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TO

The Research Director

Agriculture, Resources and Environment Committee

Parliament House

George Street

BRISBANE QLD 4000

By email: AREC@parliament.qld.gov.au

Re Environmental Offsets Bill 2014

Please find below comments on behalf of the Alliance to Save Hinchinbrook Inc. (ASH) on the Environmental Offsets Bill 2014 and the related Policy.

It is structured in three sections:

1. Introductory remarks (p.1); general comments on the Policy (p.2) and the Bill (p.3);
2. A tabulated response to clauses of the Bill (p.4);
3. EHP consultation with Queensland Conservation Sector – 15 questions unanswered – and a table showing the 15 questions with our brief comment on how those topics fared in the Bill (p13).

Generally, we have tried to signify recommended changes to the Bill by rendering those sentences **in bold**.

Yours faithfully



for ASH.

Introductory remarks

There has been no public consultation at all on this Bill. This means that the public, which still expects the courtesy of democratic participation in what happens to the basis of health and wealth in Queensland, is almost entirely unaware of the real-life outcomes of this Bill.

The Policy and the various provisions of the Bill in effect cause the hierarchy *avoid-mitigate-offset* to collapse to 'offset-compensate' without limitation. In other words, development can always occur even if impacts are not mitigated and genuine offset is not possible; the policy fails to allow that "unacceptable" residual impacts which might prevent a development from being approved.

Given the 2013 amendments to the VMA and the NCA, and the new de facto policy of unidirectional changes in official vegetation mapping, the net result can only be further, continuing, and unmitigated loss of natural vegetation, tree cover, native species etc.

THE OFFSETS POLICY

Some matters covered in the Policy have been dealt with where they are reflected in the Bill. See the tabulated section below (p.4).

Policy p.14-15, 17. Delete the reference to unimproved land value for the local government authority area. It is irrelevant and will have perverse outcomes.

'Self-administered offset code of compliance' (the Policy). Self-compliance is a contradiction in terms. **Any code of practice must comply with the terms of an offset agreement and plan. Reporting must be mandatory, also inspection must be mandated**, whether by EHP or by ENGO delegated this task, as happens in some other countries.

Policy p.11-12, 22-23 - policy must ensure NET ECOLOGICAL GAIN. A considerable margin is required in all such manipulations on the ground, that's the real-life effect of messing with the natural environment. Ask any farmer (I was once a dairy farmer in NSW, in natural country). There should be an assessment of the risk of loss in creating a new habitat or restoring a degraded one, taken into account in deciding how much net gain should be the goal. There is, after all, a real and permanent loss on the development site.

Policy must have provisions to ensure offset payments will be used for genuine offset creation and protection, not for on-farm landcare-type activities. **Plans must demonstrate clear and unequivocal ecological equivalence.**

Policy p.17 - **Replace 'ten years' with 'three years' for review** of the mapping on which offsets will be applied. This is best thought of as a continuing iterative process, to keep mapping updated with on-ground changes.

Policy p. 4: **Delete the removal of dredge management plans as assessable trigger, and changes to the definition of ‘tidal works’.** No explanation has been provided for these extraordinary changes. Why the haste? Cui bono? Such policy determinations undermine the supposed purpose of an Offsets Policy. These changes are particularly extraordinary in view of the UNESCO requirements of the Queensland Government for the protection of the GBRWHA.

THE OFFSETS BILL

By removing s.207(1)(c) the EP Act and s.346A(2) clauses 111 and 138 of the Bill have the effect of removing all requirement for mitigation and replacing that step with offsets. **These clauses (111 and 138) must be omitted.** Offsets **MUST** only be considered after the proponent has demonstrated they have gone to *all reasonable efforts to avoid or mitigate environmental harm*.

The essential principle of an offsets policy is that an offset can be considered only when all other prevention and mitigation possibilities have been exhausted and where there are residual impacts that are not unacceptable. Otherwise the offsets policy simply licences environmental vandalism.

Consideration of offsets conditions in EP Act and SPA must retain reference to satisfying a requirement that all appropriate and reasonable mitigation measures will be undertaken. The EPA, SPA and SDPWOA must require

(1) consideration of ‘reasonable’ alternatives;

(2) limitation of application of offsets to residual impacts which are not ‘unacceptable’ impacts.

It is unacceptable that QLD DSDIP will be exclusively deciding on offsets for most development under SARA.

