

# Australian Greens Minority Report

1.1 Our environment laws are failing us. Australia's biodiversity is in decline. The number of threatened species has nearly tripled in the last twenty years and we are in a biodiversity crisis. Over 20% of our remaining 386 mammal species are threatened with extinction. We have lost valuable places and wildlife to the thousands of damaging developments that have already gone ahead. Our laws haven't been able to protect those parts of our environment which need protection.

1.2 For the reasons so comprehensively set out the body of the Committee's report, the Australian Greens oppose the very notion of offsetting nature. The principle is nonsensical and its implementation has shown itself to be a fig leaf for continued approvals of projects with unacceptable impacts: the evidence shows that offsets do not and cannot achieve their objectives. Nature is not tradeable because it is unique.

1.3 The Australian Greens referred this issue to the Senate to inquire into after a litany of examples where offsets were shown to be farcical – particularly Whitehaven Coal's Maules Creek Project, Waratah Coal's Galilee Coal Project, and North Queensland Bulk Port's Abbot Point Coal Terminal Capital Dredging Project. We've seen Whitehaven get away with clearing endangered box gum for their Maules Creek coal mine by buying a patch of land that's almost completely different vegetation. The Abbot Point coal port was approved with the Environment Minister saying the damage will be offset, while internal documents from the Great Barrier Reef Marine Park Authority found the offshore dumping of dredged sludge would cause irreversible damage that would be impossible to offset. And Clive Palmer's company is being allowed to destroy the Bimblebox Nature Refuge for a massive coal mine, in exchange for purporting to protect other vegetation - that hasn't even been identified, and if it even can be, will not itself be protected from being mined in future.

1.4 The Australian Greens believe that offsets cannot deliver the promised benefits and are simply being used as a smokescreen to allow irreparable damage. Offsets are being used more and more as an excuse for governments to tick and flick environmentally damaging projects for the big mining companies. Often these offsets are so unrealistic that they're impossible to deliver on. Not only are offsets often magic pudding calculations to justify irreversible environmental damage, there's also hardly any enforcement of whether offsets are met. There's often no political will and environment departments are so under-resourced that enforcement and monitoring of offsets falls by the way side. The government rarely ground truths before approving offsets so we're left to rely on the proponent's word.

1.5 The environmental effectiveness of offsets has never been proven and yet they are being used as an excuse to approve damaging developments that should instead be refused under our national environment law.

1.6 The litany of flaws with both the concept and the implementation of offsets are comprehensively set out in the Committee's report. The recommendations in the

report would address many of the concerns about the implementation of offsets, but the evidence from the case studies examined by the Committee and other projects around Australia justifies the Australian Greens' view that the Committee's recommendations will not, and indeed cannot, be implemented. Offsets have been used as a fig leaf for continued approvals of projects with unacceptable impacts, and should be opposed.

1.7 The June 2014 Australian National Audit Office report, *Managing Compliance with EPBC Conditions of Approval*, shows the federal environment department is under-resourced and failing to enforce environmental conditions – this includes offset conditions. The ANAO says:

However, nearly 14 years after the enactment of the EPBC Act, [the Department of] Environment is yet to establish mature administrative arrangements to effectively discharge its regulatory responsibilities in relation to approved controlled actions ...

The increasing workload on compliance monitoring staff over time has resulted in Environment adopting a generally passive approach to monitoring proponents' compliance with most approval conditions.<sup>1</sup>

1.8 The Abbott Government constantly approves environmentally destructive projects claiming that all of the damage will be managed by environmental conditions, including offsets, but the ANAO report shows those conditions often aren't enforced. The report shows the Environment Department doesn't have enough staff to enforce conditions and yet the Abbott Government's budget cuts hundreds of staff from the Environment Department, including 129 from the division responsible for enforcement.

1.9 Many projects, including the Abbot Point coal port expansion in the Great Barrier Reef, have been approved with conditions requiring the proponent to provide a management plan on how they will manage environmental risks – including plans detailing offsets. The ANAO report shows that the department could only provide evidence that it had checked the about 60 per cent of management plans. This means proponents often get their approval with requirements to provide details in later plans as to how they will manage environmental damage, but then those plans aren't properly scrutinised, which is a recipe for unmonitored environmental degradation.

1.10 The ANAO's is a scathing assessment of the Department of Environment's capacity to police conditions, including the identification, securing, and delivery of offsets. Together with the case studies mentioned below and explored in the Committee's report, Australian Greens are of the view that offsets are unworkable, cannot achieve their objectives, and should not be used.

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1 A summary of the report is available here <<http://www.anao.gov.au/Publications/Audit-Reports/2013-2014/Managing-Compliance-with-EPBC-Act-1999-Conditions-of-Approval/Audit-summary>>

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## Whitehaven Coal's Maules Creek

1.11 Despite a consistent stream of information from community and independent ecological experts, the Department of Environment has been unable to address the fact that Whitehaven Coal's proposed offset areas are woefully inadequate to offset their destruction of the Leard State Forest.

1.12 Whitehaven Coal was permitted to rip up endangered box gum woodland for a mine on the proviso it would protect forest elsewhere, but then tried to get away with protecting a totally different ecosystem that has only 5 per cent of the relevant endangered box gum.

1.13 Documents I received pursuant to an Order for Production of Documents included the long awaited 'independent' review of Whitehaven Coal's proposed offset, albeit commissioned and paid for by Whitehaven Coal. The documents confirm that the offsets originally proposed are not sufficient to offset the environmental damage which the mine will cause, including the clearing of endangered box gum woodland. Several other additional areas are required to be protected in order to compensate for the damage caused at the mine site.

