



# Hunter Bird Observers Club

Affiliated with BirdLife Australia

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Mr Tony Burke  
Minister for Sustainability, Environment, Water, Population and Communities  
PO Box 6022  
House of Representatives  
Parliament House  
Canberra ACT 2600

Dear Mr Burke

## **Re: Threats to Australia's Environmental Protection Laws**

On behalf of HBOC, I am writing to express my deep concern with the plan set out in the April 2012 Council of Australian Governments (COAG) communiqué that will wind back our critical environmental protection laws in the guise of reducing 'green tape' for business.

We are concerned that this plan, if enacted, will hand important federal approval powers to the states and fast track approvals for large developments. Environmental laws are a critical part of a healthy society. They aim to protect our land and wildlife, and ensure that our air and water are not polluted by development. These essential protections for our ecosystems and communities should not be removed simply because they are deemed 'unnecessary' and 'costly for business'.

History has shown us that the Federal government has a critical role in protecting matters of National Environmental Significance, from which it must not abdicate. Short-sighted development proposals have threatened Australia's natural heritage several times in the past and the federal government has stepped in to prevent irreversible harm. Some important examples include preventing a dam on the Franklin River, a coal port in Shoalwater Bay and oil rigs in the Great Barrier Reef.

State governments are by their very nature unsuited to assess development proposals in the national interest. When it comes to mining and major infrastructure projects, states are more likely to prioritise short-term profits and political interests over the environment.

**Locally, HBOC are deeply concerned about the ineffectiveness of national (*Environment Protection and Biodiversity Conservation Act 1999*) and State (*NSW Threatened Species Conservation Act 1995*) legislation when they are in conflict with NSW Government vested interests. This has resulted in the loss and degradation of woodland and wetland habitats of critical importance for avian species in the Hunter Valley. The cumulative impact of land clearing and wetland destruction is being ignored by the NSW State Government.**

HBOC's regular monitoring of bird populations in both woodlands and wetlands clearly shows declines in many species.

### Some local examples of ineffectiveness of environmental legislation include:

1. The Warkworth Mine DA 300-9-2002-i. 2003 Green Offset Package set aside a Non Disturbance Area (NDA) adjacent to the mine site which was to be permanently protected for conservation and from which open cut mining was to be excluded through a Ministerial Deed of Agreement. The current consent for this mine extension allows the destruction of the NDA and additional Endangered Ecological Communities listed under the *NSW Threatened Species Conservation Act 1995 (TSC Act)*
2. The environmental integrity of the Ash Island section of the Hunter Wetlands National Park (HWNP) is severely compromised by State Environmental Planning Policies (SEPP) Major Projects Amendment 15 2007 and SEPP Major Projects Three Ports 2009. These SEPPs bisect the national park and allow for industrial development. The SEPPs are schematically represented on various maps and the SEPP areas marked have changed over time and/or a new SEPP has been added without any community consultation. In the past HBOC asked for both clarification as to the on-ground boundaries of these SEPPs and for their removal, unsuccessfully.
3. The existence of these SEPPs is currently being used to justify the destruction of important wetlands in the HWNP. The eastern side of Swan Pond on Ash Island will be used for the construction of rail infrastructure for two coal loader projects; the proposed Port Waratah Coal Services' Terminal 4 and Newcastle Coal Infrastructure Group's Rail Flyover Modification projects. If these projects proceed in their present form, all of Swan Pond will be compromised, not just its eastern side. Swan/Wader Pond is a wetland of international importance as it meets Criterion 6 of the intergovernmental treaty, *The Convention on Wetlands of International Importance (Ramsar Convention)*: "A wetland should be considered internationally important if it regularly supports 1% of the individuals in a population of one species or subspecies of a waterbird". Two species of international migratory shorebirds, Sharp-tailed Sandpiper *Calidris acuminata* and Red Knot *Calidris canutus* and one species of waterfowl, Chestnut Teal *Anas castanea*, have been observed in significant numbers representing > 1% of the total population. On the same basis, Swan Pond/Wader Pond fulfils the requirements for listing in the Directory of Important Wetlands Australia and Birdlife International's **Important Bird Area** initiative.
4. The rezoning of the largest unbroken remnant patch of bushland in the Lower Hunter Valley for industrial development (viz the Hunter Economic Zone near Kurri Kurri) is another example of short-sighted and ill-informed poor planning decision making with clear deficits in environmental legislation. This area has been shown to contain over 30 threatened flora and fauna species and endangered ecological communities, including one of the most important winter-forage sites for the nationally endangered Swift Parrot and breeding habitat for the critically endangered Regent Honeyeater. Despite the obvious high ecological significance of the area (which includes recognition of eucalyptus species new to science), environmental legislation has enabled the area to be rezoned and then approvals for development in the interim. The failures in the case of HEZ were seen at both State and Commonwealth levels.

HBOC believes that environmental legislation should maintain species of birds in populations at a viable level. To achieve this, adequate areas of appropriate natural habitats, including some potentially **economically productive areas**, need to be permanently reserved. This is nowhere more urgently needed than in the Hunter Valley, which is recognised as having a remarkable ecological diversity (including a proportionally high number of threatened taxa) and where conflicts between this ecological significance and ongoing development (mainly mine-related and industrial) are very clear.

We strongly oppose the weakening of our environmental laws and urge you to oppose damaging proposals in the COAG agenda including:

- The transfer of federal approval powers for matters of National Environmental Significance to state and territory governments;
- Changes to the *Environmental Protection and Biodiversity Act* that favour streamlining the process for business over protecting the environment for all; and
- Allowing States and Territories to reform state assessment and approvals to fast-track approval of major development projects.

These actions, which would wind back over 30 years of environmental protection laws leaving our water, lands and iconic wildlife vulnerable to unchecked development, would be deeply unpopular. Every year the National State of the Environment report shows Australia is going backwards in environmental protection for our watersheds, landscapes and unique biodiversity. Now more than ever we need the governments to uphold and strengthen environmental laws to safeguard Australia's natural heritage for future generations.

I ask you to make representations to the Hon. Julia Gillard, Prime Minister and the Hon. Penny Wong, Minister for Finance and Deregulation and call on them to reject the proposals laid out in the April COAG communiqué and ensure the federal government will continue to play an important role in protecting our land, water and wildlife for all Australians.

I look forward to a response from you shortly. I can be contacted on 02 4953 9652 or [kristypeters153@gmail.com](mailto:kristypeters153@gmail.com).

Yours faithfully

Kristy Peters  
HBOC Committee Member