

29th June 2002

Executive Director
Economics and Environmental Reporting
Environment Protection Authority
PO Box A290
SYDNEY SOUTH NSW 1232

Dear Sir/Madam

**RE: GREEN OFFSETS for SUSTAINABLE DEVELOPMENT:
Concept Paper**

Thank you for your invitation to comment. I have divided the comments between issues associated with the concept and those relating to the listed Pilot Schemes:

GENERAL CONCEPT

- 1. The Overall Concept – the Meaning.** The Concept appears to be predicated on a notion that all ‘problems’ can be negotiated through to a ‘win-win’ solution. We know that this is not the case. For example, when the Third Runway was built at Sydney Airport there were winners and the losers were the citizens affected by the noise and pollution. No amount of double-glazing could compensate for the loss. This was a clear ‘win-lose’ and there are plenty more examples.
- 2. Motivation to comply.** There is no imperative for an organization to consider the health of the citizens and the environment in which a development is to be sited. The corporate motive is profit-based. Unless the majority of shareholders are members of the affected community there is no genuine accountability. The only reliable mechanisms available to protect the environmental health of any community and its citizens, are legislation and regulation. By suggesting that “Offsets can work better than stricter regulatory controls” (page 4) you could well be devaluing the legislative and regulatory currency.
- 3. Alternative rather than complementary tool.** On page 5 appears the statement “Offsets are not a way for developers to buy their way out of their obligations” but “they do allow developers to achieve the goal of net environmental improvement in a more flexible and cost-effective manner.” But how? We wouldn’t disagree that there is room for developers to work smarter for

the benefit of all, but how can the reduction in development costs and the “sustainable prosperity of NSW” be guaranteed. There is scope under legislation to achieve better environmental outcomes through the conduct of environmental audits and pursuit of transgressors. Many concerned citizens think that the available tools are sorely underutilized. There may be limited resources and perhaps at times a hesitancy to insist on full accountability, however with this ‘easier’ tool the will to invoke the others may well diminish.

4. What is local, and how far is near? One of the biggest challenges in operating a trade-off scheme is to identify the affected and to ensure that the right to a positive environmental outcome for one group/area is not appropriated by another. It is not clear how this would operate.

5. Exchanges. Whilst with an economic framework it may be simple to suggest that one area of ‘bush’ can be replaced by judicious plantings in another area – even resulting in a net gain in surface area! – humans have a very small understanding of any eco-system. Each day we learn more about potentially ‘life-saving wonders’ in ‘nature’ and we have no idea which eco-system will yield the next. Further, who judges which environments (and whose environments) are less worthy and can be offered for sacrifice for another.

6. Consultation. Although this is a concept paper released for public discussion in April 2002, it is obvious that the term “offsets” has already entered the lexicon and that there is a level of comfortable acceptance. Amongst the papers forming the Guidelines for Preparation of the EIS for the Proposed Port Botany expansion, is a letter from Peter Crawford, Commissioner on the Healthy Rivers Commission, to the Director-General of Planning NSW. This letter is dated 20 December, 2001. An attachment to the letter titled “Technical issues for consideration in the preparation of Director’s Requirements for the Port Botany expansion proposal” contains a list of 11 issues. The last of these is:

*“**Identification of trade-offs and offsets** in the event that the proposal is approved. The Commission has identified a number of ecologically important areas around the bay. Such offsets could therefore include, but not be limited to, the following.*

- *Rehabilitation of the degraded areas of the Rockdale wetland corridor, which the Government has decided should be protected.*
- *Enhancement of the flow characteristics of the Botany swamps (Sydney Water has prepared a detailed management plan and could provide advice in this regard.)*
- *Enhancement of the wading bird habitat on the southern shores, including in Woodlands Bay which is habitat to the threatened Taren Point Shorebird Community.*

- *Independent studies of sand movement on the southern shores to inform the best means to protect important habitats on Towra Point and Towra Spit Island.*
- *Independent studies of sand movement at the mouth of the Georges River and the relationship between the Kurnell/Towra sand bodies, those on Taylors Bar and their interrelationships with Lady Robinsons Beach. Dr Peter Cowell has detailed recommendations in his report available from the Commission.”*

It is interesting to examine the above because here is a ‘live’ example of an interpretation of ‘offsetting’. An interpretation which raises several important issues:

Firstly, with reference to the definition of community benefit is it likely that the citizens of Botany and surrounding suburbs - most affected by the present Port operation and the proposed expansion - would be satisfied with the ‘trade-offs’ suggested above? And further is it appropriate that the debate would progress to this level as early as December 2001?

Secondly, both Sydney Ports and Sydney Airport have been given permission to ‘develop’ Botany Bay based on ‘scientific’ study and predictions favourable to development. Some of the predictions were simply wrong. Beaches in Botany Bay have been compromised as a result of these developments. It could well be argued that some of the offsets suggested above should be done as part-compensation and others as part of the EIS for the new proposal.

Thirdly, where is the evidence of full environmental audits being carried out on the major developments before the word “offsets” is mentioned. Have the tools of legislation and regulation been fully employed?

Fourthly, what confidence can there be in a system where it appears that ‘everything’ is up for negotiation. There is no suggestion that the author of the proposed Pt Botany ‘offsets’ favours further development, however, the willingness to ‘compromise’, to offer a list of ‘trade-offs’ sends a message that the objections previously stated are not so serious. Take a hypothetical – just say the proposed development was an extension of the famed ‘toaster’ to the extremity of Bennelong Point. The proposal provided more efficient use of space, incorporated a proper Opera Theatre, promised more jobs and so on. Is it imaginable that anyone opposing such a development would be suggesting a series of offsets?

