



**HUMANE SOCIETY
INTERNATIONAL**

HSI SUBMISSION ON EPBC ACT ENVIRONMENTAL OFFSETS POLICY: CONSULTATION DRAFT

Introduction

This document contains Humane Society International's (HSI's) formal comments on the '*EPBC Act Environmental Offsets Policy: Consultation Draft*', which was released on 24 August.

The term 'Policy' in this document refers to the Consultation Draft.

At the outset HSI wishes to express our strong reservations about the Commonwealth and State/Territory embrace of offsets as a policy to ease environmental approvals. Our concern is that they lead to net loss of biodiversity and habitat. First and foremost we want to see significant impacts on Matters of Environmental Significance (MNES) rejected. It is stated in the draft policy that offsets are not intended to make unacceptable impacts acceptable. That is a noble intention, however in practice it is inevitable that this is how they will be applied. That said, following are our comments on the policy. Our recommendations aim to further minimise the risk that offsets will facilitate unacceptable developments and the risk that they will ultimately lead to a net loss to the extent and integrity of protected MNES.

5 yearly reviews

The Policy commits to 5 yearly reviews of the effectiveness of the policy. **Quantitative** assessments must be done as part of these reviews based on statistics they must record along the way – how many hectares of each habitat type or Endangered Ecological Community (EEC) lost, how much rehabilitated, how much gained into conservation estate, and rigorous checks on compliance.

The quantitative analysis must tease out difference between what physically existed before and what shifts into protection. For example, what physically existed may experience a net loss even though there might be a gain into conservation tenure/estate. While there may be a hectare gain of habitat moving from an uncertain tenure into the conservation estate it might still be a net loss of actual physical habitat that needs to be recognised, captured and recorded in the Review. We note that one does not know what might have happened to the land that was in the uncertain tenure – it may have lasted in perpetuity for whatever reason regardless of the offset.



HUMANE SOCIETY INTERNATIONAL

In addition to a formal five yearly review, HSI calls for the maintenance of a 'real time' data base that for every completed assessment involving an offset provides information on the impact of the proposal and details of the agreed offset.

Aims of the policy- Offset Requirements (Box, page 4)

This should contain a goal of 'net gain' or 'improve' as the preferred goal above a goal of 'no net loss or maintain'.

The offset policy must aim for 'permanency' of the offset. We do not agree with the use in the Policy of the term 'enduring' as a replacement for the term 'permanent'. An offset must provide a permanent outcome.

Measurability is another goal that should be included – in order to determine effectiveness and additionality.

The Offset Requirements states that a suitable offset must be 'built around' direct offsets but may include indirect offsets. HSI recommends more stringent language than 'built around'. All offset packages must include a direct offset and we would prefer 100% direct offsets as far as possible.

Baseline

In order to measure the offset we need to be clear about the baseline for measurement. The baseline should be the situation as exists pre-referral, that is the situation before the development takes place. Thus the gain should be compared to what currently exists prior to the referral. The baseline should not be the situation that would exist if the development goes ahead without an offset – the gain should not be measured from that as the baseline. On page 10 it is stated that an offset requirement must be to improve or maintain as compared to *before* the action occurred. That must be upheld.

For example, HSI is aware that at the [REDACTED] [REDACTED] – proponents that are developing the proportion of the site approved for development are trying to claim the proportion of the site that is being retained for conservation as their offset. This would not meet the additionality test. This is the fraction of the woodland remnant that is left over after the development – it is not additional to what existed prior to the development.

No Duplication

It is also extremely important to monitor all offsets to ensure they are not duplicated within state or national systems. The Policy refers to avoiding duplication. It will be



HUMANE SOCIETY INTERNATIONAL

essential for all offsets to be recorded in a database that allows for cross reference checks being done for each application. Ideally, there should be one national database for all state and commonwealth schemes.

Like for like

The policy does seem to require that offsets are directed at the matter being protected so that an offset must deliver an overall conservation outcome that improves or maintains the viability of the aspect of the environment that is protected by national law that is being impacted. This is important. That the offset aims to improve or maintain for example the same habitat type for a threatened species or the same ecological community that is being impacted.

Risk

It is a requirement of the policy to manage risks of the offset not succeeding, however it does not offer much guidance as to how this can be achieved. As an insurance against risk, HSI recommends that the aim for every offset should be to achieve 'more than equivalent' to what is being lost. Thus, a simple example would be for the direct offset to have to be a 50% larger area of habitat than what is being lost. Or it should be to rehabilitate an area of habitat that is 100% larger in size and to a higher quality.

In addition, strict requirements must be placed on permanent arrangements for the offset. If the offset is habitat moving into conservation estate the proponent must be able to demonstrate that there will be permanent resources for its management for conservation purposes. Proponents need to accept that if their impact is permanent – for example a piece of habitat that is permanently destroyed then their commitment to an offset must ensure permanency.

Red flags

The policy states that offsets are not intended to make proposals with unacceptable impacts acceptable. In order to prevent slippage down this very slippery slope it is imperative that some very clear red flags be established where offsets are not going to be able to make impacts acceptable. For example, World Heritage and Ramsar sites – it should be clear that direct damage to these sites or significant impacts on their values would not be approved. Critical habitat for critically endangered, endangered and vulnerable species are not suitable for offsets either – significant impacts to critical habitat should not be approved.



HUMANE SOCIETY INTERNATIONAL

Additional rules

HSI recommends that if 'like for like', 'more than equivalent' and a commitment to 'permanency' cannot be achieved – then the impact should not be approved.

Avoidance and mitigation

We agree avoidance and mitigation of impacts must be first option in hierarchy of considerations on a referral before moving into the situation where impacts are offset. HSI supports the suggestion in the Hawke review (rec 26) for an amendment in the EPBC Act to confer power on the Environment Minister to request information on alternatives for projects referred for approval. This clause must be routinely utilised prior to the application of offsets.

Offsets in changing climate

All offset decisions must factor in climate change both in terms of the importance of the MNES matter in the future as the climate changes (for example is it a likely refugia) and the viability or importance of the offset in a changing climate.

Biobanking

The policy states that proponents will be able to purchase offsets from biobanking schemes. HSI has reservations about biobanking and we would prefer that this concept is not included as part of the Policy.

Humane Society International
10th October 2011