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Dear Sir/Madam,

Re: Submission on NSW Biodiversity Offsets Fund for Major Projects

Thank you for the opportunity to provide comment on the NSW Biodiversity Offsets Fund for Major Projects initiative.

The NSW FPA has significant concerns about the efficacy of the Biodiversity Offsets Scheme. The introduction of an Offsets Fund for Major Projects has the potential to address some of the shortcomings of the Scheme and for this reason we give it our support.

The attached submission is divided into two parts. The first section offers some general comments and recommendations concerning the Offsets Fund's governance framework. The second section has specific responses to questions contained within the Discussion Paper.

Yours sincerely,

Maree McCaskill
General Manager
9 May 2014

General comments on the NSW Biodiversity Offsets Fund governance framework

The NSW FPA supports the creation of a NSW Offsets Fund for major projects that impact on native vegetation. It is recommended that the fund be officially retitled the *NSW Native Vegetation Offsets Fund for Major Projects*. This title is more neutral and recognises that native vegetation has multiple values which extend beyond just biodiversity.

Prior to the introduction of an Offsets Fund the NSW FPA would like to see a high level review of the policy and principles that will underpin it. It is understood that a broad scale review of the Biobanking Scheme occurred in 2012 however this did not specifically consider governance issues relating to a centralised Offsets Fund.

Under the current Biobanking Scheme there is little recognition of the fact that all native vegetation in NSW is now protected by law. If it is accepted that people generally comply with the law then it must also be accepted that native vegetation is no longer at risk of being intentionally destroyed or degraded.

The key threats to native vegetation (excluding landuse change arising from major projects) include introduced pests, weeds and diseases, altered fire regimes and the cumulative impacts of unsustainable human use activity. These threats are actively impacting on biodiversity (and other values) on all tenures. As they all operate at a landscape scale, they are unable to be effectively mitigated using the biobanking approach.

The Biobanking Scheme's governance model is fundamentally at odds with integrated landscape management as a consequence of its small scale and tenure based focus. The Biobanking Scheme is also highly inefficient as it allocates very large sums of tax payer money to the administration and management of very small patches of native vegetation.

For example, OEH claims that it has permanently protected a 20 hectare patch of Cumberland Woodland (+5.6 hectares of Sydney Coastal River Forest) at the Mater Dei property at Cobbitty by purchasing all of the biobanking credits. The net present cost of managing this vegetation in perpetuity has been reported at $1,589,592[1] which equates to $63,584 per hectare. This amount is 57 times higher than the net present cost of managing NSW National Parks and Reserves (=$1,105 per hectare based on $53 per hectare per year[2] for 100 years @ 5% real DR). It should be noted that this is not an isolated example with the bulk of all offsets being very small scale and very high cost.

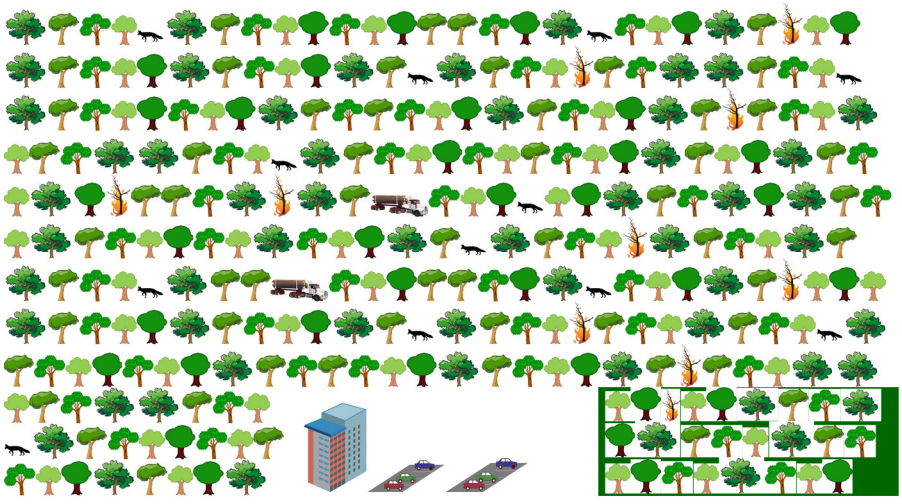
[1] OEH (2012) Growth Centres Biodiversity Offset Program. Annual Report 2011-12
[2] DPC ANNUAL REPORT 2012—2013 -STATEMENT OF COMPREHENSIVE INCOME - Service Group 11- p 64

It is recognised that the need to clear patches of native vegetation for development is an inevitable side effect of an expanding population. The illustration at Figure 1 shows what is currently happening in practice. Under the current Biobanking Scheme clearing of the native vegetation for development is permitted which gives rise to a loss in biodiversity value. The adjoining native vegetation which is already protected by law is permitted to be selected as the 'biodiversity offset' or biobanking site (coloured 'dark green'). Additional funding is then provided to more proactively manage the pests, weeds, diseases and fire threats that occur within the bounds of the identified biobanking site. The approach proves both ineffective and inefficient as the key threating processes continue to impact on the biobanking site and the cost of their control is prohibitive.

