



20 October 2011

Review of Biodiversity and Offset Policy
Department of Sustainability, Environment, Water, Population and Communities
GPO Box 787
Canberra ACT 2601

Dear Sir/Madam

Submission: Australian Government Biodiversity Policy and the EPBC Act Environmental Offsets Policy Consultation Drafts

Xstrata plc (Xstrata) welcomes the opportunity to provide a submission regarding the Australian Government's Biodiversity Policy and the EPBC Act Environmental Offsets Policy Consultation Drafts.

Within Australia, Xstrata currently has 23 operating mines in New South Wales, Queensland, Northern Territory and Western Australia, mining a range of resources including coal, copper, nickel and zinc.

Xstrata makes a significant contribution to the Australian economy. Our Australian operations currently employ approximately 13,000 people and in 2010, provided approximately A\$1.2 billion in Commonwealth and State royalties. Xstrata has identified a project pipeline for Australia of approximately A\$16.5 billion of investment in projects in implementation, pre-feasibility and feasibility stages of planning.¹

Xstrata has retained its position as Mining Sector Leader in the annual Dow Jones Sustainability Index review 2011/12 for the fifth consecutive year. The company has also again been named as the Super Sector Leader for Basic Resources industries.

We balance social, environmental, ethical and economic considerations in how we manage our businesses. We believe that operating to leading standards of health, safety and environmental performance, contributing to the development of sustainable communities and engaging with our stakeholders in two-way dialogue, regardless of our location, enhances our corporate reputation and is a source of competitive advantage.

Xstrata would welcome the opportunity to participate in further consultation on these important policy issues. If you have any questions regarding this submission, please contact [REDACTED]

Yours sincerely

Peter Freyberg
Chief Executive
Xstrata Coal

Charlie Sartain
Chief Executive
Xstrata Copper

Santiago Zaldumbide
Chief Executive
Xstrata Zinc

Ian Pearce
Chief Executive
Xstrata Nickel

Xstrata Australia Pty Limited ABN 52 130 335 894

PO Box R1543 Royal Exchange Sydney NSW 1225 Australia
Level 38 Gateway 1 Macquarie Place Sydney NSW 2000 Australia

¹ Note that estimated investment of A\$16.5Bn includes capex estimates for projects that have not yet received Board approval.

1. EXECUTIVE SUMMARY

Xstrata has developed functional internal standards for sustainable development that outline all planning considerations for future projects. Specifically, these include the early identification of key issues and effectively planning for these by seeking to avoid, minimise, mitigate, and ultimately offset and compensate residual impacts. Through these processes, Xstrata undertakes a range of initiatives that effectively minimises the impact of our existing operations and future projects on the biodiversity values of the regions of Australia in which we operate.

The consultation drafts of the Biodiversity Policy and the EPBC Environmental Offsets Policy have been developed as part of a planned suite of reforms to the EPBC Act developed from the Government's response to the Hawke review. Xstrata supports in principle the stated intent of the planned reforms to the EPBC Act, and in particular, strongly supports:

- the Government's stated objective of increasing certainty in process in addition to the aim of achieving streamlined assessment and approval under the Act;
- the Government's intent to seek further integration with the State and Territory Government's including environmental standards and decision-making under the Act;
- the Government's intent to minimise project by project assessments through increased upfront guidance and certainty in the assessment process under the Act.

It is acknowledged that the implementation of the broader reforms to the EPBC Act, including the relevant legislative and regulatory amendments, will result in these reforms being delivered over the coming years. Xstrata encourages further clarity on the interim arrangements for processes under the Act, whilst the proposed reforms are implemented.

We consider that the formalisation of clear and transparent transitional arrangements, in consultation with all key stakeholders, is critical to ensure the effective implementation of the EPBC Act reform package. Accordingly, we encourage the Government to establish formal consultation mechanisms to provide for ongoing dialogue throughout the implementation of the EPBC reform package and request the opportunity to participate in this process. This will provide certainty of process and consistency between existing processes and the stated objectives of the EPBC reform package to assist in the management of Xstrata's current project pipeline over the coming years.

