

30 September 2005

Deputy Director General
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FOR THE FUTURE OF OUR MARINE ENVIRONMENT

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Dear Sir/Madam

Biodiversity certification and banking in coastal and growth areas

This letter sets out the comments of Ocean Watch Australia Ltd (Ocean Watch) in relation to the discussion paper on Biodiversity certification and banking in coastal and growth areas. Ocean Watch Australia Ltd. is an environmental, non-government organisation sponsored by the commercial seafood industry to represent the environmental interests of industry with respect to protecting and restoring fish habitats, improving water quality and promoting sustainable fisheries.

Ocean Watch is generally supportive of the new concepts proposed in the discussion paper in relation to biodiversity banking and certification. We do however, have a number of concerns/comments that qualify our support for the proposed reforms as follows:

1) *The scheme as proposed does not recognise or incorporate aquatic or off-site biodiversity values*

Ocean Watch assumes that the biodiversity values within a region will be developed using a version of the Biometric Tool within the current Property Vegetation Planning (PVP) Developer. Given the PVP developer only covers rural areas, we presume that biodiversity values for coastal urban and growth areas will be incorporated. It is our understanding that aquatic biodiversity values will not be included in any models developed or environmental planning instruments. It is ineffective to assess biodiversity values along the coast without considering aquatic biodiversity values. The pressures being placed on urban and high growth areas are resulting in many, and in some cases, irreversible changes to our aquatic estuarine and coastal environments.

With the banking scheme proposed, there is no consideration given to off site biodiversity values that may be impacted from a potential development in an "amber-light" area. For example, a development may be proposed adjacent to a waterway that contains threatened species such as the Oxleyan pigmy perch (*Nannoperca oxleyana*). Using the suggested approach, biodiversity values would only be assessed on the

site for the proposed development. The down-stream impacts from any changes to water quantity or quality that may result are not factored in to the assessment made to determine any offsets required.

2) *The effectiveness of the scheme with respect to wetland areas is questionable*

Generally the reports on the effectiveness of biodiversity banking schemes internationally appear to be positive with respect to terrestrial biodiversity values. In the international literature there are conflicting reports as to effectiveness of biodiversity banking schemes with respect to wetland and coastal areas. For example, in the US, wetlands have been drained for development and constructed wetlands used as an offset area. The values of these two areas differ greatly and it can be argued that the result has actually been a decrease in biodiversity values.

Every effort needs to be taken by the bank when identifying offset areas to ensure they will actually “maintain or improve” biodiversity.

3) *How will this scheme work in relation to the current offset provisions in the Fisheries Management Act 1994? Can the biodiversity bank fund offsets that will include aquatic rehabilitation?*

In a number of cases, particularly in coastal urban areas, there will be pressure from developers to encroach on critical riparian and estuarine habitat such as mangroves, saltmarsh etc. It is unclear as to whether the bank will be able to fund activities that will work to rehabilitate aquatic habitats. It would be most beneficial to the coastal environment if credits paid into the biodiversity bank could be directed to undertake works that will work to repair and restore critical fish habitat areas, or improve water quality, eg through upgrading regional sewage treatment plants etc. Financial incentives to private landholders should also incorporate incentives to conserve aquatic biodiversity.

It is also unclear how the existing offset provisions relating to aquatic habitat in the *Fisheries Management Act 1994* will be incorporated into the biodiversity banking scheme and will work in reality with developers. It will be imperative that there is consistency in approach and both are given equal status to ensure developers do not shy away from one requirement at the expense of another.

4) *Does the scheme model predicted changes to species populations, range and distribution resulting from climate change?*

The flow diagram on page 4 outlining the relationship of regional conservation plans with other key factors in regional and local planning, indicates that the best available science will guide relevant policies and plans. This is critical with respect to climate change as the latest science shows more certainty in the predicted and observed short-term impacts of climate change and implications for the distribution and abundance of species. This includes research and modelling conducted by CSIRO and the Institute of Marine Science at the University of Sydney (Dr Peter Cowell). Additionally, researchers at CSIRO have developed a model/ scheme which outlines how to retrofit recently developed plans and policies such that they allow for the impacts of climate change (see proceeding from the Nature Conservation Council of NSW recent conference on the Impacts of Climate Change on Biodiversity and Natural Resource Management, *The Great Greenhouse Gamble*, held on the 15 and 16 September).

5) *The effectiveness of the scheme is questionable in relation the recent amendments to Part 3A of the Environment Planning and Assessment Act (EPAA) and general political will of consent authorities*

As you would be aware, a number of changes were made to the EPAA with respect to “critical infrastructure”. These changes provide the government with an option to override other requirements of the EPAA relating to assessing environmental impacts, community consultation etc. The biodiversity certification scheme is looking to identify “red-light” areas that will reflect high biodiversity values and will be targeted areas for restoration. What guarantee will there be to ensure that these red-light areas are maintained, regardless of the development being classified as “critical infrastructure”? It will be farcical if protection is not given to these red-light areas at the expense of developers “buying off” the consent authority. The proposed desalination plant at Kurnell is planned for a site that contains high biodiversity values!

Threatened species protection legislation has been in operation in NSW for 10 years and during that time there have been around 700,000 development applications lodged. Of these, only around 150 required Species Impact Statements to be prepared with only 5 being refused (of which 2 were subsequently approved with conditions). Given this state has had approximately only 3 development applications refused on the grounds of losses to biodiversity, it is questionable as to whether the current legislation has achieved anything. The net effect over the last 10 years has been an incremental loss of biodiversity. Ocean Watch is unclear how these proposed changes will be effective given the lack of political will in this state in relation to environmental conservation, at the expense of development.

It is likely that a large amount of what is classified as “critical infrastructure” may be large subdivisions. Will it be acceptable therefore, for the rules to be “bent” in these cases, when such potential large-scale damage to biodiversity will occur? We therefore, question whether the proposed system will actually improve the situation in relation to “maintaining or improving” biodiversity in this state.

Please do not hesitate to contact me on (02) 9660 2262 should you require further information.

Yours sincerely

A handwritten signature in black ink, appearing to be 'AL', with a long horizontal line extending to the right.

Anissa Lawrence
Executive Officer
Ocean Watch Australia Ltd