

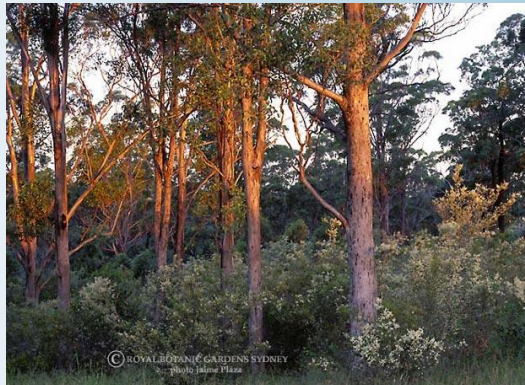


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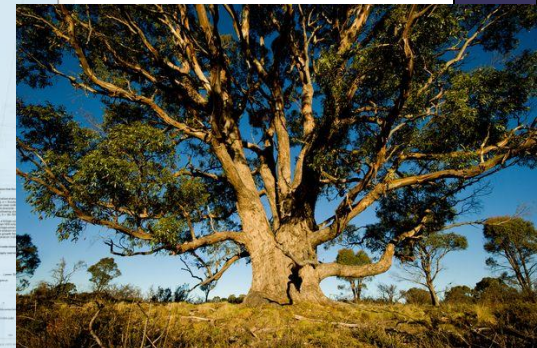
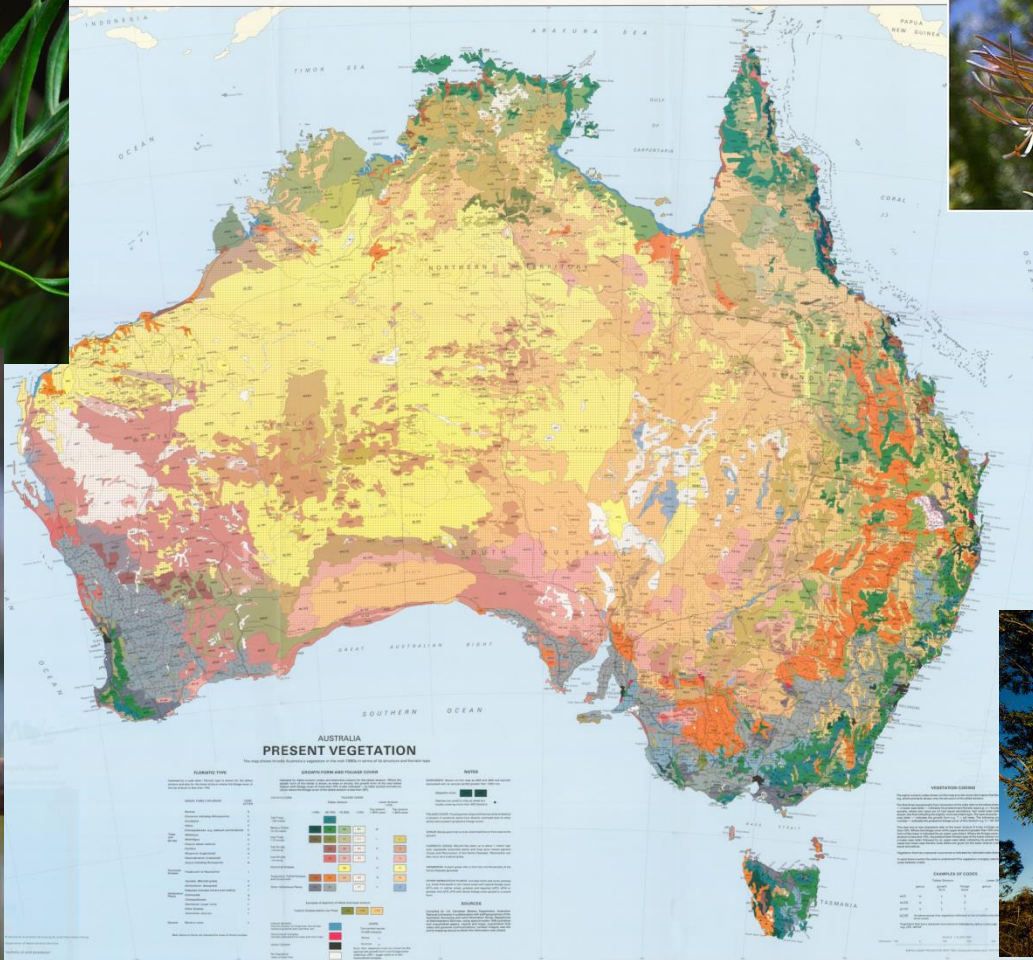
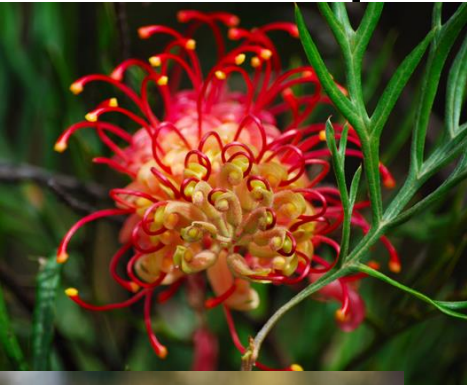
The Integration of Biodiversity Values in Urban Development Projects: the Australian Experience with Biodiversity Offsets (NSW)

