5th September 2014

Biodiversity Legislation Review,
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Submission on Independent Biodiversity Legislation Review Panel - Issues Paper (August 2014)

Thank you for the opportunity to comment on this Issues Paper.

I write as a concerned individual and in my role as Conservation Officer for the Blue Mountains Bird Observers. I have wide experience in senior management and directorships of private companies (SMEs), and have also worked in various environmental and conservation roles for almost 40 years.

Blue Mountains Bird Observers is a club with 200 members based in The Blue Mountains whose members regularly visit other areas of NSW and are actively involved in maintenance and restoration of native bird habitat in the Blue Mountains, Cowra and Capertee Valley. www.bmbo.org.au

I am also an office bearer in several other local and state-wide environmental and conservation organisations, all of which I now attend to as a volunteer.

One of those is as Convenor of the Blue Mountains Bushcare Network, which is a forum for the 500 Bushcare and Landcare volunteers within the Blue Mountains LGA. Its purpose is to promote information exchange between groups and individual volunteers and to be a conduit for advice from volunteers to Council. www.bushcarebluemountains.org.au

Comments and responses are given on various statements and most of the questions in each Theme listed in your questionnaire. Note that responses here are generally consistent with the philosophy and goals of the above organisations, but are presented here as entirely my own personal views.

Sincerely,

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CONTEXT

COMMENTS - International policy focus on conserving biodiversity: To people such as bird-watchers, who have a strong "aesthetic" or "cultural" appreciation of birds and also of other wildlife, natural flora and fauna are definitely important features of Australia's heritage and culture. In common with most people who appreciate birds and wildlife in general, we expect that Australian governments at all levels will continue and increase efforts to "improve the status of biodiversity by safeguarding ecosystems, species and genetic diversity" (one of the goals of the International Convention on Biodiversity of which Australia is a signatory).

These should include:

- conserving ecosystems in a comprehensive, permanent reserve system – the backbone of conservation strategy
- promoting and enabling conservation of ecosystems on private land
- mainstream State programs to stop or reverse declines in threatened species and ecological communities
- support of community-based programs to restore threatened species and natural habitats.

COMMENT – On statement "like other states and territories, the biodiversity of NSW is in decline, and debate about best ways to slow and reverse decline": There is no doubt that biodiversity is in decline in NSW (as no doubt it is almost everywhere). For example, the 2012 *NSW State of the Environment Report* states that 30% of the 452 species of native birds in NSW were listed as threatened in 2012. The causes of decline in threatened species are well-known in many cases (such as the Regent Honeyeater) and usually involve ongoing habitat destruction and fragmentation or (in the case of native animals) predation or competition from feral animals. The best ways to arrest such declines are generally known and are not really a subject of debate – in most cases the crucial remedy is to **stop destroying habitat**. Effective control of feral animals would greatly help many flora and fauna species in reserves and private land. The main impediment to applying effective feral control is insufficient long-term funding and resourcing with skilled personnel.

COMMENT – NSW Government role in biodiversity conservation evolving over past 40 years: We consider that there was a positive change in government policy on biodiversity after the formation of the NPWS in 1967, in response to an increasing community demands for effective organised conservation. There were new efforts to protect and manage wildlife and the beginnings of a fairly comprehensive reserve system. This early work was generally built on over the next 35 or so years, particularly in the case of the reserve system. However, in recent years (e.g. Past 5-10 years) focus has been lost, typified by recurring staff and resource cutbacks and proposals for retrograde legislation and management policies which threaten to undermine or retard vital conservation work. We believe this recent policy decline is very much out of step with continuing community expectations that government will continue taking a lead role in promoting and carrying out biodiversity conservation.

