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4 August 2025

NSW Department of Planning, Housing and Infrastructure
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To the

Submission on Maules Creek Continuation Project State Significant Development Application, 2024/09936

BirdLife Australia welcomes the opportunity to make a submission on the Maules Creek Continuation Project State Significant Development Application, 2024/09936 ('the Proposal'). We are an independent grassroots not-for-profit organisation, with over 400,000 supporters throughout Australia. BirdLife has been the national voice for Australia's birds for over a century, protecting native birds and their habitats with on-ground projects and advocacy, informed by rigorous science and sound academic partnerships. Our conservation programs adopt a multi-species landscape-scale approach that is supported by thousands of volunteers and citizen scientists.

BirdLife strongly opposes the Proposal and recommends that it is rejected due to significant and unacceptable impacts through direct clearance of 642 ha of intact remnant habitat, disturbance and exacerbation of key threats to numerous State-listed species, and their primary habitat including ecological communities gazetted under the NSW Biodiversity Conservation Act 2016 (BC Act), and Matters of National Environmental Significance under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act), and exacerbation to Key Threatening Processes for EPBC Act listed species.

Nationally listed bird species and ecological communities at threat from the Proposal that are known or likely to occur at the site include:

- Swift Parrot (Critically Endangered, EPBC Act; Endangered, BC Act)
- Regent Honeyeater (Critically Endangered, EPBC Act and BC Act)
- Hooded Robin [eastern] (Endangered, EPBC Act and BC Act)
- Painted Honeyeater (Vulnerable, EPBC Act and BC Act)
- Brown Treecreeper [south-eastern] (Vulnerable, EPBC Act and BC Act)
- Diamond Firetail (Vulnerable, EPBC Act and BC Act)
- Southern Whiteface (Vulnerable, EPBC Act and BC Act)
- White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland (Critically Endangered, EPBC Act and BC Act).

The White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland (hereafter 'Box-Gum Grassy Woodland') provides habitat for each of the threatened bird species listed, which contributed to the listing

of this ecological community under the EPBC Act. Other vegetation types within the footprint of the mine expansion also provide habitat for these EPBC-listed woodland birds, but it must be emphasised that the Proposal will see the destruction of a significant area of the critically endangered Box-Gum Grassy Woodland that provides habitat critical to the survival for EPBC-listed bird species. This is significant and clearly unacceptable.

The Proposal is inconsistent with National Recovery Plans and clearance of significant habitat

The Proposal sets to clear 642 hectares of intact remnant vegetation (592.5 ha of native woodland/forest and 49.5 ha of derived native grassland) in Leard State Forest containing significant stands of critically endangered remnant ecological community that is important for EPBC and NSW Listed species. This is inconsistent with multiple national Recovery Plans and puts multiple listed species at threat, including three critically endangered species and ecological communities.

The **White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland** National Recovery Plan (DECCW 2010) includes the following objectives:

- no let loss in the extent or condition of this ecological community;
- increase of protection of sites in good condition; and
- bringing about enduring changes in participating land manager attitudes and behaviours towards environmental protection and sustainable land management practices to increase extent, integrity and function of Box-Gum Grassy Woodland.

The Proposal within Leard State Forest – one of the largest wooded remnants on the floor of the Liverpool Plains – is incongruent with these three objectives. The Proposal will directly result in the net loss of this critically endangered community, reduce protection of an important site that is in good condition and a significant remnant providing habitat for listed species, and would drive backwards the attitudes and behaviours towards environmental protection and sustainable land management practices if this destruction were permitted to occur on State Forest land.

