

21 October 2011

Via email: [epbc.reform@environment.gov.au](mailto:epbc.reform@environment.gov.au)

To whom it may concern,

**Submission on the EPBC Act Environmental Offsets Policy and the Australian Government Biodiversity Policy**

Hydro Tasmania welcomes the opportunity to provide comment on the EPBC Act Environmental Offsets Policy and the Australian Government Biodiversity Policy. We applaud the development of both policies. However, we have a number of comments on both which are outlined below.

**Draft Environmental Offsets Policy**

Hydro Tasmania supports the objectives of the Offset Policy, and believes it provides a sound conceptual approach, however we have a number of concerns arising from insufficient detail in the policy.

The success of an offset may be limited, or its success may be difficult to quantify

The objective of the offsets to "maintain or improve" the viability of the protected matter will, at times, be unrealistic or unreasonable, for the following reasons:

- Quantifying the size and status of a species or community can be difficult, yet this is necessary to provide the "baseline" information to which comparisons of the benefit of an offset need to be made. The degree of difficulty is increased with the range of the species or community (particularly those species whose range is beyond Australian shores, such as migratory birds), or for a variety of other factors including how cryptic the species is and how easy it is to survey. While, obviously, quantifying the size of populations and their status is undertaken to some extent in the process of listing a threatened species or community, the need to more precisely quantify the "baseline" status of a species will be necessary in order to demonstrate that an offset for a specific development will "maintain or improve the viability of the protected matter".
- It is extremely difficult to identify and quantify all the anthropogenic impacts to a species or community. However, this would be necessary to separate the various impacts from a specific development from other impacts to a protected matter occurring in the environment. For example, quantifying the effects of climate to a species or community is extremely difficult if not impossible, yet climate change is regarded as one of the current key anthropogenic impacts to species and communities. In addition, species that migrate to sites outside Australia are potentially impacted by threatening processes in these parts of their range, yet the ability to quantify these impacts is likely to be severely limited and hence the impact of one specific development cannot be determine at the species level.

- It is conceivable that an offset on a particular development will be highly successful and achieve its objectives, yet the species or community will not remain viable or its threatened status be improved due to other anthropogenic impacts occurring in the environment that are unrelated (or more profound) than one specific development. For example, migratory birds using the East Asian Australasian Flyway are thought to be suffering population declines due to significant habitat destruction in parts of Asia and any offset actions undertaken in Australia are unlikely to compensate for these impacts.
- It may be impossible to demonstrate in a quantitative manner that an offset has achieved the objective of maintaining or improving the viability of a protected matter, even with the most robust monitoring.
- The need to demonstrate the effectiveness of an offset may require long-term monitoring, before and after the implementation of the offset, that is an unreasonably onerous impost to a developer, could be beyond the quantum of the impact and if required may delay the implementation of the offset.

***Suggested solutions*** – The success of an offset on a development can only realistically and reasonably be assessed at the local scale (the level of the offset and development). The success of an offset should be based on evidence that the offset has been implemented as described. It is unrealistic, and will be at times, impossible to determine its success at the species (or community) level.

Offsets should be based on actual, not estimated or perceived impacts

Offsets should be determined from actual impacts of a development not estimated or perceived impacts and in some instances this will not be possible to accurately quantify until a development is constructed and operational (e.g. wind farm impacts on birds).

***Suggested solutions*** – Develop an offset strategy, for those likely impacts to protected matters, during the post approval stage and prior to commencement of the impact. Commence monitoring of the specific impact for a specified period of time once the development is constructed and is operational. If impacts are found that are deemed to be significant to the protected matter, implement the agreed offset strategy to a level that is commensurate with the quantum of the impact.

How offsets are determined?

We agree that offsets should be determined in a consistent manner and the proposed Environmental Offset Assessment Guide is conceptually reasonable. However, we are concerned that the document is currently lacking in specific important detail and is therefore open to significant interpretation. We strongly believe that offset requirements must be evidence-based and not based on assumptions or perceived impacts.

Further details are required about the measures and definitions applicable to the descriptors listed in the impact calculator. We also find it difficult to fully comment, given there are no details about how the impact calculator will be nominally weighted. For example, how does the duration of impact affect the number of impact points? Similarly more details are required regarding the offset calculator and specifically regarding the allocation of offset points. We note the offset calculator does not include the offset area which seems to be a key component currently not included.

Please also note that, in our view, impact area is not always applicable (for example where avian species are impacted) and this should be acknowledged and for these cases a process documented.

