

**Submission  
No 53**

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

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For well over a century successive Australian Governments have pledged to protect Australia's unique biodiversity with accompanying fanfare and media statements. For well over a century each has failed to make any real difference against the powerful drive of capitalistic organisations. An example, in the early 1900s, despite being declared a protected species across all three eastern states koalas were continued to be harvested for the fur trade (including, ironically cuddly koala toys) at staggering numbers e.g. 57,933 individual skins exported from Sydney in one year alone (Danielle Clode: Koala – A Life in Trees). The industry only stopped operating when the then president of the Wildlife Preservation Society, David Stead, appealed directly to US President Hoover to ban the importation of koala skins.

It is sadly not surprising therefore that the Biodiversity Offset Scheme has also failed dismally with the Audit Office of NSW commenting that it lacked transparency, seemingly basic level planning, organisation and, of course, efficacy (Effectiveness of the Biodiversity Offset Scheme – 30 August 2022). It is perhaps particularly noteworthy that under the current Biodiversity Offset Scheme some 100,000 hectares of habitat have been destroyed each year since the introduction of the scheme that supposedly averted loss. These lost habitats will need decades if not hundreds of years to be regained if ever, with the complex interconnected ecosystems an almost certain loss.

The double-dipping of using existed protected lands as biodiversity offsets has been a particular exercise in cynicism and still continues today. A current example is the North Tuncurry Urban Release, home to a number of threatened species, including the Tuncurry Midge Orchid whose generation is not well understood, by the NSW government owned Landcorp. In this instance, some of the "biodiversity off-sets" are lands already protected because of their aquifer source, the Minimbah Sandpits.

The Henry Review was rightfully damning that rather than achieving its stated objectives the Biodiversity Offset Scheme has enabled major biodiversity losses to occur with the promise of some distant vague gain. The report recommended 58 specific strategies to negate ongoing and rapidly accelerating biodiversity loss of which the Minns Government has committed to implementing 49 partially or in full with commentary from Minister Penny Sharpe that " We cannot ignore the truth: biodiversity in NSW is in crisis" and a commitment that "Our goal must be to leave nature better off than we have found it." (NSW Government Statement 17 July 2024).

However, it seems that the core, urgent and most fundamental messages of the Henry review will not be recognised or enacted upon, that is the need for primacy of nature laws to ensure that protection of nature overrides other legislation, and that highly important and vulnerable ecosystems are protected as 'no-go zones'.

Of note is the clear evidence that habitat destruction is the core driver of biodiversity loss and species extinction (State of the Environment 2021). In the past year, under the Minns Government, another 95,000 hectares of habitat has been lost to unfettered clearing. Even as I write this, habitat destruction under the State-owned NSW Forestry Corporation is continuing in the so-called NSW Great Koala Park during koala breeding season and despite the anguished protest of many individuals and organisations, including local councils, and the scientific appraisals, that have begged the Minns Government, and Minister Sharpe, to cease the destruction.

So called 'Zombie DAs' are another source of massive clearing of increasingly threatened ecologies found nowhere else, with primacy given to protect property rights of developers over nature conservation.

An additional issue is of course, the monetary value which will be placed on 'nature positive programmes'. For example, under current funding Local Land Services must budget insufficient funds in the critically important pest species eradication. One example, an effective two year feral deer eradication programme in the Midcoast Local Government Area will not be continued past October of this year because of insufficient funds and the need to focus limited finances on alternative pest management. Feral deer are now a recognised threat to habitat and biodiversity and the cessation of this funding will allow numbers to again explode with consequent destruction of important habitat for koala and other species.

The NSW Biodiversity Conservation Trust Conservation Partners Scheme likewise seems to be budget poor with few staff and long waiting periods for landowners who are interested in biodiversity conservation to the extent that some potential conservation partnership opportunities are lost or abandoned.

As pointed out in the Henry Review there is a need for urgency of action to prevent escalating biodiversity loss. Urgency is not defined as in a year or two years' time when habitat destruction and fragmentation will be even more severe than currently and with the looming threat of bushfires, other severe weather events and viruses able to cross species barriers. There is a real danger that by the time the proposed tangible reform set for beyond 2025 is implemented there may be very little left to save.

As an individual person long concerned with the loss of Australia's environmental inheritance I wish to urge the following:

1. If there is any hope of 'Nature Positive' the Government must act with the critical immediacy that is clearly required, including stopping current rates of habitat destruction and fragmentation including the incremental and accumulative impact, and bring the NSW Conservation Act into alignment with national and international biodiversity conservation programmes;
2. Reconsider the failure to give conservation the statutory primacy over land management legislation as strongly recommended in the Henry Review. Historically and tragically if capitalistic profit and the preservation of the environment are in conflict, the environment will almost always lose if not assertively protected;
3. Identify areas of high ecological concern and, as recommended, provide strong legislative protection that will make its destruction or fragmentation a goal too hard to reach;
4. Eliminate as part of the Biodiversity Offset Scheme future regeneration or offsets that with weak time frames, vague goals and inadequate measurement tools, are essentially 'green-washing' contributions to species loss and extinction escalation;
5. Ensure transparency, integrity and accountability of the programme with specifically defined goals, specific performance measures, strategies to capture conflicts of interest, time specific progress evaluations and public reporting;
6. Provide stronger incentives for land-owners to engage in the scheme, for example tax credits, and greater publicity around the benefits to do so to provide a stronger 'credit' supply;
7. Provide adequate funding for Nature protection schemes in terms of appropriate level of staffing for the Biodiversity Conservation Trust, and pest species eradication programmes;
8. Amend the Biodiversity Offsets Scheme to include all of the recommendations of the Henry Review and enshrine best scientific practice principles for biodiversity offsetting and conservation;

9. Rename the Scheme as suggested – a possible title that would more truly reflect the stated aspirations could be ‘The Biodiversity Enhancement Scheme’;

Yours sincerely,

Kym Kilpatrick (Ph.D).

References:

Audit Office of NSW, 30 August 202, Effectiveness of the Biodiversity Offset Scheme.

Clode, Danielle, 2022, Koala: A Life in Trees, published by Black Inc, Vic.

NSW Government Statement 17 July 2024