The QLD EHP must be a concurrence agency for applications under the State Planning Act (SPA).

Amend the SPA to this effect and include reference to triggers. If clauses 14(1) and (3) are not amended to clarify the intent, they will be interpreted widely and inappropriately, ie that the one offset can be applied for multiple projects and Applicants. Also see 15(1) and (4) and Policy pp. 4-6.

See table below (starts p.4) for further detailed comments on specific clauses of the Bill

The Bill	ASH detailed remarks
<p>Part 2 Purpose and application of Act 3 Purpose and achievement (p11)</p> <p>(1) The main purpose of this Act is to counterbalance the significant residual impacts of particular activities on prescribed environmental matters through the use of environmental offsets.</p> <p>(2) The main purpose is achieved primarily by—</p> <p>...</p> <p>(c) providing for national, State and local matters of environmental significance to be prescribed environmental matters for the purpose of this Act; and</p>	<p>This wording systematically excludes all endemic and other native species, ecosystems, biological communities etc, from protection under the offsets system. Clearly this offsets system fails the reality of Queensland’s biodiversity and natural landscape function, landscape and biodiversity integrity.</p> <p>The Bill lacks any reference to principles crucial to any offsets policy: no net loss, ESD, Precautionary Principle, intergenerational equality, scientific certainty, biological diversity and ecological integrity [EPBC Act, s3A] or other principles of the EPBC Act (2006).</p> <p>The EPBC Act states the primary aim of offsets as ‘net environmental gain’ resulting in a positive outcome for the environment. These principles are crucial to achieving this aim.</p> <p>‘Counterbalance’ is not the same as ‘compensation’ (EPBC Act) and cannot require the same standard of performance (in offset equivalence).</p> <p>Queensland must be fully consistent with Commonwealth Offsets Policy, or at least not fall below its standards.</p> <p>The department was supplied with numerous references to sets of well-researched best-practice principles which covered the important bases of a best-practice offsets policy. Why have these best-practice principles not been used? Where is the justification for avoiding best practice?</p>
<p>5 Relationship with particular Acts 9 (p11)</p> <p>(1) This Act does not affect or limit the functions or powers under the State Development Act of the Coordinator-General,</p> <p>(2) Also, this Act does not affect or limit—</p> <p>(a) the power of an assessment manager under the <i>Sustainable Planning Act 2009</i> to impose a condition stated in a report of the Coordinator-General under section 39 of the State Development Act; or</p> <p>(b) a person’s obligation under section 54 of the State Development Act to take into consideration the Coordinator-General’s report; or</p>	<p>It is unacceptable to exempt the Coordinator-General from the necessity to require environmental offsets (major projects). Major projects are, virtually by definition, likely to have very large adverse impacts on the natural environment.</p> <p>It is unacceptable that (b) provides the Coordinator-General with a further avenue to reduce or remove an offset condition that would otherwise have been imposed.</p> <p>Another reason this Bill will result in loss of biodiversity etc.</p>
<p>Part 3 Interpretation</p> <p>Division 2 Key concepts and definitions</p>	<p>7 (2) can only result in ‘death by a thousand cuts’:</p>

7 What is an offset condition and an environmental offset (p16)

...

(2) An *environmental offset* is an activity undertaken to counterbalance a significant residual impact of a prescribed activity on a prescribed environmental matter.

(3) However, an environmental offset for a prescribed environmental matter that is a protected area, other than a nature refuge, may include the delivery of any activity that provides a social, cultural, economic or environmental benefit to any protected area.

1. 'counterbalance' suggests 'equivalence'. That would have been a worthy aim. One can only assume that the government is not 'fair-dinkum' if it chooses the wobbly concept of 'counterbalance' over 'equivalence'.

Overseas studies show that equivalence, even when genuinely sought, is rarely achieved; either as like-for-like or over time across the landscape. The present offset system can only result in continued cumulative impacts across the board. Individual offsets must do far more than merely 'counterbalance' if any lasting retention of biodiversity and ecological integrity is to be achieved.

2. (3) 'a prescribed environmental matter' is another reason the offsets policy will result in loss of biodiversity etc. The system of listing protects only a very small part of Queensland's biodiversity and there is nothing to protect landscape functionality or world heritage values including aesthetic values. The listing system has become a miserable and mean process which in time must reduce all remaining native biological life to the brink of extinction requiring high levels of management.