In regard to the issue of having a 75% direct offset requirement, we consider this as generally acceptable but for impacts on some species the offset make up should be flexible. We believe this is particularly relevant in cases where a species is being directly or indirectly impacted by another industry (either on a local, regional or national scale) or issue (like the Tasmanian devil example provided on page 17 of the policy).

**Suggested solution** – Both the impact and offset calculators need further detail including definitions (in a similar way to the definitions of likelihood and consequence in a standard risk matrix) and information about how the calculators will be nominally weighted. Enough detail needs to be provided to ensure that the process used to determine the quantum of the impact and the offsets proposed is not open to scrutiny or subjectivity by the proponent, the Department or other stakeholders. In addition, if errors are detected in the original calculation, the ability to request a re-calculation should be possible and either more offset required or a points banking arrangement available. Generally, all processes used must be founded in evidence-based approaches.

#### Appropriateness    practicality

Offsets need to be relevant, proportionate to the extent of the actual impact (as stated in the policy), practical and achievable. It is our experience that there are times when monitoring requirements or management interventions are imposed by Regulators that are unachievable, unrealistic or provide data of no scientific use or significance. In addition, in our experience, offset requirements imposed have not been evidenced-based. It is essential that any limitations are understood and acknowledged in the process of developing offsets and, as stated above, are evidence-based.

**Suggested solution** – That the Department recognises practical limitations to the implementation of some actions, assesses the available scientific evidence when considering offsets and, without prejudice, acknowledges the validity of such concerns from a proponent.

#### Use of Third Parties to Deliver Offsets

Hydro Tasmania strongly endorses the role of accredited third parties (and broader bio-banking schemes) in the delivery of offsets as, in addition to being more economically efficient, a co-ordinated, strategic focus of offset strategies will deliver far greater long term conservation results. To this end, Hydro Tasmania notes the considerable success of its partnership (though its subsidiary Roaring 40s) with the Tasmanian Land Conservancy in securing the protection of Wedge-tailed Eagles and White-bellied Sea Eagle nests to offset potential impacts upon the species associated with the Woolnorth and Musselroe wind farms.

We note that section 6.1.1 of the Policy states that offsets must deliver a conservation outcome that would otherwise not occur. We believe that this is potentially restrictive on the basis that proponents can part fund or discount land purchased by accredited third parties. In this instance, it is arguable that the proponent is not delivering a conservation outcome that would not have otherwise occurred (as the accredited 3<sup>rd</sup> party will manage the land for conservation purposes). However, part



funding or discounting land purchase to offset project impacts provides for the third party to invest further in other conservation measures or to protect other species. We therefore encourage the Department's consideration of this and if possible clarification of this in the Offset Policy.

#### Need for an Independent Review Process

Given that there are many difficulties in calculating offsets and determining levels of intensity of impact, largely because this is not an exact science and is therefore open to debate, in our view it would be appropriate for there to be a mechanism to evaluate and appeal determinations the Department makes in regard to the quantum and type of offsets be available to a proponent. Hydro Tasmania would welcome reference to an independent (from the proponent and Regulators) third party to adjudicate on such matters in the event of a difference of opinion on the process used.

#### **Draft Australian Government Biodiversity Policy**

Hydro Tasmania views the biodiversity policy as laudable, but has concerns over the ability to achieve the objectives of the policy. The practical realities of being able to quantify and value biodiversity is exceptionally difficult, if only because of the limitations and costs involved in understanding ecosystems, anthropogenic impacts and the identification of feasible and practical management actions to reduce significant impacts.

The other concern we hold is that while Australia is a continent with a number of unique species and ecosystems, the country is not immune from global anthropogenic impacts (e.g. climate change), or impacts to species whose range is beyond Australian shores. For these species and communities, the ability to quantify their status, determine the anthropogenic impacts and subsequently successfully manage these outside Australia will be extremely limited.

Finally, while the policy acknowledges the importance of a range of stakeholders in documenting and managing biodiversity issues and the value of adaptive management, there is no mention of the need for robust, rigorous science. Sound environmental management can only be built on robust data derived from best practice scientific research. Biodiversity conservation will not be achieved without the proper application of well designed monitoring, robust scientific analysis of the derived data, and the application of world's best practice risk analysis and management approaches. We agree that adaptive management is crucial, but so is evidence-based management, and the application of rigorous scientific principles, which, in our view, are sometimes lacking in some programs and conservation actions.

**Suggested solution** – implementation of this policy is extremely complex and the most rigorous approaches must be applied. References to best practice, the latest scientific evidence and expertise is critical during implementation.

Thank you for the opportunity to comment.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Andrew Scanlon', with a stylized flourish at the end.

Andrew Scanlon  
Manager Sustainability and Safety

Two thick, horizontal black bars used to redact a signature or stamp.