

SYDNEY COASTAL COUNCILS GROUP Inc.
PO Box 999, Manly NSW 1655
Email: info@sydneycoastalcouncils.com.au
Web: www.sydneycoastalcouncils.com.au
ABN: 39 638 876 538



Reference: 015-23 JM

Monitoring the NSW Biodiversity Credits Markets
IPART
By email: ipart@ipart.nsw.gov.au

Thursday, 3 August 2023

Re: Submission on IPART's Issues Paper on Monitoring the Biodiversity Credits Market in NSW.

To whom it may concern,

Thank you for the opportunity to make a submission on IPART's Issues Paper on Monitoring the Biodiversity Credits Market in NSW.

The Sydney Coastal Councils Group (SCCG) is a regional organisation of councils, established in 1989 to promote collaboration among member councils on environmental issues relating to the sustainable management of the urban coastal and estuarine environment. The group comprises nine councils in the Sydney region which together represents nearly 1.3 million residents. The [SCCG's 2019-2029 Strategic Plan](#) includes six goals, the following of which are highly relevant to the review of the Act.

1. People and places adapt to a changing climate and future shocks and stressors.
2. Waterways and the foreshore are protected and healthier.
3. There is a collaborative, effective and consistent approach to coastal and estuarine management.

Purpose of the Issues Paper

The Biodiversity Credits Market has been developed to support the Biodiversity Offsets Scheme which provides a framework to avoid, minimise and offset the impacts of development and native vegetation clearing on biodiversity. The Biodiversity Credits Market brings together landholders who want to clear vegetation on their land with those who want to protect biodiversity. IPART has been tasked with monitoring the performance of the Biodiversity Credits Market over a three year period and has prepared an issues paper as the first step in this process.

The approach to the review is to:

- Define what the current Biodiversity Credits Market would look like if it was functioning as intended and what outcomes it would deliver.
- Develop robust and repeatable measures to track the market's performance and ability to deliver its intended outcomes each year compared to a well-functioning market.
- Identify market improvements to deliver biodiversity outcomes that have not been recommended through other means, or have arisen as an unintended result of other actions.
- Based on findings, provide quality advice to Government on strategies to address market failures, improve market efficiency and support fair trading.



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a sense of community



The SCCG has reviewed the issues paper and prepared this submission, in consultation with its member councils. Our comments below are provided in response to the questions posed in the Issues Paper, where relevant to the SCCG. Our organisation does not have any direct experience in the purchase or selling of credits and has not responded to these questions.

Delivering biodiversity outcomes

1. What contribution should the biodiversity credits market make to achieving the Biodiversity Offsets Scheme's purpose?

The SCCG supports the view that a well functioning market is one that enables transactions at a price that signals the true cost of biodiversity. This means aligning with the aim of the Biodiversity Offsets Scheme of no net loss of biodiversity from development. There should be no confusion applying the concept of offsets to the true cost of biodiversity, including like-for-like offsetting. It is concerning that the like-for-like criterion is not being fully applied and as such, the true cost of biodiversity is not being compensated. Therefore, biodiversity credits should only be issued for like-for-like or else be unavailable through the Biodiversity Credits Market.

Audit findings show an alarming lack of availability of like-for-like offsets with only 9% of ecosystem credits and 4% of species credits being matched.

2. Do the outcomes in Table 3.1 accurately depict a well-functioning biodiversity credits market? What other factors should we consider?

The outcomes listed seem comprehensive. However, they may be difficult to achieve in practice. For example, the outcome: 'Dis/aggregation of credit types provide sufficient balance between ecological integrity and market simplicity' is challenging, if not impossible to achieve due to the complexity of ecological systems and intrinsic biodiversity values.

The Department of Planning and Environment's long-term strategic plan for the Scheme, with clear performance indicators that provide an objective measure of success in delivering biodiversity outcomes which is under development is an important initiative needed to provide clear guidance to inform the monitoring process for the Biodiversity Credits Market.

The SCCG agrees with statement that the credits market may not be the right mechanism to solve all biodiversity problems, particularly in relation to areas of very high conservation value, where biodiversity credits are scarce.

Addressing market failures

3. What are the main challenges facing the credits market? What evidence is there that might suggest the market is not working as effectively as it should be?

There is an inherent assumption that payments into the Biodiversity Conservation Fund can be appropriately allocated to a Biodiversity Stewardship Agreement and translate to intended biodiversity outcomes and like-for like offsets. However, this may not eventuate. The purpose and operation of the Biodiversity Conservation Fund should be reviewed in this light. As stated in the Issues Paper: "Reliance on paying into the Biodiversity Conservation Fund may also mask the price signals to credit buyers resulting from scarcity."

