

25 October 2011

Department of Sustainability, Environment, Water Populations and Communities
National Environmental Law Reform Public Comment
GPO Box 787
Canberra ACT 2601

Submitted via email to: email epbc.reform@environment.gov.au

Dear Sir/Madam

Re: Terrain NRM comments on the Australian Government's Biodiversity Policy Consultation draft and the EPBC Act Environmental Offsets Policy Consultation draft.

Terrain NRM welcomes the opportunity to make this submission to the Australian Government's Biodiversity Policy Consultation draft and the EPBC Act Environmental Offsets Policy Consultation draft. Terrain NRM is the designated regional Natural Resource Body for the Wet Tropics region. Established in 2003, Terrain is a not-for-profit public company funded from a range of corporate, government and philanthropic sources. Current key funding programs include the Australian Government's Caring for our Country Program and its key component Reef Rescue, which Terrain is administering on behalf of the region.

Terrain's key role is to support implementation of the Regional NRM Plan, *Sustaining the Wet Tropics*, by supporting action, facilitating funding and integrating effort to achieve sustainable communities and ecosystems in far north Queensland. Terrains activities build partnerships to secure the health of our natural resources including the region's biodiversity, water, soil, climate, Traditional Owner and community assets. Terrain provides planning direction, information, advice and practical support to community groups, organisations and individuals with an interest in NRM.

The Wet Tropics region contains ecosystems that are nationally significant due to World Heritage Area status as well as containing habitat that supports EPBC Act listed species and ecological communities.

**Australian Government Biodiversity Policy
Consultation Draft**

Terrain NRM Comment on Principles:

1. It is better to prevent biodiversity decline before it happens

We agree with the principle to integrate biodiversity in planning and management and adapting various tools. Biodiversity is complex and requires flexible responses that are able to be tailored to situations.

However, a focus on preventing biodiversity decline does not mean abandoning already threatened species and communities. The focus should be on getting the best and/or multiple outcomes from available resources and not about thinking of what can/should be ignored because it is more difficult or expensive to recover.

2. Biodiversity should be valued according to its real worth.

We agree there is a need to account for biodiversity more accurately, however it is very difficult to value complexity and a precautionary approach to assigning values must be followed.

3. We need to take an adaptive approach to building the resilience of biodiversity to climate change.

We agree that it is important to take an adaptive approach, however Australia's response to climate change also needs to address the mitigation of drivers of carbon dioxide pollution such as population pressures and consumption patterns.

An adaptive approach requires a coordinated monitoring and planning response and these responses must be clearly enabled with resources and mechanisms for implementation.

4. Effective conservation requires well-targeted investment.

Investment into biodiversity must be available from a range of sources, as identified in the draft policy document. Although market based mechanisms will be one part of the overall investment strategy, it is important to also recognise that there will always be key issues of biodiversity management that require publicly funded investment due to the inability to attract funds from other sources.

All methods of investment directed to biodiversity need strong administrative oversight and mechanisms by Government to ensure a coordinated approach to various issues. Investment decisions must be informed by those who have adequate expertise for making assessments at both National, regional and local levels.

Strong and clear land use planning that identifies targeted conservation area are essential to securing long term conservation outcomes.

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

The Australian Government has a key leadership role to play in shifting Australia's consumption patterns to a more sustainable position and away from being among the world's top consumers of energy and other resources.

Local governments, especially those with low rate bases, need to be supported or required to manage matters of national environmental significance.

In Paragraph 1, there is a need to mention Traditional Owners. "Governments at all levels, businesses, researchers..."

From paragraph 2 "... and supporting the community with information and knowledge." This could state clearer the need to enable communities to act, including valid pathways for involvement and input and access to resources for carrying out conservation objectives. There is a need to ensure meaningful inclusion in order to raise the understanding of all and gain better outcomes for biodiversity.

From paragraph 3 "...the Government will *promote* the consideration of biodiversity in inter-governmental and cross-sectoral policy issues.." The Australian Government has a key leadership role in setting the framework for integrating biodiversity. Strong outcomes are possible through integrated policy but these require a commitment to ongoing action and the mechanisms to support these to deliver results.

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

We agree there is a need to consider both localised solutions and their place within a landscape scale approach. The two issues mentioned are key issues that currently hamper good long term conservation outcomes: addressing cumulative impacts through strategic planning across scales and developing sustainable financing mechanisms for long-term conservation.

7. Biodiversity is a renewable resource, but we must not undermine its capacity to renew itself.

We agree there is a need to understand more and integrate into policies, plans and strategies. The use of the Precautionary Principle in planning and design of programs for biodiversity is even more important in climate change scenario, especially as we still do not understand enough about complex systems to know when we are undermining biodiversity's capacity to renew itself.

