



Hunter Bird Observers Club

Affiliated with BirdLife Australia

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The General Manager
City of Newcastle
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Submitted by email to mail@ncc.nsw.gov.

Re: DA/2020/00641, Richmond Vale Rail Trail Submission

The Hunter Bird Observers Club Inc (HBOC) is the largest bird interest group in the Hunter Region, with a membership base of 350 members. HBOC is affiliated with Australia's peak bird interest organisation, BirdLife Australia, which has a membership of over 12,000 and a supporter base of over 70,000.

The Club's aims are:

- *To encourage and further the study and conservation of Australian birds and their habitat;*
- *To encourage bird observing as a leisure time activity*

HBOC objects to the totally inadequate surveys of avifauna in Hunter Wetlands National Park, Pambalong Nature Reserve and adjacent lands as reported in the Environmental Impact Statement (EIS) and the Biodiversity Development Assessment Report (BDAR) The EIS and the BDAR provided by GHD show a lack of scientific rigour with regard to the assessment of avifauna.

We also object to the inadequacy of the mitigation measures proposed considering the national and international importance of Hexham Swamp to endangered, vulnerable and threatened species, and Australia's international obligation to protect migratory shorebirds.

The aims of the Hexham Swamp Rehabilitation Project 2006, (Chapman & Hyde 2012), undertaken at huge cost to the taxpayer, include providing habitat for waterbirds:

The project aims to reinstate tidal inundation to promote the transition of dominant freshwater vegetation to estuarine wetlands. The expected outcomes include the restoration of nursery habitat for fish and prawns and an increase in visitation of waterbirds including migratory waders, protected under international agreements.

Importance of Hexham Swamp

The EIS and the BDAR do not reflect the significance of Hexham Swamp for birdlife in NSW.

The importance of Hexham Swamp to the avifauna of NSW especially waterbirds cannot be over-estimated. A total of c. 260 species (Birddata portal) more than 50% of the total bird population of NSW, has been recorded of which more than 90 are waterbirds. It is clear that the most comprehensive database, **Birddata**, for Australian avifauna was not accessed.

Local Land Services, managers of the Rehabilitation Project, (LLS) released a report in 2016 in which 131 species were observed in Hexham Swamp (Hexham Swamp Rehabilitation Project – Final Report 2016). Changes from freshwater to estuarine habitat in Hexham Swamp has seen an increase in bird species since that time. Among them are threatened species listed under the *Biodiversity Conservation Act 2016 (BC Act)* and the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)* including several species of migratory shorebirds. The Hunter Estuary is recognised as the most important migratory shorebird site in NSW and Hexham Swamp is one of the most important individual sites within the estuary.

In addition, Australasian Bittern (*EPBC and BC Acts*), Eastern Grass Owl (*BC Act*), White-fronted Chat (*BC Act*) and Black-necked Stork (*EPBC and BC Acts*) breed on Hexham Swamp. As at 24 August 2020, Black-necked Stork are attending a nest within the national park the outcome of which should be known in the near future. This will be the first confirmed breeding record of this species in Hexham Swamp and only the third record in NSW south of Bulahdelah (Lindsey 2019). Further details of the importance of Hexham Swamp to avifauna and other biodiversity can be found in HBOC's *Input into the Concept Design for Richmond Vale Rail Trail*, 17 November 2016, Appendix A.

It is worth repeating at this point in our submission that the EIS and the BDAR do not reflect the significance of Hexham Swamp for birdlife in NSW.

Survey Effort

Surveys for avifauna were totally inadequate – two dawn surveys over 18 km of track and including other assessments at the same time in 2016 and eight hours in March 2019 plus 4 hours of spotlighting for all species – birds and otherwise.

Other bird surveys were “opportunistic” which is inappropriate for a tidal wetland where presence and absence may depend on water levels and tidal flows. Members of HBOC have been monitoring the east side of Hexham Swamp monthly since 2008. Data have also been collected for the western side of Hexham Swamp. Local Land Services (LLS) have released a report in which 131 species have been observed in Hexham Swamp. (Hexham Swamp Rehabilitation Project – Final Report 2016).

