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Inquiry into the effectiveness of threatened species and ecological communities' protection in Australia

The Canberra Ornithologists Group wishes to provide a brief submission to the Inquiry.

The Canberra Ornithologists Group (COG) is a volunteer-based, community group whose mission includes the promotion of the conservation of native birds and their habitats. COG plays an active role in advocating for appropriate protection and management of native vegetation/habitats for birds. Our views are based on many years of surveying birds and conservation advocacy, particularly to protect woodland habitats for a number of threatened and declining bird species listed under ACT and Commonwealth Government legislation.

In the ACT, the primary threat to bird habitat is urban expansion and related infrastructure development which is ongoing. This has essentially resulted in the clearance of much of the grassy woodland community (Yellow Box/Red Gum woodland, an ACT and Commonwealth endangered ecological community), which occurred on the lowland country around Canberra. Outside the ACT, less than 10% of this community remains and most patches are small and disconnected. The ACT Government has, to its credit, conserved some large patches of grassy woodland (eg Mulligans Flat/Goorooyaroo reserves) on the northern edge of the ACT, and a greater percentage of this original habitat remains in the ACT than in neighbouring NSW. However, much of the lowland woodland landscape in the ACT has been fragmented, degraded and subjected to urban related pressures (eg large numbers of people recreating in bushland areas, removal of timber, weeds invasion, feral pests such as rabbits and foxes, and roaming dogs and cats).

COG has collected data on birds in the ACT region for more than 40 years and has an extensive database, including an ongoing systematic survey of woodlands since 1995 which now has 142 monitoring sites in and around Canberra. Statistical analyses of COGs woodland survey data shows that a number of threatened woodland birds continue to decline, particularly the flagship woodland species Hooded Robin and Brown Treecreeper, both of which require large, well connected patches of habitat. These two species have been lost from even the large reserves of Mulligans Flat and Goorooyaroo in Gungahlin, and are very scarce in peri-urban woodlands around the ACT.

It is COGs view, that, overall the ACTs legislative provisions relating to the protection of threatened species and ecological communities are ineffective in protecting threatened species or their habitats. There is no native vegetation protection legislation in the ACT as occurs in some State jurisdictions, not does the ACT have a policy on offsetting where listed communities such as grassy woodland are cleared or impacted.

The ACTs *Nature Conservation Act 1980* and provisions in other planning legislation are weak on environmental provisions and do not guarantee any protections for threatened species. Action Plans for the recovery of threatened species/ecological communities are required to be developed, however, experience has shown that for the most part they are ineffective in achieving improvements due to poor implementation and monitoring, and lack of resourcing.

Ecological advice or input to the statutory planning process in the ACT is essentially advisory (primarily through the ACTs Conservator of Flora and Fauna, a statutory role) and is often disregarded in order to achieve a desired planning outcome. The ACT Government has committed to reviewing its Nature Conservation Act, passed 30 years ago, but progress has been slow, there seems to be little interest in making substantive changes to ensure better protections, and it has not engaged the community fully. Loss of important habitat for threatened species is continuing in the front of new urban developments, and offset mechanisms proposed in some recent developments by the ACT Government (eg Molonglo Valley) are regarded by some experts as totally inadequate.

While the ACT Government, generally, is regarded as competent at preparing policy documents and recovery plans for threatened species, and has some competent staff in the fields of science and research, implementation of various management and recovery plans etc overall is poor, with little systematic monitoring undertaken. With respect to some ACT threatened species such as the Hooded Robin and Brown Treecreeper, action/recovery plans in place for more than a decade, have failed to deliver any improvements and the species continue to decline.

In COGs view, in the ACT, there is a lack of adequate resourcing for research/scientific staff, and also for ground personnel such as the rangers who manage government land and staff to monitor conservation provisions/outcomes in land management agreements on off-reserve, leasehold land. The lack of resourcing of rangers to properly manage reserves (control weeds, feral pests and undertake improvements) has been an ongoing issue for years. Also, staffing and other resourcing for the proper implementation, monitoring and reporting of management actions/activities under recovery plans (Action Plans) is inadequate. A recent Inquiry into the management of the ACT's reserve land (Canberra Nature Park and some other reserves) by the ACT Commissioner for Sustainability and the Environment, made recommendations which included operational and monitoring plans for reserves and the need for more resources. COG fully supports the Inquiry recommendations regarding operational and monitoring plans for reserves and the need for more resources.