8. Credible information and knowledge is essential for good decisions.

In order to engage communities and develop solutions that will work on the ground, research and policy needs to consider linking local and scientific knowledge. Knowledge is required not just for policy decision making but for engaging communities and altering behaviours. There is a need to feedback research and monitoring outcomes to the broader community and raise understanding of biodiversity threats and management requirements.

Accurate mapping is not available for many current matters of National Environmental Significance and there is a need to improve basic knowledge for decision making.

9. The conservation estate is the backbone of our efforts.

We agree that the conservation estate is the core of long term protection for biodiversity that land use and rehabilitation efforts can be planned around, however, in areas that are of extremely high biodiversity value, such as the Wet Tropics, it is important not to neglect further biodiversity conservation needs because of a high level of protection. In the Wet Tropics, World Heritage values occur outside of the World Heritage Area and contribute to the overall health of the Wet Tropics region. As well, NRS targets have not been met in the Wet Tropics for adequacy. In Queensland, the protected area estate covers only 4.7% of the State.

The Protected Area Estate is an island and protection mechanisms for private land are difficult to access in the Wet Tropics due to resourcing issues at the State level. There is no Federal conservation land protection mechanism. Incentives for private land conservation are essential.

10. Commonwealth environmental regulation should be strategic, focused on matters of national environmental significance, and complementary to state and territory legislation.

It is important that there are governance arrangements that are able to consider an overarching view of landscape scale connectivity and biological health. Strategic Assessments and regional environmental plans will require ongoing assessment and review and need to be supported by ongoing investment.

A Strategic Assessment needs to focus on not just a map of areas where development can and can't occur but multiple actions to address all associated impacts of development on matters of NES. As we have found through our 5 year community based planning and implementation process to develop the Mission Beach Habitat Network Action Plan, it is not just the habitat impact that needs to be considered to protect matters of matters of NES, but a suite of integrated impacts such as reducing traffic impacts by creating local jobs or bus transport or reducing speed limits.

We would also like to recommend an extra Principle that addresses Biodiversity and Indigenous People to ensure incorporation of indigenous interests and Traditional Ecological Knowledge in all aspects of biodiversity planning and management.

**EPBC Act Environmental Offsets Policy
Consultation draft
Terrain NRM Comments:**

Terrain NRM developed an organisational Biodiversity Offsets Policy and information guidelines to inform our actions and involvement in offsetting in the Wet Tropics region and to provide information to other organisations and individuals involved in offsetting. These guidelines were developed in consultation with the board, staff and Dr Elaine Harding, ecologist and contain examples of offsetting issues and applications. The Terrain Best Practice Guidelines for Biodiversity Offsetting September 2008 attached for your information:

General Comments on the Environmental Offsets Policy and associated Offsets Guide:

Overall we believe that the offsets policy is well-considered and covers most aspects of best-practice environmental offsetting for biodiversity.

We make the following general comments on the documents:

- There is a need for a clear set of guidelines that indicate the types of ecosystem values where environmental offsetting should not occur eg those vulnerable, rare or where high degrees of uncertainty exist eg where comprehensive flora and fauna surveys haven't been completed.

- There is a resourcing burden of establishing protection mechanisms (currently carried by the State) as well as potential on-going management costs if offsets are added to the protected area estate that need to be considered holistically for any offsets program. In the Wet Tropics, this has seen most resources for processing conservation protection mechanisms directed to those arising from development conditions. This has had the effect of seeing voluntary Nature Refuge applications from the Wet Tropics region not processed which is acting as a perverse incentive to voluntary conservation effort.
- What mechanisms will be used to insure against the failure of an offset.
- In order to deliver a landscape scale approach there is a need for integrated assessment that involves agencies that are tasked and skilled in biodiversity protection and management.
- Off-site impacts need to also consider Traffic impacts where this is a key threat to an EPBC Act listed species such as the Southern Cassowary. Contributions from all local development offsets need to contribute to the cost of mitigating mechanisms such as fauna underpasses and traffic slowing devices and State agencies must be involved with this. These off-site impacts are long lasting and at this point we don't understand what the traffic solutions are or the costs associated with these, so the precautionary principle must be applied. Any Strategic assessment must include a traffic strategy where this will impact a listed species. However, we would recommend that all development areas should have conservation outcomes as a part of roads core business and not be reliant on offsetting for traffic management outcomes.
- Offsets must not be used to water down conservation policy, eg facilitate development of threatened species habitat. If a species or ecosystem is endangered then the aim should be to not develop at all. As well, we must understand tipping points more thoroughly in order to make decisions about common species habitat before they become threatened.

Specific Comments:

Pg 4 Section 2: 1. What does proportionate mean?

Pg 6 Section 4: 4.2.1:

- On-ground protection – via what mechanisms – please refer to resourcing issues in general comments above.
- There is a need to determine appropriate maintenance timeframes for each specific outcome.
- Direct offsets – revegetation – There is a need to ensure that those giving approval have appropriate knowledge of what is best practice eg revegetation for an area.
- Time until offset achieves result – there is little evidence of at what point revegetation provides the range of ecosystem services required for an impacted matter.