Valérie Dupont – PhD student - FRESH scholar – Catholic University of Louvain

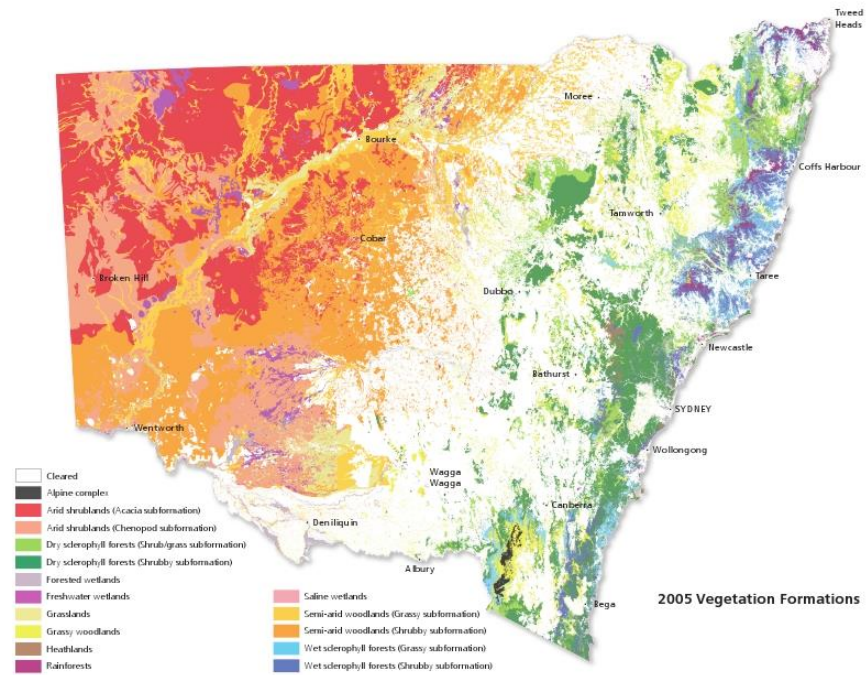
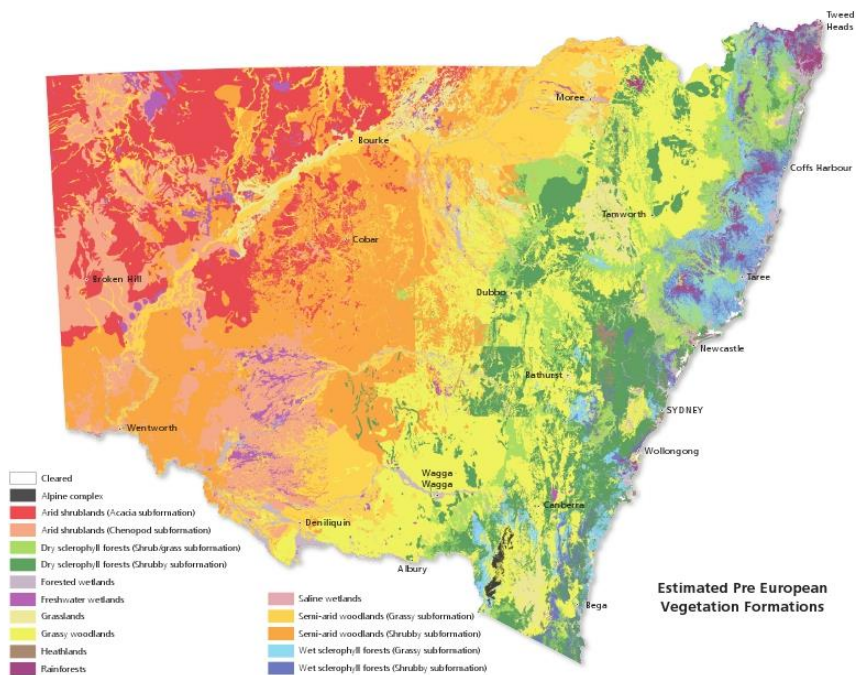


