

Submission
No 39

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

Name: Lynda Newnam
Date Received: 6 September 2024

**Lynda Newnam Submission Biodiversity Conservation Amendment
(Biodiversity Offsets Scheme) Bill 2024 6th September 2024**

AVOID THEN MINIMISE – Truth Transparency Trust



INTRODUCTION

Thank you for inviting me to make a submission to this Inquiry.

I assume I have been invited because I made a submission to the

NSW Inquiry into Integrity of Biodiversity Offsets Scheme submission **May 2022**

https://www.parliament.nsw.gov.au/lcdocs/submissions/78763/0104%20Lynda%20Newnam_REDACTED.pdf

and/or

the Biodiversity Conservation Act Review **April 2023**

<https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Animals-and-plants/Biodiversity/Biodiversity-Act-5-year-review-submissions/biodiversity-act-consult-submission-113-newman.pdf>

I wrote in the Review:

It is difficult to take any of this seriously and to me it is no wonder that individuals for the sake of sanity maintain tight boundaries around their research and advocacy and avoid/discount stark realities of process that are dangerously deficient.

I was particularly critical of sell out environmental academics and consultants but at the same time could understand why individuals might rationalise their positions. When

submissions were finally published for the Review, I read the **two** from ‘academics’. I found The UNSW Centre for Ecosystem Science the more useful.

<https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Animals-and-plants/Biodiversity/Biodiversity-Act-5-year-review-submissions/biodiversity-act-consult-submission-127-unsw-centre-for-ecosystem-science.pdf>

I had presented a marine offsets case study in my 2022 submission and agreed with recommendation 8.

I wrote to the group to thank them for their public advocacy.

----- Forwarded message -----

From: Lynda Newnam

Date: 26 Aug 2023 at 4:48 PM +1000

To:

Subject: Centre for Ecosystem Science Submission Review Biodiversity Conservation Act 2016

To: Professor Mike Letnic (Kamay Ferry Wharves MBOS), Hon A/Professor Paul Adam (ESBS Jennifer Street/Botany Bay), A/Professor Jodi Rowley (Citizen Science/Streamwatch), Professor Richard Kingsford (Chief Scientist Roadmap/Penrhyn Estuary Shorebird Offset), Professor David Keith (Kamay Ferry Wharves MBOS), A/Professor Bryce Kelly (Orica IMC), Professor Iain Suthers (Kamay Ferry Wharves MBOS/Sydney Dive Wreck)

Dear All,

I have indicated in brackets previous point/s of contact.

I am writing to thank you for the submission your Centre provided to the Ken Henry Review. As just a volunteer I was heartened to read it. I appreciated that the Centre took the time to make a public submission that put best practice science front and centre.

There are only 2 submissions characterised as ‘Academic’.

I think all your recommendations should be taken up. I’m singling out Recommendation 8 as what should be a very simple change. It brought back memories of watching the previous Environment Minister answer questions at NSW Budget Estimates about destruction of protected seagrass. Anyone unaware of the

issue could have concluded that seagrass and the other Fisheries/EPBC protected species referred to existed on another planet rather than the same ecosystem as marine mammals.

Recommendation 8

iii. Establish a Biodiversity Scientific Committee with a purview over all biodiversity, including threatened species in New South Wales, threatened ecological communities and key threatened processes. This committee should amalgamate the roles and responsibilities of the current Threatened Species Scientific Committees under the Biodiversity Act and the Fisheries Act.

with regards, Lynda Newnam

MINISTER'S SECOND READING LEGISLATIVE COUNCIL

I have read Minister Sharpe's Second Reading of the Bill to Parliament:

15/8/24 Penny Sharpe Second Reading BC Amendment Bill

<https://www.parliament.nsw.gov.au/Hansard/Pages/HansardResult.aspx#/docid/'HANSARD-1820781676-96640'>

And highlighted the following:

- Not long after I became the Minister for the Environment, Ken Henry delivered his judgment on our environmental laws. His review determined:
Biodiversity is not being conserved at bioregional or State scale. The diversity and quality of ecosystems is not being maintained, nor is their capacity to adapt to change and provide for the needs of future generations being enhanced.
- Two key objectives of this bill are,
firstly, to make sure biodiversity risks are known and avoided early in the planning process and,
secondly, to shine a light on the process of biodiversity assessment so that informed decisions can be made going forward and biodiversity impacts can be tracked.
- Part of Labor's election commitment to fix the Biodiversity Offsets Scheme was to seek a **greater emphasis on avoidance of biodiversity impacts as the first step** in the offset process. **Offsets must be a genuine last resort.** While this requirement is currently in law, it is too regularly ignored.
- To support the standard, the bill introduces a public register that will keep track of commitments to avoid and minimise impacts to biodiversity for approved projects.

Both the Ken Henry review and the New South Wales parliamentary inquiry into the integrity of the offsets scheme focused on the **lack of transparency** and unknowns across the functioning of the scheme.

A consistent criticism of the scheme and the assessment process has been the variability in advice from accredited assessors.

COMMENTS

The Minister could also have added the NSW Auditor General 's Report on Save Our Species August 2024

<https://www.audit.nsw.gov.au/sites/default/files/documents/Report%20-%20Threatened%20species%20and%20ecological%20communities.pdf>

I wrote to the Auditor General in response:

----- Forwarded message -----

From: Lynda Newnam

Date: 18 Aug 2024 at 9:27 PM +1000

To:

Subject: Threatened Species audit

Dear Mr Oyetunji,

I met you at Parliament Unpacked (Watchdogs) in May when I spoke to you and Jason Li about the IPART determination for the Port of Newcastle.

I read your latest report with interest particularly notes on Marine Species. From page 35:

“The Marine Estate Management Act 2014 (MEM Act) was introduced in recognition of the challenges coordinating across the marine estate. The MEM Act established the Marine Estate Management Authority, which provides a formal framework of which DCCEEW is a member. DCCEEW is responsible for the delivery of initiative 5 of the framework, to reduce impacts on threatened and protected species.” (page 35)

Despite being ‘responsible’ to reduce impacts on threatened species, DCCEEW was responsible under the NPWS Kurnell Master Plan for the Kamay Ferry Wharves project SSI-10049 which involved the removal of rare and threatened *Posidonia australis* and impacts on 3 other threatened marine species.

It is ironical that an organisation which is charged with the protection of threatened species showed no interest in protecting threatened species. Before the project was approved I made a submission to an Upper House Inquiry on Offsets about this

case: https://www.parliament.nsw.gov.au/lcdocs/submissions/78763/0104%20Lynda%20Newnam_REDACTED.pdf

The project was approved 3rd August 2022 by the NSW Planning Minister and given final approval under the EPBC 16th March 2023 by Minister Plibersek. Transport Minister Jo Haylen gave it the go ahead in May 2023. Supposedly \$46million had already been committed before the first sod was turned. Ignoring sunk cost fallacy, the incoming government was prepared to add another \$32million (at least).

with regards,

Lynda Newnam

I provided the link to what I had written to the 2022 Biodiversity Offsets Inquiry as an example of where the DCCEEW was not consistent in upholding protection legislation and policies, let alone with public perceptions of being dedicated to the environment.