Aesthetic values of natural areas arise directly and only from the intact natural values. Aesthetic value has a permanent relationship to the landscape and biological integrity of a natural area. Aesthetic value is not the same thing as scenic amenity. Aesthetic value is inherent in the matter being observed (by any or all of the senses) whereas scenic amenity is related to the passing opinion of people at the time about a view.

In restricting 'counterbalance' to the prescribed matters, landscape and ecosystem integrity have not been considered or protected in the offsets policy or this Bill.

3. (3) 'social, cultural, economic or environmental benefit' is a direct route to environmental destruction. It is far easier to devise some social benefit, including something with further environmental impacts, than create a new habitat. Another reason the offsets policy can never achieve overall 'counterbalance'. A recent example: an artificial reef proposed to appease one community sector for the dumping of dredge spoil in the GBRWHA (Bowen).

8 What is a significant residual impact

(4) For a legally secured offset area, a *significant residual impact* is an adverse impact, whether direct or indirect, of a prescribed activity on all or part of a prescribed

Clause 8 'Significant' residual impacts is a direct route to decline in the natural environment.

The UNESCO has already pointed out the failure of

<p>environmental matter in the area that results, or will or is likely to result, in—</p> <p>(a) for the prescribed environmental matter for which the area was set aside for the purposes of an environmental offset—a use of the area that is inconsistent with how the environmental offset was or is required to be undertaken to achieve a conservation outcome for the prescribed environmental matter under a delivery or management plan or agreement (however described in this or another Act); or</p> <p>(b) for any other prescribed environmental matter in the area—a significant residual impact as mentioned in subsection (1) on the other prescribed environmental matter. (P15)</p> <p>(3) A regulation may only prescribe a matter of national environmental significance to be a prescribed environmental matter if it is—</p>	<p>the Queensland and Australian governments to adequately assess cumulative impacts. The destruction of natural elements and areas that are assessed as being not of ‘significant impact’ logically and in fact results in continued incremental destruction—‘death by a thousand cuts’ (UNESCO Mission Report 2012). UNESCO was particularly critical of the Queensland government performance in this regard.</p> <p>This assumes that offsets will be available for development. Queensland is not yet in the parlous condition of EU countries which have been mined, farmed, built over, logged, for centuries. Some of those countries (eg the Netherlands) have NO endemic species at all. England has less than twenty, last time I checked.</p> <p>Offsets policies have been devised for those countries as a desperate measure to retain anything at all. There are few EU countries where there are substantial areas of ‘original’ or ‘old-growth’ or 100-year-old habitat, other than in national parks.</p> <p>This offsets policy and Bill is treating Queensland as if it is already in that category, prepared to immediately reduce Queensland’s wild biodiversity and landscape functionality, already vastly diminished by urban development to that of old degraded farming and mining land, to impoverished collections of listed species which are never guaranteed a long-enough time to develop into a mature ecosystem.</p> <p>Invasive species will have even more access to native lands through this policy and Bill.</p> <p>Another reason the offsets policy will result in loss of biodiversity etc.</p>
<p>9 What is a prescribed activity</p>	<p>Clause 9 (‘Prescribed activities’) must be consistent with the definition in the State Planning Act (SPA).</p> <p>The Bill must make it clear that the meaning in the Bill is not different to meaning in the SPA.</p>
<p>10 What is a prescribed environmental matter and a matter of environmental significance</p> <p>(1) A <i>prescribed environmental matter</i> is any of the following matters prescribed under a regulation to be a prescribed environmental matter—</p> <p>(a) a matter of national environmental significance;</p> <p>(b) a matter of State environmental significance;</p>	<p>Threatened and Vulnerable Wildlife and Special Least Concern species must be protected in an offsets policy. If this amendment is not made, the Bill will legitimise ‘significant’ residual impacts.</p> <p>Definition of MSES does not include all protected wildlife under the Nature Conservation Act (NCA).</p> <p>MNES is not a surrogate for world heritage protection.</p>