Pg 7 Section 4: 4.2.2

Indirect offsets should be additional to direct offsets once all on-ground impacts have been offset.

Indirect offsets contributions should be additional to base funding for the outcomes suggested ie implementing recovery plan actions or research and education programs. It is important to avoid cost transfer to offsets as a source of funding for these activities. Indirect offsets are easy to achieve because no alteration of land management intent needs to occur. We agree that social and economic benefits are positive and direct offset design can consider this too in who brokers offset and how it is delivered.

Pg 10: Section 5: 5.3 Decision Stage: How will economic and social factors be measured? If the purpose of the EPBC Act is to administer MoNES, then how do these considerations get brought in under EPBC? If considering social values, there are potential situations where high social values can be associated with a place eg Mission Beach community values for local natural values of the place, indigenous cultural heritage sites or economic values contributed by tourism reliant on the attractiveness of natural values.

Effective participation of stakeholders should be ensured. Special consideration should be given to the existing, recognised rights of Indigenous communities and local communities with engagement tailored to these groups.

Biodiversity offsets should be designed to have equitable distribution of benefits, rights, responsibilities and risks amongst all stakeholders.

We support the plan to make information available on the website (offset conditions etc).

Pg10: Section 5: 5.3 Post-approval stage: Who will enforce the effective delivery of the offset and how will this be done over an appropriate time period?

Pg 10-11 Section 6. We agree that protection must be matched by management.

Like for like is essential and especially in the Wet Tropics where there is so much variation across the landscape with different areas playing different refugial or resource provision roles across different times of the year and across long time periods (eg the time between large scale disturbance events such as cyclones).

Pg 12 Figure 2: Final Question in box: Does the offset conform to good governance principles? The meaning of this is unclear. Do you mean: is it a tried and proven method?

Pg 13 Section 6: 6.1.4: Offset suitability needs to be informed by local knowledge of management and rehabilitation needs. For instance, in the Wet Tropics poor design of revegetation offsets have been approved making achievement of offset outcome impossible without extra resources being found.

Pg 15 Section 6: 6.1.5 We agree with making offset information publicly available. This reduces risk of poor deals being done and keeps local awareness and pressure on those responsible for site protection and maintenance into the long term.

No detail is provided on how offsets will be enforced. This is a recognised weakness in the use of environmental offsets and must be articulated and resourced from the start of the policy.

Pg15 Section 6: 6.2.1. State agency staff who have detailed local knowledge need to be considered in decision making and local level knowledge possessed by organisations such as regional NRM bodies is also invaluable in understanding what is feasible on the ground and what will address local challenges.

Pg16 Section 6: 6.2.1. Quality: The quality of the development site may be degraded for habitat, however it can still hold or potentially hold important connectivity value. Connectivity is not considered in the list of Matters of National Environmental Significance. Points are awarded for habitat connectivity in the Assessment Guide referring to the offset guide. If a development decreases landscape connectivity, this must be considered as well.


Pg 17 Feedback on specific issues:

1. The methodology used in the guide:
 - a. The appropriateness of the factors that influence impact points
 - i. Condition of habitat will require a standard assessment to ensure both transparency of assessment (ie a certified assessor for the ecosystems under assessment) and ensure consistency of assessment
 - ii. If Decision State takes into account social and economic impact, should this be included in impact table.
 - iii. Although not a value, the regional planning context of the site can be important as it provides a framework for weighting ecosystem values if the site is part of or adjacent to identified priorities for landscape connectivity, or sites critical to a species or ecosystem
 - b. Suggestions for quantifying the impact categories of low, medium, high and very high
 - i. Quantify against status of matter impacted, ie if endangered, then no offset should be considered unless impact area is small and offset is large or restoration is fully achieved before impact occurs. If critically endangered no offset should be acceptable.
 - c. The proposal that 75% of offset points must be earned from direct offset
 - i. Indirect offsets are only appropriate for small impacts or less vulnerable ecosystems. Indirect offsets only have short term or diffuse benefit.
 - d. The appropriateness of the actions that can earn offset points
 - i. Although “preserve” conservation values through land tenure change ie to protected area, results in avoidance of future harm to that area and a net gain to the protected area estate, it results in an overall net loss of habitat. Restoring conservation values through rehabilitation will increase habitat values overall, but the time lag can be long and difficult to quantify and there is also the risk of failure of the

restoration. Appropriateness of the action must rest on an understanding and assessment of the total ecosystem values and what options will lead to the best long-term outcome.

We thank the Australian Government for the opportunity to make this submission. For any further information please contact Carole Sweatman, CEO, Terrain NRM at our Innisfail office (details below).

Regards

per: 

Carole Sweatman
CEO
Terrain NRM

Attached: Terrain NRM Best Practice Guidelines for Biodiversity Offsetting 2008