Omission of important detail

Only species with “threatened status” were assessed which ignores the importance of Hexham to congregatory species such as Chestnut Teal *Anas castanea*. A minimum of 1800 birds, more than 1% of the total population was recorded in 2011 in targeted surveys of the whole of the Hunter Estuary (Lindsey & Roderick 2011). The Hunter Estuary and Hexham Swamp in particular continue to be a stronghold for this species in NSW.

Hexham Swamp is critical habitat for the migratory shorebird Sharp-tailed Sandpiper *Calidris acuminata* which has been recorded in numbers of more than 1,000 every summer. Since 2013 there have been peak counts of 7,000-8,000 in 2013/14 and 2014/15 (Stuart 2016). This represents more than 1% and up to 8% of the total world population of this species.

Omitted Threatened Species

No reference to Australian Painted Snipe *Rostratula australis* can be found. This species is listed as Endangered under both the *Environment Protection and Biodiversity Conservation Act 1999* and the *Biodiversity Conservation Act 2016*. There are many records of this endangered species in proximity to the proposed cycleway at Hexham Swamp, Pambalong NR and Lenaghan with a breeding record at the latter (Fraser 2020).

Lack of scientific references in the EIS

A perusal of the reference section will reveal a total lack of recent information pertaining to migratory species and other species. References such as Herbert 2007 and Bamford 2008 whilst once the only source of information are now out of date. This again shows the lack of diligence with regard to the assessment of avifauna in the writing of the EIS and the BDAR.

Disturbance to avifauna is of paramount concern.

One of the key findings in the EIS is:

Safe, accessible and amenable commuter and recreational choice for tourists and locals to undertake journeys without having to utilise existing road networks (such as M1 Pacific Motorway and New England Highway).

This cycleway may have benefits such as the safety of riders by taking commuters off the New England Highway and benefits for riders and walkers. However, Hexham Swamp is such a sensitive environment that it is imperative that special provisions must be made to compensate for the harm to wildlife and to meet our international obligations to protect migratory shorebirds.

HBOC objects to this concept of the Rail Trail as that of a “commuter” pathway. High speed commuting is incompatible with the character/ethos of this environmentally sensitive area – multiple cyclists commuting along the track at speeds of up to 40 km/h will cause serious disturbance to any species foraging or roosting in the vicinity of the track. Currently many species, including Endangered Black-necked Stork use the Pipeline Track as a roost.

The Cycling Policy of Office of Environment & Heritage NSW National Parks & Wildlife Service states as some of its objectives:

- *Ecologically sustainable cycling in parks.*
- *Recreational cycling activities that provide a safe quality experience for all park visitors which fosters public appreciation, understanding and enjoyment of nature and cultural heritage in parks*

There is no mention of commuter cycling in national parks in the policy. Commuters are unlikely to want to “enjoy nature and cultural heritage” on their way to and from work.

HBOC believes that speed limit of 20 km/h or less must be enshrined and enforced.

The statement in the EIS that...

The subject site contains an existing track that transects the wetland habitat that is currently utilised by nearby landowners and local birdwatchers, suggesting birds in the area may already be habituated to some human disturbance.

...shows a lack of understanding about birdlife and birdwatchers on the part of the proponents.

It is true that some species show a tolerance to birdwatchers travelling along Pipeline Track in their vehicles at 10 km/h. The majority of birdwatchers are particularly careful about disturbing avifauna for obvious reasons. In addition, cars act as a hide and birds tolerate this situation more than in the case of pedestrian and cycling traffic.

Also it has been scientifically established that wetland buffers used as cycle ways are incompatible with reducing disturbance to wetland fauna particularly bird species. (Weston et.al).

It is suggested in the EIS that disturbance will be minimal and that species will simply move further away from the track. The areas adjacent to Pipeline Track have been subject to tidal flushing since 2008

and as a result Common Reed (*Phragmites australis*) died back and areas have opened out. Areas away from tidal flushing remain thickly vegetated and are not suitable for most waterbird species.

Further concerns include the impact of artificial lighting, a known hazard for birdlife. The EIS acknowledges this and indicates that:

“Lighting options to reduce potential impacts of increased artificial lighting on resident fauna would also be incorporated where possible”.

HBOC believes that in **all** cases lighting to reduce impacts on avifauna should be used, not just “*where possible*”.

