

**The dangerous trade in *wild* life:
biodiversity offset schemes in Australia**

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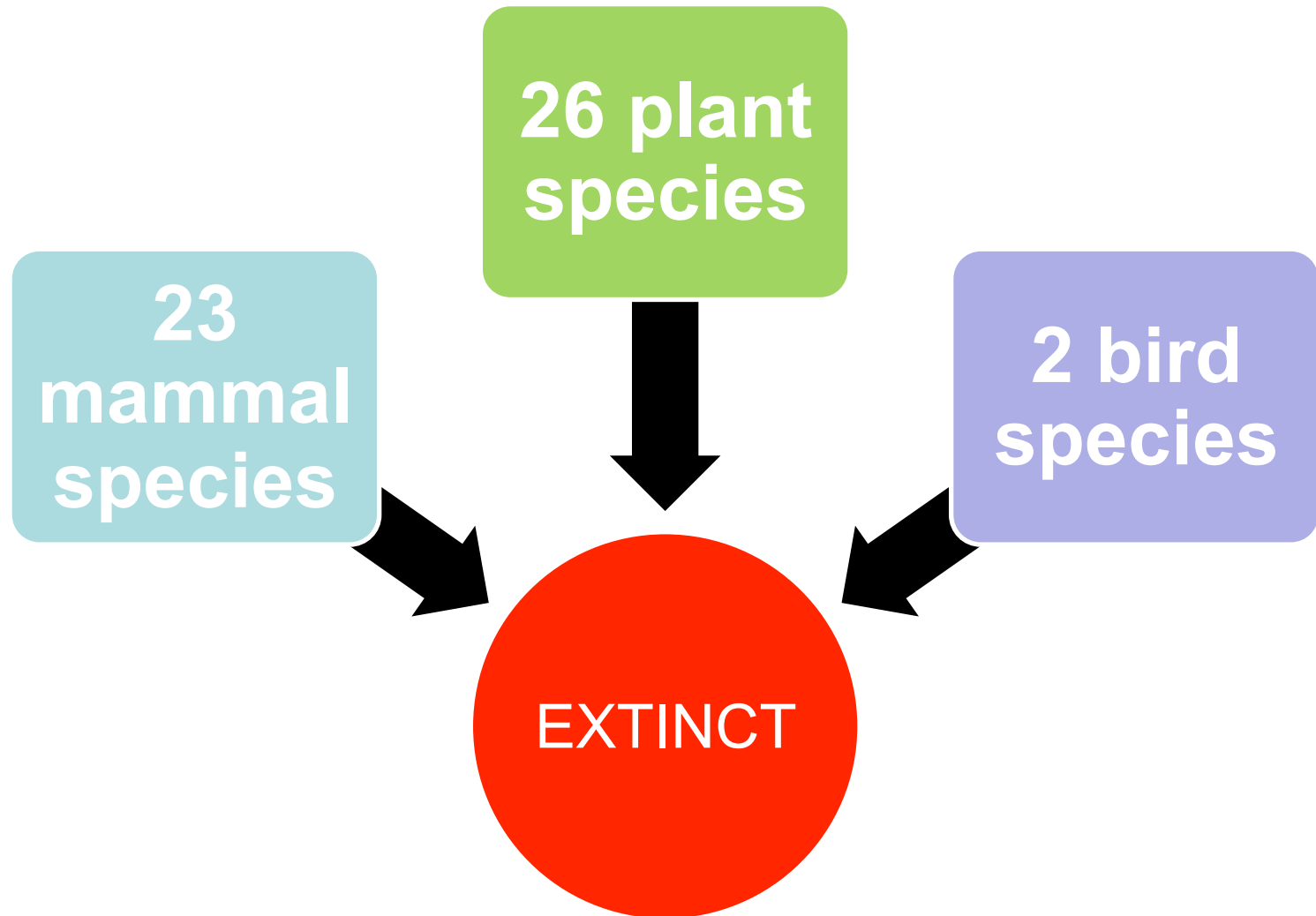
inspiring achievement

My presentation:

- An introduction to offset schemes
- A close look at the offset schemes in:
 - SA
 - NSW and Victoria
- The role of property
- The influence of Commonwealth Policy
- Evaluation and implications for Earth jurisprudence and Wild Law

Species lost in SA:

DEH, *No Species Loss: A Nature Conservation Strategy for South Australia 2007-2017*, p29





New South Wales:

Extinct

- 80 species

Endangered

- 1000 species, populations and communities

What is an offset scheme?

