

Submission
No 3

**INQUIRY INTO BIODIVERSITY CONSERVATION
AMENDMENT (BIODIVERSITY OFFSETS SCHEME) BILL
2024**

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BIODIVERSITY CONSERVATION AMMENDMENT (BIODIVERSITY OFFSETS SCHEME) BILL 2024

The Biodiversity Offsets Scheme has been subject to prolonged review and has attracted significant input from the spectrum of stakeholders. Whilst valuable material, it must ultimately be distilled into legislation that achieves the balanced objectives of conservation, repair, and development, such that housing, employment, vital infrastructure, farming, tourism, and all human endeavours are not inadvertently rendered unfeasible due to the imposition of costs or actions required by statute.

The social costs of escalating land and housing costs, particularly in regional NSW is becoming a critical issue with many developments being abandoned because the product is too expensive for the local areas to be capable of financing by mortgage. If land is unaffordable, there is no market, which means housing supply dwindles.

It is probably obvious, but the nuance is often lost when committees review important matters such as this amendment, that the cost impost proposed by offsets is met fully by the final land purchaser. Thus, at a time when housing supply is priority public policy the addition of extra cost simply erodes affordability to the point where supply becomes non-existent. All Developer levies are added to the cost of whatever is being developed.

The key objectives of the Bill are sound but challenging.

- To identify and avoid risks early in the strategic planning process is logical, it will require significant resources and council funding that could be prohibitive for some regional councils. The State may need to manage the mapping and identification process.
- To shine a light on the process of biodiversity assessment so that informed decisions can be made and tracked is vital to the implementation phase. It is also vital that assessments are consistent and predictable. Low grade degraded land should be so classified as it exists and not what it could be.

So much of the changes that will evolve are within future regulations and the Governments Plan for Nature. As this Bill is the first step on that journey it is very important to get the foundations right.

Proposed changes will, according to the Ministers 2nd Reading speech 15th August 2024

“refine the rules for trading ecosystem credits amend the scheme entry thresholds so that small, low-impact local development does not come into the scheme”.

“a range of commitments to improve biodiversity assessment and offset processing”.

“mapping places of high biodiversity value to provide clear guidance” and “reviewing regional and strategic planning to improve these processes and deliver clearer outcomes for communities and industry”

These future initiatives and guidelines foreshadowed by the minister are critical policy positions that have the potential to deliver certainty for both conservation and development. If they are ignored the balance could well be lost and the outcome could be detrimental to regional growth and social cohesion.

Of particular significance will be the definition of “Small, Low Impact local development.”

A lot has been made about the transition to Net-Positive biodiversity outcomes. This concept needs to be further explained, whilst the commitment to work with stakeholders in this regard is noted, it is vital that effort is put into developing and publicising case studies and opportunities such that developers and local government can understand the complexities that will undoubtedly arise from a simple notion. Land ownership and long-term management being one grey area.

The development of a public register 9.7 & 9.11 to keep track of commitments could present future delays and confusion should it not be constantly maintained and managed. It is likely that such a register could have impacts upon development completion approvals should it be not maintained in real time. Presumably such commitments would be noted within a development consent issued by council which raises the issue of responsibility for the certification of the outcome. Is it local government or back to Department Environment? Swift processing is vital to minimise development delays, lest confusion reign.

The sections 6.10A, 5.8, 5.11, 6.14, 6.15, 7.1 & 8.1 amendments aimed at improving the quality and consistency of assessments is overdue. Provided they deliver consistency and better quality it will assist greatly in progressing development. A missing component may be an appeals or review system via a panel or peer that can intervene when a proponent has issues with an assessment.

The new section 7.2 designed to provide more reasonable proportionate entry thresholds will be determined later by regulation. This is a very important matter that requires maximum consultation to ensure the regulation protects development especially in regional areas.

The Ministers commitment to work with all stakeholders to achieve mutually beneficial outcomes is welcomed. The principles of affordability and regional sustainability need to be central to those outcomes. Without that focus development will not occur regionally. If development does not occur in the regions, then the whole concept of Nature Positive is marooned for lack of funding.

It is in everyone’s interest to get this concept financially correct and affordable.

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