II. Context: Biodiversity in Australia

- Unique natural heritage



• 200 years of European Settlement



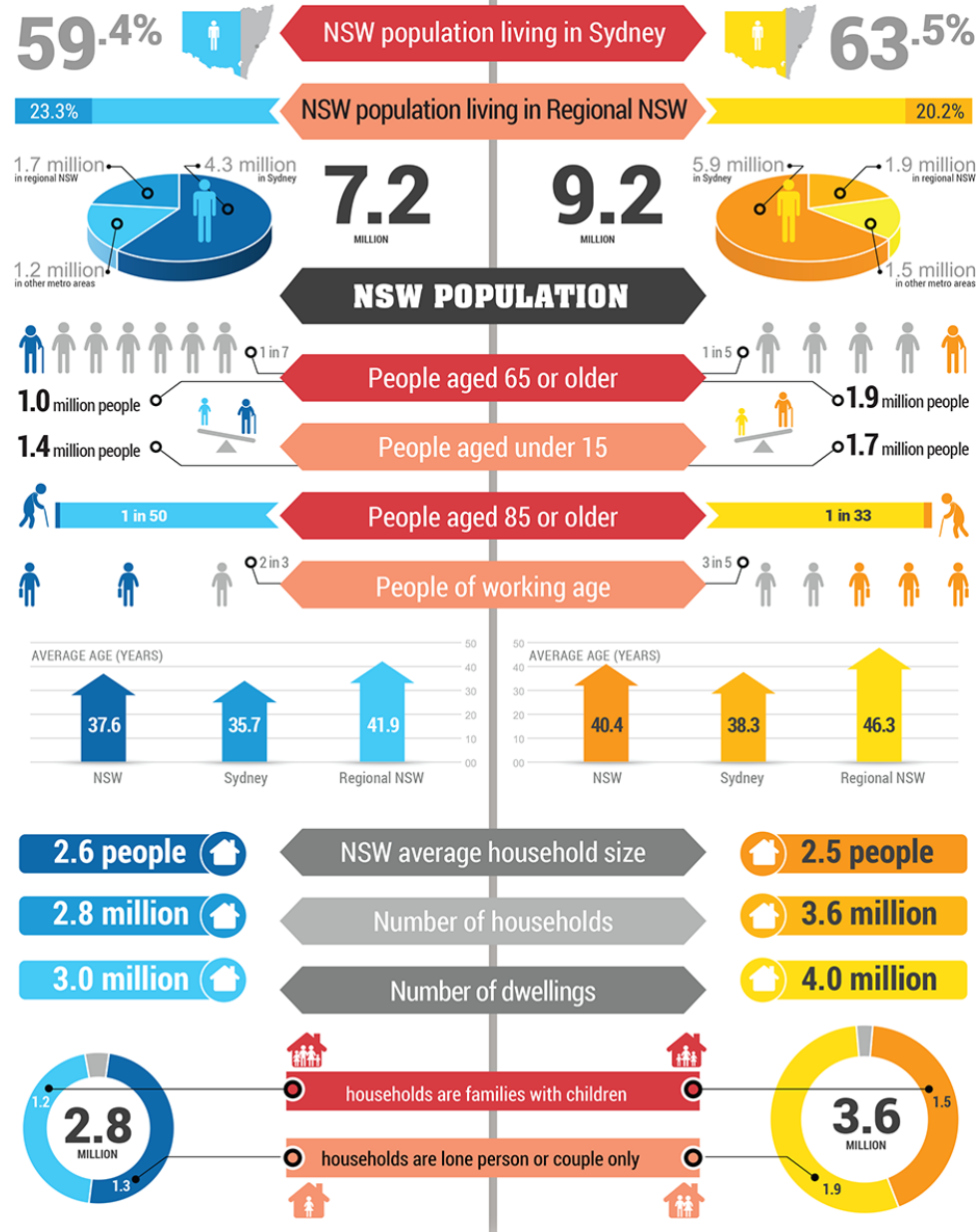
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Urban growth