COMMENTS – "Mechanisms tried in order to address biodiversity decline in NSW":

- The State reserve system of National Parks, Nature Reserves etc is a most vital and basic method of conserving biodiversity. It needs to be comprehensive, adequate and secure in the long-term. The current system is fairly comprehensive (of ecological communities) but there are no doubt still significant gaps which should be known by the Office of Environment and Heritage (OEH).
- Threatened species objectively determined and listed – very necessary to do this and update regularly. Abatement plans need to be written AND implemented. Failure by governments generally to provide enough resources for this work is a continuing major problem.
- Planning native vegetation conservation – necessary to do this, to avoid losses of complete ecological communities (ECs), especially on a regional scale. At the local level, it needs to be done to help conserve water, soil quality, and particularly important remnants of threatened ECs or species populations.
- Covenants – a viable way to get private landowners to conserve biodiversity in practice. Probably depends heavily on good will but needs to be "permanent".
- Strategic land use planning - vital in terms of biodiversity conservation, to ensure "important" wildlife/habitat features are not overlooked or deliberately destroyed.
- Education – teaching children the value of biodiversity and a practical "appreciation of nature" is very desirable, especially in an increasingly virtual world. Needs to be intensified.

These six mechanisms are all very relevant and useful today in biodiversity conservation, and they should all be continued with the aim of constantly improving their practical effectiveness.

Other methods:

- Market-based mechanisms –Ecotourism is most relevant. This is desirable for educating people about the vast natural world, letting them experience wildlife and natural places, and bringing in local revenue, but it needs to be done sensitively and by qualified operators.
- Biodiversity offsetting – relevant in limited cases if principles strictly followed. However, already widely misused, and thus can be harmful to biodiversity.
- Self-assessable codes – are likely to be dangerous. May encourage abuses of regulations, e.g. in case of native vegetation, could cause more illegal clearing which would be difficult to keep in check. This would also be encouraged by a likely lack of advisory and compliance staff to oversee code application.

Theme 1: Objects and principles for biodiversity conservation

COMMENT – National and international obligations: Posssibly there should be laws committing NSW to implement:

- international agreements such as those with Japan, China, and South Korea, for migratory shorebirds
- world heritage agreements
- proper management of Ramsar sites (for water-birds). The spirit of shorebird and Ramsar treaties has largely been largely ignored in the past and important habitats have been destroyed in Australia and overseas.

COMMENT – Current state of biodiversity in NSW: The 2012 *State of the Environment Report* for NSW shows that a total of 989 species (plants and animals) were Threatened as at the end of 2011. This included a high 59% of mammal species and 30% of birds. Since 1995, there has been a steady increase in total threatened species, from 680 in 1995 to about 1,020 in 2011. Likewise, threatened ecological communities increased steadily from only a handful in 1997 to about 105 in 2011. The main Key Threatening Processes implicated in species declines are habitat alteration and destruction, and invasive species (both plant and animal).

This evidence of decline is much more likely to reflect a failure to apply existing legislation adequately rather than a need for amended objectives in legislation. The large number of presently threatened species (989), ecological communities (105), and ongoing processes that are potentially threatening additional species and communities, indicate a need for strong legislation to reverse this trend.

COMMENT – Role of biodiversity law: There may be some overlap between objectives of the TSC and NV Acts in that plant communities are of interest to both Acts (there is no division between them into matters concerning plants and animals). Combining the two in some way might be considered, but would need great care not to lose features of either one. NPW and planning laws do not include the same objectives as the TSC and NV Acts, and could not cover biodiversity conservation requirements adequately, although they need to be consistent with the TSC and NV Acts.

COMMENT – Biodiversity conservation beyond scope of Government run programs: There is a limited presence in NSW by the Australian Wildlife Conservancy (AWC) and Bush Heritage, who have comparatively tiny landholdings compared with NPWS. AWC is doing very important and impressive pioneering work in re-introducing animals that died out in NSW 100+ years ago. There would seem to be good scope for fruitful cooperation or partnership between AWC and NPWS to extend this type of valuable work. Legislatively, it might be deemed that additions to the NPW Act are needed to support the work into the future.

Q1 – Aspirational goal for biodiversity conservation: Probably an aspirational goal would be useful – something along the lines of preventing extinction in the wild of any further plant or animal species in NSW, and recovering populations of as many as possible of the currently endangered and vulnerable species, to improve status to “near threatened” or better.

