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To whom it may concern,

The Urban Development Institute of Australia (Qld) (the Institute) welcomes the opportunity to comment on the Environmental Offsets Bill 2014 ('the Bill'). The Institute has previously advocated for an integrated approach to environmental offsets at all levels and a less onerous regulatory burden on the development sector so as to better achieve the dual goals of environmental protection and economic growth.

The Institute is supportive of the overarching intent and premise of environmental offsets and acknowledges the consultation process which has been initiated by the Department of Environment and Heritage Protection with the development industry following the release of a draft offsets policy in April 2013. In particular, the Institute is supportive of the following:

- greater certainty and less green tape through the consolidation of the current five offset policies;
- revision in the number of environmental matters subject to offsets; and
- some additional flexibility for the delivery of offsets.

The Institute's specific comments relating to the Bill are summarised below.

Duplication

While the Institute welcomes Part 5 of the Bill which articulates when an offset condition may be imposed, there are concerns that the current provisions will not remove duplication, particularly between State imposed offset conditions and those imposed by Local Governments under offset policies incorporated in planning schemes.

The Bill allows Local Governments to impose an offset and the parameters that Local Governments are permitted to work within in imposing an offset are ill defined. In particular, 15(4) could allow an administering agency that is a local government to impose an offset condition on a significant residual impact on the same prescribed environmental matter as imposed by the State.

In the Institute's submission to the previous draft framework earlier this year, we noted our concerns with duplication of offsets policies between all levels of Government and called for the incorporation of Matters of Local Environmental Significance (MLES) wholly within the policy and calculator. While some duplication has been resolved in the Bill, particularly between the State and Federal Governments, three offsets programs still exist. Of particular concern, is the lack of oversight of inconsistent and often overly onerous local government planning scheme offsets policies by the State Government.

An example of the impact of local government offsets policies is the draft Gold Coast City Council City Plan's Vegetation Management Code. Using two sites as examples of this policy:

- Site A, with vegetation with a stem density of 60-100 per hectare, would attract a cost of \$1,000 per stem or \$160,000 per hectare.
- Site B, with vegetation with a stem density of over 2,000, would attract a cost of \$1,000 per stem or \$2,700,000 per hectare.

Given the example outlined in Site B above and assuming a density of 15 dwellings per hectare, the cost of offsets on a site densely covered by vegetation could be up to \$180,000 per lot. The costs incurred by the above examples are significant and would render both projects unviable. This example illustrates why greater State oversight is needed, far beyond what is currently outlined in both the Bill and the policy.

Delivery Mechanisms

There is a suggestion within both the Bill and explanatory notes that there is flexibility for proponents in selecting how offsets are provided. However, the Institute is concerned with clause 19 in the Bill that requires the administering authority to approve the offset delivery plan and the method. Additionally, there are no timeframes stated in the Bill for the administering agency to give the authority holder notice that it agrees or disagrees with the proposed delivery method. The Institute understands that if there is a dispute, the mechanism for dealing with the dispute is to be prescribed in the regulation. As it currently stands, this process where the administering authority has to approve the offset delivery plan and method it has the potential to significantly delay the start of a project. Further, no decision timelines are articulated.

Transitional Arrangements

Currently under Part 13 of the Bill, proponents who have already received a decision from the Department of Environment and Heritage Protection in relation to offsets under an existing Act, cannot seek to reapply under the new Act. There may be some proponents who have made an application under an existing Act, however not received, nor acted upon that approval. The Institute believes that there should be some flexibility and if no activity has occurred under an existing approval, there should be scope to allow proponents to reapply under the new Act.

For example, this was the approach taken when the new Infrastructure Charges regime was introduced in 2011. Where applicants were able to resubmit development applications to Councils to opt into the new system.

Sequencing of Approvals

As mentioned above, the Institute supports the Department's efforts under the Bill to prevent the duplication of offset conditions by providing that an administering agency (be it the State or a local government) must not impose an offset condition if the significant residual impact on the prescribed environmental matter relates to an area where there is an existing Commonwealth condition about the same or substantially the same impact and area. A similar limitation on a local government imposing an offset condition if there is an existing State offset condition also exists. While this is an improvement, it also assumes that approvals are obtained in a particular order, or that there is a degree of integration in the approval processes that does not currently exist.

Offsets Calculator

While the Institute accepts that the detail of the financial offsets option sits outside the detail of the Bill and will be released upon finalisation of the regulations, the Institute would like to reaffirm the importance of the financial calculator producing financial offsets costs which are viable. Previously the Institute has noted its support of the Department's endeavours to simplify the offset requirement where there are multiple values requiring offsetting, however raised concerns that in these instances, the financial settlement offset delivery option is cost prohibitive. It is important that both land-based and financial offsets are each viable options for offsetting.