BirdLife Australia leads the recovery of, and is an expert on the movement, behaviour, ecology through mainland monitoring of the Swift Parrot, The Proposal is inconsistent with the National Recovery Plan for the **Swift Parrot** (DCCEEW 2024; hereafter the 'Swift Parrot Recovery Plan'). The Swift Parrot Recovery Plan provides guidance for assessing environmental impacts stating:

> *"Whenever possible, habitat critical to the survival of the Swift Parrot should not be destroyed. [...]Actions that remove habitat critical to the survival would interfere with the recovery of Swift Parrots and reduce the area of occupancy of the species"* (p. 17)

The Proposal is in direct conflict with the Swift Parrot Recovery Plan and its purpose to maintain habitat critical to the survival for Swift Parrots. The Proposal would result in destruction of approximately 548.7 hectares of key foraging habitat for Swift Parrots, including White Box and Yellow Box which are listed as plant species critical to the survival in the Swift Parrot Recovery Plan. Swift Parrots have been regularly recorded in Leard State Forest from 2012 to as recently as 2023 (Bionet Atlas of NSW Wildlife 2025). Therefore, the Proposal would interfere with the recovery of Swift Parrots and reduce the overall area of occupancy for the species. The destruction of over 500 ha of habitat critical to the survival of the species would further drive the species towards extinction. The current Swift Parrot population is estimated at between 300 and 1000 individuals remaining (Webb et al. 2021), and the species is predicted to decline up to 95% over the next 12-18 years under current conditions (Heinsohn et al 2015). In a best-case scenario, the proposed landscape revegetation areas would take centuries to mature to the extent where it resembles the value of the habitat proposed for destruction, which will not eventuate soon enough to serve this

rapidly declining species. In reality, revegetated areas are unlikely to ever mirror the habitat attributes of the extant woodland habitat in question.

BirdLife Australia is leading recovery on and is an expert on the movement, behaviour, ecology and is coordination recovery actions and research for the Regent Honeyeater. The Proposal would see the removal of habitat for the **Regent Honeyeater** and despite the lack of past records, it is considered *likely to occur in the project Proposal area* given that known suitable habitat exists (Premise 2025). The Proposal would therefore destroy habitat critical to the survival of the Regent Honeyeater. This is inconsistent with the National Recovery Plan for the Regent Honeyeater (DCCEEW 2016; hereafter the 'Regent Honeyeater Recovery Plan').

The objectives of the Regent Honeyeater Recovery Plan are to *enhance the condition of habitat across the range of the species by improving the extent and quality of Regent Honeyeater habitat*. The destruction of over 400 ha of habitat critical to the survival of the species will further accelerate an extinction trajectory of the species. The Regent Honeyeater Recovery Plan states that the recent rapid declines in the species are primarily driven by the clearing, fragmentation and degradation of the species' habitat. Aside from the actual destruction of habitat, the Proposal would further exacerbate these threats and will further open the remainder of the wooded remnant to the proliferation of Noisy Miners; which is a threat gazetted under State and Commonwealth legislation as a Key Threatening Process for their impact on threatened and declining woodland birds (see below).

The Proposal will exacerbate Key Threatening Processes to EPBC listed woodland birds due to future impacts of Noisy Miners

Regarding the exacerbation of the threat of Noisy Miners posed by further fragmentation of Leard State Forest, the Serious And Irreversible Impacts reports (Debus 2025a; 2025b) state that:

> *"The main point of concern in relation to the Project's impact on the Regent Honeyeater is Noisy Miners (*Manorina melanocephala*), because the Project would increase the edge effect along the boundary with the increasingly fragmented Leard State Forest, and thus facilitate invasion by Noisy Miners. However, MCC has committed to implementing a Noisy Miner management program to minimise impacts to the Regent Honeyeater"* (Debus 2025a, p. 6).
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> *"The main point of concern in relation to the Project's impact on the Swift Parrot is competitive exclusion by Noisy Miners (*Manorina melanocephala*), because the Project would create a new edge along the boundary with Leard State Forest, and thus facilitate invasion by Noisy Miners. However, MCC has committed to implementing a Noisy Miner management program to minimise impacts to the Swift Parrot"* (Debus 2025b p. 13)

It is further stated in Debus (2025a; 2025b) that:

> *"A 5 year pilot Noisy Miner control program would be implemented on the mine site. Consistent with the Key Threatening Process Strategy for Noisy Miners, the aim of the pilot program would be to evaluate whether methods of control described in the published literature (i.e. Crates et al. 2022, Melton et al. 2021) can be used to lower Noisy Miner population density at the edge of the disturbance area. Noisy Miner densities thresholds described in the published literature (i.e., Crates et al. 2022, Melton et al. 2021) as being detrimental to native fauna are within a range between 0.44 per ha to 0.83 per ha. At the end of the 5 year pilot program; the data would be analysed to evaluate whether it is reasonable and feasible to continue the control program at MCCM described in the updated BMP (Whitehaven, 2025)."* (Debus 2025a p. 14; Debus 2025b p. 15)

BirdLife Australia has serious concerns about the "pilot control program" and believes it would not be an appropriate mitigation measure, particularly given the fact that the clearing required under the Proposal will see a significant amount of currently wooded (Noisy Miner-free) habitat be degraded allowing conditions suitable for miners to proliferate. BirdLife Australia has extensive experience over 10 years in the planning, implementing and refining Noisy Miner control programs for threatened species recovery (e.g. see Crates et al. 2023) and understands both the benefits and limitations of applying this management action, and as such, does not accept that the deleterious impacts of future Noisy Miner expansion can be adequately managed within a "pilot program".

The Proposal is inconsistent with National and International Biodiversity Obligations

The Swift Parrot and Regent Honeyeater are listed as priority species in the National Threatened Species Action Plan 2022-2032 (DCCEEW 2022; hereafter 'the Action Plan'). Allowing the destruction of key habitat for these two species would be in direct opposition to the Action Plan's target to support the protection, restoration and improvement of habitat for priority threatened species.

The Proposal would also hinder the ambition of *Australia's National Biodiversity Strategy and Action Plan and the* United Nations Convention on Biological Diversity's Global Biodiversity Framework's Target for *No New Extinctions*. As described throughout this submission the Proposal would destroy habitat critical to the survival for critically endangered birds, one step from extinction. The destruction of habitat critical to their survival would contribute to their downward trajectories and would interfere with their recovery. ***Precedent setting for banking approvals for future projects***

BirdLife Australia is very concerned about the proposal to bank an approval for a project that will not likely commence until 2034, and the concerning precedent this would set for other development projects. In such scenarios, the impacts felt in reality by threatened and declining ecological species and communities could be significantly higher than those originally projected at the time of assessment and approval, as declines continue or accelerate during this lengthy interim period. Failure to accommodate for such changes, due to a procedural inflexibility that inhibits the consideration of new evidence, could allow projects to proceed that would otherwise be rejected based on grounds of "unacceptable impacts".

Inadequate mitigation

The landscape revegetation zones shown in Figure 4 of the MCCP Biodiversity Development Assessment Report are not adequate to mitigate the destruction of habitat in the Proposal. The clearance of almost 650 ha of intact vegetation and mitigation methods through revegetation will take decades to offset the loss, fragmentation and displacement of significant habitat and species. Much of the proposed revegetation zones identified are isolated, linear patches with higher edge to area ratios in comparison to the contiguous, in-tact woodland habitat that is set to be destroyed under the proposal (in addition to substantial losses incurred previously). These revegetation patches will be far more susceptible to edge effects of invasive species, less biodiverse, and be of lower value to species which require large contiguous remnants. In order to replace like for like and help maximise their ecological value, these revegetation areas should not only be contiguous parcels, but also situated in closer proximity to other large remnants within the landscape to facilitate a greater level of connectivity than what can be expected with the layout currently proposed.

Recommendation:
BirdLife Australia requests that the Proposal be rejected under the bilateral agreement with the Commonwealth and the NSW Governments.

For further information please contact Lainie Berry at lainie.berry@birdlife.org.au.

Kind regards,

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