Q2 - Objectives from TSC Act 1995, Native Vegetation Act 2003, Nature Conservation Trust Act 2001, NPW Act 1974:
There is nothing invalid, irrelevant or “outdated” in any of these objectives; and to our knowledge, nothing that should obviously be deleted or changed. Note that mention of “ecologically sustainable development” (ESD) in three of the Acts may be regarded with disfavour by the NSW Government, since it strongly opposed the inclusion of the term in its attempted planning legislation in 2013. Important principles of ESD include attempting to conserve biodiversity in land-use planning and development.

There may be some need to add to these objectives. There may be a need for a separate body and Act to encourage and manage revegetation on a considerable scale to try and recover some nearly extinct ecological communities, e.g. rehabilitation in defunct open-cut coal mines .

Q3 - Extent to which current objectives being met: Probably objectives are not being met as well as needed in the case of the TSC and NV Acts, mainly because these two necessarily place some restrictions on *laissez faire* development, and cause some resentment. This does not mean that governments should cater to such resentment. Natural environments do have a value, which is rarely taken into account and should not be continually whittled away for profit's sake. It is never possible to accommodate everyone's wishes. However, it would be fairer if areas of rare ecological communities on private property were purchased at a fair price for NPWS reservation rather than being left in the hands of resentful landowners who see no prospect of financial gain except through destroying them.

Theme 2: Conservation action

COMMENT – Role of private conservation: Private conservation efforts to protect wildlife and habitat should be regarded as a valuable adjunct to the main State-run programs but these efforts cannot all necessary be expected to continue long-term; although bodies like AWC and Bush Heritage should be in this business long-term. We completely agree that private land conservation efforts should be encouraged by Government but not at the expense of Government programs and given long-term security through binding agreements. However, we do not agree that biobanking should be widely encouraged or relied on in a major way.

COMMENTS - Species recovery programs: There is unlikely to be an improvement in practical assistance for threatened species to be had by moving away from threatened species recovery plans to "new" schemes like Save Our Species. Lumping most threatened animal species as "ecosystem" species, i.e. making the presumption that the habitat of these species can be predicted from vegetation types alone and hence "managed" if those vegetation types are present, without checking to see if the animals are really present and breeding successfully and with good survival prospects, is not biologically sound. The wording "Greater flexibility in management approaches" suggests a danger of disparate and maybe uncoordinated actions that could give poor results.

COMMENTS – Saving our Species (SOS):
Branding of a handful of species in SOS as "iconic" is dangerous in that it might lead to a disproportionate concentration of effort and funding on these species, when (morally) all of the listed Threatened species of plants and animals in NSW are worthy of help. The real financial need of SOS is probably in the order of 200-300 million dollars over say 5 years, but this sort of "serious" money appears very unlikely to be committed in NSW. **The Government seems to be relying heavily on volunteers** and disparate groups for "saving" different species. If they are poorly financed, resourced or coordinated, the SOS projects could prove to be haphazard, and ineffectual – a wasted opportunity.

Q1 – COMMENT: Encouragement of conservation on private land: We are not familiar with the effectiveness of the current range of private land conservation programs and attitudes of the participants. Many people may happily do it altruistically because they think biodiversity matters and are willing to forego some economic production to protect wildlife. Some landowners would need monetary compensation and/or tax concessions to defray "opportunity costs"; or ideally some would receive offers of purchase by NPWS in cases of ecological communities on higher quality land which are currently very under-represented in reserves.

Q2 – Incentives, impediments: Agreements for private land conservation need to be binding, otherwise land/scarce ecological communities (ECs) might not be protected for a worthwhile length of time. To achieve significant conservation of threatened ECs on private land, the government should be willing to purchase some land outright or otherwise pay owners to retain ECs indefinitely under firm agreements. There needs to be much more generous funding for these measures in the millions of dollars; and rigorous and systematic field checking to identify suitable land and ensure maintenance of ECs.