In particular, the Institute is concerned regarding the application of the current rate of offsets to projects which impact on species in South-East Queensland. The Institute understands that the offset requirements under the draft State Government calculator are significantly greater than those currently being applied by the Federal Government's Department of the Environment for controlled actions. The Institute has previously called for a thorough review of the financial offset settlement for koalas and again highlights this as a key source of concern for the industry.

Financial Settlement and Staging

The Bill requires that the proponent delay commencement of on-ground impacts to the matters of environment significance until the required payment has been made to the relevant offset account. In its submission to the Department in February 2014 on the draft framework, the Institute requested more clarification regarding the legal trigger point for financial settlement. The Institute requested that this be as late in the development cycle as possible. While a delay of a few months would have minimal flow on environmental impacts, an additional 2-3 months of holding and related costs can render a project unviable. While the Institute accepts that the payment needs to be made prior to the impact, payment should be required as late in the development process as possible. The Bill does not offer any further guidance on this issue nor clarify which projects (either by scale or type) may be eligible for multiple staged offsets. The Institute recommends that the option to stage offsets be articulated in the Bill and be flexible and open to projects which can demonstrate that early stages of the project will not impact on the MSES.

Environmental Offsets Policy

The Institute notes that a revised Queensland Environmental Offsets Policy was posted on the Department of Environment and Heritage Protection's website a few days prior to the deadline for submissions on the Bill. While the Institute has not yet had the opportunity to review the new policy in-depth, it makes the following observations:

- While the policy makes mention of avoiding duplication between Federal Government and State Government offset requirements, there is still no mention of streamlining local requirements. This remains of significant concern to the Institute. As noted above, without oversight, local government offsets policies have the potential to render development projects unviable.
 - The Institute is supportive of the alterations made to the policy to allow for 'multi-themed' offset provisions.
 - The Institute notes the inclusion of additional measures of what constitutes an effective offsets under 2.7.1. Of particular concern to the Institute is the inclusion of the final dot point which notes that the offset should be located as close as possible to the impact site, with the key priority being in the same local government area. Local Government boundaries are arbitrary political and administrative boundaries which are in no way a measure of biodiversity. This dot point should be removed, with the focus being on bioregions which are areas characterised by broad, landscape-scale natural features and environmental processes that influence the functions of entire ecosystems.
 - Under 2.9, the policy notes that offsets will be entered into the Queensland Government's offset register. The Institute has previously noted its concerns with how offsets will be maintained as records. The proposed offsets register is insufficient and is likely to cause confusion. Offsets should be easily accessible and easily identifiable for the purposes of facilitating a smooth and transparent transaction process. The Institute understands that it is the Government's policy to continue to make information available through Queensland Globe and offsets should be integrated into this existing dataset.
 - Transitional provisions outlined in Appendix One are clearer than outlined in the previous discussion paper, however, more detail is needed to provide certainty and in particular, there should be greater flexibility to allow proponents to reapply under the new Environmental Offsets Policy.
 - The Institute is supportive of the additional clarity around the option to stage offset delivery, subject to the timing of impact on the prescribed environmental matter/s. However, some additional clarity on how this may be applied in practice would be welcomed. For example, the staging of offset delivery for a Greenfield development with a 15 year construction period. The Institute also seeks clarity on whether there is any ongoing requirement for reapplication or review at subsequent stages prior to impact, if the staged offsets are proceeding as per the original offset strategy.
 - The Institute supports the inclusion of impact in protected areas as being 'offsetable', however questions whether the current financial example is accurate, noting there are no ongoing maintenance costs.
 - The Institute notes that most of the supporting materials listed in Appendix Two are currently in development. The detail contained within these supporting materials, particularly the *Guideline to*
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determining a 'significant residual impact' and Offset Assessment Guide (calculator), is a central part of determining whether the Offsets Policy is likely to have a significant impact on the viability of projects. The Institute strongly recommends that these supporting materials, once developed, are provided to key stakeholders for consultation and feedback, prior to finalisation.

- The Institute notes that Appendix Four may be applied to certain prescribed activities. The Institute strongly believes that this should be applicable to urban development.

The Institute is appreciative of the opportunity to comment on the Bill and welcomes the opportunity to provide more detailed feedback to the Department on the Offsets Policy and supporting documentation.

Yours sincerely

Urban Development Institute of Australia (Queensland)

Marina Vit
Chief Executive Officer
