

**Sarah Macoun**  
**HopgoodGanim Lawyers**

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**HopgoodGanim Lawyers**

## **Presentation**

Environmental Offsets and Equity – community perceptions, benefits and costs

## **Biography**

**Sarah Macoun:** A Partner of HopgoodGanim Lawyers Planning and Environment practice, Sarah has extensive experience in environmental legislation and policy together with many years of expertise in the areas of planning approvals, litigation and dispute resolution.

Sarah provides front end advisory services, including project scoping, strategic planning advice and due diligence, through to representing stakeholders in planning and environment litigation, and assisting clients with environmental compliance. In addition to advising across the range of Sustainable Planning Act issues, Sarah regularly provides strategic advice across the spectrum of environmental legislation impacting on projects and compliance. She has a particular interest in the ever-changing environmental offsets framework.

Sarah is the Chair of the Urban Development Institute of Australia's Queensland Planning and Environment Committee, and a member of the QLS Planning and Environment Committee, QELA and EIANZ. Sarah was recommended in Doyle's Guide to Leading Queensland Environment Lawyers, 2013, 2015 and 2016.

**Olivia Williamson:** Olivia is an Associate with HopgoodGanim Lawyers who advises clients on securing environmental and development approvals, project due diligence, the interpretation of planning schemes, conditions and related legislation, compensation issues, and environmental compliance and enforcement issues.

Olivia has represented clients in appeals and originating applications in the Planning and Environment Court, conducted litigation in the Land Court of Queensland and defended prosecutions in the Magistrates Court. She strives to assist clients formulate strategies to negotiate and secure approvals and other positive outcomes outside of Court.

Olivia is Chair of the Professional Development Committee of the Environment Institute of Australia and New Zealand (EIANZ - South-East Queensland Division) and member of the Queensland Environmental Law Association Legislative Review sub-committee.

## **Abstract**


The evolution of environmental offsets in Australia is illustrative of the way in which legislation and policy changes to accommodate community expectations around the environment.

Conceptually, environmental offsets have been on the radar for a number of decades, however laws and policies with respect to the provision of environmental offsets have progressively evolved at all levels of government in line with changing community attitudes, with the Queensland framework experiencing a period of rapid development and change over the last few years.

Prevailing community expectations demand that there be 'no net loss' in terms of a particular environmental value and, as such, there has been an incremental creep of new and more rigorous approaches to environmental offsets.

In addition to plotting the legal and regulatory history of environmental offsets in Queensland, this paper will also consider:

- whether the environmental offsets framework is delivering on community expectations;
- how the regulation of environmental offsets may evolve into the future with an eye to issues of intergenerational equity and a consideration of other options to more equitably spread the cost of conservation across the community that benefits.



# Environmental Offsets & Equity – Community Perceptions, Benefits and Costs

Macoun, Partner  
Williamson, Senior Associate



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# Agenda

1. Legal and regulatory history
2. Delivering on community expectations?
3. Future evolution of environmental offsets
4. Other options to more equitably spread the cost

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# Legal and Regulatory History of Environmental Offsets in Queensland

- 1989 - *Queensland Fisheries Act 1979*
- 2002 – Mitigation and Compensation for Works or Activities Causing Marine Fish Habitat Loss
- 2005 – Interim Policy for Vegetation Management Offsets
- 2006 – Offsets for Net Benefit to Koalas and Koala Habitat
- 2006 & 2007 – Vegetation Management Offsets Policy

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# Legal and Regulatory History of Environmental Offsets in Queensland

- 2007 – Use of Environmental Offsets under the EPBC Act 1999: discussion paper and draft policy statement
- 2008 – Queensland Government Environmental Offsets Policy
- 2009 & 2011 – updated policy for Vegetation Management Offsets
- 2011 – Queensland Biodiversity Offset Policy
- 2012 – EPBC Act Environmental Offsets Policy

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# Legal and Regulatory History of Environmental Offsets in Queensland

- 2014 – *Environmental Offsets Act 2014*
  - *Environmental Offsets Regulation 2014*
- 2014 – State Planning Policy amendment
- 2016 – Queensland Environmental Offsets Policy Version 1.2

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# How does the current EO Act framework work?

- Nil duplication of offsets conditions
- Electing how to deliver environmental offset & agreed delivery arrangements
  - Proponent driven offset; or
  - Financial settlement offset; or
  - Combination of a proponent driven offset and a financial settlement offset.



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# Is the environmental offsets framework delivering on community expectations?