2. KEY ISSUES

Xstrata has reviewed the consultation drafts of the Government's Biodiversity Policy and Environmental Offsets Policy and this section outlines Xstrata's specific comments below for the consideration.

Xstrata supports the integrated approach to decision-making outlined in the Biodiversity policy, to ensure the appropriate consideration of relevant social, economic and environmental factors, and engagement with a range of stakeholders with regard to the protection and enhancement of Australia's biodiversity.

We continue to encourage the Government to recognise a range of different land uses, including the specific location requirements of mining operations (primarily the location of economically viable mining resources), in planning for biodiversity conservation on a regional scale.

Xstrata has identified a number of key issues for the Government to consider in the development of market-based tools for biodiversity protection including ensuring an adequate and appropriate scientific basis for tools, and providing appropriate flexibility for these tools to be applied across a range of sectors.

In relation to the EPBC Environmental Offsets consultation draft on the issue of direct offsets Xstrata would like to engage with the Government to consider suggested amendments in relation to the following:

- direct offsetting benefits can be achieved not only on land acquired by a proponent but may also be through the development of partnerships with other parties to manage natural resources for conservation. This provides for an appropriate level of flexibility in the design of direct offsets, as well as providing for improved integration of the management of conservation outcomes between stakeholders.
- acknowledgement that there are also substantial potential improved conservation outcomes for the protection, enhancement and rehabilitation of habitat for specific Matters of National Environmental Significance (MNES), particularly where there are specific habitat requirements for target species outside of general enhancement of vegetation (for e.g. recreation of amphibian habitats). Acknowledgement of rehabilitation of habitat (as opposed to rehabilitation of vegetation specifically), as an appropriate action to achieve a direct offset.
- opportunity to maintain and improve biodiversity outcomes by rehabilitating vegetation of moderate quality. Often, land-based offset packages include freehold land purchased by Xstrata. In our experience, a vast majority of these properties have been subject to historic agricultural land use practices which have rendered vegetation in moderate quality. These areas offer great potential for the 'improve or maintain' objective to be achieved with the adoption of passive and active rehabilitation practices and the specific consideration of these actions as part of direct offsets would be welcomed.

Xstrata supports the avoid, minimise, mitigate and offset approach to managing biodiversity impacts as advocated in the EPBC Environmental Offsets policy. We also support an outcomes-based approach to offsets that is efficient, effective, transparent, proportionate, scientifically robust and reasonable.

An integral aspect of the policy should be to provide consistency in guidance for offset planning, whilst enabling appropriate flexibility in achieving the stated outcomes and objectives, in order to provide for continuous improvement in the implementation of policy.

Xstrata notes interchangeable terminology throughout the offset policy in describing the desired biodiversity outcome of the offsetting process. Xstrata considers that consistent terminology describing the desired biodiversity outcome would provide further clarity to industry. Other key issues in the draft consultation paper on EPBC Environmental Offsets policy include the following:

- Xstrata supports the acknowledgement of the role of direct and indirect offset initiatives in the development of effective offset strategies. However, Xstrata would urge the Government to reconsider that all offset packages have a specific requirement that 75% comprise direct offsets. Xstrata considers that appropriate offset packages should be determined on a project-specific basis, in consideration of specific scientifically robust information that supports this outcome, rather than a pre-determined outcome requiring that an offset package include 75% direct offset.
- Xstrata supports Government's formal acknowledgement of indirect offset actions as part of an offset package. Increasingly, Xstrata is looking to augment direct, land-based offsets with innovative non land-based offsets, including the provision of funding to specific programs that result in 'maintain or improve' outcomes to specific Matters of National Environmental Significance (MNES).
- Xstrata also acknowledges that direct offsets are finite and, accordingly, flexibility and innovation are integral to offset proposals. Xstrata encourages the Government to consider options for flexibility and innovation to be incorporated into offsetting proposals.
- Xstrata acknowledges that adding value to conservation outcomes associated with a range of other offset models (eg: CO₂ offsets) can provide for improved conservation outcomes and encourages the Government to recognise these activities as part of offset packages.
- Xstrata requests the Government to formally include appropriate considerations for effective mine site rehabilitation as part of the development of direct offset initiatives. Xstrata strongly advocates the role of effective rehabilitation, as part of a comprehensive offsetting strategy, in achieving improved conservation outcomes.
- Xstrata requests the Government to reconsider the intent that proposed offsets be specifically excluded from the consideration of projects at the referral stage. Moreover, Xstrata requests that