Figure 1 - Schematic example of how the Biobanking Scheme is applied to native vegetation

a) Native vegetation requiring active landscape management of invasive species, fire and human disturbance activities

b) Reduced area of native vegetation with additional funding for managing threats allocated to a small patch of native vegetation identified as a biodiversity offset (green background).



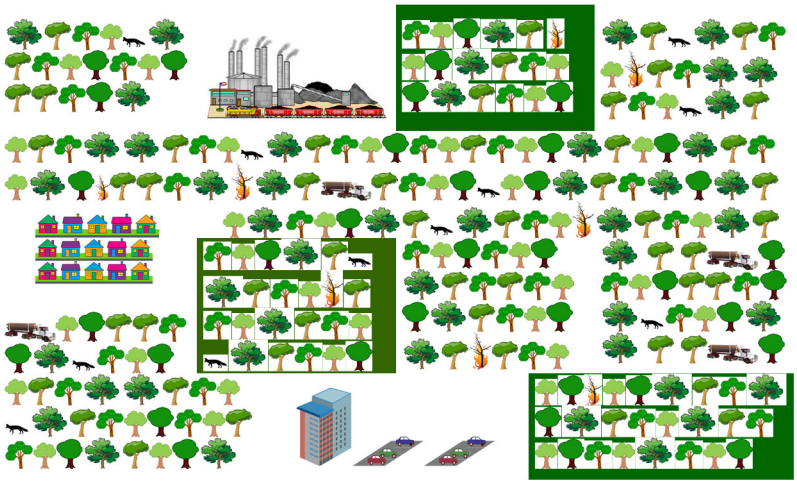
The cumulative effect of the Biobanking Scheme over a longer time frame is illustrated in Figure 2. Comparison of the extent of native vegetation before and after highlights the impacts. Under this governance model there are no winners:

- The total area of native vegetation is reduced;
- An imbalance occurs from the inequitable distribution of public funds for the management of key threats;
- Forest economic and social interests are eroded with less area remaining for sustainable timber harvesting (and other forest uses) and less flexibility to spread forest users in time and space;
- The developer and government having both paid a premium for the 'offset' are derided for achieving a poor environmental landscape outcome.

Figure 2 – Schematic example of cumulative impacts of the Biobanking Scheme

a) Native vegetation requiring active landscape management of invasive species, fire and human disturbance activities

b) Native vegetation showing areas which have been cleared to cater for commercial development, residential development and an open cut coal mine, and corresponding patches of native vegetation (green background) that have been reclassified as biodiversity offsets and afforded special management funding.



Under the proposed centralised funding model (Offset Fund) there is an opportunity to avoid the permanent loss of native vegetation values if funds are redirected toward the establishment of new native vegetation on land that is already cleared or partially cleared. Under this model there would be sufficient funds (refer Box 1) to undertake afforestation on a large scale. Figure 3 illustrates the advantage of this approach over the existing model (shown in Figure 2).

Figure 3 – Preferred schematic model for the Biobanking Scheme

a) Native vegetation requiring active management of invasive species, fire and human disturbance activities at the landscape scale

a) Native vegetation showing where patches have been cleared to cater for development and large corresponding tracts of newly established native vegetation that will (over time) act as an effective offset. Funding for managing threats to native vegetation is spread equitably across the landscape.

Recommendations

1. That the NSW Biodiversity Offsets Fund for Major Projects be officially retitled the *NSW Native Vegetation Offsets Fund for Major Projects.*

To help mitigate the decline of biodiversity and other native vegetation values and to reduce inefficiencies and administrative waste the Offsets Fund should:

2. Aim to assist landowners, including farmers, to establish offset sites on cleared and semi-cleared portions of their land that can result in an additional income stream.

3. Where native vegetation proposed for clearing is being utilised as working forest, assign some of the Offset funds to establish new forests on cleared land for future timber production (i.e. native multiple use or plantation forest).

4. Introduce greater accountability and value for money tests through benchmarking and cost benefit assessment:
    a. Give preference to large scale programs that have a low unit cost
    b. Avoid small scale high cost programs where practicable
    c. Direct investment toward native vegetation types that are most at risk.

