

Submission  
No 96

## INQUIRY INTO INTEGRITY OF THE NSW BIODIVERSITY OFFSETS SCHEME

**Organisation:** Valley Watch Inc  
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### **Portfolio Committee 7**

PortfolioCommittee7@parliament.nsw.gov.au

### **RE INQUIRY INTO THE INTEGRITY OF THE NSW BIODIVERSITY OFFSET SCHEME**

Thank you for the extension to provide a submission to the inquiry into the Integrity of the NSW Biodiversity Offset Scheme.

Our submission below is not confidential and may be shared publicly.

Valley Watch Inc. is a local not-for-profit organisation which has been operating in the Lower Clarence area for the past 28 years. Our mission is to advocate for a healthy and biologically diverse environment and to preserve the quality of life in the Clarence Valley.

We have raised many concerns since the concept of Biobanking was first introduced by Frank Sartor in 2010. We have never supported the bulldozing of environmentally sensitive lands in exchange for paying to protect supposedly equivalent land elsewhere. A scheme that puts a dollar value on animals and plants is potentially open to corruption and mismanagement, which leaves many communities and environmental bodies distrustful of offset schemes of this type.

The various reforms to the NSW Biodiversity Offset scheme have done little to strengthen protection for the environment and an increasing number of scientists, ecologists and conservationists have noted the many loopholes in the policy which leave it vulnerable to manipulation by governments (across all tiers), consultants, and agencies seeking to support developers.

The Maules Creek mine, which was the basis of a 2014 Senate inquiry, is typical of what many believe is happening under the guise of Biodiversity Offset Schemes. Clearing and destruction at Maules Creek of critically endangered white box gum grassy woodland, which was noted by ecologists as having been reduced to 0.1% of its original range, was to be offset by 1600 hectares of nearby land, which the mining company claimed would protect large areas of similar habitat. However, under investigation by many ecologists it was found that 95% of Whitehaven's offset vegetation mapping was wrong.

Neither the State or the Federal Governments conducted on-the-ground surveys of the offset sites before approving the Maules Creek mine.

The ANU's researcher Phil Gibbons (<https://researchers.anu.edu.au/researchers/gibbons-p>), who helped develop offset policies for the Federal and NSW governments, noted he sees an increasing number of examples where governments are cutting corners. Some offsets are not 'like for like' and others are not being properly managed or restored. Some sites have been approved that weren't in danger of being cleared or lost in the future.

He further notes that the reality is that some biodiversity will always be lost in offset exchanges as no two areas of habitat or species populations are identical. Therefore, biodiversity offsets must be a measure of last resort after all other attempts at preventing or reducing impacts have been considered.

It seems the practice of 'last resort' has been thrown out the window and biodiversity offsets are now common occurrences. However, instead of similar nearby landscapes being protected, money is paid by the developer into a pool of funding, known as the Biodiversity Conservation Fund, supposedly for use in protecting 'like for like' habitat, thereby creating another highly questionable body potentially open to corruption.

According to Gibbons:

'Anything that you do in terms of an offset must be a genuine gain, must be something that would not have happened anyway as under business as usual, I think what people are doing is getting very creative in finding biodiversity gains when really they are things that would have happened anyway.'

This was noted publicly by landholders in the Bellingen Shire who had already made lifestyle choices years ago to protect their land by having it registered as Conservation Management. They advised they were recently approached by representatives of the Biodiversity Offset Scheme to register their interests in protecting land that was already protected!!

The International Union for Conservation of Nature (IUCN) has had vast input into its Biodiversity Conservation Trust and is considered to be the global authority.

<https://www.iucn.org/resources/issues-briefs/biodiversity-offsets>

It notes implementing biodiversity offsets is a long-term exercise. Biodiversity offset schemes should be measurable and appropriately implemented, monitored, evaluated and enforced, and take full account of direct, indirect and cumulative impacts, geographically and over time.

Key elements of biodiversity offsets included in IUCN's Policy are:

- **Measuring and exchanging biodiversity**, defensible and replicable measures and units of exchange, sufficient baseline surveys, and established exchange rules governing which residual impacts can be offset by what type of gains.
- **Additionality**, biodiversity offsets must secure additional conservation outcomes that would not have happened otherwise.

- **Timeframe**, the offset gain should last at least as long as the impact being addressed which in most cases means in perpetuity.
- **Uncertainty**, offsets must account for uncertainty by clearly documenting data sources, assumptions, and knowledge gaps.
- **Monitoring and evaluation**, continued surveys of impacts and offset activities to measure the losses and gains that have actually transpired.
- **Governance and permanence**, legal, institutional and financial measures must be in place to ensure the effective design and implementation of offset schemes. The mitigation hierarchy framework should be embedded in landscape and seascape level planning and legislation.

Valley Watch supports the IUCN's recommendations and requests this inquiry ensures that these recommendations are implemented. We also raises the following points and request they are investigated and included in future management of the Biodiversity Offset Scheme:-

- Ecological Reports completed for the Developer mostly do not contain sufficient data to give a true analysis of the site's habitat value. Most are observations that are completed in a day, lack any night surveys, DNA sampling, trapping, call backs or take into account any seasonal use. They do not look at connectivity. They do not include observations or input from local community, neighbours or environment groups. They do not consider future climate change impacts. They mostly rely on desktop studies. Considering we are in extinction crises this is not acceptable. The reporting requirements by ecological companies need to be strengthened.
- Mapping of off-set habitat is questionable and has not been ground-truthed in many circumstances – this is needs to be implemented..
- Off-set payments, rather than looking to preserve habitat, is becoming the norm in ecology reports. This lazy solution needs to be halted and only used as a last resort.
- It is up to communities to peruse the lack of ecological detail in the reports and bring deficiencies to the attention of approving bodies, such as local Councils. The concerns and additional information provided to these various bodies are usually dismissed without comment and are not consolidated or shared with other relevant agencies for future reference. With change in climatic conditions comes change in habitation of fauna and their needs for survival. Recent reports from community need to be passed on to government environmental agencies to ensure this data is considered as part of sustainable management for existing and future wildlife corridors, rather than being dismissed.
- This note on the Biodiversity Offset Scheme website is alarming and we ask for clarification of its meaning and intent:

*“Council may amend their DCP to regulate the clearing of all threatened species, threatened ecological communities or protected plants that do not require approval of the Native Vegetation Panel if they choose to.”*

- Who is looking at the cumulative impact of the Scheme?
- Who is mapping and ensuring off-sets are protected and maintained? Who inspects them? How often? How can the public have access to maps to monitor off-set areas and help plan future protection for connectivity?

- As most developments mean that the landscape cleared will be gone forever, is the off-set in perpetuity? Who ensures this is the case?
- Is climate change considered with off-sets? The recent bushfires are forewarnings of what is to come. Habitat loss will continue. If an off-set is destroyed, then what?
- How do we ensure that tax-payer funds are not wasted with over-pricing of off-set properties as has been claimed by the Guardian's article in regard to major projects in Western Sydney?

Whilst we thank you for the opportunity to comment, our concern remains that Biodiversity Off-sets are further weakening existing environmental protections by establishing a scheme so full of loopholes that it effectively operates as a permit system for environmental destruction by developers.

Regards

Ros Woodward  
Secretary  
Valley Watch Inc