the Government provide greater opportunities for formal engagement with proponents in relation to offsetting requirements as early as possible in the environmental impact assessment process.

- Xstrata has included some feedback in our submission on the offset guidance contained within the policy, in particular:
 - Include considerations of potential versus known habitat for MNES in the determination of impact and offsetting values;
 - Reconsider the deduction of offsetting points for actions that may result in medium to long term benefit.

2.1 Biodiversity Policy - Comments

Our comments are framed in the context and relate to the specific foundations of the Government's approach outlined in the draft policy.

Foundation 1 – It is better to prevent biodiversity decline before it happens

Xstrata agrees in principle with the Government's stated outcome to provide for a more integrated approach to the protection of threatened species and communities as part of ecosystem-based, landscape scale approaches. Xstrata considers that as part of this strategic approach to the management of natural resources it is important that known mining resource areas are also considered.

Economically viable mining resources are located within limited specific areas in the landscape, and it is important that priority is also given to nationally and state significant mining resource areas. An appropriate vehicle for this could be the use of strategic assessments that consider natural resources and potential land uses (including mining) to support sustainable development and increase business certainty.

Foundation 2 – Biodiversity should be valued according to its real worth

Xstrata considers that market based approaches have the potential to provide a successful mechanism for biodiversity protection and management. Xstrata considers that careful and considered planning should be undertaken when determining a market-based approach. It is considered essential that the development of any calculation tool is based on the best available scientific knowledge and provides the necessary flexibility to be applied in a range of circumstances.

There is potential that market-based approaches can be cumbersome, with "credits" being skewed towards offsetting requirements that are not commensurate with the level of impacts. For example, the NSW BioBanking Scheme was developed with a large focus on the application of a market-based tool for a specific type of development, i.e. urban development in coastal areas of NSW. Xstrata's experience with the application, or retrofitting, of this tool to a number of recent major mining projects across NSW has found that the base assumptions in the 'tool' are lacking in many areas, and the calculation processes do not deal appropriately with large scale projects.

Based on this experience, it is recommended that when developing a market-based approach, it is important that the approach provides for the adequate and consistent calculation of value for areas such as:

- calculations of 'credits' to consider ecosystem-condition quality (high, moderate, low);
- conservation status (critically endangered, endangered, vulnerable, not listed);
- habitat type (known or potential); and
- in an offsetting sense, the credits should be calculated for the proposed areas to be impacted and the proposed offset areas.

This will reduce the potential for excessive, or conversely, insufficient offsetting proposals and will tie in with the Government's requirement that offsets be proportionate to the impacts.

Foundation 4 – Effective conservation requires well-targeted investment

Xstrata agrees with the Government's intent to identify strategic priorities for investment. Increasingly, Xstrata is looking to augment direct, land-based offsets with innovative non land-based offsets, including the provision of funding to specific programs that result in 'maintain or improve' outcomes to specific Matters of National Environmental Significance (MNES).

Xstrata would appreciate the opportunity for additional strategic guidance from the Government to assist in determining appropriate, targeted funding opportunities that will lead to long-term, strategic and sustainable biodiversity outcomes.

Foundation 5 - Biodiversity is a complex issue and a shared responsibility, requiring cooperation and a mix of approaches

Xstrata considers that the Government's acknowledgment of biodiversity conservation achieved through a mix of appropriately integrated approaches that consider relevant social, economic and environmental factors is a positive step.