Q3 – Role of bodies like Nature Conservation Trust (NCT): NCT does very useful work in facilitating and managing private land conservation as an adjunct to State reserves, including (vitally) placing covenants

on participating properties or sections of properties. However, its scale and geographic zones of operation are fairly limited and the total land area under its management is quite small (c 25,000 ha) but includes some threatened species habitat. Governments should not consider offloading the job of overall coordination of private land conservation to private bodies unless it guarantees they have proper resources to do it effectively in the long term. Those like NCT that have established a niche and are doing useful on-ground work are better left to continue with it.

Q4 – Determining priorities: OEH should have responsibility for this; it must not be outsourced. Further, OEH should encourage relevant community groups to suggest biodiversity conservation priorities. NPWS should also have its own, maybe more objective, priorities worked out from practical research and knowledge. We would hope that "priorities" doesn't mean that only a tiny part of the whole job can be attempted, e.g. recovering 4 species out of 400.

Q5 – Monitoring program effectiveness: Monitoring to assess success is most desirable, especially in endeavours like feral animal/plant elimination or habitat improvement. It should be an important priority for the State to establish effective, State-wide biodiversity monitoring programs. Biodiversity cannot be well-managed if you don't know anything about its distribution and abundance. There should be scope for engaging the broad community to help on largely voluntary basis in some cases, especially if involving diurnal bird monitoring. But a reliable body needs to coordinate this, e.g. NPWS. People doing monitoring need to receive proper training so that data they collect are accurate – e.g. training in good fauna and flora identification skills.

Q6 – assessing tradeoffs: What does this mean? Is there a backlog of jobs needing to be done to help threatened biodiversity, and not all can be done at once? There must be established ways of scientifically prioritising projects based on rarity, urgency, likelihood of success, cost etc. but again this will work only if there is adequate funding.

Q7 – Is System forward-looking?: If "the system" is taken to be the complex of legislation, research effort, conservation measures etc concerning biodiversity in NSW, we are not sure if there are presently any goals for achievement. We understand such a system barely exists now since there is no NSW State plan and few scientific staff to advise on or guide biodiversity management. Legacy impacts which we assume to be things such as past clearing and effects on woodland birds are often known but not heeded. Rare remnants of endangered woodlands reduced by 95+% in past clearing are still being destroyed, with government sanction, especially by mines and urban development.

Q8 – Practice determining outcomes: On-ground results for biodiversity conservation reflect the practical efforts applied. Without knowing all the provisions of the relevant legislation and what might result if they were all followed, it is not easy to answer how much practice determines outcomes. However, we do know that the capacity of NSW Government agencies to properly conserve biodiversity in NSW has been declining over the last 5-10 years due to continuous cutbacks in resources. **These cutbacks have drastically reduced research efforts and other vital on-ground work such as implementing threatened species recovery plans. This dire state of affairs is most likely the result of failure to implement legislation, rather than faults in the legislation itself.**

Theme 3: Conservation in land use planning

COMMENT - strategic planning: Strategic planning is vital, and needs to give biodiversity conservation a high priority, especially as natural areas in many urban and rural areas are becoming ever rarer and more fragmented. Once gone they can rarely be replaced. The wording "areas of high biodiversity value" implies a value judgment and possibly political decisions on which limited areas to keep free of development. Nowadays, virtually all remnant wildlife habitat has conservation value/importance.

COMMENT - biodiversity certification: Biodiversity certification is designed more for the benefit of developers than for the benefit of biodiversity; and we doubt that the process adequately identifies much of the land that should be conserved in an area, such as a growth centre in western Sydney. Important relatively small areas with high biodiversity value such as critically endangered Cumberland Plain woodland are often destroyed while creek corridors are retained which have limited biodiversity value but cannot be built on anyway, so developers don't have to "sacrifice" much. There appears to be too much reliance on "offsetting" which is somehow considered to compensate for losses of rare biodiversity; but offsetting is often wrongly used.

COMMENT – Regional Conservation Plans: We are not sure what regional conservation plans are and what role they have in actual on-ground conservation. If they do have value in achieving conservation, then they need to be prepared and used in all strategic and regional planning exercises.