Offsets cannot  
compensate  
for all impacts

Offsets are  
not the default  
option

No net loss or  
preferably a  
net gain

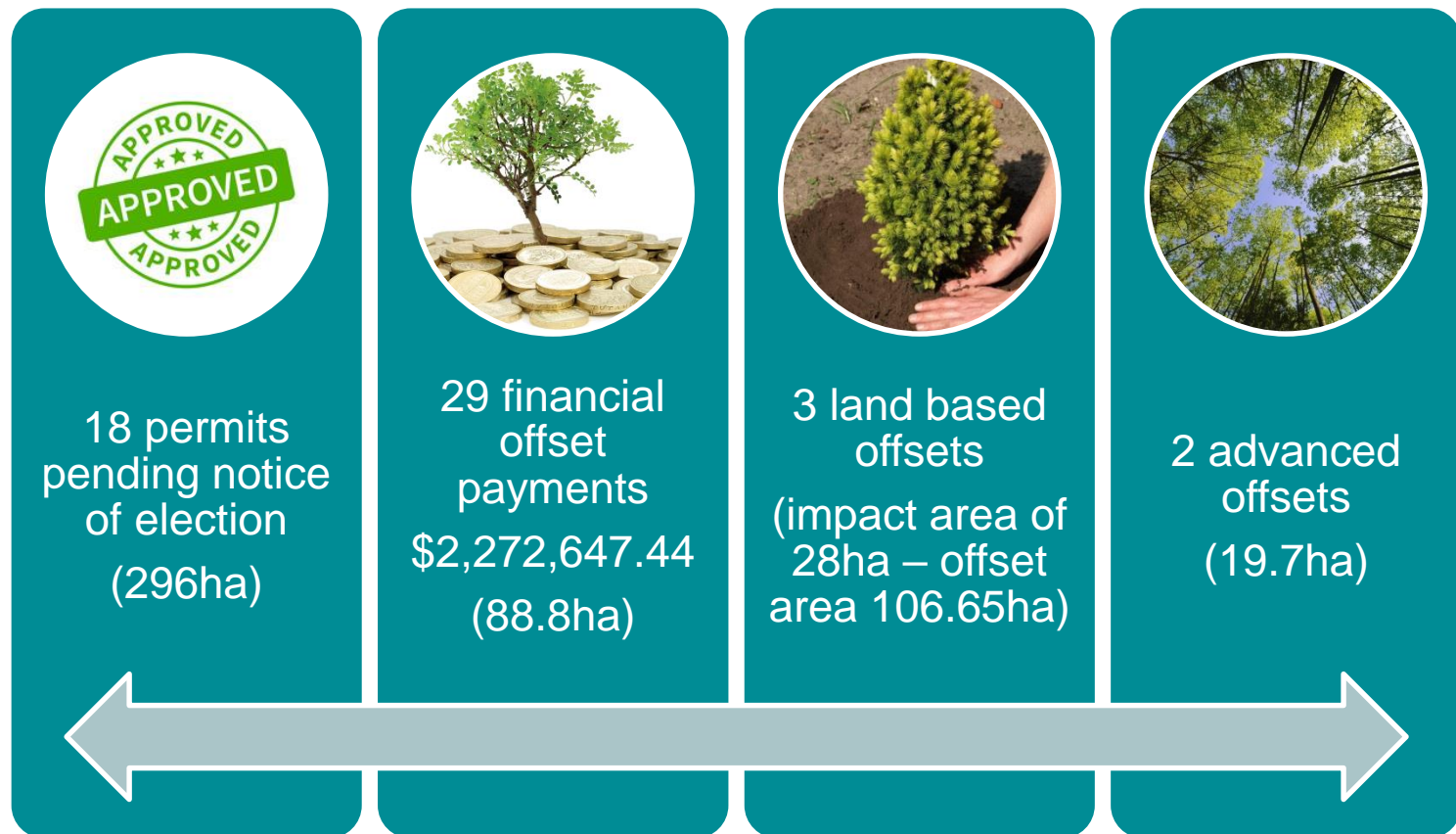
Like for like

Minimal time  
lag

Ability to  
measure

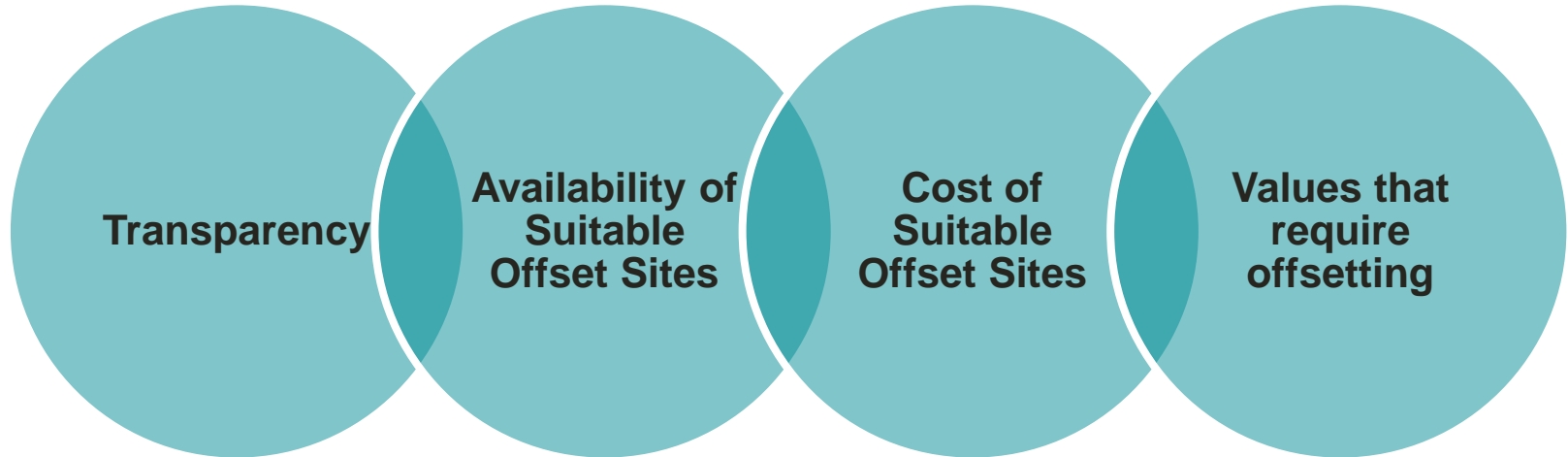
Offsets must  
be protected

# Is the environmental offsets framework delivering on community expectations?



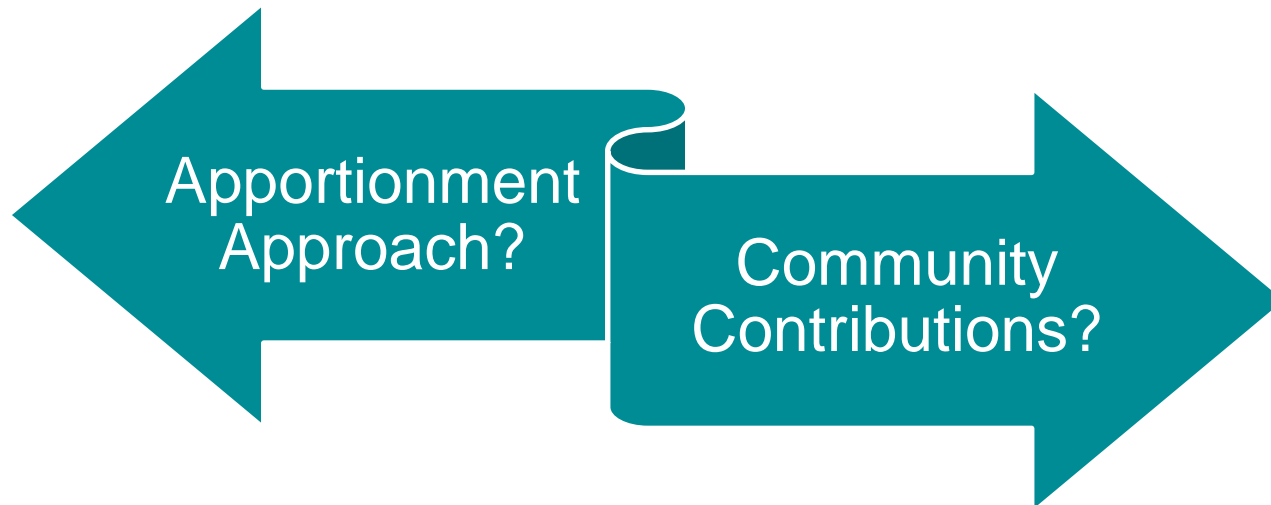
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How will the regulation of environmental offsets evolve in the future with an eye to issues of intergenerational equity?



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Other options to more equitably spread the cost of conservation across the community that benefits





An aerial photograph of a beach with waves crashing. The water is dark and turbulent, with white foam from the waves spreading across the light-colored sand. The perspective is from directly above, looking down at the shoreline.

# Thank you

Sarah Macoun, Partner

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