1.14 To me, this was an admission that the original application with its assertion that adequate offsets had been obtained was false or misleading. That was what the Department had, to its credit, been investigating for the last 12 months.

1.15 Yet Ministerial correspondence accompanying the documents shows that in fact the Abbott Government has taken the opposite interpretation and has called off the investigation, citing lack of evidence to justify a prosecution.

1.16 Clearly there is one rule about what constitutes 'false or misleading' for mining companies like Whitehaven and another for environmental activists like Jonathon Moylan. Jonathan Moylan is facing 10 years in jail for a fake press release that caused only a temporary dip in Whitehaven's share price. Whitehaven mistook or misled the government about the adequacy of its replacement of endangered woodlands, and they get the green light to trash the place.

1.17 What message is this Government sending the big end of town, when a company that has made a mockery of our national environmental protection laws is being let off scot-free?

1.18 The Maules Creek approval is a complete farce and should never have been granted under our national environment law.

1.19 Minister Hunt must immediately suspend the approval for the Maules Creek coal mine given this information about the gross inadequacy of the so-called 'offsets', and Whitehaven Coal should be prosecuted for providing the Government with false information in order to get approval for their environmentally disastrous mine at Maules Creek.

1.20 Australians expect that the impacts of mega coal mines will be properly scrutinised but with the Government putting the big mining companies first, it's being left to the community to point out the flaws in this shameful excuse for environmental protection.

1.21 The old parties need to stop ticking and flicking massive environmental damage for the big mining companies.

### **Waratah Coal's Galilee Coal Project**

1.22 This mega-mine proposes to swallow up the Bimblebox nature reserve which contains the last remaining significant example of the rare desert uplands ecological community and threatened species, including the critically endangered Black Throated Finch. The project was approved before offsets areas identified, and unsurprisingly none have been found.

1.23 With Tony Abbott's blessing, Clive Palmer's mine will rip up the Bimblebox Nature Refuge, an 8000 hectare patch of remnant native woodland, which provides scarce habitat for native wildlife, including the endangered Black Throated Finch. The condition attached to offset Bimblebox with another area is ridiculous – you can't offset the loss of the last remaining significant woodland in the Galilee Basin.

1.24 It's nonsensical to say that the damage of clearing Bimblebox can be offset with land somewhere else. Overall, it's a net loss for the environment. The idea that different parts of the environment can be traded off against one another is a very dangerous one, and it's threatening to destroy Bimblebox, an irreplaceable sanctuary for native woodlands and wildlife.

1.25 In the words of the co-owner of Bimblebox Ms Paula Cassoni:

In the year 2000 there was precious little remnant vegetation left in the region due to broadscale landclearing. It's ridiculous to claim that the destruction of Bimblebox can be replaced with land somewhere else, because if there ever was 'somewhere else' Bimblebox would have not been gazetted in the first place (with the help of the federal govt) and included in the protected estate of the National Reserve System.

It takes hundreds, if not thousands, of years to create a habitat like Bimblebox. It's an arrogant folly, or perhaps an outright lie, to pretend it can be replaced by land elsewhere.

### **NQBP's Abbot Point coal terminal expansion**

1.26 The recently approved Abbot Point coal terminal will dredge 3 million cubic metres of spoil and dump it in the Great Barrier Reef World Heritage Area.

1.27 The project has been approved with an offset consisting of a 150% improvement in water quality. The proponent has not identified how, when, or by whom this offset will be achieved.

1.28 The June 2014 World Heritage Committee decision to give one further year before considering placing the Great Barrier Reef on the World Heritage List of Sites in Danger specifically expressed concern about the Abbot Point dredging and dumping and singled out the offsets:

The proposed dumping of dredged material from the proposed Abbot Point development is also noted with concern. Indeed, this was approved, despite an indication that less impacting disposal alternatives may exist. It is considered that the suggested achievement of a 150% net benefit on water

quality from compensation for the consented dredge disposal appears inappropriate without a specific timescale for its rapid and guaranteed achievement prior to development proceeding, and a clear indication of the implications for progress on water quality against the Reef Plan targets, in addition to the uncertainty about the impacts of dredge material plumes beyond the disposal site. This is of particular concern given evidence suggesting that the inshore reefs in the southern two-thirds of the property are not recovering from disturbances over the past few decades. The further approval on Curtis Island adds to concerns addressed in previous Committee decisions.

1.29 Documents released under Freedom of Information show the Great Barrier Reef Marine Park Authority internally found the dumping for the Abbot Point coal port expansion would cause irreversible damage that would be impossible to offset. Given these startling revelations, Minister Hunt must to revoke his approval of the Abbot Point coal port in the Great Barrier Reef. This precious World Heritage Area is no place for the world's biggest coal port. Our Great Barrier Reef should not be treated as a dump ground for dredge sludge, with magic pudding offset conditions nobody believes are achievable, all because it's cheaper for the big mining companies than disposing on land.

**Recommendation 1: The Government must refuse projects which have unacceptable impacts on matters of national environmental significance, rather than using offsets as a fig leaf to allow continued approvals.**

**Recommendation 2: The Government should immediately revoke the approval for the Maules Creek coal mine, and Whitehaven Coal should be prosecuted for providing the Government with false information in order to get approval for their environmentally disastrous mine at Maules Creek.**

**Recommendation 3: The Government should immediately revoke approval for Waratah Coal's Galilee Coal Project.**

**Recommendation 4: The Government should immediately revoke approval for the Abbot Point coal terminal dredging and dumping.**

**Recommendation 5: Any existing offset areas already secured must be protected in perpetuity and not subject to further development.**