2011 NSW 2031

POPULATION, HOUSEHOLD AND DWELLING PROJECTIONS



Biodiversity Conservation in Urban Areas

- Prohibition to harm threatened species

- Which biodiversity? (TSC Act 1995)

- Species
- Species Populations
- Ecological Communities

- Type of listing

- Vulnerable
- Endangered
- Critically endangered
- Presumed extinct

- Protection

- Offence to harm a threatened species or its habitat (NPW Act Part 8A)
- Defense: development consent under the EPA Act 1979 (NPW Act Part 8A)



- Procedural Protection under EPA Act
 - Integration of threatened species consideration within the planning system
 - Preliminary assessment of likely impacts (7 part test)
 - Species Impact Statement
 - Concurrence of OEH and Public exhibition
 - Competent authority
 - Local Councils
 - Department of Planning – Major Projects
 - Decision
 - No substantive criteria
 - Natural environment is only a matter for consideration among others (EPAA s79C)
- CCL: No absolute protection

Formal Framework: BioBanking (Biodiversity Banking and Offset Scheme)

- 2006 TSCA Amendments
 - Formal Framework for Biodiversity Offsets
 - Pooling and trading of Biodiversity Offsets
 - Similar to Conservation Banking, USA
- Rationale for the scheme
 - Addressing the clearing of native vegetation for urban development and continued cumulative loss of biodiversity
 - Recognizing the market value of biodiversity
 - Creating new opportunities for private sector conservation management of land
 - Adopting a measurable, consistent, transparent, and scientifically-based assessment methodology
- Voluntary



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- Main features:
 - Goal: ‘Maintain or Improve’ biodiversity values
 - Four main elements
 - Establishment of a **biobank site** by means of a Biobanking Agreement
 - Creation of **biodiversity credits** representing the future amelioration of the site and the management actions.
 - Purchase of credits by developers and use of them as an **offset** for impacts on biodiversity values (Biobanking Statement)
 - Scientific and consistent **methodology** for assessing impacts and offsetting measures (Biobanking Assessment Methodology)
 - Integration with Planning System (TSCA s127ZO)
 - Development projects are deemed not likely to significantly affect any threatened species => no SIS needed
 - Consent authority is not required to take into consideration the likely impacts of the development on biodiversity values

- Review of the scheme
 - Alternative to Assessment of Significance / SIS route
 - More than an offset scheme
 - Apply different standard, assessment and procedure
 - Scheme not widely used in practice
 - Only 27 Biobanking Agreement and 10 Biobanking Statement registered
 - Part of the scheme is used
 - Biobanking Assessment Methodology
 - Exchange of credits – exp: State Significant Infrastructure (EPAA s115ZC)
 - In 2012, OEH started a review of the scheme and drafted an amended methodology
 - Main issues identified:
 - A voluntary alternative and a high standard
 - Credit availability and market operation
 - Complexity of the scheme and misconceptions

Comparison – Research question

- Research question
 - Are projects assessed under the Biobanking route and those assessed under the SIS route subject to **equivalent standards and procedure?**
- Hypothesis
 - the Biobanking route has higher standards, more stringent requirements and complex procedures than the traditional SIS route.
 - As such, this later route represents an easy and more flexible alternative, and can play as a disincentive for developers to enter the Biobanking route.
- Issues
 - Very few Species Impact Statement
 - Many different options for developers
- Method
 - Biobanking scheme v. Assessment of significance – 7 Part test for regular projects

Legal and Institutional framework

	BIOBANKING	Negotiated offsets
Legal Framework for offsets	<ul style="list-style-type: none"> • Part 7A of the TSC Act • Binding regulation and methodology 	<ul style="list-style-type: none"> • No account of offsets in legislation • Practice of consent authorities • Sectorial policy documents or non-binding principles
Competent Authority	<ul style="list-style-type: none"> • Office of Environment and Heritage 	<ul style="list-style-type: none"> • Local Councils
Record	<ul style="list-style-type: none"> • Biobanking registers for statements, agreements, credits and transactions. 	<ul style="list-style-type: none"> • Internal records?

