



NSW Legislative Council Hansard

Threatened Species Conservation Amendment (Biodiversity Banking) Bill

Extract from NSW Legislative Council Hansard and Papers Tuesday 24 October 2006.

Second Reading

The Hon. TONY KELLY (Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs) [9.00 p.m.], on behalf of the Hon. John Della Bosca: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

Responding to the loss of our unique animals, plants and ecosystems—our biodiversity—is one of the greatest environmental challenges facing New South Wales today.

Rates of species extinction in Australia—and in New South Wales—are amongst the highest in the world. We know the main reason for this high rate of extinction is loss of habitat, a by-product of population growth and economic development.

As an example, when Europeans arrived in Western Sydney's Cumberland Plain, it covered some 274,000 hectares of open grassy woodlands. Seventeen distinct vegetation communities formed a mosaic of forests and woodlands stretching some 100 kilometres from Richmond to the north to Appin in the south.

The Cumberland Plain would have been immensely productive for both Aboriginal people and numerous species of native fauna and birds.

Unfortunately most of Western Sydney's unique species are now extremely rare due to the massive changes caused by clearing and by changed hydrological regimes from dam construction, clearing and resultant erosion of riparian areas, irrigation, flood mitigation works and pollution of waterways.

Out of the Cumberland Plain's original 274,000 hectares of woodlands and wetland, only about 13 percent remains. Some vegetation communities have fared slightly better than others but all have suffered a marked reduction in range along with extensive fragmentation and degradation from weeds and pests, rubbish dumping, tracks and easements.

Long gone are the quolls and bettongs. Today, only the Eastern Grey Kangaroo, Brush-tail possum, Sugar Glider, and some bat species could be regarded as common in the little remaining areas of good habitat.

The remaining habitats in the Cumberland Plain are severely fragmented, occurring in about 2,500 small remnants across the landscape. Nearly 1,500 of these remnants are less than four hectares in size. These small remnants are not nearly as valuable for biodiversity as larger areas.

Small remnants are vulnerable to degradation and not viable in the long term.

Woodland species that require large, intact habitats cannot persist in these "simplified edge" environments. As remnant size decreases there is a local extinction of woodland species.

Only around 80 individual remnants out of the total of 2,500 are large enough to be viable in the long term for the majority of the fauna and flora that remain. Recent surveys by DEC, however, have found a number of key declining woodland birds hanging on in the larger, connected remnants. Importantly, these areas are not dominated by the large aggressive native and introduced bird species.

Today, we have reached the point where a new direction in conservation is required.

To put it simply, we need to increasingly focus investment and resources on better protecting the larger patches.

This is because, as I have outlined, highly fragmented landscapes pose significant challenges for biodiversity conservation. These challenges are compounded in existing urban areas that are suited to economic development.

If we are to have any chance of slowing this rapid decline, we need an innovative and practical approach to

biodiversity conservation.

The current threatened species law focuses our efforts on evaluating the impact of each individual development. We need to bring our laws and approach into line with the latest science.

The death by a thousand cuts, that is the cumulative losses caused by hundreds of individual developments, must be reversed. At the same time, of course, we still need the social and economic benefits of development.

Today, I am proposing BioBanking as a new scheme to reconcile the economic interests of private landholders with biodiversity conservation.

BioBanking is intended to move the debate beyond the false choice of either creating jobs or protecting biodiversity, to one where both objectives can be reasonably met.

While this Government has led the way on the historic reforms that ended broad-scale land clearing in 2003, and by its amendments to the threatened species laws in 2004, further reform is needed.

The 2004 amendments included biodiversity certification of Environmental Planning Instruments (EPIs) to improve or maintain biodiversity values and provide certainty.

Certification takes a landscape approach to biodiversity, which is complemented by the bill I am tabling today.

Our objective is to move biodiversity conservation beyond the unproductive and frequently caricatured: battles between housing and an endangered snail or between a shopping centre and an orchid. We are bringing forward a system that creates the flexibility to allow for good development results and biodiversity conservation.