In the ACT, on land subject to long-term leasehold provisions (vis a vis government reserve or government managed land), there is a system of Land Management Agreements (LMAs) which are intended to provide (amongst other things) conditions for the management of important remnant vegetation, threatened communities or habitat for threatened species. The problem is that the conservation provisions in these agreements are not monitored or reported on, and the

LMAs are regarded as confidential, so it is difficult to ascertain what is occurring on those lands. A preliminary analysis of COGs woodland survey data since 1998 has shown that bird species diversity is slightly higher on leasehold sites than on government managed sites.

An issue of concern to COG in the last few decades is the process by which individual developments (eg suburbs, small parcels of land, or infrastructure developments) are assessed one at a time, and ecological input to those environmental assessments has varied in quality. In particular, little consideration is given to issues such as cumulative impacts of a number of developments, and whole of landscape issues/connectivity are not systematically addressed, nor is the precautionary principle applied (an established principle in environmental assessment/management).

In recent years, the Commonwealth Government, under provisions in the Environment Protection & Biodiversity Conservation Act (EPBC Act), has required the ACT Government to undertake strategic environmental assessments (SEAs) in some cases where development will potentially impact significant habitat over an area, for example in the Molonglo Valley, and most recently in Gungahlin (on some large areas of remaining developable lands). Some elements of the outcomes under SEAs so far have been positive, eg for the first time, a reasonable sized, 200 metres buffer between housing and a high quality woodland area was required by the Commonwealth. But, for the most part, environmental outcomes have been disappointing, with house blocks far too close to the Molonglo River corridor (used as a movement corridor by birds) and habitat for a nationally threatened lizard.

A particular driver in the ACT is that the ACT Government relies on a significant part of its revenue from land sales (approx a third of revenue), and there is also constant pressure for land release for housing and pressure to provide what is termed “affordable housing”. There is a clear conflict of interest in the roles of the ACT Government as the developer (through its Land Development Agency) and decision maker, which also has to evaluate environmental impacts, and the planning process is essentially about ticking off boxes, not achieving the best possible environmental outcomes. Also, in the past, the quality of input to environmental assessments from consultants engaged by the ACT Government has been patchy to say the least. In some cases, environmental assessments have been undertaken many years prior to the land being developed to tick off the relevant boxes (eg individual EPBC Act referrals), and contemporary information does not get considered down the track.

Some developments which have concerned COG greatly in the last 10 years because of the impacts on threatened species or endangered ecological communities are:

- **East O’Malley** – in the 1990s, a very high quality patch of grassy woodland, habitat to several ACT listed threatened birds, was cleared to make way for premium housing blocks; this land was of high \$ value to the ACT Government (\$17 million); a strong community campaign by local residents and environmental community groups fought unsuccessfully to save the area. Environmental assessments undertaken by consultants were regarded by the community as poor.
- **Crace** – in the new suburb of Crace in Gungahlin (land which was previously owned by the CSIRO and used for field trials), a decision was made by ACT planning authorities to clear

around 90-100 large, mature eucalypts several hundred years old well after environmental processes and required assessments were completed/determined, so that streets could be re-designed for better solar access. Historically, some of those trees had been used as nesting sites for Superb Parrots, a Commonwealth listed threatened species.