Q1 – Current arrangements for identifying and considering biodiversity values in planning: We are not certain of current arrangements, but fear that they may continue past failures such as inadequate surveying to identify biodiversity in proposed development areas; choice of ecological consultants by developers; variable, often poor skills by ecological consultants who still don't have to prove competence. Basic improvements needed are: Certification of ecological consultants and choice by an independent party of which to use. This would help to restore some confidence in the system. Also, an attitude that things have to be speeded up to suit the convenience of developers leads to inadequate surveying of biodiversity and often to losses that should have been averted.

Q2 – Current arrangements to deliver strategic outcomes for biodiversity etc: We take "arrangements for delivering strategic outcomes for biodiversity" to mean improving the status of threatened species especially (down-listing) through stabilising or removing threats such as continuing habitat loss, feral predators etc. Current planning arrangements have not yet really tried to do this on a large scale, and due to various reasons mentioned earlier, don't appear likely to in future. Improvement of species status could be set in train by stopping destruction of endangered ecological communities by developments, and preferably obtaining the best remnant areas for secure reserves. Concerted, well funded and resourced feral predator elimination over large areas (fenced if necessary but this must be used with caution) would help populations of smaller mammals and some birds.

Theme 4: Conservation in development approval processes

COMMENT – Development approvals and impact mitigation: Approvals should not be given unless there are ways to genuinely avoid or minimise impacts, and there is some way to ensure this avoidance occurs, especially in cases where threatened ecological communities (ECs) are proposed for destruction. Genuine offsetting is usually difficult if not impossible. There is a very unfortunate recent trend by governments to permit the destruction of endangered ECs, accompanied by "compensation" for the losses through poor quality and sometimes irrelevant offsetting. See also later comments on draft NSW offsets policy.

COMMENT – Biodiversity offsetting: Offsetting is recognised as valid under the Convention on Biological Diversity only if it follows particular rules such as "no net loss", "like for like", recognition that some values cannot be offset, etc. "All options to avoid and mitigate biodiversity loss" often seem to be ignored in practice. As mentioned earlier, we strongly believe that developments that will destroy or severely damage endangered ecological communities or species should NOT be permitted unless the losses can be genuinely offset, which is probably much the exception rather than the rule.

COMMENT – Cumulative impacts: Cumulative impacts of projects like coal mining on endangered ecological communities are rarely considered.

COMMENT – Methodologies to assess impacts: The quality of scientific data from biodiversity surveys used for estimating impacts on biodiversity varies greatly in reliability. There urgently needs to be certification of ecological consultants to ensure a consistent high standard in this work, which requires much experience and care to carry out properly. Under the present rather haphazard system, there can only be limited confidence in the accuracy and objectivity of some estimates. A greater problem seems to be how planners and other decision-makers use these data. Monitoring should be a required action post-development.

COMMENT - biodiversity certification: Biodiversity Certification is a scheme to keep out "late calls" from ecologists. But, if funded properly in the first place, impact evaluation at least should be reliable.

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COMMENT – Draft NSW biodiversity offsets policy:
We regard the *draft Biodiversity Offsets Policy for Major Projects* to be ill-conceived in many respects and a threat to biodiversity. Among other faults, the draft policy:

- Lacks capacity for total refusal of "major" projects, even if the projects would destroy rare ecosystems or species, and/or be impossible to offset credibly;
- Lacks emphasis on applying impact avoidance or mitigation actions – implies assumption that all impacts can be offset;
- Fails to enforce the basic principle of "like-for-like" offsetting;
- Appears more anxious to ensure procedures are quick and simple to favour developers rather than achieving good results for biodiversity maintenance;
- Regards proposals to "re-create" ecological communities, often from scratch, as valid offsets, even though such restoration may take a century or more, and probably has a high chance of failure;
- Gives inadequate assurance that offsets would be managed appropriately into the future;
- Raises a likelihood of landowners offering widely available steep/rocky/infertile "bushland" areas of properties in biobanking agreements, as offsets for the loss of rarer and more biodiverse vegetation;
- Has no system to prevent the same "offset" area being used multiple times, which is obviously unacceptable.
- Entertains the idea that offsets do not necessarily have to be physical (such as areas of vegetation) but may be "supplementary measures" such as money payments.