	<p>The concept of lists, which was originally for the purpose of ensuring a safe wild future for all Australian native species, habitats and natural communities, has been turned on its head. The need for listing species and ecosystems is increasing rapidly while the narrowly defined listing process is being kept out of date by government inaction.</p> <p>It's bad enough that only those species listed will be protected under this Bill. The omission of Threatened and Vulnerable Wildlife and Special Least Concern species is fast-tracking towards state-wide species extinction and disintegration of landscape biodiversity and integrity. It is like allowing the taking out of a mortgage you have no intention of paying back and leaving your heirs to discover that instead of having an inheritance they can enjoy, they have inherited a huge debt which they have not the means to even service, let alone repay. The difference is that nature will not let you off with a bankruptcy, to start again with a clean sheet. Nature is not growing at all, unlike the out-of-control economic model to which this civilisation is addicted.</p> <p>The SPP too fails in this regard. The SPP does not protect Vulnerable wildlife, in blatant contravention of the NC (Wildlife) Regulation 2008 (NCWR) and international obligations.</p> <p>S.28 and S.29 of the NCWR 2008 clearly sets out the importance and management intent of near threatened wildlife: 'to take action to prevent the further population decline of the wildlife'.</p> <p>Given the considerable advice requested from and given by the conservation sector in the drafting of this policy (see comprehensive ASH Submission and attachments) the wording of this Bill can only be explained by an intent for this Bill to be no more than window dressing, essentially ineffectual in carrying out its declared purpose.</p> <p>Conservation sector advice included the warning that offset policies world-wide are not achieving their stated aim, that a policy could no better than to adopt certain well-established core principles, and that the Queensland policy should at least comply with the Commonwealth Policy.</p>
<p>10 What is a <i>prescribed environmental matter</i> and a <i>matter of environmental significance</i> (3) A</p>	<p>Clarification required – this Bill 10(3)(a) should refer only to Part 3 EPBC Act.</p>

<p>regulation may only prescribe a matter of national environmental significance to be a prescribed environmental matter if it is—</p> <p>(a) a matter of national environmental significance under the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cwlth), chapter 2; and</p> <p>(b) the subject of an approval for the taking of an action or class of actions in relation to the matter under section 46 or 146B of that Act.</p>	<p>MNES: see Chapter 2 EPBC Act s.146B</p> <p>MNES: This Bill is entirely inappropriate to the Great Barrier Reef World Heritage Area or to its catchments. MNES has proved an inadequate surrogate for world heritage values.</p> <p>NOTE: The conservation sector, when asked for advice on this draft Policy, was not advised that it was intended to be applied to the Great Barrier Reef World Heritage Area.</p> <p>This clause is an example of further diminishing the existing real natural world by marking out even more of it for destruction. The failure to protect river banks and the function of river banks in the landscape will (apart from the local and regional destruction) have continuing long term, cumulative impacts on the GBRWHA. The non-mandatory Reef Water Quality Plan can never compensate for destruction built in to policy.</p>
<p>11 Conservation outcome achieved by environmental offset</p> <p>A conservation outcome is achieved by an environmental offset for a prescribed activity for a prescribed environmental matter if the offset is selected, designed and managed to maintain the viability of the matter..</p>	<p>Neologisms ‘viability’ and ‘conservation outcome’ are not defined –providing yet more loopholes to avoid protecting natural values. The Bill must use properly defined and well understood terms as currently in use, eg ‘no net loss’ and ‘ecological equivalence’ –or write full prescriptive definitions.</p> <p>This clause does not say what is a ‘conservation outcome’, in terms of real-life conservation outcomes. It only says that <i>whatever results</i> from the offsets process (which might be cash, or nothing) is to be called a ‘conservation outcome’. There is nothing in the Bill to ensure that a real gain is made in terms of biodiversity, landscape integrity etc., or at least, that no further loss is incurred.</p>
<p>12 What is an environmental offsets policy</p> <p>(2) As soon as possible after the prescription as an environmental offsets policy of a document made by the chief executive, the chief executive must make the policy available for inspection in the way the chief executive considers appropriate.</p> <p>(3) As soon as possible after the prescription as an environmental offsets policy of a document made by a local government, the local government must ensure the policy is available for inspection in the way the local government considers appropriate.</p>	<p>in the way the chief executive considers appropriate. in the way the local government considers appropriate.</p> <p>This is recipe for nepotism and secrecy. It is hard to imagine how such benighted wording could get into this Bill, which is of the greatest concern to all Queenslanders and all Australians. Surely the drafters believe in democratic process? In citizen inclusiveness?</p> <p>The wording must prescribe certain ways of publication and availability, under a guiding principle of ensuring that easily read and downloaded digital copies and paper copies are</p>

