

**Submission  
No 68**

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

**Organisation:** Urban Taskforce

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Director – Portfolio Committee No. 7  
NSW Legislative Council

Online submission

## **NSW Legislative Council Portfolio Committee No. 7 – Integrity of the Biodiversity Offsets Scheme**

Dear Committee Members

I write in relation to the NSW Legislative Council Portfolio Committee No.7 – *Inquiry into the Integrity of the Biodiversity Offsets Scheme*.

Not only does NSW have the slowest and most complicated planning system, with the highest fees and charges in the country; Urban Taskforce members are increasingly concerned about the challenges in working under the current Biodiversity Offsets Scheme. This is particularly pronounced in rural and regional areas.

As I am sure you are aware, there is currently a chronic shortage in housing stock available across much of NSW.

While this undersupply of housing has historically been most pronounced in across much of Sydney, the dramatic escalating cost implications of supply not keeping pace with demand in Sydney, together with changes to settlement preferences (driven more severely in recent times by the COVID Pandemic) has seen this housing supply and affordability crisis shift to the outer Sydney and into much of Regional NSW.

Since the arrival of COVID-19 population growth in many regional communities has accelerated. People are remaining in or relocating from metro areas to many regional centres. The subsequent lack of housing supply thus arising in regional NSW has inflated prices and squeezed locals out of the rental market.

The Urban Taskforce supports the NSW Deputy Premier's support of the people of NSW through his assertion that the Biodiversity Offsets Scheme is the "greatest handbrake" to investment in NSW. ("Greatest handbrake to investment": NSW to review biodiversity offset scheme", SMH, 26/08/21). The biggest contribution to deliver housing that is affordable is an over-supply of housing. For an oversupply to occur, 'handbrakes' need to be lowered to drive the delivery of new homes.

We note that a review of the Biodiversity Offsets Scheme is being undertaken by the Biodiversity Conservation Trust (BCT) on behalf of Department of Planning, Industry and Environment. We welcome the review in so far as it offer the opportunity to address the fundamental problems with the scheme.

That said, it does seem contradictory that Department of Planning, Industry and Environment having established the Regional Housing Taskforce to explore pathways toward affordable regional housing solutions is concurrently running a review of the Biodiversity Offsets Scheme where early engagement on changes to the policy, indicate additional costs and barriers to the delivery of regional housing over time.

Further, our members are concerned that the BCT has historically been an incredibly risk-averse organisation who are unaware of the realities and challenges the development industry faces in working under the NSW Planning System. Accordingly, there is some apprehension associated with giving the BCT control of this process. In particular, Urban Taskforce members are concerned that the BCT leading this work could lead to a significant increase in offset costs through paying into the fund. This outcome would represent a disaster for the entire process and unless the system has a focus on cost reduction, the changes would not be supported by industry.

Critical to the delivery of increased housing supply will be the recognition that the cost of bio-diversity conservation should not be borne entirely by the new homebuyer. The benefits of additional green space and species protection are wide reaching and not just limited to the new homes supplied via a particular rezoning.

In many cases the cost of biodiversity offsets is simply prohibitive of developing the land at all. Urban Taskforce members report buying or owning land that has been cleared and has been rezoned for urban development and then during the (usually long and drawn out) development approval process a species emerges on the site that requires offsetting. In this scenario the cost of biodiversity offsetting was not factored into the land and/or development costs for the site. The outcome being that the late emergence of biodiversity values is cost prohibitive, makes the zoning irrelevant and the land is unable to be feasibly developed.

There needs to be certainty about pricing early to assess whether it is commercially viable to develop a property. Any scheme, overall, needs to be affordable, otherwise it simply represents an additional tax on the new home buyer. Under the current scheme, the people looking to purchase new homes are effectively being forced to pay for the regulatory failures of the past in terms of protection of biodiversity. This burden should be shared by all those who benefit from biodiversity conservation and be actively supported by the broader tax base supporting the New South Wales Government.

Accordingly, to provide certainty to land and housing supply **Urban Taskforce recommends** that regional housing supply and affordability be specifically addressed at the rezoning stage and any biodiversity offsets are established, costed and fixed as part of that process and not subjected to future alteration or review. Further, if biodiversity offsetting becomes cost prohibitive to new development, that opportunities for support from the broader tax base be explored - as is the case with infrastructure contributions.

The current Biodiversity Offsets Scheme, by being too specific, onerous and expensive is not an attractive option to industry in meeting biodiversity development obligations. The limited take-up of the Scheme has resulted in very few species credits being issued and subsequently negligible bio-diversity outcomes being delivered on the ground.

