



# Hunter Bird Observers Club

*Affiliated with BirdLife Australia*

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The General Manager,  
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1 April, 2020

Attn: Mr R. Falkenmire

Sent by email to [council@portstephens.nsw.gov.au](mailto:council@portstephens.nsw.gov.au)

**Re: RE-Notification - DA 16-2018-772-1 - 3221 Pacific Highway & 35 Six Mile Road, KINGS HILL Concept Proposal for Residential Subdivision & Stage 1 Subdivision Works (Initial Site Preparation Works) & Establishment of In-Perpetuity Conservation Area**

Hunter Bird Observers Club Inc. (HBOC) objects to aspects of the above development and the revised concept plan. Our objections are particularly relevant to the Establishment of In-Perpetuity Conservation Area especially as it applies to the regionally significant Wetland 803 and surrounds. Although Wetland 803 lies outside the development footprint, it will be irrevocably impacted by this development. We also consider that surveys for ascertaining presence of avifauna were inadequate, piecemeal and limited often being carried out in drought conditions. Some results were incorrect.

We are pleased to see that Kings Hill Developments Pty Ltd (KDH) has issued a revised Concept Development Application (13 March 2020 as revised) supported by a Species Impact Statement (SIS) (13 March 2020) and a Biodiversity Management Plan (BMP) (13 March 2020).

Our view that this is a deeply flawed development proposal that will have profound impacts on local and transitory birdlife is confirmed by various documents available.

The scale of the development will see the loss of a significant amount of dry open forest that serves as habitat for a range of threatened and declining woodland bird species, as well as many other bird species that are restricted to such habitats. Such areas have been largely lost since European settlement and as a result they are even more important as contemporary habitat for species that rely on dry forests in sub-coastal areas. The extent and reach of the 2019-20 bushfires has also increased the importance of forested areas such as Kings Hill because they will become refuges for birds and other fauna for many years to come while the burnt forests recover.

“According to the Department of Home Affairs, to date **more than 12.6 million hectares across Australia** have been burned. To put that in some perspective, **in New South Wales alone more than 5.4 million hectares** have been burned, said Ben Shepherd from the NSW Rural Fire Service”.

<https://www.abc.net.au/news/science/2020-03-05/bushfire-crisis-five-big-numbers/12007716>

“The bushfires experienced in the 2019-20 season have so far burned more than 10 million hectares of land in southern Australia, greater than the combined area burned in the Black Saturday 2009 and Ash Wednesday 1983 bushfires”. <https://www.csiro.au/en/Research/Environment/Extreme-Events/Bushfire/preparing-for-climate-change/2019-20-bushfires-explainer>

“The bushfires that raged across the country in recent months are unlike any in recorded history. More than 20 per cent of Australia’s forests have been burnt” (Dooley 2020)

Although water bird species may not occur on the footprint, several threatened and migratory species occur on Wetland 803 and historically Wetland 804. The list of threatened bird species on p. 37 of the DA has not been updated to include these species which will be negatively impacted. The migratory species include shorebirds - Sharp-tailed Sandpiper *Calidris acuminata*, Marsh Sandpiper *Tringa stagnatilis*, Latham’s Snipe *Gallinago hardwickii* and Common Greenshank *Tringa nebularia*. Threatened species: include Australian Painted Snipe *Rostratula australis* and Black-necked Stork *Ephippiorhynchus asiaticus*. Other species omitted occur on the site, including Powerful Owl *Ninox strenua*, Dusky Woodswallow *Artamus cyanopterus* (BIOCM 2018).

Although the SIS by RPS recognises the importance of Wetland 803 as an Endangered Ecological Community (EEC) it still fails to mention that it provides habitat for threatened species such as the Australian Painted Snipe, which is listed as endangered under both the Australian Government’s *Environmental Protection and Biodiversity Conservation Act 1999 (EPBC Act)* and the *NSW Biodiversity Act 2016 (BCT Act 2016)*. This species is known to occur on Wetland 803 (BirdLife Australia Atlas data).

There is no evidence that appropriate seasonal surveys were carried out for migratory bird species despite the fact that Wetland 803 is an important and well-known wetland for waterbirds. The SIS pp. 116 to 120 describes avifauna surveys targeting vegetation but not wetlands. Despite this omission, it does recognise the importance of the Latham’s Snipe *Gallinago hardwickii* with records of maximum counts as high as 73 (Maddock & Newman 2018) and has identified a cluster of important bird species on Wetland 803 and its surrounds.

### **Impact on Wetland 803**

As the project currently stands EEC Wetland 803 is surrounded by infrastructure with no adequate buffer zone. HBOC is most concerned that it is planned to surround this EEC with residences to the north (Precinct 7), major roadway within metres, pathway for pedestrian, mountain bike and equestrian use and playing fields to the south. Such infrastructure and activities will lead to unacceptable disturbance to rare and threatened bird species, allow the encroachment of weedy vegetation and diminish the water quality and flow regimes.

The Council-owned land to the south designated to be made into playing fields is a former waste disposal site. Waste disposal sites are heavily contaminated areas and it is important to prevent leachate from these areas contaminating environmentally sensitive wetlands. This site was only recently capped. It is important to separate the contaminated area from the adjacent wetland with a bund. It is undesirable to create playing fields which require constant irrigation hence causing increased run-off from the contaminated areas, even assuming the capping limits the ingress of water to the contaminated material. According to the Alluvium report (p.34) Wetland 803 is already compromised by the retention of water and will need ongoing management if wetland values are to be retained and improved.

The construction of a boardwalk for pedestrian, cycling and equestrian use on the edge of such an important wetland is inappropriate due to the likely disturbance to water birds. According to Weston et.al.

