



Australian Government



AUSTRALIAN INSTITUTE
OF MARINE SCIENCE

TOWNSVILLE

DARWIN

PERTH

26 October 2011

EPBC.reform@environment.gov.au

Dear Sir/Madam

Consultation Draft Environmental Offsets Policy August 2011

Thank you for providing the opportunity for the Australian Institute of Marine Science (AIMS) to comment on the *Consultation Draft Environmental Offsets Policy August 2011* (hereafter the *draft*) released on 24th August 2011 by the Hon Tony Burke, Minister for Sustainability, Environment, Water, Population and Communities (SEWPaC) which outlines the Australian Government's framework on the use of environmental offsets ('offsets') under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

AIMS is Australia's tropical marine research agency undertaking research to support the protection and sustainable use of tropical marine environments. The Institute is a Publicly-Funded Research Agency with over 200 staff (plus an additional 20 early-career researchers and 80 students) who have access to modern and well-maintained infrastructure including two coastal oceanographic vessels and advanced analytical facilities for oceanographic, ecological, molecular and genetic research. AIMS concentrates its research on the Great Barrier Reef World Heritage Area, the Northern Territory coast, the Kimberley Coast and the oceanic shoals of the Timor Sea and the Ningaloo marine park in Western Australia. AIMS' head office is in Townsville, with additional offices in Darwin and Perth.

Under the EPBC Act an action that will have, or is likely to have, a significant impact on a matter of national environmental significance (MNES) must be referred for assessment. Environmental offsets are measures that can compensate for adverse affects on matters of national environmental significance. Those MNES that relate specifically to AIMS' core business include the Commonwealth marine territories, the Great Barrier Reef Marine Park, as well as listed threatened species and ecological communities, and World Heritage and National Heritage places. AIMS's comments are thus directed towards how the government's draft environmental offset policy relates to the tropical marine environment – although comments are applicable to the marine environment in general.

AIMS' primary concern with the *draft* is that while the underlying principles may be applicable to the terrestrial environment it is not clear how these principles are transferrable to the marine environment. Given that Australia's marine territories are 1.8 times that of its landmass, the rapid increase in coastal development and the challenges placed on marine ecosystems by global change, the policy needs to be more explicit in relation to the marine environment. Some examples where more detail is required include:

- In the opening paragraphs it explicitly states that the *draft* is intended to '...ensure that offsets deliver high-quality conservation outcomes for matters protected under EPBC Act...' and yet it also states that the '...offsets policy focuses on terrestrial impacts and offsets...'. Reference is made to

¹ Consultation Draft Environmental Offsets Policy August 2011 Section 1, page 3, paragraph 3

Townsville address: PMB No 3,
Townsville AC, Qld 4810
Tel: (07) 4753 4444
Fax: (07) 4772 5852

Darwin address: PO Box No 41775,
Casuarina NT 0811
Tel: (08) 8920 9240
Fax: (08) 8920 9222
www.aims.gov.au

Perth address: The UWA Oceans Institute (AOPI)
35 Stirling Highway, Crawley WA 6009
Tel: (08) 6369 4000
Fax: (08) 6188 4585

the fact that '*...some aspects of the approach are also relevant to the marine environment²....*', but it is not stated which.

- The document recognizes that '*...avoidance and mitigation are the primary strategies for managing potential impacts of proposed actions...*' and that '*...offsets are not intended to make proposals with unacceptable impacts acceptable...*' nevertheless, does the clear focus of the policy on terrestrial impacts mean that long-term conservation outcomes cannot be achieved using offsets as relating to matters of national environmental significance in the marine environment?

The application of offsets as relating to the marine environment is inherently complex and in part relates to difficulties in accessing sites, implementing work, compliance and auditing performance and enforcement. For example, Direct Offsets cited in the *draft* include acquisition of land for enduring protection, maintenance and improvement of land, rehabilitation of existing vegetation in poor condition and revegetation of degraded land³. In the marine environment acquisition of seabed is not possible and restoration and rehabilitation projects (for example for seagrass beds and coral reefs) have historically come with a very high cost, are only possible in small areas and come with no guarantees off long-term success⁴.

Perhaps because of the inherent difficulties of applying Direct Offsets there is a tendency towards the use of Indirect Offsets in the marine environment. These are described in the *draft* as a '*... range of measures⁵ to improve our knowledge, understanding and management of environmental values, leading to improved conservation outcomes for the impacted protected matter⁶...*'. For example, an example of an indirect offset for the loss of marine plants could be financial contributions towards applied research in aspects of seagrass biology⁷.

It is clearly recognized in the *draft* that '*...Direct offsets generally provide a better and more certain conservation outcome than indirect offsets, and therefore are considered an essential component of a suitable offsets package....Direct offsets present a lower risk than indirect offsets...⁸*'. While Indirect Offsets may be seen as an appropriate option for biodiversity offsetting, if their use is favoured in the marine environment, then the challenge is to ensure the underlying philosophy and principles outlined in the *draft* document are adhered to⁹. These include overall conservation outcomes that maintains the viability of the aspect of the environment that is protected by law, that they are efficient, effective, transparent, proportionate and scientifically robust, of a size and scale proportionate to the affected species or community, and the risks of the offset not succeeding are managed.

If Indirect Offsets via scientific research is an option in the marine setting, then there has to be very transparent arrangements over how the offset is spent. In this regard it is noted that the *draft*

² Consultation Draft Environmental Offsets Policy August 2011 | Section 1, page 3, paragraph 2

³ Consultation Draft Environmental Offsets Policy August 2011, Section 4.2.1, Page 6

⁴ Ganassin C, Gibbs PJ (2009) A review of seagrass planting as a means of habitat compensation following loss of seagrass meadows. NSW Department of Primary Industries - Fisheries Final Report Series No. 96 ISSN 1449-9967

⁵ For example:

- implementing priority actions outlined in the relevant recovery plans
- enhancing habitat quality or reducing threats to the protected matter on a site that is not part of the direct offset, for example by removing invasive species
- contributing to relevant research or education programs.

⁶ Consultation Draft Environmental Offsets Policy August 2011, Section 4.2.2, Page 7

⁷ The State of Queensland, Department of Employment, Economic Development and Innovation. 2009. Fisheries Queensland. Priority Funding Areas for Seagrass Research Projects http://www.dpi.qld.gov.au/28_16783.htm

⁸ Consultation Draft Environmental Offsets Policy August 2011, Section 4.2.1, Page 6

⁹ Consultation Draft Environmental Offsets Policy August 2011, Box 1, Page 4

supports the use of third parties, such as research agencies, to deliver offsets and that a third party must be accredited by the DSWEPaC. However, more transparent and formal procedures may be required to prioritize scientific research questions and understand how they relate to improved conservation outcomes.

In summary, whilst the principles of environmental offsetting may be becoming accepted, application of some of the principles to the marine environment will require further thought and development than is currently reflected in *the draft*. Direct offsetting is not as easily implemented in the marine and with the tendency towards the use of Indirect Offsets, there is a possibility that offsets will not deliver an overall conservation outcome that improves or maintains the viability of the aspect of the environment that is protected by national environment law and affected by the proposed development.

If you require any further detail on any of the matters raised in this discussion please do not hesitate to contact AIMS. The AIMS contact officer is [REDACTED]

Yours sincerely



David Mead
Acting CEO