atlas of Living Australia' that many

individuals, clubs and Birdlife members contribute data to as well as 'Eremaea eBird' a relatively new international database that many of the state's bird clubs use to list their sightings. Some bird clubs also maintain their own unique databases and that data remains unavailable to the public.

3. Is current data about biodiversity highly credible and readily accessible? If not, how can quality and access be improved?

Data is often scattered and early data has been hand written or created using a large variety of computer programs. Much of the data that has been collected is held by local councils, ecologists or private citizens and is therefore inaccessible to everyone.

Australia's Atlas of Living Australia and Eremaea eBird have local moderator's who analyse the lists that are submitted and will question people if data they submit seems unusual. eBird has the capacity to screen data so that sightings of a vulnerable species may not be viewed by all users in order to protect the habitat and exact location of birds that may for example be nesting.

4. How effective is the threatened species listing process (including the listing of key threatening processes) in guiding subsequent conservation action?

We would like to say it was really effective but unfortunately we constantly are dealing with conservation issues where threatened or endangered species and their habitat are in danger of being affected by development or land clearing. Leard state forest (as previously mentioned) is a good example of this and when the NSW bird clubs meet we are consistently involved in discussions relating to threats to endangered species and their habitat in our local areas. We believe that if a species has been listed as endangered every possible effort should be made to try to preserve its habitat.

5. Should threatened species listing decisions be decoupled from decisions on conservation actions (including recovery planning) and regulatory processes?

No it is necessary for these to remain linked in order to conserve areas that threatened species utilise.



6. To what extent, if any, does having national and state lists of threatened species cause confusion, regulatory burden or duplication of conservation effort? How could national and state lists be rationalised?

It is important to have both national and state lists as some species are endangered in one state and may be relatively common in another. It is perfectly acceptable to say a species is nationally endangered yet critically endangered in a certain state and not listed as threatened in other states where it occurs. People who use this data understand populations of wildlife may be scattered, fragmented and species diversity across Australia and each of the states can vary enormously. The wording of this question caused some of our members concern as we felt that threatened species lists could NEVER be considered a 'regulatory burden' as they are a meaningful indicator of diversity and can be a valuable conservation tool that guides us to direct funding for conservation projects to areas of greatest need.

7. To what extent is the identification of critical habitat an effective tool for biodiversity conservation? Should we list critical habitat for more species where relevant and useful?

It is essential that critical habitat, particularly that where threatened or vulnerable species live, feed or breed is identified and considered for biodiversity conservation. Research is necessary to determine exactly what factors make up critical habitat particularly for our threatened species.

8. Should private conservation data be collected and if so how?

Private data can be corrupt and is open to species being listed that have been misidentified. It is essential that any data used be screened in some way. Data from reputable sources should not be ignored as it can contribute greatly towards a clearer state-wide picture of the status of our wildlife and the biodiversity values to be found in some of our more-seldom explored regions.

Bird and other wildlife clubs spend many, many hours in the field and the data they gather should not be disregarded.

Our club this year began survey work for four of our local councils and we will present each of them with an annual report of the birds sighted. Our surveys are conducted monthly, bi-monthly, bi-annually or every three months. The club produces an annual report of sightings in the Illawarra area which is also published and available on our website.

We have been participating in the Birdlife Shorebirds 2020 program for several years which involves monthly surveys at five or more locations and contributes data to a national shorebird monitoring program.

Data of this type has an essential role to play in contributing valuable statistics relating to the wildlife present in many areas of our state.

Thankyou very much for allowing our members the opportunity to have a voice in the discussion of these issues we regard as being vitally important to our state. We hope that our submission will be of some assistance in this review.

Yours Sincerely
Michelle Rower
Conservation Officer
Illawarra Birders Inc.