



26 July 2012

Re: Objection to the NCIG Rail Flyover: project number MP 06 0009.

This is a submission from the Hunter Community Environment Centre Inc. objecting to the Rail Flyover Modification proposed by Newcastle Coal and Infrastructure Group: project number MP 06 0009.

The Hunter Community Environment Centre (HCEC) strongly recommends that this project be deemed a 'controlled action' under the *Environmental Protection and Biodiversity Conservation (EPBC) Act 1999*, due to the significant impacts that this project would have on a number of species of migratory shorebirds.

Migratory shorebirds are listed under the EPBC Act; therefore, their presence on Swan Pond means that the EPBC Act should be triggered in assessing this Rail Flyover Modification proposal, which will destroy more of Swan Pond than was stated in the original approval (granted in 2006).

There are nine different species of migratory shorebirds that have been frequently sighted using Swan Pond. The Hunter Bird Observers Club (HBOC) has recorded these during regular site visits since 1999. These species are listed in the table below.

Table 1: Migratory birds listed under the EPBC Act 1999 (sighted at Swan Pond)

Common name	Proper name	Status: <i>Threatened Species Conservation Act 1995</i>
Latham's Snipe Black-tailed	<i>Gallinago hardwickii</i>	
Godwit	<i>Limosa limosa</i>	
Bar-tailed Godwit (or black-tailed Godwit?)	<i>Limosa lapponica</i>	<i>Vulnerable</i>
Common Greenshank	<i>Tringa nebularia</i>	
Marsh Sandpiper	<i>Tringa stagnatilis</i>	
Red Knot	<i>Calidris canutus</i>	
Red-necked Stint	<i>Calidris ruficollis</i>	
Sharp-tailed Sandpiper	<i>Calidris acuminata</i>	
Curlew Sandpiper	<i>Calidris ferruginea</i>	<i>Endangered</i>

The NCIG RFM would largely destroy Swan Pond, located on the eastern side of Ash Island. Swan pond is one of the largest roosting sites for migratory birds in the Hunter Estuary. The destruction of this Pond would be an unacceptable impact of the RFM.

The Hunter Estuary is critical habitat for migratory shorebirds, possibly the most important area in all of New South Wales. For this reason, it is imperative that the habitat for these birds be maintained. There is a danger that cumulative impacts of development in and around the Hunter Estuary will slowly but surely

diminish the ecological values that make the Hunter Estuary such an important and valuable place. For this reason it is recommended that a study be conducted assessing the historical biodiversity of the Hunter Estuary, to identify what has been lost so far. It would also be beneficial to establish a critical threshold beyond which ecological impacts of development in the Hunter Estuary will not be tolerated.

Populations of migratory shorebirds in the Hunter Estuary and Botany Bay have declined more rapidly in recent years than anywhere else in Australia. Therefore, the Hunter Community Environment Centre recommends that a comprehensive study be conducted on the drivers of current population decline of migratory shorebirds in the Hunter Estuary before any more development takes place in this area. This study should investigate the degradation of foraging habitat and loss of benthic fauna, the availability of proximate roosts, increased levels of disturbance and lack of open areas, which reduce predation pressure at feeding and roosting areas.

In addition to destroying critical habitat of the migratory shorebirds listed above, the NCIG RFM would destroy an Endangered Ecological Community of Saltmarsh, and subsequently impact the White-fronted Chat *Epthianura albifrons*, which is listed as 'vulnerable' under the *NSW Threatened Species Conservation Act 1995*.

The Green and Golden Bell Frog, which is listed as 'vulnerable' under the *TSC* and *EPBC Acts*, would also be impacted, as it lives on land that is set to be destroyed immediately adjacent to the Kooragang Island Main Line.

The Environment Assessment of the NCIG RFM is lacking in important information in a number of other areas. Some of these are outlined below:

- ✚ Relocation of Ausgrid power lines to the middle of an island that is used by thousands of birds is outrageous and unacceptable.
- ✚ No field sites were undertaken, but rather desktop studies of bird populations were relied upon. These do not contain an adequate representation of the actual birds that use the site.
- ✚ No offsets have been mentioned.
- ✚ The EA does not refer to Swan Pond by its proper name, but rather calls it “additional land on the west”. This description is vague and fails to convey the actual areas that would be destroyed in the RFM were approved.
- ✚ The EA only provides a description of the habitat to be destroyed in square meters. It is, however, important to indicate the topography of the land that would be destroyed, as it is shallow shoreline with intermittent mudflats, which are favoured by thousands of waterfowl and migratory shorebirds.

Due to the plethora of negative impacts that the NCIG RFM would have (outlined above), the Hunter Community Environment Centre objects to the project and recommends it be deemed a ‘controlled action’ under the EPBC Act. We trust that our submission will be received in honesty and good faith and that the reasonable recommendations we request will be granted.

Sincerely,

Annika Dean, President of the Hunter Community Environment Centre