

Mr Stephen Palethorpe
Secretary
Senate Environment and Communications Legislation Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Mr Palethorpe

I refer to your correspondence dated 3 July 2023 about post-hearing responses from witnesses who appeared before the Environment and Communications Legislation Committee on 30 June 2023 in relation to Nature Repair Market Inquiry.

As requested, please find enclosed transcript corrections and responses to the questions that the NSW Biodiversity Conservation Trust took on notice during the hearing.

If you have any further questions about the NSW Biodiversity Conservation Trust, please contact my office on 02 8837 6334 or at bct@bct.nsw.gov.au. Questions about the NSW Biodiversity Offset Scheme should be directed to the Environment and Heritage Group of the NSW Department of Planning and Environment at SCE@dpie.nsw.gov.au. It should be noted that as advised by the Minister for Environment's office, the NSW Biodiversity Offsets Scheme will be reviewed as part of the *Biodiversity Conservation Act 2016* Review. That independent review will be tabled late August in NSW Parliament.

Regards

Erin Giuliani 14 July 2023
Chief Executive Officer

Enclosures:

- i. Responses to questions taken on notice
- ii. Transcript corrections

NATURE REPAIR MARKET INQUIRY

Environment and Communications Legislation Committee

Answers to Questions on Notice

Hearing: 30 June 2023

Question 1

[Uncorrected transcript](#) – page 11-12

Senator HANSON-YOUNG: I get that; I understand you don't set it. But this is the scheme you're working within, and the scheme has been roundly described as a failure by the Auditor-General.

You mentioned you don't just do offsets. I'm interested in how many projects have received credits under the New South Wales scheme. Have you got those figures?

Mr Blair: If my colleagues don't have exact numbers at hand, we're more than happy to take the question on notice and come back to you. Dr Giuliani, or Holly, do we have any numbers at hand?

Dr Giuliani: If we could take that on notice, that would be great. Which dataset are you referring to? Is it with respect to private land conservation outcomes or the Biodiversity Offsets Scheme?

Senator HANSON-YOUNG: The Biodiversity Offsets Scheme. I want to know how many projects have received credits, how many people are looking to buy credits and what is the demand for offsets under these credits.

Dr Giuliani: We can take that on notice on behalf of the department. We will refer to our colleagues in the department, if we can.

Answer:

The Environment and Heritage Group of the NSW Department of Planning and Environment has advised that the conditions of consent for individual development approvals specify the biodiversity credit obligation a proponent needs to meet before the impact to biodiversity can occur. Development approvals are published by the relevant consent authority. The consent authority is responsible for compliance with these conditions.

Biodiversity credits are generated through a biodiversity stewardship agreement entered into by landholders, and approved through the Credits Supply Taskforce within Environment and Heritage Group.

Information about biodiversity stewardship agreements is available on the NSW Department of Planning and Environment website <https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity-offsets-scheme/generate-credits-biodiversity-stewardship-agreement>, including demand registers www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity-offsets-scheme/buying-selling-credits-market-information/credit-supply-demand-and-other-public-registers) and NSW Biodiversity Conservation Trust website (www.bct.nsw.gov.au/info/biodiversity-offsets-program-outcomes).

Question 2

[Uncorrected transcript](#) – Transcript page 12

Senator HANSON-YOUNG: Mr Blair, you mentioned we shouldn't just be focusing on the offsets. Do you have the breakdown under the scheme as to how many offsets are sought?

Mr Blair: As I said, we run a number of programs. For example, we have the offsets scheme, and there is a market in place for that. We can refer that to the department to see if they have that dataset. We also have the other programs where we have Indigenous organisations, Indigenous landholders and private landholders that continually engage with our scheme to also get payments for private land conservation. We're more than happy to provide you with some figures around that. That's something that is a very positive outcome of the scheme in New South Wales.

Senator HANSON-YOUNG: I'm asking how many credits are bought for offsets versus for private land conservation.

Mr Blair: We can take that on notice and provide you some information from the department in relation to offsets and provide you some information on the activities around private land conservation, which is a proactive landholder participation scheme that, I would argue, is driving real biodiversity outcomes in New South Wales.

Senator HANSON-YOUNG: But, without the figures—I accept you're going to take them on notice, which is great and very helpful, thank you. We've seen through the Auditor-General's report that the bulk of this is that credits are being purchased for offsetting destruction, overwhelmingly, rather than for restoring or protecting conservation areas.

Mr Blair: The offsets scheme is linked to the planning system. Where a developer has an obligation to offset that development, that is one aspect in New South Wales. We can also provide you with the proactive private land conservation programs we run in New South Wales that are putting many hundreds of thousands of hectares into perpetuity agreements under the national reserve system, and we can provide you with some information about our proactive programs as well. When we get to the offset information from the department and the proactive information from us, you can see the difference between the two. We'll take that on notice.

Answer:

The Environment and Heritage Group of the NSW Department of Planning and Environment has advised that credits are created when biodiversity stewardship agreements are established under the Biodiversity Offsets Scheme. Credits can be bought by any person for any reason, including to meet biodiversity offset obligations. A proportion of the credit sale price is paid into a statutory fund, the Biodiversity Stewardship Payments Fund, which is managed by the NSW Biodiversity Conservation Trust to fund the in-perpetuity management of the stewardship site.

Information about sales of biodiversity credits can be found on the NSW Department of Planning and Environment website (www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity-offsets-scheme/buying-selling-credits-market-information/credit-supply-demand-and-other-public-registers).