“Wetland buffers separate wetlands from surrounding land uses that are incompatible with wetland values. Buffers are established to fulfil a variety of needs. However, not all functions which are attributed to buffers are mutually compatible. In particular, their use as major recreational zones is not necessarily compatible with reducing disturbance to wetland wildlife, such as birds. This paper examines the buffer around an urban wetland at Altona, Victoria, which is extensively used by recreationists. The presence of a bicycle trail within the buffer

might effectively reduce its size and effectiveness, and cause 'buffer creep' whereby the effective separation distance between people and birds is reduced. It might also unintentionally facilitate unauthorised access into an otherwise 'off-limits' wetland. While social support is critical for wetland conservation, the existence of recreation in buffers does not automatically confer high awareness of local wetlands. The success of buffers as a conservation tool will depend upon setting a clear objective for buffers, careful design and management, and evaluation of effectiveness to optimise the potential benefits for wetlands and their fauna." (Weston, Antos and Glover 2009)

Revegetation of cleared land to the east of the Wetland with Preferred Koala Feed Trees is acceptable as long as a buffer is incorporated between plantings and the Wetland. Wetland values are not enhanced by surrounding them with tall vegetation. This particular wetland is already well-vegetated.

There is no evidence that White-bellied Sea-Eagles *Haliaeetus leucogaster* (Vulnerable *BCT Act 2016*) successfully breed on artificial nest poles (Debus et. al 2014)

The removal of cattle can lead to unwanted growth in vegetation. There are both positive and negative outcomes to removing grazing and the BMP will have to consider this aspect so that the Wetland is not negatively impacted. [https://www.dpi.nsw.gov.au/data/assets/pdf\\_file/0003/299109/Guidelines-for-grazing-in-the-gwydir-wetlands-and-macquarie-marshes-section-4.pdf](https://www.dpi.nsw.gov.au/data/assets/pdf_file/0003/299109/Guidelines-for-grazing-in-the-gwydir-wetlands-and-macquarie-marshes-section-4.pdf)

The removal of Alligator Weed will improve water quality and will require ongoing effort until totally eradicated. [https://www.dpi.nsw.gov.au/data/assets/pdf\\_file/0015/210444/alligator-weed-control-manual.pdf](https://www.dpi.nsw.gov.au/data/assets/pdf_file/0015/210444/alligator-weed-control-manual.pdf)

## **Recommendations**

The recommendations in the SIS for increased size in the conservation area and corridors and thus protection of endangered vegetation should be accepted and incorporated into the plan.

Precinct 7 should be included in the Conservation Zone. It consists largely of the Vegetation Community Type - Spotted Gum Broad-leafed Mahogany which is in good condition (DA p. 40) and is thus of high conservation value. It is habitat for several threatened species identified in the SIS including those listed as Vulnerable - Grey-crowned Babbler *Pomatostomus temporalis*, Varied Sittella *Daphoenositta chrysoptera* and White-bellied Sea-Eagle. It also provides habitat for two critically endangered birds that are known to use similar habitat types in the Lower Hunter Region, being Regent Honeyeaters *Anthochaera phrygia* and Swift Parrots *Lathamus discolor*. Lowland vegetation associations that contain Spotted Gums and ironbark species, White Mahogany etc are very important wintering habitat for both of these species and are a habitat resource that has become very scarce in temperate south-eastern Australia.

The construction of a major access road within metres of the Wetland edge is wholly unacceptable. The access road from Newline Road has to be relocated to the north of Precinct 7 even if this entails fewer hectares for other types of usage.

Because this wetland will be surrounded by residential development it will unfortunately be necessary to surround this small, but high conservation value site with a fence with access for management and wildlife monitoring through a locked gate. This will prevent undesirable activities such as feeding waterfowl which will attract large numbers of hybrid ducks and even domestic geese. As a result vulnerable species that the BMP is designed to protect will be driven out. An example of this undesirable outcome can be readily seen a short distance away at Jack Johnson Park, Raymond Terrace. Hybrid waterfowl have had to be culled for example at Maitland and Dora Creek to prevent hybridization of native species and disease risk.

The alternative school site should be absorbed into the Conservation Area as it is too close to Wetland 803 and a more central site could be found in Precinct 5.

Former waste disposal site to the south of Wetland 803 should be rehabilitated and used for passive activities such as walking. It could be considered as a site for planting Preferred Koala Feed Trees.

### **In-Perpetuity Conservation Agreement**

HBOC considers that the proposed establishment of an In-perpetuity Conservation Agreement will be beneficial for the conservation area. Whatever form this takes – Voluntary Planning Agreement or Biodiversity Stewardship Site Agreement – it is mandatory that monies generated from any sale of Credits earned through such agreements at a later date be used for the management of the Conservation Area and not on-sold for other developments.

While HBOC strongly recommends the above modifications in order to avoid, minimise and mitigate significant harmful impacts, we believe that this urban development should not proceed at all. We believe that such a development is incompatible with Kings Hill forests and wetlands.

For further discussion, please contact A. Lindsey – [ann.lindsey@bigpond.com](mailto:ann.lindsey@bigpond.com)

Submission prepared on behalf of HBOC by R. Stewart and A. Lindsey

This is the third submission HBOC has tendered about this project. Previous submissions: July 2007, August 2019.

### **References**

Alluvium, 2019. Preliminary assessment of the Kings Hill development impacts on Irrawang Swamp ecology.

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Species Impact Statement 6, RPS March 2020

Weston, M.A, Antos, M.J. and Glover, H.K. Birds, buffers and bicycles: a review and case study of wetland buffers. *The Victorian Naturalist* 126 (3) 2009, 79-86.