- “voluntary conservation activities that are designed to offset residual, unavoidable damage to biodiversity caused by development activities”
- “not meant to compensate for poor environmental management”
- “additional to other measures that are in place to avoid or minimise environmental damage”

(Burgin, S, 2008: 808)

Native Vegetation Act 1991 (SA)

Native Vegetation:

“a plant or plants of a species indigenous to South Australia including a plant or plants growing in or under waters of the sea”

Principles of Clearance:

- Native vegetation should not be cleared if:
 - (a) it comprises a high level of diversity of plant species; or
 - (b) it has significance as a habitat for wildlife; or
 - (c) it includes plants of a rare, vulnerable or endangered species; or ... etc

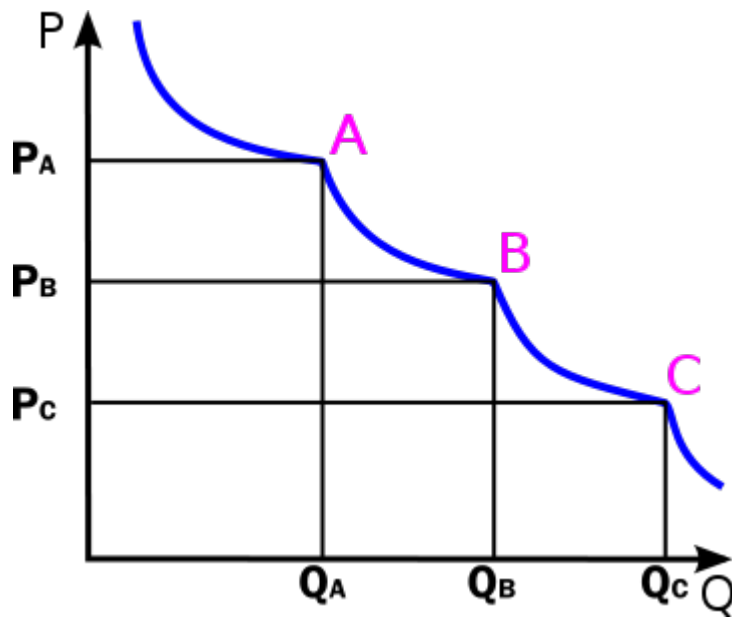
Significant environmental benefit

where:

“a significant environmental benefit, which outweighs the value of retaining the vegetation, is achieved through the imposition of conditions and the taking of other action by the applicant”

(section 29(4a)(b)(i))

Market based offset schemes:



Generally:

STEP 1:

The creation of a credit



STEP 2:

Sale of credits to a central registry that is established and maintained in accordance with legislation.



STEP 3:

Developer needs to purchase the credits before development can proceed.

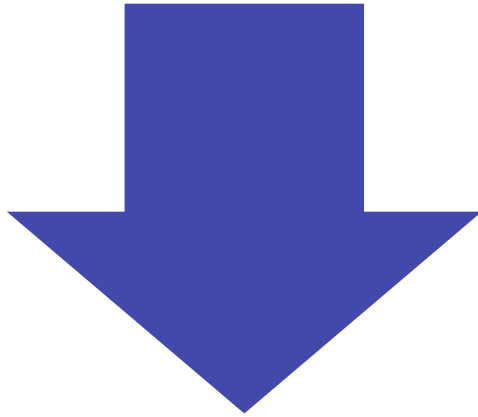
NSW Biobanking Scheme:
Threatened Species Conservation Act 1995 (NSW)

MAIN ELEMENTS:

- The establishment of a **biobank site** through **biobank agreements** between the Minister and the landowner
- The creation of **biodiversity credits** for management actions that are carried out or proposed to be carried out to **improve or maintain biodiversity** values on the biobank site.
- The statutory **biobanking assessment methodology** is used to determine how many and what type of credits are created.
- Enabling the credits to be used to **offset the impact of development on biodiversity values.**

“Biodiversity values”

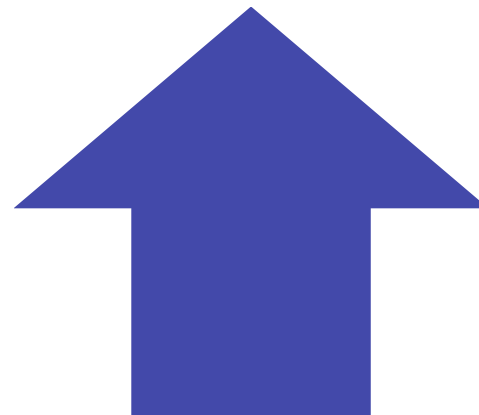
- the composition, structure and function of ecosystems, and includes (but is not limited to) threatened species, populations and ecological communities, and their habitats
- Section 4A
Threatened Species Conservation Act
1995 (NSW)