Fifthly, how are the ‘bad impacts’ to be balanced against the ‘good returns’? How are these to be quantified? What credibility will the assessment/assessor carry? There are already misgivings about the manner in which ‘consultation’ is now carried on.

Finally, how divisive will this new tool be, as those on the receiving end of the bad impacts are pitted against those petitioning for their preferred 'good return'?

OFFSET PILOTS

1. Cleaning a Waterway:

We agree that the pollution problems within the South Creek Catchment are undeniable. Five sewage treatment works and 20 other activities licensed to discharge to waterways, such as dairies, an abattoir, Rouse Hill housing development, swimming pools and golf clubs, is surely all the polluting developments this catchment can sustain. An additional polluting development by Sydney Water - possibly another sewerage farm - could not be justified. It would not be reasonable to expect one developer to take on all the remediation work required here.

If this is a situation where one government agency will pay for another department's past land management failures?

Reducing pollution from diffuse sources is an admirable goal, and getting the polluters to clean up their act and clean up river banks, etc. would be very cost effective for those government agencies currently responsible for the maintenance and protection of the catchment. However, when do you call a halt to licensing or approving further polluting developments? When and who will decide when the saturation point is reached?

2. Protecting Drinking Water:

Our greatest concern regarding this proposed trial is the fact that further development is to be allowed within the Greater Metropolitan drinking water catchment.

The following questions arise:

- Is the proposed development within the drinking water catchment likely to be something similar to the proposed conference/hotel development in North Head National Park, or possibly a feed lot for cattle?
- Would the developer be Sydney Water, the owner of the land, or a private developer?
- Will this trial Pollution Offset Scheme give Sydney Water additional income through leasing the drinking water catchment land to a private developer, who will pollute the catchment, but pay for keeping cattle away from waterways?

3. Reducing Air Pollution:

It is our view that the best thing the NSW Government can do for improving the air quality in the Greater Metropolitan area is to concentrate on improving public transport and to cease increasing the capacity of freeways/motorways.

Where exhaust stacks are in place, filters should be installed.

Actions under way to achieve the Action for Air objectives described, are all important aspects of reducing air pollution.

This Pollution Offset Scheme appears to rely on companies, which hold EPA licenses to pollute, being able to reduce, or not increase, emissions of nitrogen oxide, fine particles and ozone forming chemicals. Can we conclude then, that granting a large number of companies a license to pollute will mean that a greater amount of money can be allocated for remediating nearby sources of pollution?

OTHER OFFSETS

4. **Natural Resource Offsets Initiative:**

The paper presents an example of how native vegetation offsets may work. However, a note of caution is required. The key word 'regenerating' is of great importance. The exchange of well vegetated land for land which has no potential for natural regeneration and needs to be planted out is not a fair exchange. Natural bushland or habitat cannot be created by planting a few locally sourced trees.

We cannot afford to lose any more native vegetation, and the assumption that the area of bushland proposed for clearing is quite small, and therefore doesn't count, should never be made. Consideration should be given to the cumulative impact of the removal of many small tracts of bushland on the biodiversity of the whole catchment.

5. **Biodiversity offsets for major Government infrastructure development.**

BBACA has grave doubts about the efficacy of the Green Offsets Schemes as outlined above. The experience of our members with major infrastructure developments, such as the National Rail container transfer terminal development at Chullora, is that even when conditions of consent are imposed through a Commission of Inquiry, no government agency is willing to enforce compliance by another government agency.

At this site, the endangered ecological community on an adjacent site was 'accidentally' bulldozed, and attempts to 'recreate' the vegetation, which was legally removed from the rail site, has been a farce. There is no doubt that there has been a net loss of biodiversity as a result of this development.

Yes, the RTA has started to set aside compensatory bushland along highways and motorways, but trees planted on road verges are often not locally sourced or appropriate. The M5 is an example of this where non-indigenous trees have been planted on embankments through Padstow, Revesby, Panania and East Hills.

The RTA still intends building a commuter bike track through Wolli Creek valley which will impact on the foreshores and remaining riparian vegetation, despite the protests of local residents and environmentalists.

The suburb of Arncliffe has become a conduit for all the road traffic from Botany and the Airport entering and leaving the M5 motorway or connecting with the Princes Highway, and more is to come – the M6 motorway – all converging in the same locality. The M5 cut a swathe through important wetlands in Arncliffe and only minimal compensatory work has been done. The cumulative impacts of these road developments, the proposed high tech Cooks Cove Development and the high rise apartments going up along the Cooks River doesn't seem to be recognised by the NSW Government. No green offsets can compensate for these disastrous, uncoordinated developments.

The Management committee of BBACA understands that the NSW Government is looking for a way of funding much needed remediation of past and existing environmental impacts. The examples cited unfortunately reflect the real responsibility for environmental degradation. This is a lack of coordinated planning, such as whole of catchment planning, a failure to enforce development conditions agreed upon during development and post-development phases and the inadequacy of much legislation concerning environment protection. We believe that Green Offsets will not only fail to deliver better outcomes for the environment but has the potential to compromise the present mechanisms.

Yours faithfully,

Lynda Newnam
Secretary