The opportunity to tailor conservation efforts via a range of approaches is also welcomed by Xstrata. We consider that allowing for this flexibility will enable appropriate conservation options to be determined on a case by case basis, providing the necessary scope for ongoing improvements to the design and implementation of conservation tools and outcomes. Moreover, Xstrata also recognises that substantial benefits are likely as a result of coordinated information sharing and collaboration between agencies and Xstrata thoroughly supports the Government in this initiative.

Foundation 6 –Solutions need to be at landscape and seascape scale, over time periods that make ecological sense

As previously outlined, Xstrata considers that when preparing strategic plans at the landscape scale it is also important to give full consideration to the known locations of economically viable mining resources. Additionally, Xstrata supports the Government's intention to seek better engagement with stakeholders and Xstrata would appreciate the opportunity to participate in further consultation.

Foundation 9 – The conservation estate is the backbone of our efforts

Xstrata supports the Government's acknowledgement of the opportunities to augment formal reserves by improving the system of off-reserve lands managed for conservation. Additionally, Xstrata supports the intention of establishing effective partnerships with a range of stakeholders including industry and business to achieve this. Xstrata currently has a substantial land holding and would be open to working transparently with the Government to increase off-reserve land managed for conservation as part of an integrated approach to the management of biodiversity.

Foundation 10 – Commonwealth environmental regulation should be strategic, focussed on matters of national environmental significance, and complimentary to state and territory legislation

Xstrata strongly agrees with the Government's plan to seek to have Commonwealth legislation work in a complementary way with State and Territory regulation of biodiversity more broadly. Xstrata considers that achieving this goal will reduce the potential for duplication of process under State/Territory and Commonwealth legislation, which in turn provides for added certainty for business planning.

Achieving a more complementary regulation approach would be beneficial for industry as it would reduce regulatory process and facilitate integrated and more streamlined management of biodiversity, while still maintaining environmental outcomes. Moreover, it is understood that as part of the proposed EPBC Act reform package the Government will amend the existing accreditation mechanisms of State/Territory processes where they meet appropriate standards for individual projects and provide the opportunity to integrate management plans to a structure and format that satisfy a range of planning requirements, (Commonwealth, State and Territory) which is also strongly supported.

2.2 EPBC Environmental Offsets Policy

Xstrata supports the hierarchy of avoid, minimise and mitigate potential impacts, and ultimately offset residual impacts as the principle for the management of biodiversity as part of project planning. This approach is the current practice undertaken on all Xstrata projects where impacts to biodiversity are identified.

Xstrata also supports an outcomes-based approach to offsets that is efficient, effective, transparent, proportionate, scientifically robust and reasonable. As part of this approach it is acknowledged that the role of policy is to provide a clear direction and framework for achieving stated aims of the Government. An integral aspect of any framework is to provide consistency in guidance, whilst enabling appropriate flexibility in achieving the stated outcomes and objectives, and provide for continuous improvement in the implementation of policy.

We note that throughout the offset policy there is interchangeable terminology describing the desired outcome of the environmental offsetting process. This includes terminology such as 'improved conservation outcomes', 'maintain or improve conservation outcomes' and 'improves the viability of MNES'. The application and interpretation of these differing terms in an offsetting sense may reduce the certainty provided by the policy. Accordingly, Xstrata advocates that the appropriate policy direction should reflect consistent terminology in relation to the overall outcomes to be achieved through the offsetting process. Specifically, Xstrata suggests the adoption of the concept of 'improve or maintain conservation outcomes' as this recognises that conservation outcomes can be achieved through a range of different mechanisms.

Section 2 - Aims of the Policy

Xstrata supports the stated aims of the policy, and in particular aim (2) that the Government will provide greater certainty and guidance on how offsets are determined and applied under the EPBC Act. The creation of certainty and integration across a range of jurisdictions is considered essential for effective planning of Xstrata's Australian operations.