- **Forde** – in a new suburb adjacent to the important Mulligans Flat nature reserve in Gungahlin which has just been completed; totally inadequate (30 metres) buffers between houses and the reserve’s fenceline were implemented by ACT government planners, to maximise the number of housing blocks; this has resulted in the outer asset protection zone required by the ACT bushfire authorities for burning and slashing to protect assets (houses) being **in the reserve itself**; the edges of the reserve abutting houses will now be regularly burnt
 - Mulligans Flat Nature Reserve with the adjacent Gorooyaroo Nature Reserve is regarded as the largest piece of grassy woodland in public hands and is the focus of important research into the conservation and restoration of woodlands; inadequate buffers from houses and inappropriate bushfire management has the potential to undermine conservation and recovery efforts
- **Coombs** - a new suburb being built in the Molonglo Valley next to Weston Creek in the ACT – asset protection zones referred to above have also been planned in conservation areas such as a river corridor and habitat of a nationally endangered lizard (Pink Worm-tailed Lizard), again to maximise house blocks
 - environmental community groups have lobbied the ACT Government unsuccessfully for years for the outer asset protection zones abutting housing and conservation areas (which can be up to 200 metres), to occur **outside** conservation areas
 - the Conservation Council ACT Region took the ACT Government to ACAT in 2011, seeking to have the asset protection zone re-drawn and out of the river corridor, and was successful in achieving a moratorium until a statutory management plan for the river corridor is completed.
- **Kinlyside** - a high quality woodland area near the ACT village of Hall (Gungahlin area), is currently managed as leasehold land, however is still on the ACTs Territory Plan as future housing. The ACT Government, under pressure from the Community, committed some eight years ago to undertake a planning review of this area in recognition of its significant environmental values; that area of land is still in limbo, although we are aware that the land will now be included in a Gungahlin-wide Strategic Environmental Assessment and will possibly be proposed as an offset area for other development; only through sensitive management by the current lessees have the environmental values of this area been maintained.

At the present time, COG is particularly concerned about urban development in the proposed future suburb of Throsby, a large patch of land between the nationally important Mulligans Flat and Gorooyaroo reserves. There are many environmental related reasons why this area should not be developed because it will impact very significantly on the values of the adjacent reserves (including burning of the adjacent reserves for bushfire management), but COG is particularly concerned about the long-term survival of a colony of Superb Parrots in Throsby, one of only two significant sites where the parrots breed in the ACT. Superb Parrots are listed as a vulnerable species in the ACT and under the Commonwealth’s EPBC Act.

- Initial, preferred plans drawn by the ACT Government have urban development within 100 metres of the hollow trees in which the Superb Parrots breed, and will mean the loss of a

number of mature trees with potential nesting hollows; In COGs view, this is totally inadequate and unacceptable and will likely mean the loss of the breeding colony in the longer term due urban related impacts such as disturbance

- The Commonwealth Government has now required that the ACT Government undertake a Strategic Environmental Assessment for remaining developable lands in Gungahlin including Throsby and we will be seeking much greater buffers to protect the parrot's breeding area.

At the present time, the Commonwealth's EPBC Act provisions require a referral process and if the Commonwealth considers there are impacts on matters of national environmental significance (potential impacts on species and ecological communities listed under that Act), further environmental assessment of those impacts must occur. While not perfect by any means and only being triggered for a small number of species/ecological communities, in COGs view, this legislation nonetheless provides a "brake" and some independent oversight and regulation over the State/Territory authorities.

Like many environmental organisations, COG has been alarmed by the recent announcements by the Commonwealth of proposed greater devolution of decision making to the States/Territories. The past record of State and Territory governments' management of natural resources and protection of environmental assets has been inadequate, particularly in the context of consideration of national significance issues. Constitutionally the Commonwealth does not have direct responsibility for environmental and land management on a national basis and the EPBC Act has provided an effective basis to consider matters of national significance at a continental scale rather than the piecemeal approach enforced through individual state policies, practices and legislation.

In view of the potential impacts on natural resources and important environmental assets from the effects of climate change, the continuing decline of habitats and the species reliant on them through habitat modification and degradation, and the pressure for resource extraction and urban development, it is essential that the Commonwealth retain its legislative base to provide the national overview and perspective and act as the honest broker through appropriate environmental assessment processes. Without this we can only see continued species loss and habitat compromise with resultant negative social, economic and environmental impacts.

COG notes that the proposed changes are currently on hold and would urge that the Commonwealth retain its role as a significant player in consideration of development activities that have significant and in some cases potentially irreversible environmental impacts.

Yours sincerely
Alison Russell-French
President
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