



email: [REDACTED]
www.wild-river.com.au/fmr

PO BOX 175
Braidwood 2622
Phone (02)4842 8164

Dear Sir

Submission to the Independent Biodiversity Legislation Review

The Friends of Mongarlowe River is a community-based conservation group based on the Mongarlowe River near Braidwood, NSW. FMR seeks to protect the Mongarlowe River and its catchment by:

- Raising community awareness of the nature and value of the river, its fauna and ecosystem processes,
- Encouraging the responsible use and management of natural resources in the catchment, and
- Providing a focal point for community involvement in celebrating and conserving the river.

FMR was founded in 1986 and has a keen interest in biodiversity conservation, particularly that associated with riparian and aquatic habitats. A significant focus of FMR in recent years have been activities related to the nationally endangered Macquarie perch *Macquaria australasica*.

We note that the current enquiry does not include much of the legislation that directly affects aquatic species, with notable omissions being the Fisheries Management Act 1995, the Water Management Act 2000 and the Water Act 1912. We believe the omission of these pieces of legislation from the review is a serious oversight, as aquatic species are important biodiversity components in NSW and Australia. Aquatic species are highly dependent on the availability of water, and so legislation that governs the control, impoundment, or extraction of water is a critical component of aquatic biodiversity management. While FMR acknowledges the enormity of the task in reviewing all legislation that potentially impacts on biodiversity, an approach that ignores critical legislation is likely doomed to not achieve optimal results.

Recent examples are the Local Environment Plan process run through local councils, and the development of water sharing plans within the state. In both of these exercises, full consideration of all impacts was not achieved because of turf wars between competing departments/authorities. So for example, nobody was willing to bite the bullet about how to deal with the implications of increasing rural subdivision and the associated automatic entitlement to riparian (aka 'stock and domestic') water allocations for blocks with creek or river frontage. This means that the number of stock and domestic water allocations is increasing significantly (ie when a 400 ha block with a Riparian entitlement gets subdivided into multiple lots, each lot gets a stock and Riparian entitlement). Some blocks fronting on to small creeks can easily extract the summer flow of the creek, and if you don't protect the water in creeks then how can you adequately protect the flow in rivers? The broader travesty of water allocation in the Murray-Darling Basin is being repeated on a smaller scale in many catchments across the state.

A similar problem exists with the proliferation of farm dams, which harvest and store runoff, thereby depriving streams of flow.

Recent introduction of the 10/50 native vegetation clearing reforms under the Rural Fires Act whilst undoubtedly making it easier to implement fire protection measures, are already being abused in other areas of the state and facilitating clearing primarily for enhancing scenic views, and can potentially degrade riparian vegetation corridors. We believe that 10/50 clearing should not be permitted within riparian corridors.

Another issue of particular importance to aquatic biodiversity conservation is the road network and stream crossings. Road crossings of streams often provide a significant deterrent or blockage of fish (and platypus) passage along streams. Piped crossings should be avoided as the high water velocity and lack of respite from flow within pipes means that many fish cannot or will not move through such structures. It is also common for older crossings to have a vertical fall at the downstream end of the pipes as a result of scouring. Australian fish generally don't jump (they are not like salmonids). There are measure that can be taken to provide respite from flow within pipes (e.g. mesh inserts, rough stones affixed inside pipes to provide a boundary layer) and such remediation should be mandatory. It is however, preferable to avoid piped crossings altogether and use 'u' invert culverts that can retain or aquire a 'natural' substrate to facilitate fish passage.

It has also been conclusively shown that the unpaved road network is responsible for the major delivery of sediment to streams, with sedimentation of aquatic habitats a major threat to biodiversity. Sediment smothers fish food sources and breeding sites, as well as infilling pools which are a major refuge from high water temperatures and aerial predators for aquatic fauna. Improved drainage designs for unpaved roads have been available for many years, but are still underutilized, not maintained or ignored by local authorities.

Whilst many of the issues raised above may be outside the remit of the current review, FMR thought it was important to bring these matters to your attention. I would be happy to provide any further detail should you require it

Yours sincerely

Associate Professor Mark Lintermans
President
Friends of Mongarlowe River
5 September 2014