

## MONITORING THE BIODIVERSITY CREDITS MARKET IN NSW IPART ISSUES PAPER JULY 2023

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We are pleased to present our submission on this very important issue for your consideration. The biodiversity credits market was a mechanism established within the Biodiversity Conservation Act 2016. The purpose of the Act was to establish a mechanism whereby the impact upon land occasioned by development could be offset by the permanent protection of similar land via a credit being purchased that offset the assessed loss of habitat.

Our company Combined Development Group Pty Ltd has been operating in the Riverina and Northern Tablelands since 2005. We develop residential subdivisions within major regional cities including Tamworth, Albury and Wagga Wagga.

When the Biodiversity Conservation Act was enacted, we noticed that zoned development land in these towns when subjected to the requirements of obtaining offsets or credits required to undertake the development, be it residential, employment or infrastructure that the feasibilities were no longer viable and the land was being left undeveloped.

Such has been the impact that many developments were being assessed at many multiples of the actual land purchase value. Table 1 attached to this submission provides evidence of the quantum of the offset cost and the broad reach of impact that this offset was having on all manner of development within the western region of NSW.

We could not understand how this simple well meaning initiative was now actually stopping development completely.

As the Chair of the Housing Industry Association NSW Planning and Environment Committee I commenced reviewing the whole process and made contact with a range of interested parties including local government, environmental scientists, surveyors and industry associations.

We established a committee that has been actively working with the Department of Planning to understand how we have arrived at this point and whether change can be effected to recalibrate the Act to ensure that the social and community needs of regional cities and towns can be met.

Fortunately, there is currently a review of the Act taking place under the chair of Dr Ken Henry.

Our group presented its findings and recommendations to Dr Henry and his panel. We remain optimistic that they will be given due consideration and provide some positive alternatives to the current arrangements under the very expensive offsets formula. A copy of our meeting notes to the Henry panel review are attached for your reference.

In brief summary, we defined the problem with the market as it is applied in the western region of NSW as being:

1. The assessment of offset credits required to be purchased is grossly inflated, due to unclear guidelines in the BDAR process.
2. The Inland Rail and the Transgrid powerlines are purchasing all generated credits prior to them being available in the market. Thus, there is no market for the smaller developer.
3. Small developers ONLY option is to approach the Biodiversity Conservation Trust who are noted in the process to be in fact the last option.
4. The cost of credits from the BCT are many multiples of the expected market cost due to risk premium being applied. We have evidence that credits with an anticipated cost to the developer of \$600 per ha, are sold by the BCT for \$7,500 per ha.
5. These factors when combined are simply rendering development unfeasible.

The monitoring of the Credits Market whilst an important project needs to establish from day 1 if a proper and free market actually exists in all parts of NSW.

Our contention is that there is no free market in the western part of NSW and that as a result projects are being abandoned due to the imposition of a contrived cost offset being the only option available.

We look forward to your work in this space. We encourage you to initially examine the parameters of the system limitations we have outlined to ensure that your time is not wasted monitoring a system that is in fact not functioning.

Yours faithfully,

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Graham Walker

COMBINED DEVELOPMENT GROUP PTY LTD  
DIRECTOR

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**TABLE 1: KNOWN EXAMPLES IN WESTERN NSW**