Biodiversity stewardship agreements that create credits are distinct from the private land conservation agreements the NSW Biodiversity Conservation Trust manages. Private land conservation agreements do not generate credits and cannot be used as offsets, but can come with financial support from government for landholders to undertake land

Question 2

management activities. Further information on private land conservation agreements can be found on the NSW Biodiversity Conservation Trust website (www.bct.nsw.gov.au/public-register-private-land-conservation-agreements).

Question 3

[Uncorrected transcript](#) – Transcript page 12-13

Senator HANSON-YOUNG: The Biodiversity Conservation Fund is the fund where, if you can't get a like-for-like offset, you pay the money to get your green stamp on your destruction of whatever environment it is for your project. How much money has been paid into that fund?

Mr Blair: I can take the exact dollar figure on notice, but the obligation is still there to acquit the offset, and, if it does come into our fund, our preference under the regulation is always to start with like for like. That is something that, rather than the developer, which could be a small landholder or an Indigenous organisation, finding the offset themselves, they can pay into the fund, and we will then go and find that offset and acquit it, and we do everything we can to find like for like. That scheme is also part of the act review that Ken Henry is leading. At the moment, that is the role that we can play in that program in New South Wales. I can get the exact number for you on notice—

Answer:

The value of developer payments into the Biodiversity Conservation Fund is reported quarterly and is available on the NSW Biodiversity Conservation Trust website (<https://www.bct.nsw.gov.au/info/biodiversity-offsets-program-outcomes>).

Question 4

[Uncorrected transcript](#) – Transcript page 13

Senator HANSON-YOUNG: The exact figure would be very helpful. I understand it's the vicinity of \$90 million. What I'd like to know is how many proponents choose to pay into the biodiversity fund instead of directly buying credits under their approval offset obligations. You're saying like for like. The Auditor-General says there's not enough of those available. I want to know how many pay into the fund, rather than are able to get a credit on a like-for-like offset.

Mr Blair: If they pay into the fund, our endeavour is still to find a like for like. It's not a case of, 'if they pay into the fund, they're not getting a like for like.' The obligation to find the credit just moves across to us on their behalf.

Senator HANSON-YOUNG: Okay, good. That's your objective. How much of the money from this fund has been spent on like-for-like projects?

Mr Blair: We can take that on notice. Again, we would argue that when we spend money, it's our No. 1 priority to find like for like. Where we can't, we then will move through a hierarchy, but that has been very rare, and we will continue to look and work with landholders to try and find like for like. That's our objective under that scheme.

Answer:

This information is reported quarterly and is available on the NSW Biodiversity Conservation Trust website (<https://www.bct.nsw.gov.au/info/biodiversity-offsets-program-outcomes>).

Question 5

[Uncorrected transcript](#) – Transcript page 14-15

Senator HANSON-YOUNG: Mr Blair, you mentioned that sometimes it takes some time to find a like-for-like offset. In that situation does the destruction—the cement mine, the big development, the big new road through koala habit—get halted until you find a like-for-like project?

Mr Blair: I'm not sure of the stage at which the planning system allows the proponent to continue on. All we do, if the obligation is transferred to us, is get to work to try and find the offsets. That's the role the BCT has. As I said, this is under review in New South Wales. It's being led by Ken Henry. The role of BCT is that if the obligation is transferred to us then we get to work to find it, and we use a range of different methods to try and do that.

Senator HANSON-YOUNG: I guess I'm wondering about the reasonableness of needing to find a like-for-like offset within a time frame that then can allow a project to proceed. Surely you must be given some type of time frame in which you need to find that. Otherwise, what's the point?

Mr Blair: We will continue to do that as quickly as we can under our obligations.

Senator HANSON-YOUNG: Maybe I'm not being clear. When something is handed to you and you need to go and find something to offset a project, are you given a time frame within which that needs to occur?

Mr Blair: We try to do that as quickly as we can, because we want to make sure that that happens as quickly as possible. The thing is, we may have to go and work proactively with private landholders to find the offset. Again, that's part of the market. If it's not available, we'll have to go and proactively try and find it.

Senator HANSON-YOUNG: Could you take on notice—

CHAIR: I have some questions and we've only got two minutes left.

Senator HANSON-YOUNG: This is an important point, and if he doesn't have the answer it needs to be taken on notice. Mr Blair, if you could take on notice—

CHAIR: Senator Hanson-Young, he doesn't have the answer. He's told you he doesn't have the answer. He's told you he's going to come back to you, so I think—

Senator HANSON-YOUNG: No, he hasn't yet.

CHAIR: Some further questions on notice might be useful and then see what comes out of that.

Senator HANSON-YOUNG: He hasn't said he'll take it on notice yet, which is what I'm asking him to do. Mr Blair, could you please take on notice what the time requirements are, before a project is given the go-ahead, to ensure that there is a like-for-like offset?

Mr Blair: We'll work with the department and take that on notice, to get you as much information about the obligations of the developers under the planning system—

Answer:

The Environment and Heritage Group of the NSW Department of Planning and Environment has advised that the obligations of developers who are required by a consent authority to retire biodiversity credits are set out in Part 6 of the NSW *Biodiversity Conservation Act 2016*. The ways developers can meet these obligations are set out in Part 6 of the NSW Biodiversity Conservation Regulation 2017. There is no legislative requirement for the NSW Biodiversity Conservation Trust to meet a transferred offset obligation within a specific time period. The NSW Biodiversity Conservation Trust must work through a legislated hierarchy of options, which prioritises like-for-like offsetting, to meet the offset obligation.