Specific responses to Discussion Paper questions

Broad structure and functions of the fund

Question 1: What broad functions need to be considered in structuring the fund?

It would be appropriate to have a neutral entity to administer the money that goes into and out of the fund and to invest unspent funds. This entity need not have any environmental expertise. This role would logically fall to a trusted financial entity that could be either privately or publicly owned.

A separate independent entity will be needed to determine policy and investment priorities. This role would logically be undertaken by the Natural Resources Commission (NRC) with assistance from OEH and DPI. Note the creation of a separate entity that would operate independently of the NRC would be inefficient and at odds with the principle of integrated landscape management.

The role of program delivery and working with landowners to set up offset sites would logically be undertaken by Local Land Services (LLS).

a. Functions of the fund manager

Question 2: What benefits are associated with the fund manager being either a public or private entity?

The benefit of a public entity would be that they would be not for profit so all proceeds could be returned to the fund. On the flip side a public entity will likely be

more risk adverse and less administratively efficient. Unlike a private entity, if a public entity doesn't perform it is difficult to replace.

Private entities are likely to more specialised and efficient and, on balance, deliver better value for money.

b. Functions of the program manager

Option for locating offsets: Expression of interest program

Question 3: Are there any other key functions that need to be performed by the fund manager?

No, the fund manager should stick to what they specialise in – funds management.

Question 4: Are there other key functions that need to be performed by the program manager?

It is really important that the program manager has a delivery role that integrates the proposed offset program with other natural resource management initiatives. For too long there has been a lack of coordination and integration in the delivery of natural resource management initiatives with different government agencies all competing and pursuing their own agendas. The government has created LLS to provide a one stop shop for landholders. It would be a step backwards to create a new and separate entity that competes with LLS.

Question 5: Do you have other suggestions for how the program manager could source offsets?

The proposal to run an 'expression of interest' program advertising the type of offsets that are required in a given geographic area is considered sound as a 'first approach'. Where the response is positive the proposal that the program manager works with landowners who express interest is also supported.

It may be assumed however that the EOI process will not always identify appropriate land to function as an offset. In this event the program managers should be permitted to engage in direct negotiations with landowners in accord with strict policy guidelines.

Determining the amount to be paid into the fund

Question 6: What are the key considerations for developing a fund calculator that is transparent and fair?

What is the true cost of clearing native vegetation for a major development? One way to answer this question is to look at the cost of recreating or replicating what is being lost. A fair estimate of the worth of native vegetation may be arrived by using a financial model to cost both time and money (refer Box 1).

Box 1 - Estimating the value of existing native vegetation

Recreating a patch of native vegetation involves the following cost components:

1. Securing land
2. Legal transaction costs
3. Establishment costs (site preparation, pest and weed control, plants, planting, survival assessment and replanting)
4. Management Costs

To recreate a coastal native forest the following cost profile may be assumed:

1. Land & transaction costs = $3,500/ha
2. Establishment Costs = $4,500/ha
3. Recurring management costs = $53/ha/yr*

The next step involves estimating the net present value of future management cost. As the arrangement is considered permanent then a 100 year time frame may be considered an appropriate surrogate. At $53 per hectare per year this translates to a net present value of $1,105 per hectare (using a real discount rate of 5.0%).

Summarising the above, there is an upfront investment of $8,000 per hectare and a management cost of $1,105 per hectare equating to a total investment of $9,105 per hectare.

The next step is to estimate the age at which the investment will produce comparable values to the native vegetation that it is proposed to replicate. This is a complex question to answer as there are many values to consider. Some values will be generated within say five years while others may take up to 150 years to arise (e.g. animal habitat in the form of tree hollows). For the purpose of the exercise a period of 50 years has been assumed as the time reasonably required to recreate the equivalent environmental value of a mixed aged regrowth forest.

Lastly, assuming that the project is a sound one the public should expect a financial return on their investment. Applying a 5.0% real rate of return to the 50 year waiting period creates an investment worth $104,410 in year 50.

*Current cost of managing NSW National Parks and Reserves – Source: DPC ANNUAL REPORT 2012—2013

Based on the workings in Box 1 a value of $104,410 per hectare was arrived at for an existing mixed aged regrowth forest. If this is compared with the actual cost of establishing the offset replacement, estimated at $9,105 per hectare, we get an offset ratio of 11.5 to 1. Note if the native vegetation to be cleared was 'old growth' forest the time cost to recreate it would obviously be a lot higher and this would justify a much higher offset ratio.

The need for transparency and good governance

Question 7: What are the key considerations for good governance of the fund manager?

Refer answer to question 1.

Question 8: What are the key considerations for good governance of the program manager?

Refer answers to question 4 and 5.