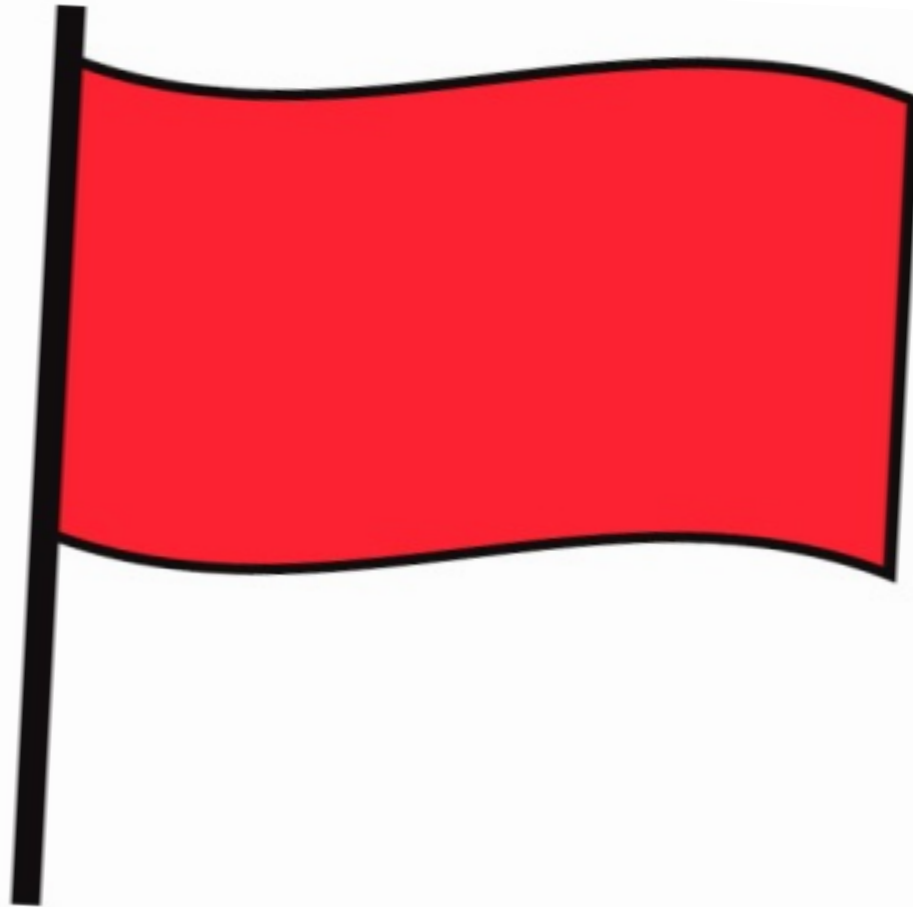
SUPPLY:
Biobanking
Agreement



DEMAND:
Biobanking
Statements



No go areas!



Biodiversity as property

Clearly
identifiable

Flexible

Enforceable

Secure

Transferable

Divisible

Permanent

Source: Maguire R, and
Phillips , A, 2011: 242

Commonwealth influence:

- Australian Government, *Australian Government Biodiversity Policy: Consultation Draft* (August 2011)
- Australian Government, EPBC Act Environmental Offsets Policy: Consultation Draft (August 2011)

- “The proper valuation of biodiversity allows us to create more effective and efficient policy responses, including through: market-based approaches for biodiversity protection and management; reforming perverse incentives; and reducing losses through regulation and pricing (for example, by creating a market for offsets). Being able to value biodiversity also encourages appropriate levels of investment in ecological infrastructure as we should invest in other public-good infrastructure.”

Australian Government, *Australian Government Biodiversity Policy: Consultation Draft* (August 2011), 4

Positives:

1. Biodiversity: Asset vs Liability
2. Voluntary and local decision-making
3. Flexibility to concentrate regeneration and restoration efforts

Negatives:

1. The science

2. A quantifiable, fungible unit of value?

***A Sustainable Future for Victoria:
Getting Environmental Regulation Right
Final Report
July 2009, p174-175***

- *the market for offsets was “too thin, resulting in uncertainty about the ‘price’ of vegetation credits, which in turn, discourages landholders from supplying potential offsets until they can be sure of market values. The thinness of the market may also reflect that offset buyers may require a certain quantity and type of vegetation, but a single offset provider may be unable to supply the total offsets required, or may be unwilling to supply a portion of their offset due to the risk that they will have a small area left over which becomes harder to sell. This is referred to as the ‘offset package problem’ and its effect is to increase the time and transaction costs involved in finding offsets”*

- “Biodiversity is a capital asset. Maintenance of the asset should be financed from societal income not by selling off the capital base. Yet this is the essence of biobanking: allowing the biodiversity values on development land to be lost on the basis that part of the proceeds can be used to better maintain native vegetation elsewhere. ... Biobanking seeks to justify loss of native vegetation on the basis that what is left will be improved, and to this extent attracts the criticism that it is not sustainable, as it funds vegetation management from selling off parts of the vegetation base itself. It is suggested that a more accurate, plain English description of the effect of successful offsetting is “improve the biodiversity management of an ever-diminishing stock of remnant vegetation” rather than “overall maintenance of improvement of biodiversity values.”

(Robinson (2009) 26 EPLJ 221)