	<p>available without limitation, via websites and in departmental offices and/or local libraries. Paper copies must be made available to persons on request, who may live in remote areas and not have access to the internet, whether through access being technically unavailable or through physical infirmity or internet illiteracy.</p> <p>Publication of the environmental offsets policy on the website of EHP and the local government (eg working links) must also be mandatory.</p>
<p>13 Content of environmental offsets policy An environmental offsets policy may—</p>	<p>Clause 13 must be amended to mandate minimum requirements (replace 'may' with 'must'). Otherwise there's no point in having a policy at all.</p> <p>Offset requirements must refer to the fundamental principles of genuine offsetting eg</p> <ul style="list-style-type: none"> • environmental/ecological equivalence; • refusal if equivalence is not possible; • net environmental/ecological gain; • no cap on ratio - remove reference to 1:4 cap (a cap will ensure cumulative losses); and • application of the Precautionary Principle and other principles of the EPBC Act.
<p>Part 5 Imposing offset conditions (p18) 14 Imposing offset condition (1) This section applies if, under another Act, an administering agency may impose an offset condition on an authority under the other Act for a prescribed activity for a prescribed environmental matter. (2) Despite anything to the contrary in the other Act (other than as mentioned in section 5), the administering agency may impose the offset condition only if it is satisfied— (a) the prescribed activity will, or is likely to have, a significant residual impact on the prescribed environmental matter; and (b) all cost-effective on-site mitigation measures for the prescribed activity have been, or will be, undertaken.</p>	<p>As above, limiting the offset condition to prescribed matters only, allowing loss of other environmental values including aesthetic values; where is the Precautionary Principle? Where are the scientific studies which advise that reducing natural ecosystems to collections of prescribed matters will produce equivalence?</p> <p>Another reason the offsets policy will result in loss of biodiversity etc.</p> <p>If a decision maker considers the impacts are greater than the other offset condition, he/she should not be prevented from conditioning the project.</p> <p>'Cost-effective' is a piece of elastic. 'Cost-effective' is why the state is being so badly trashed – the loss of the natural environment is not being appropriately costed. Further, this wording allows the developer to go straight to offsets rather than mitigate impacts on site.</p> <p>'Reasonable' would be an acceptable alternative to 'cost-effective'.</p>

<p>15 Restriction on imposition of offset condition (p19)</p> <p>(1) An administering agency must not impose an offset condition on an authority if the significant residual impact on the prescribed environmental matter relates to an area where there is an existing Commonwealth condition about—</p> <p>(a) the same, or substantially the same, impact; and</p> <p>(b) the same, or substantially the same, area.</p>	<p>‘or substantially the same’</p> <p>Yet another reason the offsets policy will result in loss of biodiversity etc. Substantially is a piece of elastic.</p> <p>Clauses 15(1) and (3) (and Policy pp. 4-6) must be amended to remove the word “substantially”. Either the project is the same project or it isn’t. Confusion is a real and serious likelihood and wastes the resources of approval agencies.</p> <p>The last (and refused) Application for “Port Hinchinbrook Stage II”, pursued in various forms over some five years, attempted a similar stretch of reality through various “changed” and “amended” versions, for overlapping groupings of land titles repeatedly presented as the same project, wasting an enormous amount of Council resources in fruitless argument about whether or not it was the same project.</p> <p>When a project is changed the decision-maker must have the power to decide whether or not the environmental impacts are greater or different, and require greater or different offsets conditions accordingly.</p>
<p>17 Contravention of deemed condition</p> <p>(3) If a person contravenes a deemed condition, the person may be dealt with under the Act under which the authority was granted as if the person had contravened an offset condition imposed under that Act.</p> <p>(4) Without limiting subsection (3), the person may be prosecuted under the other Act for a breach of a deemed condition and, if convicted, is liable to a penalty in the same way and to the same extent as if the person had breached an offset condition imposed under the other Act.</p>	<p>There’s no point in describing enforcement in terms of ‘may’. Clause 17(3) (4) must be amended to omit ‘may’ and replace with ‘must’.</p> <p>Breaches of conditions: there is already a poor record of compliance with consent conditions in Queensland, because governments do not ensure that they have the power to enforce the conditions or apply meaningful penalties. The cogent reason why governments MUST ENSURE FULL COMPLIANCE is that every one of these authorities given is an agreement to trade in a public good, accumulating a huge and increasing debt as generations pass.</p> <p>Companies are often nothing more than the pawns of profit-reaping directors, “sacrificed” to allow the director(s) to walk away with full pockets at the expense of the public purse and the natural environment. The present state of “Port Hinchinbrook” is the direct result of the local council and the state government relying on the signature of Keith Williams as director of a shelf company. Now that the development company has folded, there is a huge environmental and social mess which is</p>