This policy should not be included in legislation in its draft form. If it were to be widely implemented as such, we fear that much of the NSW biodiversity would decline at an accelerating rate, including some presently more common species.

Q1 – Inconsistencies in current biodiversity assessment processes etc: OEH should know answers to these questions.

Q2 – Integrated approach to approvals: Any moves to reduce biodiversity assessment to a homogenised "desktop" type of exercise, just to serve the interests of quickness, cheapness and "less red tape", would cause the results of assessments to be erroneous much of the time. A bias would be likely toward underestimating the richness or importance of biodiversity in development areas. The actual "risks" involved in each case cannot be properly forecast if the biodiversity in a given area is not well known; and the scale of risks should not be assumed. While it is acceptable to use satellite photography for broadscale review, there is no substitute for rigorous, field-based assessments of detail with competent planners and decision makers.

Q3 – Biodiversity assessment methodologies: Biodiversity assessment is concerned with evaluating the natural flora/fauna values of a site, hopefully fairly accurately. It isn't the role of this type of assessment to try and evaluate socio-economic factors. These factors are surely the subject of totally different fields of study.

Q4 – Regulatory system: The regulatory system in itself can't protect species and communities. This needs to be done by the people implementing the regulations – politicians and bureaucrats. The continuing decline of many species and ecological communities indicates a general lack of commitment to the protection of the remnants of these entities. Among all the other matters to do with biodiversity, it is important to keep a focus on the welfare and management of individual threatened species (including

populations of these in some cases) and ecological communities. It would be very wrong to accept the loss of ANY of these entities without having made real efforts to recover them.

Q6 – Regulatory system and lost development opportunities: The current regulatory system has probably prevented development to a very minor extent overall, considering that development in NSW has generally been allowed to proceed practically unhindered by biodiversity considerations for the best part of 200 years. Any deleterious effect on the agricultural economy by laws such as the TSC and NV Acts is likely to be very small and localised when compared with the overall value of agricultural production in the State. The great majority of this production is from vast areas of better soils in the Coastal and Central Divisions, cleared long ago, where native vegetation conservation issues rarely arise nowadays.
In the agricultural scene, at least, the legislation is dealing mostly with fairly small remnants of natural vegetation on land of often marginal productivity. There is obviously some relatively small "opportunity cost" incurred by preventing the exploitation of all these remnants. However, permitting such exploitation on any scale would mean the final demise of many ecological communities and their associated wildlife. This may be acceptable to some people (hopefully few) but we trust it would never be NSW Government policy.

Q7 – Impacts that cannot be offset: The destruction of essentially intact, mature endangered ecological communities or other habitats of endangered species usually cannot be offset legitimately, because the areas being destroyed are often the last sizeable remnant in a district (or even region) – e.g. white box grassy woodland in Leard State Forest. In such cases destruction of plant communities should be forbidden and offsetting should not be attempted. If conservation needs in these cases are not afforded some "affirmative action" and economic considerations are always given priority, then many rare ecosystems and species will be condemned to extinction.

Q8 – Location of offsets: We reject the idea that there is some "strategic" value in choosing areas for offsets just because they are adjacent to existing reserves. If the offset is definitely different in flora/fauna assemblages from the destroyed area but is chosen because it is near a NPWS park, it cannot be regarded as valid. Clumping genuine like-for-like offsets or locating them as extensions to a park with similar ecosystems would be useful, but genuine opportunities for this are probably rare.

Q9 – Use of self-regulated codes: Self-assessable codes for native vegetation destruction (paddock trees, vegetation thinning, "woody weed" control) as proposed recently by OEH imply a lack of government assistance with and oversight of implementation by landowners. Codes may be seen by government as a positive money-saving, "red tape" reduction exercise. However, the use of codes increases risks of accidental or deliberate illegal clearing on a larger scale than probably intended.

Theme 5: Wildlife management

Comment - wildlife exploitation: Exploitation and culling on land are relevant mainly to large kangaroo species. As far as we know, NPWS has managed this apparently well for 40 years and should continue to do so. Management of commercial fisheries would be outside the scope of this inquiry, though fish are part of biodiversity.

