



A Community Legal Centre specialising  
in public interest environmental law

24 January 2013

Ms H Walraven  
Native Vegetation Council Secretariat  
GPO Box 1047  
ADELAIDE SA 5001

Dear Ms Walraven

### **Native Vegetation ( Miscellaneous) Amendment Bill 2011 and Third Party Offsets**

The Environmental Defenders Office (SA) Inc. (EDO) is a community legal centre with twenty years experience specialising in public interest environmental and planning law. EDO functions include legal advice and representation, law reform and policy work and community legal education. We appreciate the opportunity to consider the amendments to sections 25, 27,28,29 and 29A of the *Native Vegetation Act 1991*.

The proposed amendments provide broadly for a new third party offsets scheme. We welcome certain aspects including the noting of conditions of approval including management agreements against the relevant instrument of title for the land in question and the creation of a Register. We make the following points;

- a. Any scheme should have the goal of enhancing environmental quality which recognises that the environment has been significantly degraded in the past and halting and reversing this decline is now a priority.
- b. Offsets should not be approved unless they provide a conservation benefit additional to what would otherwise occur ie a net gain approach should be applied. Net gain is identified as 'where, over a specified area and period of time, losses of native vegetation and habitat, as measured by a combined quality-quantity measure<sup>1</sup> are reduced, minimised and more than offset by commensurate gains<sup>2</sup>
- c. All off-setting should be "like-for-like" which means that any impact on land of a particular environmental value must be offset through a site of the same environmental value.
- d. Management planning should allow for adaptive management and should be supported by legal, financial and institutional arrangements including enforceability, monitoring and auditing. Management plans should cover such matters as the period over which monitoring will be required, funding for monitoring activities,

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<sup>1</sup> Known as the habitat hectare measure

<sup>2</sup> Native Vegetation Management Framework for Action, 57

circumstances in which remedial actions will be required, appropriate types of remedial actions, planning for unanticipated events such as bushfires, and responses to failed offsets.

- e. Where possible offsets should be fully implemented and verified prior to clearance etc occurring but we do note that the amendments provide for performance bonds to guarantee that third parties will deliver environmental outcomes in accordance with management plans.
- f. The methodology for calculating the offset, that is, the metrics, must be rigorous.
- g. If money is to be paid in place of an offset, there needs to be in place a rigorous program to ensure appropriate pricing.

We would appreciate the opportunity to respond further in this process when Regulations have been drafted.

Please do not hesitate to contact Melissa Ballantyne of this office should you have any queries in relation to this submission.

**Environmental Defenders Office (SA) Inc.**

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