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Committee Secretary
Senate Standing Committees on Environment and Communications
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Dear Senate Committee,

31/3/2014

RE: Submission re: Federal Offsets

The Victorian National Parks Association welcomes your inquiry into the effectiveness of Federal Offset approvals. We have for some time had significant concerns about the effectiveness of offsets mechanisms in their current forms. In this submission, we would like to draw your attention to the offset mechanisms used in the recently completed joint Federal- State Melbourne Strategic Assessment.

As part of a joint Federal-State Assessment process under the EPBC Act 1999 the state government developed a biodiversity conservation strategy covering Melbourne's Growth Areas. The plan for the West, North and Sunbury/Diggers Rest areas has now been approved by the Federal Environment Minister – see <http://www.environment.gov.au/epbc/notices/assessments/melbourne.html>

Conservation groups provided detailed comment on the final Biodiversity Conservation Strategy and found that the final plan **did not ensure adequate protection for all the species listed under national environmental laws.**

- In particular we were concerned that the conservation areas proposed for the Growling Grass Frog, Striped Legless Lizard and Australian Grayling are inadequate and will lead to local extinctions. For example, there was a 42% reduction in prime (category 1) Growling Grass Frog habitat between the draft plan and final approved strategy. The reduction being then subject to pooled offsets.
- Similarly, the Critically Endangered ecological communities *Natural Temperate Grassland of the Victorian Volcanic Plain*, *Grassy Eucalypt Woodland of the Victorian Volcanic Plain* and *Seasonal Herbaceous Wetlands (Freshwater) of the Temperate Lowland Plains* are not adequately protected. The current proposal is to clear the vast majority of Grasslands and Seasonal Herbaceous Wetlands within Melbourne's growth areas and offset the clearing by protecting 15,000 ha of potential grasslands to the west of Tarneit and south of Melton, called the Western Grassland Reserves.
- This offset site has been shown to comprise mainly very poor quality grassland, while patches of high- quality grassland and key wetlands will be cleared. For example, it is estimated that 48% of the proposed grassland reserves do not contain native grasslands

(according to federal definitions) and will need extensive restoration, if this is at all achievable - see Table 2 in

http://www.dse.vic.gov.au/data/assets/pdf_file/0009/127791/WGR_TAM.pdf

- Conservation areas retained with the urban growth area have been reduced by an estimated 35% between the draft plan and the final Biodiversity Conservation Strategy.

These issues are discussed in detail in Attachment I, **SUBMISSION On the Biodiversity Conservation Strategy, Sub-Regional Species Strategies for the Growling Grass Frog and Golden Sun Moth and the proposed development in the West, North-West and North Growth Corridors by 20 Environment Groups, June 13, 2013.**

Since 2009, environment groups continued to have serious reservations about the institutional arrangements, underlying data, timing, sequencing, community consultation, offset arrangements and mitigation proposed. In effect the strategic assessment has provided a poor and 'high risk' outcome for the environment, while providing significant cost savings to the property development sector.

According to DEPI the "[Melbourne Strategic Assessment] represents a significant costs saving to landowners wishing to develop their land. Costs saving are estimated to be in the order of \$500 million over the 30 year period..."

The environment on the other hand, appears to bear most of the risk, due to the nature of the offset arrangements, including:

- Offsets are pooled funds based on set fees for developers, they are not like for like or scaled according to condition or conservation significance;
- The delivery of the offsets are based on clearing – the habitat has to be destroyed before any fee is charged and ultimately offsets put in place;
- Due to the use of simplified assessment methodologies, the offsets in the case of grasslands, are not the same ecologically as those used as off set. Likewise they are not the same quality – smaller areas of high quality grassland cleared and offset into lower quality grassland – in fact 48% can not be considered grassland at all.
- The offset methodologies always results in a significant net loss to the physical extent and/or condition of that habitat, as there are various, often unsupported, criteria or weightings used in calculation of offsets, emended in the various methodologies (see attachment II – overview of Victorian Offset Methodologies)
- The mitigation strategies for growling grass frog are tied to untested technology - artificial frog ponds. There is little room to move as the habitat will have been designated for development, if the artificial ponds are found to not to be effective.
- There are still no monitoring or performance guidance in place for delivery of the plans, even though the key elements of the plans have essentially been in place for five years (since 2009).
- The strategic assessment essential approves urban development for approximately 40 years, over many political cycles, and many advances in knowledge, yet has no real capacity to adapt the approval.
- An independent monitor has been promised but not implemented.
- There have been serious flaws in both the assessment methodology, key elements of the community consultation and structure of approval. For example, while the process has taken years, the have only been limited periods of community consultation – usually unduly

rushed. A detailed discussion of these elements can be found in our first submission in 2009 (see Attachment III).

After spending four or five years leading the community response to the Melbourne strategic assessment, one aspect appears very clear. The fact that the assessment focused on Nationally listed species, in the end, lead to an assessment only of national listed species. The national legislation while powerful, is in theory, much more limited in scope that the state legislation.

The state essentially ignored its own legislation and rules and while the strategic assessment assessed things listed under national laws it missed out on the state, regional and local ecological values, which were ignored. It was not a joint assessment, but rather a state assessment of national values. This has led to perverse outcomes, and significant missed opportunity and poor environmental planning.