Decision criteria

	Biobanking	Negotiated offset
Overall standard	<ul style="list-style-type: none"> Maintain or Improve standard (TSCA s127ZL(1)) 	<ul style="list-style-type: none"> No legislative standard Case law and non-binding principles Practice: No significant impact
Mitigation Hierarchy	<ul style="list-style-type: none"> No express mention Built in the scheme 	<ul style="list-style-type: none"> No formal content of 7 part test report Case law and non-binding principles
Avoidance	<ul style="list-style-type: none"> Red-flagged areas (high biodiversity conservation values) 	<ul style="list-style-type: none"> Redesign process
Minimization	<ul style="list-style-type: none"> Cost effective onsite measures on a case by case basis 	<ul style="list-style-type: none"> Redesign process
Offset	<ul style="list-style-type: none"> Offset provided by retiring credits 	<ul style="list-style-type: none"> Redesign process No obligation to provide an offset

Assessment of impact

	Biobanking	Negotiated offset
Who	<ul style="list-style-type: none"> • Accreditation consultant 	<ul style="list-style-type: none"> • Anyone
Objective	<ul style="list-style-type: none"> • Quantitative: establishment and evaluation of credits 	<ul style="list-style-type: none"> • Preliminary qualitative assessment of significance
Assessment methodology	<ul style="list-style-type: none"> • Biobanking Assessment Methodology • Detailed site assessment protocols for vegetation mapping, vegetation condition and species surveys 	<ul style="list-style-type: none"> • 7 factors, Threatened species assessment guidelines. • No specific method
Scale	<ul style="list-style-type: none"> • Local, • Landscape • Regional, state and national 	<ul style="list-style-type: none"> • Local

Assessment of offset

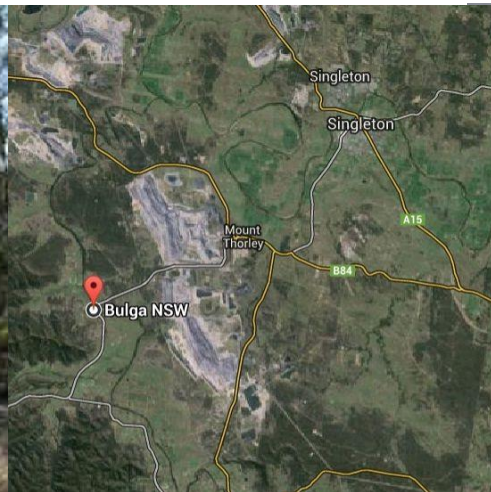
	BioBanking	Negotiated offsets
Methodology	// assessment of impacts	<ul style="list-style-type: none"> No specific requirements Offsets principle
Equivalency requirement	<ul style="list-style-type: none"> Strict trading rule Like for like or trading up 	<ul style="list-style-type: none"> Principle: like for like or better outcome BUT not always the case
Location requirement	<ul style="list-style-type: none"> No geographic proximity By CMA sub-regions 	<ul style="list-style-type: none"> same Local Council Area
Timing requirement	<ul style="list-style-type: none"> Credits retirement time specified in Biobanking statement Usually before commencement of the work 	<ul style="list-style-type: none"> Arrangement should be made before commencement of work
Amount – ratios requirement	<ul style="list-style-type: none"> Set formula in Biobanking Assessment Methodology Between 3:1 and 8:1 	<ul style="list-style-type: none"> No set formula Negotiated Ratio

Offset Implementation

	Biobanking	Negotiated offset
Legal Instrument	<ul style="list-style-type: none"> • Buying credits • Entering into a Biobanking agreement 	<ul style="list-style-type: none"> • Dedication of land • Conservation Agreement • Covenants • Planning Agreement • ...
Permanence	<ul style="list-style-type: none"> • Duration in perpetuity 	<ul style="list-style-type: none"> • OEH Principle 7: “enduring”
Management	<ul style="list-style-type: none"> • Management Plan • Standard management actions 	<ul style="list-style-type: none"> • OEH Principle 7: “enduring”
Long Term Financing	<ul style="list-style-type: none"> • Biobanking Trust Fund 	<ul style="list-style-type: none"> • OEH Principle 7: “enduring”
Reporting and self-monitoring	<ul style="list-style-type: none"> • Annual report on management actions 	<ul style="list-style-type: none"> • /

Conclusion

- No level playing field
- This Situation act as a disincentive for developer to enter the Biobanking route and truly take into account natural values in their projects.
- Next step?



Thank You

