

## **INQUIRY INTO INTEGRITY OF THE NSW BIODIVERSITY OFFSETS SCHEME**

**Organisation:** Shoalhaven City Council

**Date Received:** 26 August 2021

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Council Reference: 57123E (D21/356480)

23/08/2021

The Director  
Portfolio Committee No. 7 – Biodiversity Inquiry  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

By email only: [PortfolioCommittee7@parliament.nsw.gov.au](mailto:PortfolioCommittee7@parliament.nsw.gov.au)

Dear Sir/Madam

**Submission - Inquiry into the Integrity of the NSW Biodiversity Offsets Scheme.**

Council is pleased to have the opportunity to make a submission to the Legislative Council's Inquiry into the integrity of the NSW Biodiversity Offsets Scheme.

It is noted that the Terms of Reference focus on the operation of the scheme broadly, the role of the Biodiversity Conservation Trust and the impact of the scheme on major projects and strategic approvals.

Comment is also invited on "any other related matters". Pursuant to this Term of Reference, Council wishes to bring to the Committee's attention the impact the Offsets Scheme can have, and is having, on local economic development opportunities.

This is of particular concern in circumstances where areas have been zoned for urban development (such as employment) well before the introduction of the offsets process and, as a result, there is no strategic framework in place for an offsetting regime based on a regional biodiversity assessment or strategic certification.

In these circumstances, application of offsetting must be considered on a site by site basis as part of individual development proposals, incurring additional time and financial costs by both applicants (in research and documentation), and Councils in assessment.

This piecemeal process only serves to delay development and/or increase development costs, sometimes to the extent that a proposal becomes unviable and is not pursued as a result. This is not a good outcome in regional areas where job generation is important.

The biodiversity outcomes are also likely to be sub-optimal as there is no relevant strategic program in place to ensure that any offsetting funds generated can be dedicated to a sustainable program of biodiversity conservation (unlike the Biodiversity Certification implemented on a broad scale in the Western Sydney Area).

Prior to the implementation of an offsetting regime in a local area, a relevant regional biodiversity assessment needs to be put in place so that offset assessments can be carried out in a strategic context (and preferably in relation to a Strategic Certification process) to minimise impacts on development processes and costs and regional employment outcomes and to maximise biodiversity outcomes.

Pending, and subject to, the preparation of an appropriate regional biodiversity assessment, it is considered that areas zoned for urban development, particularly employment generating development, prior to the introduction of the offsetting process, should be exempted from the biodiversity offsetting scheme. In this regard it is noted that under the previous NSW Native Vegetation Act (one of the Acts that the Biodiversity Conservation Act replaced), urban zoned land, including industrial zoned land, was excluded from the operation of that Act.

As an example, an area in South Nowra was zoned for Industrial (employment generating) development, originally in 1985 and confirmed in 2014. The area is identified as a regionally significant employment land precinct in the NSW Government's Illawarra-Shoalhaven Regional Plan. Approximately half of the area had been developed prior to the requirement for biodiversity offsetting assessments. New development proposals are, however, now captured by the need to apply the Biodiversity Assessment Methodology (BAM).

Typical costs of applying a BAM are in the order of \$5000 or more for an individual site and may take many months, possibly years, to prepare given the potential need to encompass all seasons in the assessment. In one case in South Nowra, the BAM estimated that development of the site would entail the purchase of approximately \$1.5 million in ecosystem and threatened species credits but that further work (a Biodiversity Development Assessment Report) would be necessary to determine the final extent of credits payable.

The costs of the credits and the process were more than the land value, rendering development unviable with the result that the desired planning outcome established in the zoning – serviced industrial land, factories & employment – could not be secured and the land remains vacant.

Following consideration of the issues that are currently being faced at the South Nowra employment land precinct, Shoalhaven City Council resolved on 6<sup>th</sup> April 2021 that:

*The CEO and other appropriate staff take part in a joint Deputation with representatives of affected owners in the South Nowra Industrial Lands to the Minister for the Environment The Hon. Matt Kean MP with a view to having the NSW Government introduce a general exemption from the biodiversity offset scheme for zoned employment lands.*

#### Conclusion:

It is recommended that the Committee find that areas zoned for urban development, particularly employment generating development, prior to the introduction of the biodiversity offsetting process, should be exempted from the biodiversity offsetting scheme.

If you need further information about this matter, please contact Gordon Clark, City Futures on . Please quote Council's reference 57123E (D21/356480).

Yours faithfully

**Gordon Clark**  
**Acting Director, City Futures**