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Secretary  
Standing Committee on Environment and Communications References Committee  
The Senate  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Dear Ms McDonald

### **Inquiry into environmental offsets**

The Urban Bushland Council WA Inc. is pleased to present this submission in response to your invitation to address the issues of relevance to us. Our organisation is a voluntary community association of 70 member groups all of which have a common interest in the conservation of urban bushland in Western Australia. Currently all our member groups are located in the south west of WA, a region which is recognised globally as one of the world's 35 biodiversity hotspots for conservation priority - because it is under threat.

We are concerned that the use of offsets - at both state and federal levels - is increasingly being used to justify and conditionally approve environmentally unacceptable projects.

Our comments will address your Committee's terms of reference using examples from Jandakot Airport and other projects which have been or are being assessed under the EPBC Act in the Perth and Peel region of WA.

#### **a. The principles that underpin the use of offsets**

EPBC Act Environmental Offsets Policy p8, Box 1: Offset principles: 'Suitable offsets must:

**1. deliver an overall conservation outcome that improves or maintains the viability of the aspect of the environment that is protected by national environment law and affected by the proposed action'**

#### **Jandakot Airport**

The clearing of 167 ha of high conservation value Banksia Woodland at **Jandakot Airport** meant a significant loss of foraging habitat for the listed endangered Carnaby's Cockatoo, and also loss of the second largest population of the endangered flora species: the Grand Spider Orchid (*Caladenia huegelii*); both of which are Matters of National Environmental Significance (MNES) under the EPBC Act. The loss of foraging habitat for Carnaby's is a **net loss** as the offset was the purchase of 1600 ha of private bushland which is in the Gingin area, not close to the Airport. As this offset land already existed, there is no improvement or maintenance of the viability of Carnaby's Cockatoos; there is only a net loss of their food supply. To obtain an improvement, an equivalent or larger area of food plants would need to be planted and grown to maturity with production of seed supply, a process which takes some 20 years before Banksias, Hakeas and Eucalypts are grown and adequately productive. Therefore the offset of acquiring existing bushland (while this may have merit when added to the conservation estate) is not consistent with this principle.

Further, this offset did not contribute anything that improved or maintained the viability for the Grand Spider Orchid.

Also there is a net loss of Banksia woodlands of the southern Swan Coastal Plain. This ecological community has been nominated (by the Urban Bushland Council WA and the Wildflower Society of WA)

for listing as a Threatened Ecological Community (TEC) under the EPBC Act and is now on the 'Federal Priority Assessment List' (FPAL) for assessment before December 2014. In the Strategic Assessment for Perth-Peel Region under the EPBC Act, now being conducted, this nomination is being treated as if the TEC were listed. Thus the Banksia woodlands at Jandakot Airport and at other locations now subject to development proposals should be regarded as a listed TEC and MNES.

The clearing of Banksia woodlands always results in a net loss of that ecological community which is an unacceptable environmental impact. These extremely complex and species rich woodlands cannot be replaced. Therefore every time Banksia woodlands are proposed to be cleared, as there cannot be a suitable offset according to **principle a(1)**, proposals including such clearing should not be approved as there is no suitable offset. **The Offset Policy (p9) states:** *'Offsets do not mean proposals with unacceptable impacts will be approved.'* ...*'Avoidance of impacts on protected matters may be achieved through comprehensive planning and suitable site selection, for example by changing the route of an access road to avoid an endangered ecological community.'*

### **MNES Thrombolites in Lake Richmond**

Another example is very relevant here: the **Mangles Bay Marina-based Tourist Precinct** currently being assessed under the EPBC Act. This proposal includes clearing and destruction in the Point Peron Bush Forever site for housing, and canal development right up to the edge of the adjacent Bush Forever site: Lake Richmond which supports unique, critically endangered thrombolites. There is a risk of sea water intrusion to the Lake, and the complex hydrogeology of the area adjacent to the Lake will certainly be significantly disrupted. Any risk of changed water quality whatsoever to this very special 'living museum' of thrombolites - which are of international significance - is obviously environmentally unacceptable. There is no possible way that the thrombolite community could be replicated, or improved or even maintained if this project goes ahead. There is only a risk of its degradation and total destruction. Therefore the precautionary principle should apply as stated in **Offset Principle number 9:** *In assessing the suitability of an offset, government decision-making will be: informed by scientifically robust information and incorporate the precautionary principle in the absence of scientific certainty.'*

It is not possible to offset or prevent the risk to the thrombolites if the canal development proceeds. No risk, however low, is acceptable to this critically endangered community which provides a window into the ancient life forms which first produced oxygen on Earth. The **precautionary principle** dictates that the risk should be removed by not allowing the canal development to proceed.

### **Offset principle 6 and**

#### **b. The processes used to develop and assess proposed offsets**

#### **Keane Road Strategic Link Public Environmental Review PER**

##### **Proponent: City of Armadale**

In this example for a local road proposal to be located in Bush Forever Area 342: the Anstey-Keane Damplands, we make comment on the proposed offsets.