In the Biodiversity Conservation Act Review submission, I referenced the Port Botany Expansion where the 2002 Draft Offsets were applied, and the Commission of Inquiry was overruled. Commissioner Cleland had handed his report to Planning Minister Knowles in May 2005. In late July and early August, the Premier, Deputy Premier and Minister Knowles resigned, a new regime headed government, and the proposed decarbonisation of the Hunter with transition to containers and distribution was slowed. The 'Newcastle Penalty' which potentially carries a liability for the State of between \$600million and \$4.3billion (Treasurer notice to Parliament 21/3/24) is part of this story. One can't discuss environmental protection and offsets without political reality checks. I also referenced the Kamay Ferry Project SSI-10049 which had been the case study for my Offsets Inquiry submission. Another Planning anomaly quoted was the Aboriginal Lands SEPP. Normally, a SEPP is a Planning Instrument which addresses an environmental planning problem and is not for distinguishing between developers. The case I referred to, known in Belrose as Lizard Rock, is currently in assessment. I noted that Recovery Plans and Threat Abatement Plans had not been considered and that assumptions had been made about the effectiveness of SOS and the quality of protection afforded by NPWS. The fact that the first scorecard has been issued this year for a National Park (Royal) bears out my concerns of inadequacy and lack of accountability. There was no mention of Citizen Science in the Henry Review and the role ordinary citizens can play in building up ecosystem knowledge through platforms such as iNaturalist and there was no mention of the stewardship role that can be encouraged in communities around National Parks.

I also cited this case study of protection by the Council in its LEP, by the landholder, by the neighbouring NPWS. In September 1996 a remnant of Critically Endangered Eastern Suburbs Banksia Scrub was added to the Botany Bay National Park.



The ESBS adjacent – 11 Jennifer Street - has been a contested site (details in 2023 submission and at this facebook link - <https://www.facebook.com/savejenniferstreet>)



This is a photograph of 11 Jennifer Street taken today, being readied for the construction of 98 dwellings.



The EPBC Referral that was made in 2018 was withdrawn in May 2024 after the site was cleared. When I wrote to 'Sydney Nature' on the Environment website just over a week ago I was told:

----- Forwarded message -----

From:

Date: 26 Aug 2024 at 12:18 PM +1000

To:

Cc: OEH ROD GSB #SydneyNature Mailbox

Subject: RE: ESBS Jennifer Street Little Bay

Linda

This development was a local DA through Randwick Council and was approved by the Land and Environment Court. As a result, Randwick Council are responsible for enforcing the conditions of consent

If you think that vegetation is being cleared in contravention of the consent conditions, you should report your concerns to Randwick Council.

Thank you

XXXXXXXXXX

I reported my concerns to Federal Staff in EPBC compliance and as yet, no response. If staff from the adjacent National Park and the DCCEEW are not interested in Critically Endangered Species, then what hope for bringing the public along.

20 years ago this brochure was available from NPWS. There was a lot more interest in protection at the local level. Now there is nothing.

Exploring the banksia scrub

In 1839, Louisa Meredith described the vegetation of the banksia scrub as 'crowded with such exquisite flowers that to me it appeared one continuous garden' (Benson & Howell 1996).

Today a boardwalk through the banksia scrub south of Jennifer Street provides you with the chance to see some of this abundance for yourself. The ideal time to visit is in springtime when the bulk of the 100 or so species of plants in the scrub burst into flower.

The boardwalk is 350 metres long. It guides visitors through a diverse cross section of the banksia scrub and allows them to experience the pre 1788 vegetation of the Eastern Suburbs.

Help to protect the banksia scrub ...

- leave your dog at home
- stay on the boardwalk
- refrain from riding bicycles on the boardwalk
- report offenders picking plants, or dumping rubbish or garden refuse to the local ranger on 9311 3379.

Protecting the banksia scrub


Extinction of the Eastern Suburbs Banksia Scrub is likely unless the processes threatening its survival are controlled. Its listing as an endangered ecological community under the Threatened Species Conservation Act is an important step towards the protection of the biodiversity of the eastern suburbs.

This listing means that it is illegal to interfere with this community and that severe penalties apply for offenders.

The NPWS is responsible for producing a recovery plan which aims to identify and control the threatening processes and bring the community (including those remnants not within the Botany Bay National Park) back from the brink of extinction. Through recovery management, many of the individual remnants may regain their original diversity.

Further information

Laperouse Museum and Visitor Centre.
La Perouse. Ph (02) 9311 3379.