Xstrata welcomes the stated offset requirements as this provides a documented and consistent understanding of offsetting requirements for projects. Based on our previous experience when developing offset packages in consultation with the Government, a perceived lack of detail and consistency regarding the requirements for offsetting for specific projects has been a cause of frustration. In some instances, this has also lead to considerable delays in the determination of projects, further adding to uncertainty in our approach to project investment and the implementation of projects across our business.

In addition, the documentation of offset requirements will also provide for less reliance on the application of precedents created by previous assessments in the determination of offsetting packages without specific justification to the particular project. This guidance will provide for a necessary and appropriate level of flexibility in the development of offset strategies that will contribute to meeting the stated outcomes of the offsetting policy.

Section 4.2.1 - Direct Offsets

Xstrata broadly supports the definition of direct offsets in section 4.2.1 of the offset policy. Based on our extensive experience in the design and implementation of direct offset initiatives we have included a number of specific comments on this definition for the Government's consideration. We

have included the suggested drafting changes to this aspect of the policy (bold and numbered), along with a brief discussion of the intent of the suggested changes:

Direct offsets provide on-ground protection and improved conservation outcomes for the impacted biodiversity values.

They involve:

- The acquisition of land for enduring protection through inclusion in the conservation estate (including covenanting arrangements on private land);
- Maintenance or improvement of acquired land **and/or land that is owned by a third party [1]** through positive conservation actions (both passive and active **measures**) targeted towards the impacted protected matter.

These actions may include:

- Protecting and **enhancing [2]** existing good or better quality habitat
- Rehabilitation of existing vegetation and habitat in **moderate [3]** or poor condition
- Revegetation of environmentally degraded land

Suggested Amendment 1: this amendment is proposed to acknowledge that direct offsetting benefits can be achieved not only on land acquired by a proponent but may also be through the development of partnerships with other parties to manage natural resources for conservation. This provides for an appropriate level of flexibility in the design of direct offsets, as well as providing for improved integration of the management of conservation outcomes between stakeholders.

Suggested Amendment 2: to acknowledge that there are also substantial potential improved conservation outcomes for the protection, enhancement and rehabilitation of habitat for specific MNES, particularly where there are specific habitat requirements for target species outside of general enhancement of vegetation (for e.g. recreation of amphibian habitats). The acknowledgement of rehabilitation of habitat (as opposed to rehabilitation of vegetation specifically), as an appropriate action to achieve a direct offset, would be welcomed.

Suggested Amendment 3: there is substantial opportunity to maintain and improve biodiversity outcomes by rehabilitating vegetation of moderate quality. Often, land-based offset packages include freehold land purchased by Xstrata. In our experience, a vast majority of these properties have been subject to historic agricultural land use practices which have rendered vegetation in moderate quality. These areas offer great potential for the 'improve or maintain' objective to be achieved with the adoption of passive and active rehabilitation practices and the specific consideration of these actions as part of direct offsets would be welcomed.

With regards to the revegetation of environmentally degraded land, Xstrata supports this and encourages the Government to provide further recognition of revegetation associated with mine rehabilitation. Xstrata considers that there are significant opportunities to provide for conservation outcomes associated with mine revegetation over appropriate timeframes. Xstrata invests a significant amount into research and development of mine revegetation practices as we strive for continuous improvement in this area.

As part of a number of recent Xstrata projects in NSW and Queensland, there has been an acknowledgment by the Government of the contribution that mine rehabilitation and revegetation can have on MNES in the long term. Accordingly, recent projects have included areas of mine rehabilitation as part of comprehensive offset proposals based on a range of direct and indirect initiatives.

It is important to note that Xstrata undertakes detailed mine closure planning as part of the project planning process to enable the identification and subsequent implementation of appropriate final land uses post-mining. Final land use planning includes the identification of areas that can be rehabilitated / revegetated to provide habitat for specific MNES. Mine rehabilitation/revegetation processes are subject to rigorous planning through the identification of completion criteria in

addition to ongoing monitoring, auditing and adaptive management to enable rehabilitation/revegetation is achieved in accordance with the identified completion criteria.

