

Draft Biodiversity Office Policy
Office of Environment and Heritage
offsets.policy@environment.nsw.gov.au

Friday 9 May 2014

SUBMISSION: NSW Biodiversity Offsets Policy for Major Developments

Mudgee District Environment Group (MDEG), based in the Mid-Western Region local government area in NSW, is working for the conservation of our natural heritage and a sustainable future for our children.

MDEG welcomes the opportunity to submit comments on the proposed NSW Biodiversity Offsets Policy for Major Developments ('the policy'). Major developments in the form of new large open cut and long wall mining operations have been approved in the Mudgee region since 2005. The biodiversity impacts of these developments have been significant.

MDEG considers that the biodiversity offsets approved for these developments have been highly unsatisfactory. The policy will not improve this situation, but will instead further compromise the future of threatened and declining species in the region.

MDEG is very concerned that the Government agency, the Office of Environment and Heritage, vested with statutory requirements to protect biodiversity in NSW, has proposed a policy that will facilitate a likely increase in extinctions across the state.

This submission wishes to outline the following key objections to the policy:

1. The objectives do not have a clear requirement to maintain and improve biodiversity values.
2. The key aim is to assist major development approvals at the cost of biodiversity. This is contrary to the principles of Ecologically Sustainable Development.
3. The concept of 'like for like' offsets is severely compromised in the Draft Framework for Biodiversity Assessment that underpins the policy.
4. The provision of substitute biodiversity values in offset arrangements is counteractive to their protection and to improved outcomes for the environment.

5. The provision of supplementary offsets such as funding programs for research, threatened species recovery, threat abatement or rehabilitation of degraded aquatic habitat ignores the fact that approvals to clear significant areas of habitat will hasten the decline of biodiversity.
6. The provision for mine site rehabilitation to be attributed biodiversity offset credits will be impossible to regulate over the long time lag between project approval and completion. This proposal also does not recognize the poor record of NSW Government regulation of mine rehabilitation to date nor the ongoing modifications of existing approvals.
7. The provision of offset 'discounts' where a major development may become unviable.
8. The provision that biodiversity in very poor condition need not be offset.
9. The lack of a clear monitoring regime and penalties for breaching offset agreements.
10. The lack of consideration of cumulative loss of biodiversity values within the landscape and the impact of climate change on increased extinction risk in Australia.

NSW has a very poor record of biodiversity protection in the past having altered over 95% of the state's natural condition, cleared over 50% of native vegetation and fragmented most of the remainder.

The policy admits that exactly the same biodiversity is not always available for an offset. This is because of the extent of the impacts already occurring in the landscape.

MDEG has had major concerns with the concept of biodiversity offsets as currently practiced in NSW. The outcomes have not been seriously audited to date and have only recently been mapped. There is no base line data available to measure the effectiveness of biodiversity offsetting under current policies.

The policy proposes to further compromise the existing offset rules. This can only lead to continuing, irreversible loss of biodiversity and ecosystem services in NSW.

MDEG supports the need for a standard scientific method that provides clear and consistent guidance for assessing impacts of major developments on biodiversity. This must include transparent and repeatable methodology to be used by accredited ecological consultants.

However, the independence of accredited consultants is a key issue that must be addressed. The current process that relies on assessment reports provided by the development proponent is highly compromised and needs to be changed to an independent regime.

The policy must be improved by identifying 'no go' zones as part of a strategic land use planning process. The NSW Government failed in this task when developing the Upper

Hunter and North West New England Strategic Land Use Plans for coal and gas developments.

These are the major developments most likely to use the policy on a regular basis. Unless areas of critically endangered ecological communities and fauna populations are mapped and identified as 'no go' zones, the policy will result in failure to improve environmental outcomes.

The other key piece of work needed, before an efficient and effective biodiversity offset policy can be implemented, is the completion of a comprehensive vegetation map across NSW.


MDEG strongly objects to the proposal to accredit areas of mine rehabilitation with biodiversity offset credits. There is a very poor regulatory regime in place in NSW for monitoring and managing the effectiveness of mine rehabilitation under the *Mining Act 1992*. There is also an ongoing threat to mine rehabilitation through new applications to modify or expand current operations.

The policy ignores the long time lag between destroying critical biodiversity values and their replacement in the landscape. The policy provides for offsets to be enduring, enforceable and auditable. However, there is no outline of how the auditing will be conducted or what penalties will be adopted in the case of failure to meet offsetting requirements.

MDEG is very concerned that the policy is entirely aimed at increasing the flexibility of major development approvals at the expense of biodiversity integrity across NSW. The long term impacts of this weakening of protection for critical biodiversity values will cause future economic imposts on society.

The policy should at least be consistent with the principles for determination of offsets under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.

Yours sincerely



Bev Smiles
Chairperson

Mudgee District Environment Group