The criteria, used for offsets, development through the Melbourne Strategic Assessment process, is a good deal for property developers, and the costs of one of the most endangered vegetation communities in the country - Natural Temperate Grasslands of the Victorian Volcanic Plain, which there is thought to be less than 2% left.

To add insult to injury, offset arrangements developed in the Melbourne Strategic Assessment have now been expanded by the Commonwealth to apply outside of Melbourne growth areas to cover all of the surrounding suburbs including all of the local government areas of Wyndham, Melton, Hume, Whittlesea, Brimbank, Darebin and Moreland. Developments within adjacent Local Government Areas (Moorabool, Greater Geelong and Golden Plains) may be considered if the specific project meets the other criteria in this policy. <http://www.environment.gov.au/resource/melbourne-urban-development-%C2%96-policy-statement-environment-protection-and-biodiversity>

This policy means that most offsets, even if high quality grasslands, will be offset in the western grassland reserve, of which almost 50% is not grassland. Little consideration is given to retention of high quality grasslands. Likewise, the establishment of the western grasslands reserve requires – clearing of habitat, offset funds obtained by government, then these funds used for compulsory acquisition of private land, and then establishment of appropriate management, before any physical gains in ecological quality can be achieved.

Yours Sincerely

Matt Ruchel
Executive Director

- **Attachment I - Attachment I, SUBMISSION On the Biodiversity Conservation Strategy, Sub-Regional Species Strategies for the Growling Grass Frog and Golden Sun Moth and the proposed development in the West, North-West and North Growth Corridors by 20 Environment Groups, June 13, 2013.**
- **Attachment II Overview of Victorian Offset Methodologies**
- Attachment III- VNPA submission, Planning for nature conservation in Melbourne Newest Communities, July 2009.

Attachment II: Overview of Victorian Offset Methodologies

In Victoria, 65-85% of the gain credited from an offset area does not result in **any** physical improvement in the extent or quality of equivalent habitat. The majority of the gain is given because the offset manager has legally protected existing native vegetation habitat and promises not to degrade it further, whether they intended to or not. The physical improvement works that result in the increase extent or condition of the habitat that we can see and measure after a few years, usually only account for 15-35% of the gain credited.

The extent and condition of native vegetation is measured in Victoria in units called habitat-hectares. The unit is used for trading in losses and gains in a similar manner to carbon credits. So for every habitat-hectare of real habitat loss in Victoria, even where twice the amount of gain is required to offset a loss, there is at most, only 0.7 habitat-hectares of actual physical gain. It can be as little as 0.15 habitat-hectares of gain per habitat-hectare lost when the offset is freehold becoming State conservation reserve but is usually somewhere in the middle. Even this physical gain will not be fully achieved until up to 10 years after the loss has occurred, even assuming the works are actually carried out and assuming that they achieve the predicted gain. So clearing in Victoria always results in a net physical loss. Basically this means that every clearing permit leads to a significant physical net loss of habitat, even when the offset is of similar quality and type of habitat.

In the 1990s, Victoria led the nation in reporting the reduction in the extent of native vegetation resulting from its clearing controls. Between 1989 and 1995, the annual rate of clearing on private land was reduced from over 10,000 hectares per year for the fifteen years before that period, to just over 2000 hectares per year. Last year, Victoria made clearing much easier, particularly small-scale clearing, relying on offsets to achieve "no net loss". It has removed any ecological basis for the permit authority to refuse small-scale clearing provided there are suitable offsets. In 25 years, the State has not published any report that demonstrates that gains predicted by its calculation methodology are actually achieved. The reason is: the vast majority of the gain does not occur. The extent and condition of Victoria's freehold habitat is declining.

For example, Victoria grants "security gain" if an area of native vegetation on private land is to be protected by an on-title conservation agreement or converted to conservation reserve. It randomly assigned 300% more security gain when private land becomes a State conservation reserve than when the same land is protected under a Trust for Nature on-title conservation covenant. There has never been any research to justify this fallacious claim that native vegetation protected under a covenant is four times as likely to be degraded or cleared than when State in managed reserves. The State's attempts to reintroduce commercial grazing to the Alpine National Park, commercial scale 'ecological thinning' in Red gum parks, potential large scale commercial development with 99 years leases and other attempts to exploit such reserves belie this claim.

In fact, the State's 2008 Native Vegetation Net Gain Accounting first approximation report said that there had been 4,560 habitat-hectares of gain per year on private land compared to 14,550 habitat-hectares of loss. However, while the losses were real physical losses as measured from remote sensing data, none of the gains were actually measured. They were all deemed gains, assumed - not measured - based on gains estimated by grants programs, including 65-85% pseudogain - credited gain which does not physically improve the extent or condition of the habitat. The actual on-ground gain are more likely to be about one-third of that figure, assuming the prescribed improvement works in had been carried and were successful.

In short, even when offsets are carried out in equivalent habitat, and that is generally not the case, the method of calculating offsets always results in a significant net loss to the physical extent and/or condition of that habitat. This is because bureaucrats include major parameters in the calculations which, though it is important to protect an offset, do not in themselves result in a gain of in habitat. The situation is real losses and predominantly pseudogains.