	Location	Development	Estimated Value of Project	Additional Offset Cost	Status
1	Inland Rail	Greatest driver of investment, growth, and job creation	\$14.5BN	\$1.375BN	Project ongoing, increased cost blowouts
2	Transgrid	Hume Link Transmission Line between Wagga Wagga and South Australia	\$3.3BN	\$1.2BN	Increasing power costs
3	Bourke Shire	60 hectares of 6 and 12-hectare blocks for industrial, commercial, employment development	\$336K	\$3.4M	Project lost
4	Moree Shire	300-student agricultural college		\$3-\$5.5M	Project lost
5	Moree Shire	600 housing block project to capitalise on the new Inland Rail project.	\$90M	\$120M	Project lost
6	Wyangala Dam	Raise the Wyangala Dam wall, 320 kilometres west of Sydney, to drought-proof the area.	\$815M	\$500M	Project still under assessment
7	Parkes Shire	Develop 40 house blocks for housing in the town.	\$8M	\$2M	Project lost
8	North West Council	35 hectare - \$40m construction of large glass houses to grow vegetables.	\$40M	\$6-10M	Project lost
9	Tamworth	46 small lot rural residential estate on the edge of the town.	\$11.5M	\$16.2M	Project lost
10	Armidale	40 lot residential subdivision.	\$5M	\$3M	Project reduced to 10 lots. Lost 30 houses.
11	North West	Large grain receival and storage facility.		\$324k	Paid by NSW Government
12	Gilgandra	Commercial development	\$4M	\$1.4M	Being reviewed to reduce scale
13	Tamworth	96 lot rural residential subdivision	\$30M	\$19M	Project lost
14	Tamworth	24 lot rural residential subdivision	\$5.4M	\$3M	Project lost
15	North of Tamworth	50 lot rural residential subdivision	\$4M	\$6M	Project lost
16	Narromine Shire	Gold found at Tomingley requiring company to build a small part of a new road under the Newell Highway disturbing a minimal 36 hectares.		Reduced from \$20m to \$10m	Project now proceeding
17	Wentworth Shire	New Gypsum quarry involving 61 hectares	\$24M	\$8-9M	Project lost
18	Murrumbidge Shire	Complete the building of the small Coleambally town.		\$24M	Project lost
19	North West NSW	3 lot large rural residential subdivision	\$580k	\$720k	Project lost
20	Moama	Private school on greenfield site		\$550k	Project stalled
21	Riverina	Proposal for new quarry required for road building		N/A	Project not proceeding

22	Tamworth	28 lots subdivision	\$5.6m	\$2.8m	Project lost
23	Riverina	Waste Centre expansion		\$20m being negotiated	Project under assessment

## DISCUSSION POINTS FOR KEN HENRY REVIEW OF BIODIVERSITY CONSERVATION ACT 2016

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### PRESENTED BY:

Craig Davies	Mayor of Narromine
Peter Taylor	Director SMK Consultants
Mitch Hanlon	Director Hanlons Consulting
Cathy Towers	Housing Industry Association Asst Director Planning
Tony Balding	Director Building Supply Company
Graham Walker	Director Combined Development Group

### INTRODUCTION:

- Thank you for the opportunity afforded to us to share our concerns with the panel in the hope that a pathway can be found that will allow a realistic balance to be struck between the protection of the environment and the need to develop and grow regional NSW.
- Our group represents a diverse alliance of Local Government, Environmental and Surveying experts, Developers and Housing Industry Association. Our primary focus is the central western region of NSW comprising:
  - New England Northwest
  - Central West and Orana
  - Riverina Murray
  - Upper Hunter
  - Southern Tablelands

### OUTLINE OF THE PROBLEM:

- The group share a common concern that development of all types – employment, schools, hospitals, agricultural infrastructure, services and especially housing is no longer commercially or financially viable due to the magnitude of the cost impost imposed upon development assessments due to the Biodiversity Conservation Act 2016.

### THE LEGISLATION AND ITS IMPACTS

- Our group is supportive of the principle aim of the of the legislation to protect and offset the physical on ground impacts of development.
- Our collective experience with the application of the Act across the western region is that the cost of the off-setting credits is so high that it commercially prohibits nearly all types of development from proceeding.
- The only projects that occur are the very major state significant infrastructure projects such as Inland Rail and Transgrid.