	<p>depressing the whole district. Only when governments get real about <i>their</i> responsibilities to the people, by requiring meaningful and achievable penalties (eg by cash bond or bank guarantee) will this drain on the economy and the environment be halted.</p> <p>Breach of deemed conditions must be enforced.</p> <p>If circumstances emerge such that a proposed offset cannot be delivered, a substitute and equivalent offset must replace the non-delivered offset.</p>
<p>18 Election about delivery of offset condition (a) elect, by notice given to the administering agency, to deliver the offset condition by— (i) a proponent-driven offset; or</p> <p>(3) A notice of election that involves a proponent-driven offset must be accompanied by a plan about how the authority holder will undertake the offset (an <i>offset delivery plan</i>).</p>	<p>There must be no difference in offsetting standards between proponent-driven and other offset requirement. All must be ‘of size and scale proportionate to the significant residual impacts’ ...</p> <p>18 (3) – good. Also developer Strategic Plan, Monitoring (with appropriate frequency) and Annual reporting must be mandatory.</p>
<p>21 Requirement for proponent-driven offset</p>	
<p>Part 8 Legally secured offset areas 28 What is a <i>legally secured offset area</i> (1) An area of land is a <i>legally secured offset area</i> if—</p> <p>29 Declaration of environmental offset protection area (1) This section applies if an owner of land makes an application, in the approved form, to the chief executive for a declaration</p>	<p>ADD a clause</p> <ul style="list-style-type: none"> • Requiring that land provided as an offset cannot be land that is <i>not</i> seriously degraded or <i>not</i> immediately threatened with degradation or destruction. • Requiring offsets to be available BEFORE the site is cleared or otherwise degraded or destroyed. The notion that an exact equivalence can be created is already problematical, without deferring it to some time in the future.
<p>Division 3 Proponent-driven offsets 21 Requirement for proponent-driven offset</p>	<p>Amend this clause to add a provision to the effect that a proponent-driven offset must be legally secured prior to any destruction of the development site is carried out.</p> <p>Add a clause to require the government (EHP) to independently investigate the suitability of proponent-driven offsets.</p>
<p>32 Amending or revoking declaration A regulation may provide for the chief executive to do the following in relation to the declaration of an environmental offset protection area made under section 29— (a) amend the declaration; (b) revoke and remake the declaration;</p>	<p>DELETE CLAUSE 32(c) (revocation).</p> <p>Revocation must not be allowed. Only an impoverished version of nature will survive repeated trashing and the limited re-creation possible und the policy as here proposed.</p>

(c) revoke the declaration.	
Part 9 Compliance notices 34 Local government or chief executive may give compliance notice	ADD a clause to create an offence applicable to breaches of agreements, with prescribed and discouraging ‘on-the-spot’ penalties related to the value of the project and severity of breach. This cannot be a discretionary matter, unless the government intends to encourage nepotism. Enforcement procedures are highly discretionary
Part 12 General 89 Register to be kept by each administering agency (2) An administering agency must make the register available for inspection in the way the agency reasonably considers appropriate, including, for example, in electronic form. (3) An administering agency must, if requested by the chief executive and without charge, give information held on the register to the chief executive.	The Public register must ensure transparent information and be publically accessible (see above re publication). The means of ensuring transparency and accountability, and public comment, and minimum period of review, must be included in this clause; eg. . the agreed arrangement by which the offset will be provided (delivered); . the environmental offset delivery agreement; . the offset delivery plan.
OMISSION eg Clause 89 (OFFSETS BILL)	This Bill must have Provisions to ensure regular (eg annual) reporting of the effectiveness of offsets and penalties for non-compliance, and triggers for EHP to inspect offsets.
Part 23 Amendment of Sustainable Planning Act 2009 139 Insertion of new ch 10, pt 10 Chapter 10— <i>insert—</i> 971 Continued effect of local planning instruments (1) This section applies to a local planning instrument if	Further clarification required for ensuring that strategic corridor mapping and offset proposals are consistent with land use planning. Offsets must be reflected in local planning instruments.