Xstrata advocates the biodiversity conservation opportunities associated with mine rehabilitation and revegetation to be formally recognised as part of the Government's offset policy.

Section 5 - When to apply offsets within the EPBC Act

Xstrata urges the Government to reconsider the position regarding the time when an offset proposal can be presented to the Government, specifically the stated position that an offset proposal cannot be presented to the Government at referral stage of a project.

In accordance with Xstrata's biodiversity conservation policy, a biodiversity conservation plan is required as part of environmental impact assessments completed for all mines. When planning for mining projects, Xstrata currently adopts the impact hierarchy of avoid, minimise and mitigate impacts associated with specific projects. Once this process has been completed, only then will Xstrata look at what is considered an appropriate offset. Xstrata consider that when referring a Project, the Government should provide an opportunity for all relevant information, including the offset proposal, to be provided to facilitate the decision making process.

It is understood that the Government intends to amend the EPBC Act to allow for approval "on referral information". Among other things, information required for an "approval on referral information" includes information that *the proponent has clearly documented all avoidance, mitigation, rehabilitation and compensation they will undertake to reduce the impacts of the action to an acceptable level*. It is unclear whether compensation refers to offsets proposed or whether this is some other form of compensation.

For projects that qualify to be assessed on referral information, it is not explicit when details of proposed offsets are provided to the Government. Moreover, if offset information cannot be considered by the Government at referral stage, it is unclear whether projects that qualify to be approved on referral information, must be of a nature that do not require offsets. Xstrata strongly agrees with the approach of streamlining the EPBC Act to allow for approval on referral information, and seek the opportunity to include offset strategies as part of this approval process.

Xstrata notes that the requirement for the provision of an offset proposal is determined by the Government on a project by project basis as part of the decision phase rather than the assessment phase. Xstrata is concerned that this approach adds more time to approvals processes and creates uncertainty regarding the potential requirement for an offset until the decision stage.

Xstrata would support a process whereby we can formally work with the Government on an offset proposal as early as possible in the environmental impact assessment process under the EPBC Act. Our experience in working through these processes with the Government in recent times indicates that this process can often take a substantial amount of time particularly if further land-based offsets are necessary. The deferral by Government in determining the need for an offset until the decision stage adds a greater level of uncertainty and from experience has the potential to greatly increase approval timeframes.

Section 6.2.2 - Government decision making will be conducted in a consistent and transparent manner

The below information details Xstrata's feedback on the following, as requested in the draft policy:

- methodology used in the guide, including:
 - the appropriateness of the factors that influence impact points
 - suggestions for quantifying the impact categories of low, medium, high and very high
 - the proposal that 75% of offset points must be earned from direct offsets
 - the appropriateness of the actions that can earned offset points

- suggestions for appropriate weightings of offset points for particular actions
- potential matters for which the guide may need to be tailored to particular circumstances

Appropriateness of factors to influence impact points: Xstrata considers that the factors identified as influencing the impact points are appropriate. As discussed previously, Xstrata suggests that consideration of whether the habitat type is potential or known should also be included as the impacts to MNES associated with potential habitat considered less than impacts to MNES associated with known habitat.

It is our experience that the Government considers areas of potential habitat for MNES to present the same potential impact to MNES as known habitat and accordingly offset requirements are driven to the same level. Xstrata strongly supports the Government's objective of offsets being commensurate with the level of impact and accordingly Xstrata encourages the Government's approach of acknowledging the differing nature of habitat type (potential vs known) and how they should be considered in the development and assessment of offsetting strategies.

Quantifying the impact categories of low, medium, high and very high: Xstrata considers it appropriate that impacts are quantified into categories, provided that subjectivity is addressed when determining the categories. Impacts to biodiversity can, in some instances, be a subjective issue and accordingly the Government should seek to ensure that impact categories are assigned based on scientifically robust data taking into account all relevant considerations, including conservation status and habitat type and use, and presence of species.