Any use of artificial lighting should follow the *National Light Pollution Guidelines for Wildlife including Marine turtles, Seabirds and Migratory shorebirds*. In particular it should follow the first recommendation to **Start with natural darkness and only add light for specific purposes** because ‘artificial light can disrupt critical behaviours in wildlife, stalling the recovery of threatened species and interfering with a migratory species’ ability to undertake long distance migrations integral to its life cycle’.

The use of landscaping “*to create a visual disincentive*” as the only way of stopping mountain bike riders from leaving the track and crossing into areas of sensitive habitat for wetland birds is totally inadequate. The open aspect of Hexham Swamp should be maintained as waterbirds require line of sight to avoid predators. Planting trees is not a suitable option. In addition, it will not prevent young people from leaving the track to ‘party on’ and light potentially dangerous fires.

Dogs

There seems to be a suggestion that dogs will be permitted on the Rail Trail but the authors of this submission cannot establish where this will be other than “not in the national park”. Dogs including dogs on leads cause additional disturbance to waterbirds and the precautionary principle should be implemented and dogs should not be permitted on the Rail Trail under any circumstances. Bird presence is not restricted to areas inside the national park and bird species occur along the Rail Trail in areas outside the national park. Apart from disturbance to avifauna, dogs and cycling are incompatible as dogs on leads can suddenly walk out in front of cyclists potentially causing an accident.

Pambalong Nature Reserve

This Reserve has degraded over several years because of insufficient funding to manage problems such as incursions of exotic weeds leading to choking of open areas of water and indigenous vegetation on edges of the water. As a result bird species have also declined. HBOC suggests that in tandem with spending \$46,500,000 (excluding GST) in total on a cycleway that a similar amount be spent on managing the wetland values of the Reserve.

HBOC in its *Submission on Richmond Vale Rail Trail November 2016* (Appendix A) listed factors to be taken into account in the design process of the Rail Trail. It is pleasing to see that the EIS addressed some of these factors, including limiting construction to the period from the end of April to the beginning of September in order to avoid the migratory shorebird season. However there remain many concerns about both the construction and operational phases of this proposal.

Recommendations

- That additional surveys be carried out to ascertain the true value of Hexham Swamp to avifauna and that avifauna be recognised as a main consideration in the EIS.
- That a speed limit of 20 km/h or less for cyclists be mandatory and enforced along the whole of the Rail Trail to protect wildlife and pedestrians from disturbance and potential collision.
- That the entire length of pathway for cyclists and walkers be separate rather than shared. This will allow walkers to appreciate what the national park has to offer without the risk from speeding cyclists (a known hazard in other Newcastle City cycleways).
- That significant funding be allocated for the purposes of managing wetland values of Hunter Wetlands National Park and Pambalong Nature Reserve.
- That the recommendation of the EIS to restrict construction to the period from the beginning of April to the end of September be strictly enforced.
- That vehicular access be included in the planning process. Our preferred option is vehicular access for the birdwatching community. At the very least that vehicular access to Hunter Wetlands National Park be permitted for purposes of continuing monthly avian surveys by HBOC members. These surveys commenced in 2008 thus generating a long-term invaluable dataset which is used by National Parks to inform aspects of management.
- That the use of artificial lighting should be reconsidered to ensure that it serves a valid purpose in the light of the impact it will have on avifauna. Any use must follow national guidelines include the type of lighting and the use of motion sensing to ensure the lights are on as briefly as possible.
- That HBOC be consulted with regard to the content of educational signage about avifauna and the design and placement of viewing areas.
- That dogs, including dogs on leashes, be excluded from the whole of the Rail Trail.
- To further guarantee that dogs are not allowed to endanger vulnerable and threatened wildlife we strongly recommend that Newcastle City Council declare the whole of the rail trail within the Newcastle LGA a *Wildlife protection area* under Section 14 (1) (h) of the Companion Animal Act 1998 and that notices be put up that dogs are prohibited on that public place. The Act should then be enforced.

For one example of how a responsible council can implement Wildlife Protection Areas see <https://www.tweed.nsw.gov.au/WildlifeProtectionAreas>

Thank you for the opportunity to make further comments.

Ann Lindsey – Conservation Co-ordinator of Hunter Bird Observers Club Inc. 28 August 2020

References

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