

**Submission  
No 21**

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

**Organisation:** Clarence Valley Council

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27/8/21

Parliament of NSW Government

Planning & Environment Committee

Clerk of the Parliaments, NSW Legislative Council

Parliament House, Macquarie Street

Sydney NSW 2000

Dear Ms Cate Faehrmann

### **Inquiry into the Integrity of the NSW Biodiversity Offsets Scheme**

A draft submission on the parliamentary inquiry into the integrity of the NSW Biodiversity Offset Scheme was tabled at the 24 August 2021 Ordinary meeting of Clarence Valley Council. At this meeting, Clarence Valley Council resolved that Council:

1. believes that the concept of offsetting is basically flawed and that it should be replaced with a scheme that does not allow the destruction of endangered ecological communities and threatened species habitat.

I am pleased to now provide a copy of Council's submission and resolution on this matter to this important parliamentary enquiry.

Clarence Valley Council's Submission to the *Inquiry into the Integrity of the Biodiversity Offset Scheme*:

Council's main concerns over the BOS are:

### **1. A net loss of biodiversity across the LGA**

There is little confidence in this legislation for biodiversity conservation as offsets can be facilitated outside of the Clarence Valley Council (CVC) LGA, meaning a *net biodiversity loss* within the LGA. To date, only one of the BDAR's processed for CVC has had biodiversity credits offset locally. There are inherent difficulties in entering the credit supply market to source 'like for like' credits from landholders that have had their land approved and assessed for the number and type of credits. These credit suppliers are located all over the state, hence if a developer can source credits, they are unlikely to be sourced within the Clarence, creating a 'net loss' of biodiversity.

#### Suggestions:

- Simplify the process of entering the credit supply market to source suitable credits.
- A requirement should be placed on the BCT to monitor biodiversity gains/losses in the LGA's.

### **2. Lack of stewardship sites in the Clarence**

The process for landholders to get their land assessed and approved as a stewardship site involves a large monetary output, with returns only certain if they sell the credits they have been assessed to hold.

Currently on the public register, there are only 2 stewardship sites in the Clarence.

The opportunity for private landholders to engage in the stewardship scheme has been very limited in the Clarence. Other areas such as Lismore Council have been offered landholder incentive programs to protect land with koalas and koala habitat, however this has not been offered to landholders in the Clarence, highlighting the ineffectiveness of the scheme to enact on ground local protection of koalas.

The BCT has been largely absent in the Clarence, and this is evidenced by the small amount of land available under the scheme for locally offsetting development. In August 2021 the first BCT conservation tender is being offered in the Clarence, however the eligibility criteria for this tender will

exclude many landholders from being included in the tender due to the minimum size requirement (>10ha) of vegetation to be protected. This size criteria does not reflect the realities of the disjunct remnant vegetation patches on the Clarence floodplain. These vegetation communities are even more important to protect as they are often the last remaining remnant of that particular type of vegetation, however as they don't meet the BCT's criteria there is little monetary support to aid landholders in protecting threatened vegetation such as saltmarsh, mangroves, wetlands and swamp forest. In addition, these remnant vegetation patches are usually well below the size threshold that can be considered to establish a stewardship site, or be considered for other conservation programs outside of the BOS.

The current 'like for like' trading rules for TEC's that can only be offset for the same TEC is often unapplicable in the Clarence Valley as many of our coastal TEC's are small, and as stated above, do not meet the size requirement to be secured in a stewardship agreement or other conservation agreement, so there are no similar credits available, leaving the only offset option being to pay into the fund. This is creating a biodiversity drain for the Clarence.

#### Suggestions:

- Expand the stewardship site requirements to suit the local site conditions in terms of patch sizes for PCT's that can be placed under various conservation agreements.
- Simplify the stewardship agreement process to enable landholders to negotiate the process easily.
- Remove the 'like for like' trading rules for TEC's on the floodplain to reflect on ground conditions of small patch sizes and allow Council's to determine local biodiversity conservation actions to meet offset requirements, instead of paying into the BCT.
- Possible conservation actions could be for an applicant to donate land, improve corridors, implement works such as revegetation and install animal friendly fencing.
- Deliver the long awaited PCT mapping for the North Coast, which could aid Council in identifying suitable sites.

### **3. Lack of transparency in the BOS**

Many Plant Community Types (PCT's) on the floodplain, which comprise a large percentage of land being developed in the Clarence, are threatened ecological communities (TEC's) which are to be offset for the same TEC forcing developers to pay into the fund as the sole way to offset credits, as there are no locally available credits.

There is no way to determine if this money deposited in the Trust is then used to facilitate recovery or protection of TEC's in the Clarence - creating biodiversity loss.

Similarly, some threatened species with a limited geographical range do not fit into the 'like for like' rule. The endangered Coastal Emu which generates significant credits (over \$1.5 million for a recent BDAR) that can only be paid into the BCT, comes with no guarantee that money is spent on species recovery.

Additionally, the Coastal Emu is not listed in the ancillary rules (under S6.5 of the Biodiversity Conservation Regulation 2017) enabling a proponent to carry out a biodiversity conservation action to meet an offset obligation rather than paying into the Trust. This is the situation for the majority of our threatened species that cannot be offset, due to a lack of available credits, leaving no option other than paying into the Trust, with as yet, no benefits to local threatened species or ecosystems evident through BCT programs or activities in the Clarence.

#### Suggestions:

- Council's be able to negotiate biodiversity conservation actions (outside of the very limited species currently listed in the ancillary rules) directly with the applicant to achieve on ground local biodiversity gains. This should also be expanded to include the like for like trading rules for TEC's that can only be offset by the same TEC.
- Money generated from what is essentially biodiversity loss in an LGA should remain in that LGA to focus on locally driven recovery efforts for native flora and fauna.

#### **4. Offset prices**

Some of our TEC's are cheaper than if the PCT was not listed as a TEC – for example PCT's 1235 (Swamp Oak Swamp Forest on Coastal Floodplain) and 1064 (Paperbark Swamp Forest on the Coastal Lowlands) are costed at \$7500 per credit, where as if it assessed as a TEC, that price is confusingly reduced to \$4005 per credit. Council contacted the department over 18 months ago concerning this and it still has not been remedied.

#### Suggestions:

- Review the calculator for inconsistencies and alter accordingly.

#### **Summary**

The BOS, although well intended, has not produced any gains for biodiversity in the Clarence, rather has ensured a net loss to biodiversity, often of our most threatened flora and fauna.

Yours sincerely

**Natural Resource Management Officer (Biodiversity)**