75% of offset points must be earned from direct offsets: Xstrata urges the Government to reconsider the proposed application of 75% of all offset proposals to being comprised of direct initiatives. Xstrata consider that appropriate offset packages should be determined on a project-specific basis, in consideration of specific, scientifically robust information that supports this outcome, rather than a pre-determined outcome requiring that an offset package include 75% direct offset

Actions that can earn offset points: Xstrata would like to reiterate that we encourage the Government to include mine revegetation / rehabilitation in considerations of direct offsetting proposals.

Xstrata has some concerns regarding the potential for offset points to be deducted if there is a *medium and long* timeframe between the proposed impact and offset. It is considered that any areas that are prescribed as part of an offset proposal should not be deducted points as a result of the length of time between the proposed impact and the offset delivering ecological benefit as the Government acknowledges that these areas will deliver ecological benefits over the medium and long term.

By including provisions to reduce points, it is considered that proponents will be unlikely to include specific areas in offset proposals, potentially resulting in fewer offset areas at a State and National level. Moreover, the Government has stated that solutions need to be over time periods that makes ecological sense. Xstrata acknowledges that the process of habitat restoration can be a long process, and we would like these medium to long term habitat restoration processes acknowledged and given credit. Further clarification regarding the definition of medium and long-term timeframes should also be provided.

Moreover, as detailed in the Environmental Offset Assessment Guide attached to the policy, Xstrata notes that when securing land tenure, habitat condition must be 'good or better'. This requirement will limit the amount of available land for inclusion as part of offsetting proposals and decrease the ability for proponents to find appropriate direct offsets. Additionally, defining that land tenure must have habitat quality that is good or better, leaves little room for improvements to habitat and vegetation that is moderate or poor quality.

As previously outlined, there is substantial potential for improvement or maintenance of habitat and vegetation by the introduction of passive and pro-active rehabilitation / revegetation actions on areas of land where existing habitat / vegetation quality is moderate or poor, which is not adequately addressed in the offset calculator.

Proportionate offsets are not just a function of impact versus area: Xstrata supports the intent described under the Offset Requirements that they be of a size and scale proportionate to the impacts being offset. Currently, state and territory regulation refers to a size and scale that is relative to the size and scale of the hectares impacted by development. However the decision ribbon currently proposed within the Environmental Offset Assessment Guide suggests the required offset hectares are a function of total impact and offset points. Xstrata is concerned this potentially represents a multiplier effect on the area which is disproportionate to actual biodiversity impacted and practical execution. This equation also does not take into consideration the context of a 'like-for-like' approach which is noted on page 11 of the Consultation Draft as representing the potential for the greatest long-term conservation gains. Xstrata recommends the 'like-for-like' concept be captured within the characteristics which will gain direct offset points.

Section 7 - Interactions with legislation and schemes

Xstrata strongly supports the Government's proposal that, where appropriate, offsets required under State and Territory approvals will count towards an offset required under the EPBC Act. Xstrata also considers that voluntary conservation actions undertaken should likewise be considered as offsets as part of the regulatory process, and that this should be acknowledged in the offsets policy. Xstrata acknowledges that adding value to conservation outcomes associated with a range of other offset models (e.g. CO₂ offsets) can provide for improved conservation outcomes and encourages the Government to recognise these activities as part of offset packages.

Section 8 - Offset delivery options

Xstrata agrees in principle with the potential use of market-based mechanisms to deliver offsets. Xstrata would like to reiterate that careful and considered planning should be undertaken when determining a market-based approach, and include the opportunity for industry involvement. There is potential that these market-based approaches can be cumbersome with 'credits' being skewed towards offsetting requirements that are not commensurate to the level of impacts. It is essential that the development of any calculation tool is based on the best available scientific knowledge and provides the necessary flexibility to be applied in a range of circumstances.

Ends