### SPECIFIC OBSERVATIONS AND COMMENTARY SURROUNDING THE ACT IN WESTERN NSW

- We have held several productive and respectful discussions with Dr Louisa Mamouney the Executive Director of the Credits Supply Taskforce, with the Environment and Heritage Group. These discussions are ongoing and are seeking solutions to the problems that we have encountered. We acknowledge that the following matters are matters upon which we have substantial agreement:
  - There is a lack of supply of affordable credits within the western region for projects other than major infrastructure such as Inland Rail.
  - In some cases, initial BDAR assessments undertaken by Environmental Assessors have been demonstrated to be overly conservative and classifications have led to more credits being required than should otherwise have been expected, leading to inflated costs.

- Due to the scarcity of affordable credits within this region the BC Trust becomes the first and only option for developers to discharge their obligations. The BC Trust cost is considerably higher than if proper free market trade was available. We have seen multiples of ten times not be unusual. Such an inflated cost leads to projects becoming unviable.
  - We have been assured that the Act is not designed to stop or discourage development and that unless development can occur then the environment will have no benefit arising from the Act.
  - We agree that projects such as vital housing, employment, and social infrastructure such as schools in regional NSW are essential and should not be made unviable by the operation of this Act. That has never been an intention and is very concerning.
- The Inland Rail is dominating and rapidly extinguishing credit supply and until such time as their works are completed and the cost of credits fall, developers will be unable to proceed with much needed regional projects for around 7-8 years. The Inland rail is currently focused on the Parkes to Albury corridor. It will not embark upon the most expensive section through the Pilliga forest until around 2028. This would lead to housing and social infrastructure being put on hold causing pressure on housing prices until such time as development once again became viable, around 2030.
  - No consideration is currently given for the generation of credits for offsetting works within a housing development that substantially improves the original condition of the land upon which the development is located for example open space, enhanced creek lines, mass planting and landscaping.
  - The current works with the Transgrid Hume connector poses a major challenge given that the corridor is sited upon prime rural land and a natural “like-for-like” offset is not naturally available meaning there will be a further deficit of credit availability for vital smaller rural development for the foreseeable future.

## RECOMMENDATIONS TO THE REVIEW PANEL

The following recommendations are made to the review panel for consideration as amendments to the current arrangements to relieve pressure being created in western NSW due to scarcity of affordable offset credits.

1. Grandfather all land zonings, as at the implementation of the Act in 2017, as being exempt from assessment under the Act and that only land rezoned from 2017 have the additional taxation burden of the Act imposed upon it. This would protect the ability for development to proceed unhindered in the short term to meet regional growth targets at a time when the supply of credits is simply nonexistent.
2. Consider alternate means of offsetting other than the prescribed assessment via the BC Trust inflated cost structure. Suggestions include:
  - a. Relate the credit cost to the value of the land by implementing a credit cost cap limited to 5% of the englobo value of the land. This would be paid to the BC Trust, in lieu of a calculated BDAR rated assessed cost. Such a cap would ensure that projects were viable, and housing and development remained affordable.
  - b. Establish an assessment within the LEP to identify potential local offsets that could be preserved and enhanced by the collection of an environmental levy established within the LEP and paid for by local development assessment fees.
  - c. Long term, introduce the bio-certification of regional cities as was previously established in Albury and Wagga Wagga and to utilize funds lodged with the BCT to assist local councils to engage specialist consultants to undertake and establish these plans.
3. Further education and monitoring of assessors undertaking BDAR's to ensure that assessments are not conservative to the point of completely stopping development.
4. The Department of Environment and Heritage establish regional offices to service and actively assist developers within the western region to source affordable credits, ensuring a reliable affordable option to the BCT.
5. The Department of Environment and Heritage undertake a council audit within the western region to establish the anticipated credits demand over the short to medium term. The office would then ensure that sufficient credits are in stock to meet that demand. The purchase of stock could be funded by the BC Trust.
6. The Department of Environment and Heritage establish an assessment review panel to examine regional project assessments that are uneconomic to proceed.
7. The National Parks become a long-term source of credit generation for regional development. This would assist in park management or as a beneficiary of funds lodged with the BCT to invest in maintenance and care. This should also be considered as a short-term opportunity whilst credits are unavailable to support regional growth.