EHP CONSULTATION WITH QUEENSLAND CONSERVATION SECTOR

- QUESTIONS UNANSWERED -

during late 2013 and early January 2014 (comprising presentation by EHP at Environment Round Table 2013; EHP provision and of 'early draft' and request for comments; meeting with EHP physical (Brisbane) and by phone (regional); provision of Conservation Sector comments by 06 January 2014).

Queensland was once a place where terrestrial native wildlife was unlikely to become threatened with extinction due to land clearing and development. Over the last 200 years, however, the developers and the burgeoning population have spent the earth like a one-time cash gift, using it up without thought of the future. They forgot that there could be no repeat.

Today, the short term wants of developers and the short term desires of politicians are being promoted over and above the long term needs of today's children and their children. There can be no cash-gift for them. How will these youngsters react when they realise that their ancestors have spent all their inheritance?

Twenty years ago offsets were not a thought in Queensland, because so much natural environment was available to be destroyed, with almost no limit; only in the early 2000s were the first restrictions on land clearing enacted – only to be abolished last year. A mere ten years of land clearing restrictions and they've gone, to be replaced with an offsets policy, an admission that land clearing is now the order of the day, and nothing must get in its way.

The only logical reason for devising an offsets policy is to allow further destruction of the natural environment. At its heart, offsetting furthers destruction of the natural, native world.

In countries which have long been turned into mines and farms and factories, where there are few or no endemic species, it may be that offsetting can be negotiated for useful purposes. Nevertheless, world-wide, recent studies show that offsets policies have not worked to protect the natural environment.

Best-practice principles and policies have been worked up, overseas and here in Australia. The Queensland government has chosen not to implement these best practice principles; and the detail of the present Bill contradicts the claimed purpose of offsetting, ie, to protect nature.

Below are the 15 separate questions sent by ASH to EHP in late 2013, when commenting on what EHP had described as 'an early draft.' Very little has changed from the 'early draft' that was made available 'in confidence' (as 'an early draft') to representatives of the conservation movement of Queensland. No further 'late' draft was issued, as one would have expected, for public comment. None of the questions below, put to EHP in January 2014, have been answered. The present Policy and Bill has now been published as if that 'consultation' had never taken place. Either the wording, or its effect, has not changed, or remains unclarified; and new problems reducing the purported effect of the Policy have emerged in the present Policy and Bill.

	QUESTIONS (ASH to EHP, 2013)	THE BILL 2014: ASH COMMENT
1	MNES vs MES vs MSES? defined as in ?? precision and definition please.	These remain unclear in the Bill. These definitions are crucial to outcomes for nature. Definitions must be consistent with Commonwealth definitions where applicable ; noting that MNES is not a surrogate for world heritage values and that the listing process itself has become a way of destroying the integrity of nature in the landscape by excluding most species and ecosystems.

2	<p>re time frame for delivery of offset - capped at 20 years - what does a displaced portion of a species do in the meantime? what about the lost genetic variability? If addressed in the parallel process, would this mean no offset possible? What is the genetic variability bar and how is it determined? How much reduction in gene pool is considered acceptable? In view of increasing climate change impacts and the state government's statement that it will undertake "adaptation" (but not mitigation), has government policy placed a premium on genetic variability, the most basic factor for species adaptation?</p>	<p>Time of delivery of offset remains unclear in the Bill. Delayed delivery is contrary to best practice. Not only should there be no delay, a functioning offset MUST be existing prior to destruction of nature on site.</p> <p>There is still no strategic plan, and no set of best practice principles, to guide the application of an offsets policy.</p> <p>The principles of the present Policy are not principles of protecting nature. See best practice principle used elsewhere.</p>
3	<p>Similarly: What is overall vision of Queensland and its biodiversity? what is the state's goal for fragmentation of habitat? landscape-scale outcome? These comprise the fabric which this draft policy will cut and stitch to new landscape forms. Is the big picture a farming/mining/urban mosaic with "green" fringes and joiners, or something else?</p>	<p>There is still no supportable (ecology/landscape-focused) vision or goals for Queensland biodiversity in the landscape to guide the application of an offsets policy.</p>
4	<p>What happens if a company is wound up or otherwise departs? another GFC? cash bonds should be required against departure, failure to follow up. Large cash bonds are required for long term projects. Lesson: "Port Hinchinbrook".</p>	<p>There are still no guarantees that offsets approved will be established, and will be maintained. The Bill still lacks the following best practice elements:</p> <ul style="list-style-type: none"> • offsets to be established before site destruction begins; • adequate cash bonds and bank guarantees to be lodged against company failure; • government guarantee of perpetuity (ie offset not available for development)
5	<p>How will this policy be defended from ISDS provisions of international trade agreements?</p>	<p>DEAFENING SILENCE on international trade agreements and the risk of associated Dispute Provisions resulting in arrangements made under Queensland legislation being overturned by overseas or transnational companies demanding our 'resources'.</p>
6	<p>bilaterals and GBRWHA ?</p>	<p>The Queensland Offsets Policy and Bill are of a lower standard than the Commonwealth Offsets Policy. Is this a forewarning that the Commonwealth Offsets Policy will be downgraded?</p>
7	<p>Habitat quality: how is the <i>stocking rate</i> relevant? how measured?</p>	<p>No response was made to this question.</p>
8	<p>Site condition: how does the methodology account for mosaic landscapes and ecotone areas?</p>	<p>No response was made to this question.</p> <p>The complexity of real wildlife is not addressed in this Policy or Bill.</p>

