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# Biodiversity offsets in NSW - an opportunity for nature positive?

EIANZ national biodiversity offsets  
conference 3.0

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# An opportunity for nature positive?

- Biodiversity offsets, by definition, are the product of harm to nature
  - they are intended to compensate for biodiversity impacts from development
- So how can they provide an opportunity for nature positive?
- Two features of a good offsets scheme –
  - it provides for real biodiversity gains
  - it can be used
    - by developers to compensate for impacts
    - by others to benefit biodiversity without impacts
- Look at the NSW Biodiversity Offset Scheme (BOS) as a case study
  - *Biodiversity Conservation Act 2016 (NSW)*

# Biodiversity offset schemes

- An essential feature of the legal landscape for addressing biodiversity decline
- Not a justification or an excuse for biodiversity impacts
- Not a substitute for the "avoid, minimise, offset" hierarchy
- Simply a recognition that, in some cases, nature-related impacts are unavoidable

# NSW Biodiversity Offset Scheme (BOS)

- Highly sophisticated – with a lot of potential
- Market-based offset scheme, centred on biodiversity credits
  - land owners create biodiversity credits via Ministerial agreement (BSA)
  - developers with biodiversity impacts must calculate compensatory credit obligations
  - credit types are specific to species and ecosystems, and can be freely traded
  - no. and type of credits created by a land owner / required to offset a developer's impacts are calculated using the Biodiversity Assessment Methodology (BAM)
  - developers must offset impacts with credits on a "like for like" basis (with some exceptions), by "retiring" credits
  - but they can pay a sum of money to the Biodiversity Conservation Fund (BCF) instead
  - (indirect offsets also available, but rarely a substitute for credits or payment)

# Potential advantages of the BOS

- Provides for efficient allocation of resources
  - developers pay for offsets
  - task for generating the offsets on someone who is better placed to do so
- Provides financial incentives for landowners to conserve and enhance biodiversity on their land
- Provides a mechanism for consistently and reliably measuring biodiversity loss and gain
  - essential ingredient of any sensible plan to improve biodiversity outcomes
- Biodiversity credit schemes are a powerful mechanism for driving nature positive outcomes, if they're done well

# Reviews of the BOS

- Audit Office of NSW report on the Effectiveness of the BOS (August 2022);
- NSW Legislative Council report on its inquiry into the Integrity of the BOS (November 2022);
- IPART's report on its annual monitoring of the Biodiversity Market which the BOS creates (December 2023)
- Independent five-year review of the Biodiversity Conservation Act 2016 (**Henry Review**) (August 2023)
  - ***NSW Government response (July 2024)***
- NSW Government reviews of the BAM (part of continuous improvement)

# Some key themes of the Henry review

(1 of 2)

| <b>Henry review recommendation</b>   | <b>NSW Government response</b>  |
|--|---|
| Pivot to nature positive<br>(move from "no net loss" to "net gain")                          | "amend the BC Act to require the scheme to transition to overall 'net positive' outcomes" |
| increase the quantum of offsets from 100% compensation for development impacts to, say, 120% | Support in principle  |
| Statutory mandate for nature positive strategy<br>(incl. monitor, report, review and update) | Support   |
| Stronger application of "avoid, minimise, offset"  | Support   |
| Payment into BCF only if demonstrated genuine attempts to find suitable credits              | Support in principle  |

# Some key themes of the Henry review

(2 of 2)

## Henry review recommendation

Variety of measures to bolster credit supply, incl. bespoke offsets agreements for major projects  
(like development contributions agreement?)

## NSW Government response

Support in principle for major project agreements  
Various responses for other measures

*(Editorial – suggest these be recognised in BAM review, so that offset value of specific offset projects can be reliably determined)*

# Using the BOS now for nature positive outcomes

- Near universal acknowledgement right now that broadscale nature positive outcomes will only be achieved with significant private sector investment
- Drivers for private sector investment include
  - growing desire to enhance corporate reputation (and avoid greenwashing)
  - growing awareness of the economic implications of nature decline
- Investors will be attracted to nature-based projects which sit within a scheme with high integrity → investors and wider community can have confidence in the returns
- BOS is a biodiversity credit scheme designed to provide a measurable and verifiable mechanism for investment in biodiversity conservation / enhancement
- BC Act - credits can be traded by anyone, not just landowners and developers
- BOS could be used for investment incentives as well as offset compliance



Questions?

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