The City of Armadale's claim that land given over as offsets amounts to more than 50 times the 2 ha area to be cleared is misleading. The proposed offset areas are either badly degraded or are already protected within the Forrestdale Lake Nature Reserve and the Jandakot Regional Park or are already Crown lands and therefore do not qualify as offsets. They do not meet the offset requirements defined in **Offset Principle 6:** *'Suitable offsets must be additional to what is already required, determined by law or planning regulations or agreed to under other schemes or programs':*

1. Offset 1 east side of Lake Forrestdale is **already protected** under the Forrestdale Lake Management Plan (DPAW) and is a Bush Forever site. The City of Armadale's land around the golf course is managed by DPAW as part of Forrestdale Lake Nature Reserve;
2. Offset 2 (Gibbs Road Banjup boundary) next to the Denis De Young reserve is protected within the Jandakot Regional Park;

3. Offset 3 – comprising Commercial Road SW - is extremely degraded and unlikely to be used for anything anyway; and unmade Stirling Road - half of it is under wooden pylons. The remainder is good Banksia woodland at the north end and excellent condition to the south-east. This is already within offset 1;
4. Offset 4 (Bartram Road) extremely degraded;
5. Offset 5 (Napier St, next to Primary School) this 0.4 ha strip, while containing a number of native flora species, is badly infested with veldt grass;
6. Offset 6 (Keane Road alignment southern end) is protected within the Jandakot Regional Park. It includes shrubs on dry clay-pans (excellent condition), a 200m degraded area near Anstey Road, a firebreak, and a small area around some salt water paperbarks on the northern end of this offset.

The City of Armadale has a responsibility to conserve those areas already vested in it as part of the Bush Forever policy which is already in place. As Crown reserves, the land is already 'owned' by the community and is not freehold land which can be acquired. Therefore they do not qualify as offsets as they cannot be acquired. Furthermore any offset cannot replace the complex values of the Dampland ecological community and cannot be recreated: thus there is a net loss of biodiversity and there is no conservation gain as required in the offset policy (7.6, p24)

In this example the attempt of this local government authority to justify their unnecessary local road proposal with totally unsuitable offsets as defined in the Offsets policy is totally unacceptable and is a failure in proper governance. Their process used to develop and assess their offsets is fundamentally flawed. They obviously did not consult and take advice from the WA State's Department of Parks and Wildlife (DPAW) expert officer Mr Alex Errington who acquires offsets in WA on behalf of proponents.

*The Urban Bushland Council recommends that the Senate Standing Committee seeks the advice of Mr Alex Errington of the WA Department of Parks and Wildlife concerning the practice of selecting and acquiring offsets in WA. Notably this process is carried out by his Department in WA, with the added benefit of expertise in the ecological quality of site selection, which is, we believe, unlike the process in other states where developers and miners find their own offsets.*

#### **Suitable Offset Mechanisms (Offset policy Box 3, p21)**

**Offsets on public lands should be legally secured for conservation purposes for at least the duration of the impact.**

In the last 5 years, some 18,000 ha of bushland has been acquired in the south west of WA (mostly on the Swan Coastal Plain) by DPAW (formerly DEC), as offsets. However most of this land has not yet been transferred to the conservation estate under the WA Land Administration Act. **We are advised that about 100 such packages of land acquisitions are held up in the Department of Mines and Petroleum.**

Under Section 16 (3) of the Mining Act 1978:

*'no crown land that is in a mineral field shall be leased, transferred in fee simple, or otherwise disposed of under the provisions of the Land Administration Act 1997 without the approval of the Minister.'*

That is the approval of the Minister for Mines. The Minister for Mines always objects to any further land being transferred and incorporated into the conservation estate. This we believe is an abuse of the power of veto and means that all the affected offsets are not '*legally secured for conservation purposes*'; are not '*statutorily defined and resourced*'; and the '*change in management status*' has not received the '*required Ministerial or statutory approval*' (Box 3: Suitable Offset Mechanisms for offsets on public lands, Offset Policy p21).

**Thus these offsets covering ~ 18,000ha which are now unallocated government lands have not been legally secured for conservation as intended, and further are not being properly resourced for management as conservation areas.**

**This is an unacceptable situation that we believe requires urgent attention so that the offset process is properly completed in the spirit and intent of the federal Offset Policy under the EPBC Act and in the**

**public interest. These offset areas must not be open to possible future disturbance and destruction by mining of any type. Furthermore they must be properly resourced by government for management as part of the conservation estate.**

**Transparency: Offset Principles 7 & 8** (Box 1, p 8)

**Suitable offsets must:**

**8. have transparent governance arrangements, including being able to be readily measured, monitored, audited and enforced.**

There is no transparency for the community concerning offsets. While state agency officers may be aware of certain arrangements, there is no register of offsets under the EPBC Act. We are not aware of any auditing process or enforcement procedures. Officers of DPAW when contacted directly are willing to share information but there is no formal process for such disclosure.

It is recommended that for principle 8 to be properly enacted, there be an on-line register of all offsets in each State and territory which should include the federal offsets under the EPBC Act as well as state listed offsets. This should be retrospective.

In WA there is now an offsets register at <http://www.offsetsregister.wa.gov.au/public/home/> However this is new and is not retrospective.

Representatives of the Urban Bushland Council would welcome the opportunity to discuss with the Senate Standing Committee these matters and other relevant examples of offsets in WA if any members of the Committee are visiting Perth.

We may be contacted as below for clarification of any of the above submission.

Yours faithfully

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