	extreme-condition ephemeral use of "fall-back" areas?	
9	Under what conditions would 'NO OFFSET - NO DEVELOPMENT' be applied? eg No offset is possible (SEAGRASS, MANGROVES, BENTHIC COMMUNITIES, CORALS; BEACH STONE CURLEW; habitats bound to soil type;	<ul style="list-style-type: none"> • This Bill does MUST AUTHORISE a 'no-offset possible' option. Despite the Policy, this is not clear in the Bill. • Worse, the detail of the Bill offers the option of skipping over the middle step in the approval hierarchy (avoid, or mitigate, or offset) to go straight from 'avoids or ...' to 'offset'. • Further, one offset option is for cash payment. <p>In sum, the Bill makes no provision for protecting or replacing habitat and species where no offset is feasible. Cash will do.</p> <p>The concept of recreating or replacing habitat is in any case fanciful. That is why an offset must only be acceptable AFTER it has been successfully established prior to the habitat on the development site is destroyed.</p>
10	What about impacts on species occurring outside a development site (infrastructure effects, fundamental and permanent disruption of foraging paths of large-range species eg cassowaries) ?	The Bill does not address the serious impacts of existing fragmentation on Queensland's wildlife. This Offsets Bill is not related to any strategic plan for wide-ranging species for which development may block foraging paths. It does not clarify how wildlife corridor planning will intersect with offset delivery.
11	overall picture for Queensland landscape?	The Bill and Policy provide no overall picture of how Queensland will look, its overall pattern of development and natural land, how much clearing will be allowed overall.
12	safety from mining and other destructive uses?	THE BILL MUST PROVIDE CEDRTAINTY for offsets. The Bill does not provide certainty for offsets, only for proponents. The cash option is popular with developers, as shown by overseas experience, where this has been allowed.
13	reliance on snapshots - slide 12 - trends? lack of information? cumulative impacts?	The Bill must address cumulative and consequential impacts. The Bill and the Policy have no provisions for addressing cumulative and consequential impacts.
14	integrity? viability in the wild?	Not answered. The Bill and Policy are silent on the long term viability of species in the wild, and on the integrity and functionality of the landscape in the wild.
15	If the algorithm calls for a 1:20 offset, how can you then cap it? Isn't that a weakness of the algorithm? Shouldn't the factors leading to this outcome have been dealt with in the parallel process of assessment? One can imagine a scenario in which the heart of a habitat, a small area but a rare key setting, relatively remote, is to be developed in a soil-type/veg type mosaic setting. It might well take 20 times the area of proposed lost site to	Not answered. EHP proposed to use algorithms to arrive at offset requirements for a development Application. Like all calculations, it's a case of garbage in, garbage out. Nevertheless, to put an arbitrary limit (and a low limit, at that) on the benefit to nature calculated by the algorithm reveals yet another loophole and bias against natural habitat.

	recreate/rehabilitate a similar mosaic area elsewhere that could contain a similar key habitat similarly protected by undeveloped country and distance from development impacts.	
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