

INQUIRY INTO INTEGRITY OF THE NSW BIODIVERSITY OFFSETS SCHEME

Organisation: Cement Concrete and Aggregates Australia

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The Director
Portfolio Committee No.7 (Planning and Environment)
Biodiversity Inquiry
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Director

SUBJECT: Inquiry into the Integrity of the NSW Biodiversity Offsets Scheme

Thank you for the opportunity to participate in the NSW Legislative Council's Portfolio Committee No. 7 – Planning and Environment Inquiry into the integrity of the NSW Biodiversity Offsets Scheme, also known as the Biodiversity Conservation Scheme.

We note the Terms of Reference of the Inquiry, the media release from Committee Chair Cate Faehrmann MLC (The Greens) on 29 June 2021, the scheduling of public hearings in October and November as well as the Committee reporting date of 1 March 2022.

Cement Concrete & Aggregates Australia (CCAA) is the peak industry body for cement manufacturers, concrete suppliers and extractive operators throughout New South Wales. Collectively known as the heavy construction materials industry, our members are engaged in the quarrying of sand, stone and gravel, the manufacture of cement and the supply of pre-mixed concrete to meet New South Wales's building and construction needs. These businesses range from large global companies to SMEs and family operated businesses.

Cement, concrete, stone and sand are the critical materials that enables the \$56 Billion New South Wales construction industry, employing 370,000 workers and contributing 45% of the New South Wales taxation revenue base. CCAA notes that the COVID-19 pandemic has had a significant impact upon the economy of New South Wales and the construction sector, supported by an efficient heavy construction materials supply chain is playing a pivotal role to help deliver an economic rebound.

Our industry is committed to the protection and improvement of environmental values and minimising environmental impacts when they arise. We strongly believe that we have an obligation to supply construction materials in an environmentally responsible and sustainable manner. We work within a very complex array of Federal, State and Local Government legislation which aims to protect Australia's unique biodiversity, natural landscapes and lifestyle and we are keen to continue to work with the NSW Government and the NSW Community to maintain these protections.

The Extractive sector has always acknowledged that the initial stage of our supply chain – the extraction of raw materials from the earth's crust (quarrying) - has the potential to impact the

surrounding natural environment. However, we equally believe that these impacts can be addressed through inception planning, onsite environmental management measures and the development and implementation of effective and progressive rehabilitation and restoration of quarry sites which contribute to significant, long-term environmental outcomes.

Creating new habitats through rehabilitation and mitigation is common practice for operators in our sector and our members understand the importance of managing biodiversity as part of responsible and proactive risk management under the broader scope of the natural environment and land stewardship. Companies that demonstrate responsible business behaviour, by minimising their ecological footprint, and ensuring the preservation of the natural capital as well as the welfare of communities in their areas of operation, can have a competitive advantage, develop company value and achieve better long-term sustainability of their operations.

Quarries are typically long-term operations that often serve the needs of their community for many years if not many decades. As the resources are progressively extracted and exhausted, a quarry is progressively rehabilitated to bring it back to a state that is sensitive to both the nature of the final landform once quarrying ceases and the opportunities for repurposing the site. In most cases, the processing portion of the quarry is less than half the size of the overall property footprint with the remaining area serving as vegetation or as a natural buffer to surrounding or adjacent land uses.

In 2020, CCAA established its Extractive Industry Priorities Statement ¹– Enhancing Australia’s Biodiversity – outlining the role that our sector’s capability in biodiversity management and the role we play in environmental rehabilitation.

NSW Biodiversity Offsets Scheme

While there has been a market-based biodiversity offset scheme operating in NSW since the introduction of BioBanking in 2006, there has never been a strong enough market for the type and quantity of credits sought for quarrying rehabilitation projects. Our member companies therefore purchase and manage land conservation to meet the offsetting requirement for project approvals.

Prior to the introduction of the NSW Biodiversity Offsets Policy for Major Projects² in 2014, mining offsets were secured by way of a Voluntary Conservation Agreements (VCA). While there are still some legacy projects where VCAs are being completed, largely the industry is now required to use Biodiversity Stewardship Agreements (BSAs) to secure offsets.

However, the current developer charge model for acquitting biodiversity offsets in NSW – the Biodiversity Offsets Payment Calculator (BOPC) - has proven to be particularly inflexible for our sector and is many times more expensive than the costs of buying and managing offset lands. There is general acceptance across industry that this calculator is not serving the needs of industry or contributing to effective biodiversity outcomes across the state.

