

Supplementary  
Submission  
No 90a

## INQUIRY INTO INTEGRITY OF THE NSW BIODIVERSITY OFFSETS SCHEME

**Organisation:** Environment Institute of Australia and New Zealand Inc.

**Date Received:** 16 September 2022

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Environment Institute  
of Australia and  
New Zealand Inc.

16 September 2022

Portfolio Committee 7 – Planning and Environment  
Integrity of the NSW Biodiversity Offsets Scheme  
[portfoliocommittee7@parliament.nsw.gov.au](mailto:portfoliocommittee7@parliament.nsw.gov.au)

Dear Committee

The Environment Institute of Australia and New Zealand (EIANZ) is a not for profit, professional association for environmental practitioners from across Australia and Aotearoa New Zealand. Our members come from all areas of environmental practice and are at the forefront of challenging and complex issues such as climate change, sustainability, environmental approvals, contamination and preserving biodiversity.

We note this correspondence follows our earlier submission in September and updates you on the EIANZ's progress on some matters.

We stress from our previous comments that biodiversity offsetting is a valuable mechanism within the biodiversity conservation hierarchy of 'Protect, Mitigate, then Offset'. We also reiterate that we look forward to working with governments to ensure the statutory instruments, policies and guidelines ensure they deliver the best possible biodiversity outcomes for NSW.

The EIANZ member experts have been involved in biodiversity offsetting in NSW since its inception and have experienced a range of ethical questions and conflict of interest scenarios.

We have recently held a successful national biodiversity offsetting conference that covered a range of topics, including education on ethics in biodiversity offsetting (over 300 representatives from government and private organisations). We posed a number of questions to the attendees and the majority of poll respondents agreed that we need greater clarity and guidance to manage real and perceived conflicts of interest in the industry.

We believe that ethical challenges associated with delivery of biodiversity offsetting poses a risk of undermining the integrity of the NSW offsetting scheme, and to the credibility of the scientific community involved in biodiversity offsetting.

The EIANZ have a strong track record in promoting ethical practices in the environmental profession and have demonstrated leadership in biodiversity offsets through professional development events including two national biodiversity offset conferences. We would like

to work with the NSW government and offer our assistance to develop and coordinate rules or guidelines to help provide clarity as to when perceived or real conflicts of interest occur, and appropriate mechanisms to deal with such situations.

The EIANZ is in the process of providing guidance to professionals on ethical practice in biodiversity offsetting and it will sit under our [EIANZ Code of Ethics and Professional Conduct](#) (Code). All members and Certified Environmental Practitioners (CEnvPs) are required to sign up to the Code. Practitioners are expected to practice in accordance with the Code and accept personal accountability for their professional conduct.

Although the updated code of conduct would provide some clarity to EIANZ professionals it does not cover all practitioners, nor all Accredited Assessors, and importantly it will not provide guidance for businesses, NGOs or government agencies operating within the market.

We believe that additional measures are needed in the regulations. As with many other markets there are rules and controls set out within the statutory instruments and regulations to manage conflict of interest and other risks.

A suite of measures is needed. These could include, among others:

- Controls within the regulations to set the framework for management of real and perceived conflicts of interest, internal trading, and potential 'cartel' behaviour
- Government guidelines for the implementation of those provisions
- Government guidelines on separation of powers relating to offsetting obligations and offsetting trading
- Review of the NSW Government Conflict of Interest Protocol
- Review of requirements for Accredited Assessor scheme
- Update of EIANZ Code of Conduct and cascading guidelines for practitioners
- Government and EIANZ partnership to provide ongoing training on requirements and how to deal with ethical questions and potential conflicts of interest in biodiversity markets.

It is important to note that there are multiple roles involved during the biodiversity offsetting process from initial assessment to regulator, across the credit buyer and provider, as well as landowner and land manager. The approach at the moment appears to not address the different treatments across these roles. Consideration also needs to be given to other advice given by professionals that affect the market, such as species experts for the tools used, conservation planning more generally, and the ability of participants to be involved in the market in the area they are working.

Lastly, it is important there is a rigorous and independent process to review any reported or suspected breaches and that there is an appropriate response to those findings. We know there are a number of other industries that should provide useful examples to ensure the operation of an effective offsetting market which plays an important role in the long-term protection of Australia's natural assets.

We hope this helps in developing your final recommendations for the inquiry. We reiterate that we have significant expertise across our membership that can support the delivery of improved performance in delivering biodiversity offsets within NSW.

Kind regards

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Chair, Biodiversity Offsets  
Community of Practice

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