Obtaining realistic cost estimates for biodiversity conservation obligations is challenging. The assumption that ultimately loss of species can have a high price signal is fundamentally flawed, attributing an economic concept to biodiversity which cannot be valued in economic terms.

Measuring performance

7. What other information should we collect that would tell us how the market is performing?



The SCCG supports the proposal for annual reporting. It is not clear how the relationship between supply of credits and demand for credits is being managed and how this relates to biodiversity outcomes. It is also unclear how the true cost of biodiversity is determined and measured. There needs to be more transparency and accountability for these issues.

We agree there needs to be a way to measure whether sufficient credits of appropriate types are being matched to demand and to enable efficient like-for-like offsetting.

We also note that the indicators of an effective market as shown are purely economic and should not be the sole set of indicators being ascribed to intrinsic biodiversity values.

Recommendations

Our comments should be considered in the light of the SCCG's comments made for the review of the Biodiversity Conservation Act. Relevant recommendations for the Biodiversity Credits Market and Biodiversity Offsets Scheme are included in the following table.

In our opinion, the Biodiversity Offsets Scheme and the Biodiversity Credits Market, being the tools with which to achieve the intended outcomes of biodiversity conservation are not achieving no net loss of biodiversity.

It is disappointing to hear that around 86% of ecosystem offset trading groups and 97% of species credits have never been traded and deeply concerning that just 9% of ecosystem credits and 4% of species credits demanded have been matched with existing supply on a like-for-like basis.

The Act and its tools need to do more to halt biodiversity decline and enable improved biodiversity and ecological outcomes. This could be achieved through better definition of restoration outcomes expected, more stringent controls on the application of like-for-like principles to drive biodiversity conservation outcomes, greater transparency on the success of offsetting measures, and stronger compliance and enforcement.

The suite of biodiversity conservation measures need to be considered in their entirety and we stress the importance of holistic consideration of the various reviews, including the Biodiversity Conservation Act, the Local Land Services Act, Biodiversity Assessment Method, NSW Nature Positive Advisory Panel and the Federal Govt's Nature Repair Bill.

I trust that our comments will be helpful in consideration of the review.

If you have any queries, please contact me on 0407 733 075 or by email at executiveofficer@sydneycoastalcouncils.com.au

Yours sincerely,



Sarah Penny Joyce
Executive Officer



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Issues	Recommendations
<i>Conserving threatened species and ecological communities</i>	
<ul style="list-style-type: none"> • Focus on biodiversity values of state importance with no recognition of locally important biodiversity which councils need to address. • Inadequate assessment of cumulative impacts on threatened species (TS) etc. • Lack of the necessary ecological limits to prevent further extinctions e.g. there are no triggers in the Act to ban or restrict clearing of critically endangered ecological communities (CEECs). • Need for stronger legislative effect to the Saving our Species (SoS) program and stronger requirements and commitment to take action on Key Threatening Processes. 	<ul style="list-style-type: none"> • Section 1.3(a) of Act should be amended to make succinct its purpose "to conserve biodiversity at local, bioregional and State scales". • BOS assessment methodologies should take into account the cumulative impacts on biodiversity of multiple developments, as well as clearing permitted under other legislation. • The feasibility of providing a publicly accessible map of biodiversity offset sites should be explored. • Threatened species and ecological communities should be given greater protections during land use planning processes. • Any clearing or impact on critically endangered species or communities should automatically count as a SAll and be prohibited. • The Act should explicitly support restoration of ecosystems and connectivity of the landscape.
<i>Biodiversity offsets scheme</i>	
<ul style="list-style-type: none"> • Inadequate offset scheme fundamentals when net loss is occurring, including for EECs. • This is contributed from insufficient focus on 'avoid and minimise', allowing 'offsetting', including non 'like for like' offsets rather than same species/communities. • Reporting on Act objectives for 'no net loss' from this scheme does not provide transparency on actual loss. • Poor understanding of the Scheme by proponents and wider community resulting in breaches. • No thresholds in legislation for SAll i.e. when impact is 'serious and irreversible' for TECs, EECs and CEECs. • Some councils don't have the expertise to review BDARs or the resources to train internal staff. 	<ul style="list-style-type: none"> • Thresholds should be set in legislation for SAll i.e. when impact is 'serious and irreversible' for TECs, EECs and CEECs. • Fines should be increased to provide a greater deterrent from non-compliance. • Higher penalties should be introduced for land clearing where it is on the BV map. • The onus of demonstrating that clearing has or hasn't impacted TECs should rest with the landowner, not the enforcer. • Consideration should be given to the feasibility of creating an independent body to provide certification that conditions are met and offsets established appropriately. • Incentives to increase uptake of biocertification should be explored e.g. subsidies to assist with costs of processes. • Training provided and expertise required of councils should be thoroughly reviewed.