In essence, Biobanking creates a market that values biodiversity conservation. The scheme will send a strong price signal that maintaining and rehabilitating bushland can produce a valuable asset, rather than producing a potential future liability.

Biobanking works through counterbalancing the sum of small losses at many development sites with investment into consolidated, well-maintained and secure areas where the risk of extinction is greatly reduced.

Before outlining the key elements of this bill, I should say that these reforms are the product of an ongoing and extensive consultation process involving stakeholders, scientists and future participants in the scheme.

Environment groups, industry groups (including mining, property developers and infrastructure providers), councils, lawyers, economists, environmental consultants, local government and catchment management authorities have all been involved in the formulation of the scheme and will have an ongoing role through to the scheme's implementation.

And these groups will have a further opportunity to review this bill in detail over the winter recess, and to put forward suggestions for sensible refinement.

The bill creates a market framework where different parties either supply or demand biodiversity credits, voluntarily exchanged at prices agreed between the parties. In practice, this means development can proceed on one site while biodiversity values are improved in another location to offset the impact of the development. These conservation sites are called biobank sites under the bill.

The bill provides the overall framework for the Biobanking credit scheme. The operational details will be developed directly with stakeholders and participants and formalised in subordinate instruments.

The Biobanking Scheme has four main components. These are:

Establishing a "Biobank site" on land via an agreement voluntarily entered into between the Minister for the Environment and the landowner;

Creating biodiversity credits where the landowner agrees to undertake positive environmental management and/or rehabilitation actions to improve biodiversity values on the Biobank site;

Allowing such credits to be traded, once they are created and registered, thus enabling the credits to be used to offset a biodiversity impact on another site (caused by urban development); and

Establishing a transparent assessment methodology to ensure that the overall operation of the scheme results in the maintenance or an improvement in biodiversity values.

'Biodiversity values' are defined in the bill. The scheme will protect biodiversity values but not require impacts on

each threatened species to be offset. With over 900 threatened species listed, this would be unworkable. Instead the scheme will focus on enhancing ecological communities that provide biodiversity values and habitat for threatened species.

The scheme is not, of course, intended to authorise the destruction of large and viable patches of habitat. The focus is on offsetting the sum of small losses to achieve an overall environmental benefit.

Let me give an example of how the scheme might work in relation to the creation and trade of credits. A landowner might live on 200 hectares of land at Picton that includes 150 hectares of high conservation value Cumberland Plain Woodland.

The landowner could enter into a biobanking agreement to control grazing and weeds and foxes to protect the habitats and breeding of rare mammals and birds.

In exchange, the landowner can sell a specified number of credits on the open market. Purchasers might include developers, the Government and philanthropic organisations. Part of the funds generated from the sale of the credits are held on trust for the landowner. The landowner receives an agreed sum each year for a defined minimum period from this Fund to help pay for the management actions.

From the landowner's perspective, biobanking enables landowners to obtain income from managing their land for conservation. An important additional benefit is that the scheme sends a price signal that healthy habitat and bushland are valuable assets in the land market.

Let's also assume there is a developer who is proposing a new residential area near Liverpool, but to build the houses he needs to impact on a small patch of degraded Cumberland Plain Woodland.

Under the current system, the developer has to undertake an extensive and costly threatened species assessment process, and potentially set aside part of the site from development. From a conservation perspective the problem is that these remaining areas are too small to be viable in the long run, and once the development is sold, there is no-one who will guarantee the land is cared for into the future.

Under biobanking, the developer would use the biobanking assessment methodology to work out the number of credits needed as an offset, and obtain a biobanking statement to confirm the credits required and any other conditions. Then, once the project is approved, the developer can purchase the credits as an offset from the Picton landholder.

The result is that an important development goes ahead and biodiversity is better protected, and most importantly in areas where it will be more viable in the long term.

Conservation effort is shifted from small pockets of expensive land which is more suited to development onto lower priced land, where the pressure of weeds, pests species and degradation is lower.

By participating in the scheme, developers will save time and have more certainty, and our threatened flora and fauna will be better preserved.

I commend the bill to the House.