N.S.W. NATIONAL PARKS AND WILDLIFE SERVICE
43 Bridge St.
Huntville 2220
(02) 9385 6311
<http://www.npws.nsw.gov.au/>

Printed on environmentally friendly paper
Design: Ian Charles 98/5
Banksia scrub cover photo: K. Dainton / Nature From
Book cover photo: Christine McNamara

Botany Bay National Park (North)

EASTERN SUBURBS Banksia Scrub



A rare remnant of the Eastern Suburbs Banksia Scrub is today protected within the northern section of Botany Bay National Park. A special boardwalk through the scrub allows you to explore its rich and diverse plantlife.

The Eastern Suburbs Banksia Scrub ...

is a distinct ecological plant community consisting of over 100 different species. It is found growing on 100,000 year old sand deposits in Sydney's Eastern Suburbs and the northern and western shores of Botany Bay.

Originally the banksia scrub covered an area of 7,000 hectares from Port Jackson to Botany Bay. The natural bushland gave way to Sydney's ever expanding urban sprawl and now only 40 hectares – or less than 1% of the original cover – remain.

The remaining 40 hectares is fractured in 30 remnants, some less than 1 hectare in size. Most of these remnants are in a state of decline because they are degraded and affected by weed invasion and urban runoff.


The Jennifer Street Additions ...

to Botany Bay National Park contain the largest, least disturbed and most diverse remnant of Eastern Suburbs Banksia Scrub. Since the gazetting of this area in 1996, bush regeneration and rehabilitation works have been undertaken.

The main aim of the work is to restore and regenerate disturbed areas, thereby maintaining the long-term integrity, diversity and viability of the plant communities. As part of this work the maze of walking tracks criss crossing the site has been rationalised through the construction of a low boardwalk which prevents erosion and does not impede drainage.

EASTERN SUBURBS Banksia Scrub

Location: Jennifer St Walking Track



Jennifer St Walking Track: Bushland areas here include a rare and endangered ecological community known as the Eastern Suburbs Banksia Scrub. This community is protected under the Threatened Species Conservation Act.

For the last 5 years I've coordinated a group 'Friends KBB National Park La Perouse' with a few people regularly posting flora and fauna. Not once has interest been expressed by Parks management let alone making contributions as to what is happening or suggestions for collaboration such as walks and bioblitzes. Signs abound on what is not allowed but there is nothing about protection of species, other than signs from over 20 years ago.

If every National Park working with their local Councils supported participation such as iNaturalist and encouraged 'Friends' I think it could make a significant contribution to education on threatened species and ecosystem protection. I know there are better examples of Parks cooperation (and worse) however there should be a minimum standard consistent at least with NPWS policy on Neighbourhood Relations and legislative responsibilities under the Act. The first draft of the Kamay Botany Bay Plan of Management which was ratified in 2019 didn't even contain the word BIODIVERSITY. That's an indication of drift/slide away from the intent of 1979 Act where there is now more emphasis on appeasing humans than focussing on protection of flora and fauna.

I have dealt primarily with the intent to 'AVOID' and also for key agencies to ADVOCATE EDUCATE AND COLLABORATE. As to Offsets and landholders I attended an early briefing held at Mount Annan, run by Paul Elton. I talked to a couple who wanted to be participate for conservation reasons. They only anticipated minor compensation. At that session I suggested to Paul that he was potentially signing up some serious citizen scientists who would take pride in a stewardship role. I understood from our conversation he agreed. Once the scheme began operating, I gather from speaking to a few people that it was too 'complicated', and not worth the trouble for small holders. I also heard similar at an online forum last year when a member representing a large public sector landholder said it generally didn't work for the 'little guy'.

Finally, could you focus on best practice science supporting truth, whole and nothing but.

I am mindful of getting this submission in within the next 30 minutes before the cut-off, so if something isn't clear, or needs correction please do not hesitate to contact me at