Q1 – Management of feral animal threats: Feral predators (fox, cat especially) pose a major threat to smaller native mammals and ground-dwelling birds. Pigs, goats, and deer damage habitats. We understand that control organised by NPWS is locally successful, but most importantly needs to be greatly increased to remove threats to more populations of threatened native wildlife species in reserves. This requires greatly increased resourcing of well-managed, professional control programs focused on helping particular populations. A former proposal for unsupervised "volunteer" amateur shooters to kill feral animals in NPWS reserves was ill-conceived and would have achieved little in the way of control. It could have encouraged a vandal element and posed a danger to native animals and reserve visitors. Any legislation allowing unsupervised casual shooters in NPWS reserves should be scrapped.

Q2 – NPW Act and animal welfare: Undoubtedly the NPW Act has led to a great improvement for free-living wildlife in NSW over what prevailed before then (i.e. 40-50 years ago) when there was a culture of largely uncontrolled killing and trapping, despite most species being "protected" (on paper), and there were few reserves where wildlife could live in habitats protected from destruction.

Q4 – Clarity of framework for wildlife offences: Presumably the main area for potential improvement is ensuring that all offenders such as those killing or trapping protected birds etc are rigorously prosecuted. We don't know how large this problem is or how effectively protection laws are/are not being applied. One problem is likely to be a lack of NPWS rangers actually on the ground to detect offences; many offences may be occurring without being discovered. However, Police and the public should be assisting.

Q5 – Appropriate legislation for wildlife use and trade: See earlier comments re kangaroo exploitation. We know of no other cases in NSW where killing/"use" or trade in terrestrial wildlife are relevant in NSW. (Commercial fish are a different matter.)
The Nov 2012 amendment to the Game and Feral Animal Control Act is, in our view, unnecessary, undesirable, and should be abandoned. It basically permits the killing of up to 15 scheduled native bird species ostensibly for "sustainable agricultural management purposes". The main rationale for this legislation seems to be to allow amateur shooters to help ricegrowers control duck damage to crops. However, most farmers use non-lethal duck-repelling methods and see little need for killing birds. Also, apart from 3 or 4 species of ducks, we understand that the other 11 scheduled species (including 2 quail and 2 pigeons) pose little or no threat to crops. Permitting amateur shooters to kill "game birds" is effectively an invitation for vandals to kill non-target species including threatened ones.

Theme 6: Information provisions

COMMENT - Scientific Committee: The present system in NSW where threatened species listings are made by an independent scientific committee is the most rigorous and fair. It should definitely not be changed here and in fact should be more widely used in other States. If such decisions on threatened species were made by Government ministers or their delegates, for example, they could often be politically biased rather than scientifically objective and would have little credibility in the eyes of the public.

COMMENT - critical habitat: We expect there are in fact MANY more than 4 actual areas of critical habitat for endangered species. The official scarcity at present is probably due to the political difficulties of proclaiming them so they can have some practical effect. For critically endangered species like Regent Honeyeater, the few consistently favoured areas such as the Capertee Valley and woodland near Cessnock should probably be treated as critical habitat.

Q1 – Valuing biodiversity: Wildlife species such as birds have an intrinsic value to many people which should not need to be measured in dollars or other units to justify whether a species is "worth" retaining. We do not think humans have any valid reasons or "right" to deliberately exterminate any other species just because they are able to. Allowing the avoidable extinction of species or communities would be regarded as a major failure of planning and governance.

Q2 and 3 – Biodiversity data: Current OEH state-wide databases are not very useful. These databases give no indication of the areas searched/not searched for a particular species and consist mainly of opportunistic records. They are no substitute for regular, plot-based regional or State-wide comprehensive biodiversity monitoring programs. Data should be able to indicate which species/communities are "adequately" (needs definition) conserved in NPWS reserves vs. those not yet so conserved, and the needs for extra reserves or protected areas to conserve the latter group properly.

Q4 – Species listing guiding conservation action: Managers obviously need to know the threatening processes for a listed species/community to be able to develop recovery actions for it. Listing a species should trigger the production of a recovery plan based on abatement of known threats, which ideally will be implemented.