¹ [Enhancing Australia’s Biodiversity](#) – CCAA Extractive Industry Priorities Statement

CCAA understands that the NSW Department of Planning, Industry and Environment (DPIE) are proposing to transfer responsibility for setting developer charges, to the Biodiversity Conservation Trust (BCT) including the BOPC, as part of its Stage 1 reforms, and are considering the development of a permanent developer charge scheme. CCAA **does not object** to the transfer of responsibility for developer charges to the BCT, given that it operates independently as a not-for-profit body established under the *Biodiversity Conservation Act 2016* and that payments from the BCT Public Fund are neither controlled or are administered by the Minister for Energy and Environment. Legislation to deliver regular reviews of the BCT to ensure that prices are efficient while allowing the BCT to remain financially viable and to meet its environmental obligations should be considered.

CCAA strongly argues the following points:

- The development of any new model for developer charges requires a significant level of independent oversight to ensure that prices are efficient and equitable. This oversight must be undertaken by a person or body with a strong understanding of the failings of the present calculation system and have previous experience in dealing with Government and Infrastructure;
- Ensure that the unique nature of quarry use is factored into any pricing. i.e., long term extraction and the progressive rehabilitation of the land once the resources are extracted to recognise biodiversity benefits fairly and flexibly across the whole site or others;
- Adequate and appropriate consultation with the broader extractive sector to ensure that industry, not just government or activists are allowed to dominate outcomes; and
- Any proposed final model be peer reviewed – similar to the process used by DPIE's Supply and Demand Study for the Greater Sydney Region.

Supply Barriers for the offset market

Unfortunately, there are a range of supply barriers that contribute to ineffective outcomes within the present scheme, including:

- The very significant upfront costs and complexity of assessment, which has to be conducted by expert ecologists;
- Extensive cost, time and expertise required for the preparation of the BSA application documents are often overwhelming and therefore are a barrier for smaller landholders;
- Published guidelines are very detailed and overly extensive in their requirements. Smaller landholders are often unable to meet these requirements;
- The Management Plan is a complex document, and smaller landholders may find it difficult to interpret its requirements and to manage contractors to implement it. A Stewardship Site

project manager may need to be engaged to oversee the implementation of the Plan at additional expense;

- The uncertainty that credits once created will be purchased;
- The emotional barriers of losing agency over land which is subject to a BSA which is in perpetuity;
- The practical concerns that landholders have about whether the BSA will detract from the future sale price of the land, and whether potential future owners including legatees will consider the management commitments a burden; and
- Until all the credits created on a site are retired, the costs of management are borne by the landholder, not paid by the Fund. There could be a delay between completing the BSA and finding developers to purchase and retire all the individual credits, during which time landholders will need to fund management actions.

Lack of incentive for Strategic Conservation

As quarry projects are largely individually owned and projects developed over time, biodiversity offsets are mainly secured in an ad hoc manner. The Biodiversity Assessment Method (BAM) does not provide incentive for connectivity between offsets or to other conservation lands. This approach to move offset assessments to a post approval phase means that there is no incentive within the approval process to identify offsets and for connectivity or strategic value of the offset to be part of a project's consideration.

Further, the scheme lacks a clear framework for long-term ownership of offsets when quarry extraction has been exhausted that provides for a strategic focus for offsets. This is particularly disheartening given the capabilities developed across our sector in environmental management and rehabilitation.

In short, industry needs more confidence in the offset market to participate and contribute to stronger and enhanced conservation outcomes more broadly. CCAA argues that the NSW Government should clarify the purpose of allowing developers to acquit their offset liabilities by paying into the fund with the purpose to enable a more strategic approach to offsetting once the scheme is managed by the BCT.

Recommendations

In summary, CCAA makes the following recommendations to deliver a more strategic focus to improve the offsets scheme and biodiversity outcomes across NSW.

- Support the transfer of administering developer charges to the BCT and providing this body with an enhanced role to provide greater support to landholders to increase confidence and therefore supply of the offsets market;
- Set developer charges at a price that encourages and incentivises the purchase of credits;
- Review the role of the BOPC and consider whether a more efficient price setting mechanism could be established;
- Consider additional flexibility for industry to consider connectivity to other conservation lands or across projects in their entirety;
- Factor in the unique nature of the extractive sector and progressive onsite rehabilitation and smaller land footprint;
- Undertake regular reviews of any new model to ensure that prices set by the BCT are efficient and allow the BCT to remain financially viable and meet its obligations to the environment; and
- Provide an effective complaints mechanism for developer charges

Thank you again for the opportunity to comment upon the Integrity of the NSW Biodiversity Offsets Scheme. CCAA encourages the NSW Government to reform the present system in order to provide greater flexibility and incentives for industry to participate in the fund and to deliver more strategic biodiversity outcomes in the long run.

We would appreciate the opportunity to discuss this matter with you in further detail. Accordingly, I can be contacted on _____ or email

Yours sincerely,

JASON KUCHEL
State Director, New South Wales & South Australia