Urban Taskforce contends the current approach in NSW will lead to a fragmented patchwork of offsets, by way of there being no incentive by way of additional credits for offsets that have strategic value - for instance through connectivity.

Urban Taskforce members' experience in attempting to access the scheme is that the species list is too long and, importantly, too specific for a transaction to occur. This represents a market failure.

The independent review of the current scheme undertaken by EY Port Jackson Partners found:

*There are 359 different OTGs [offset trading groups] for ecosystem credits and 983 different species credits. 88% of ecosystem OTGs and 97% of species credits have never been traded.*

To address the market failure and limited outcomes commensurate with the current scheme, the **Urban Taskforce recommends** that DPIE creates different 'classes' of endangered species with subsequent grading and pricing based on the value of that class or collection of species. Species with lower bio-diversity value should be identified, classed together and priced accordingly. While species with higher bio-diversity values should be accordingly grouped or classed together. Where there is greater bio-diversity value for a collection of species, it would follow that the price to purchase credits would be higher than those with a less significant bio-diversity value. Further any improved scheme should include the allocation of credits to landholders/developers for on-site works that improve or add to biodiversity outcomes on the property.

In relation to the many species where there is no effective market (or even activity), **Urban Taskforce recommends** that the Government should step in and correct this market failure. This is the role of government. The Government needs to make the market by setting a reasonable price and taking the risk of being able to procure the relevant species for that price. The alternative places all the burden on the production of new homes and represents an abrogation of government responsibility to facilitate economic growth.

In light of the comparative cost and time imposts in the operation of the offsets scheme on smaller developments, **Urban Taskforce recommends** that the scheme only apply to development of scale and impact, with a new threshold introduced. Development below the threshold, instead of requiring the identification and offsetting of species, is instead required to pay a nominal fee to contribute to the management and improvement of national parks.

The scheme should also be broadened to incentivise works and initiatives that deliver improved ecological outcomes outside of the offset arrangement. Significant credits should be offered for offsets that have strategic value - for instance through connectivity. **Urban Taskforce recommends** a system that allows 'credits' to be used on other sites or even different sections of the site be developed to incentivise the development industry to deliver optimum ecological outcomes.

Table 1 includes a summary of all Urban Taskforce recommendations.

Urban Taskforce urges the Committee to consider our recommendations so that both future development opportunities and practical conservation outcomes in NSW can be realised.

Yours sincerely

**Tom Forrest**  
Chief Executive Officer

**Table 1 – Summary of all Urban Taskforce recommendations**

	<b>Urban Taskforce recommendation</b>
1.	To provide certainty to land and housing supply <b>Urban Taskforce recommends</b> that regional housing supply and affordability be specifically addressed at the rezoning stage and any biodiversity offsets are established, costed and fixed as part of that process and not subjected to future alteration or review. Further, if biodiversity offsetting becomes cost prohibitive to new development, that opportunities for support from the broader tax base be explored - as is the case with infrastructure contributions.
2.	To address the market failure and limited outcomes commensurate with the current scheme, the <b>Urban Taskforce recommends</b> that DPIE creates different 'classes' of endangered species with subsequent grading and pricing based on the value of that class or collection of species. Species with lower bio-diversity value should be identified, classed together and priced accordingly. While species with higher bio-diversity values should be accordingly grouped or classed together. Where there is greater bio-diversity value for a collection of species, it would follow that the price to purchase credits would be higher than those with a less significant bio-diversity value. Further any improved scheme should include the allocation of credits to landholders/developers for on-site works that improve or add to biodiversity outcomes on the property.
3.	In relation to the many species where there is no effective market (or even activity), <b>Urban Taskforce recommends</b> that the Government should step in and correct this market failure. This is the role of government. The Government needs to make the market by setting a reasonable price and taking the risk of being able to procure the relevant species for that price. The alternative places all the burden on the production of new homes and represents an abrogation of government responsibility to facilitate economic growth.
4.	In light of the comparative cost and time imposts in the operation of the offsets scheme on smaller developments, <b>Urban Taskforce recommends</b> that the scheme only apply to development of scale and impact, with a new threshold introduced. Development below the threshold, instead of requiring the identification and offsetting of species, is instead required to pay a nominal fee to contribute to the management and improvement of national parks.
5.	The scheme should be broadened to incentivise works and initiatives that deliver improved ecological outcomes outside of the offset arrangement. Significant credits should be offered for offsets that have strategic value - for instance through connectivity. <b>Urban Taskforce recommends</b> a system that allows 'credits' to be used on other sites or even different sections of the site be developed to incentivise the development industry to deliver optimum ecological outcomes.