Q5 – Species listing and recovery planning: What is the point of this question? Conservation actions need to be tailor-made for each listed threatened species. There needs to be a commitment to carry out the recovery actions for every listed species, and governments should not try to get around such a system by not listing species so things look better on paper.

Q6 – National and State listings and "confusion" etc: We would not expect any "confusion, regulatory burden or duplication of effort". If anything, federal and state listing processes are complementary. There are valid differences in the two types of listings. National lists presumably have nationally-threatened species/communities which may be scarce in all of several states or just one state if that is the only one they inhabit. Ideally, for nationally listed species and communities the Commonwealth and relevant State(s) would all cooperate to provide resources for recovery. For example a species may be threatened in NSW but common in WA or Vic. We do not believe this absolves NSW from trying to recover the NSW population of the species or allow NSW to expect other States alone to look after the species.

Q7 – Identification of critical habitat: For rare species surviving in a few known habitat patches, these patches need to be defined and well protected. If critical habitat (CH) identification is left until a species survives in only one or two limited habitat patches, it's probably too late to regard these as CH and expect the species to survive there long-term.

Q8 – Collection of private conservation data: There is undoubtedly a large pool of biodiversity data generated from surveys by various private land managers and natural history groups like bird-watching organisations particularly. These data should be very useful to government managers (especially NPWS/OEH). The best system would be a State-wide comprehensive biodiversity monitoring program, preferably grid-based, which community naturalist groups could help with.

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CONCLUDING REMARKS

The current large number of threatened animals and plant species in NSW (989) and the continuing declines in populations of many of them are clear signals that Government-run actions to conserve biodiversity "on the ground" need to be improved. We consider there are two main factors that militate against the recovery of threatened ecological communities and species in NSW:

- continuing approval by governments for development projects that are destroying large remnant areas of listed Endangered ecological communities and other habitats for threatened species;
- a lack of investment by governments of sufficient resources and money in research and practical conservation work to reverse declines in threatened species populations; this problem has been growing for a number of years.

The destruction of scarce ecological communities is still occurring partly because of governments' keenness to embrace biodiversity "offsetting" and apply it to all developments of any scale, imagining it to be a sort of "have your cake and eat it too" remedy. Informed conservationists have very little faith in offsetting in the way it has been proposed for many developments in recent years. In fact, genuine offsetting can be achieved infrequently. Attempts to use offsets with very different ecological communities from those lost, or "promises" of replacement of habitat (e.g. mature woodland) in 80-100 years' time, as in the case of open-cut mines, are increasingly seen as cynical exercises.

All actions required to recover threatened species all need to be well researched and, importantly, most require adequate resourcing for extended periods. Actions needed – aside from the obvious one of protecting intact habitat – can often be theoretically simple and relatively inexpensive. Numerous projects like BirdLife Australia's Beach-nesting Birds (to protect nesting shorebirds on the South Coast from disturbance) and Cowra Woodland Birds project run very successfully by employing trained community volunteers. Equally, the Blue Mountains City Council Community Conservation Program is an exemplar of the same idea in the flora community. Conversely, effective abatement of threats from feral animals requires carefully targeted methods, applied mostly by professionals under State supervision.

The different pieces of current legislation aiming to maintain biodiversity in NSW all have legitimate purposes and we can see no need for significant changes to any of them. **If amendments are made to the legislation, they should be designed to facilitate more effective, practical and achievable conservation of species and ecosystems.** As indicated earlier, there may be scope for more initiatives and improved methodology in practices of private land ecosystem conservation and compensation or purchase to secure identified "important" habitat areas for threatened species.

We would regard any moves to water-down the ability of legislation to protect biodiversity as reprehensible, especially at the present time when many more than 989 species could rapidly become threatened if protections were weakened. Therefore, we urge the Review Panel to recommend to the Government such legislative and practical actions that would help to give all our native birds, other fauna, flora and biodiversity as a whole a brighter future. This requires effective legislation that will be applied firmly and fairly, and adequate resources to achieve good conservation results.