



Government of Western Australia  
Department of the Premier and Cabinet  
Office of the Director General

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Dear Sir/Madam,

**Western Australian Government Submission on the EPBC Act Environmental Offsets Policy (Consultation Draft) and Guideline.**

Thank you for the opportunity to provide comment on the *EPBC Act Environmental Offsets Policy: Consultation Draft* (August 2011) and *Environmental Offset Assessment Guide*.

The Western Australian Government generally supports the proposed Commonwealth Environmental Offsets Policy and Guide, noting that the scope of the draft Policy shares common ground with the *WA Environmental Offsets Policy* (September 2011) which has in part informed this submission.

The following additional comments are provided against the relevant sections as stated in the draft Environmental Offsets Policy.

**4.2.2 Indirect offsets**

Care should be exercised in giving equal or increased credit for "*offsets that establish positive social or economic co-benefits*" as these may not deliver biodiversity benefits.

**6.1 What constitutes a suitable offset?**

Sections 6.1.1 and 8.2 refer to the use of third parties to deliver offsets (for example, where a proponent does not have, or cannot satisfactorily demonstrate that it has the expertise to provide ongoing management of offsets). The text should be amended to acknowledge that a third party could be a State government agency whose role it is to manage *in situ* biodiversity on conservation lands. While it is acknowledged such agencies receive public funding to deliver a responsibility to manage conservation lands and biodiversity values, it is legitimate to expect the proponent to contribute resources for management of these assets, noting that offsets are by definition similar to the values being impacted by a development and that the developer benefits from being allowed to effect the impact.

#### **6.1.5 A suitable offset must have transparent governance arrangements, including being able to be readily measured, monitored, audited and enforced**

The Western Australian Government supports the proposed development of an offsets register by the Australian Government and notes there will be public access to the register. The Western Australian Government has also committed to developing an offsets register. It is recommended that there be ongoing consultation between the State and Commonwealth during the development of the registers.

Neither State agencies nor other third parties should be required to bear the costs of an offset. The initial implementation, administration and governance costs, as well as ongoing management costs, should be borne by the proponent.

#### **6.2.1 Government decision-making will be informed by scientifically robust information**

Scientific data to support decision-making are, to a significant extent, held by State government agencies. The policy should be amended to acknowledge this as it currently implies that data are held by experts and SEWPaC.

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

The Western Australian Government supports the development of a general guide to the determination of offsets, including the development of a process that allows decision-makers and proponents to make consistent and transparent assessments and decisions in accordance with the principles of the policy. However, in Western Australia's experience many matters are too complex, and there are insufficient data, to determine and apply a set of quantitative "rules" within a general guide.

In sections 6.2.2 and 8.1, references are made to calculating 'impact points' and 'offsets points', and to existing schemes operating in New South Wales and Victoria using metrics for biodiversity banking.

While these concepts are supported in principle where they can give objective and quantitative measures for determining offset equality, they can only be implemented where there is sufficient scientific information available to develop such a metric or quantification (points). An EPBC Act framework therefore needs to have the flexibility to enable it to operate effectively where these data do not exist.

### **7. Interactions with other legislation and schemes**

The draft policy advocates complementarity of state and national offsets and the need for Australian Government assessment officers to consult with State agencies in the development of appropriate offsets.

The location of offsets may impinge on Western Australian and third party interests. The draft policy does not discuss the consideration of State Government or other third parties' interests when determining an offset. Offsets could be placed over areas of mineral, petroleum and geothermal energy resources and areas of moderate to high mineral, petroleum and geothermal energy potential. This also includes prospective greenhouse

storage areas. It is important that access for exploration and development to areas of state and national economic significance is not unnecessarily impeded.

The draft policy states that "*the government is committed to moving to a more strategic approach to environmental assessments*". The Western Australian Government supports a strategic approach to offsets to ensure clarity in government and industry decision-making processes. A regional strategy for offsets should be designed to achieve long-term outcomes and be consistent with existing conservation programs and initiatives.

Formalised communication protocols between relevant Western Australian government agencies and SEWPaC are required to improve the development and application of environmental approval conditions for environmental offsets. The protocols should seek to achieve a more consistent, coordinated and effective approach to offsets applied under multiple jurisdictions and optimisation of potential environmental outcomes derived from offset requirements. It is recommended that the policy's text refer to "*the development of more formalised communication protocols between relevant State agencies and SEWPaC*".

Western Australia welcomes the opportunity to work with the Commonwealth in an ongoing manner to ensure environmental offsets are delivered across jurisdictions in a transparent, accountable and efficient manner. Should you require any further information, please contact [REDACTED] on [REDACTED]

Yours sincerely



Peter Conran  
DIRECTOR GENERAL

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