

WENTWORTH GROUP

OF CONCERNED SCIENTISTS

Committee Secretary
Senate Standing Committee on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600

17 April 2014

Dear Committee,

Thank you for the opportunity to make this submission to the Senate Inquiry into the history, appropriateness and effectiveness of the use of environmental offsets in federal environmental approvals in Australia.

The Wentworth Group has long been an advocate of the use of environmental offsets. However some vegetation associations have been so extensively cleared that they have become irreplaceable and cannot be offset to improve or maintain environmental outcomes. Therefore it is only under some circumstances that offsets allow new development to proceed whilst maintaining and improving the long term health of Australia's land, water and biodiversity assets.

The Wentworth Group supports the existing Commonwealth Environmental Offsets Policy, which follows a hierarchy of development assessment: to avoid, minimise and mitigate impacts on matters of national environmental significance.¹ Under this policy, environmental offsets are employed as a mitigation measure to treat impacts that could not otherwise be avoided or minimised.

The Wentworth Group was instrumental in the development of the *Environmental Outcomes Assessment Methodology*² that underpins the New South Wales Native Vegetation Act which has been in operation across New South Wales since 2003.³ This methodology is a regulation under that Act.⁴ The assessment methodology provides a transparent, science based system for measuring the impact of a new development on water quality, salinity, soil health and biodiversity; whether it is possible for that development to offset any such damage so as to 'maintain or improve' the long-term condition of those assets in the landscape; and if so, what degree of offsets are required to satisfy this 'maintain or improve' test.⁵

However there are an increasing number of so-called offset schemes being promoted by some governments that fail the fundamental standard that environmental offsets should maintain or improve environmental outcomes. Too often, offsets are not satisfying this basic standard and are instead being used to trade long-term environmental damage for short-term economic benefit.

The Queensland Premier has told the Wentworth Group that one of the ‘most important’ reasons his government passed legislation to weaken Queensland native vegetation laws, allowing property owners to clear native vegetation of high conservation significance, is to: *‘present new opportunities for landholders to use this vegetation to gain financial and environmental benefits through offset arrangements that may be sought by industry.’*

That is not an environmental offset policy; that is greenwash.

If environmental offsets are to be used ‘to improve or maintain the viability of the aspect of the environment that is protected by national law’ (Commonwealth Environmental Offsets Policy 2012, p6), then an offset must compensate for the loss of that environmental asset. This abuse of environmental offsets is one example of why it is irresponsible for the Commonwealth government to hand over national EPBC assessment and approval powers to state governments without a transparent science-based national standard.

Most offsets schemes operate at an individual project scale. The major flaw of this system is that it does not effectively manage biodiversity, nor does it effectively manage the cumulative impact of multiple developments.⁶ Individual developments, when considered in isolation, may have a minor impact on the environment, but when combined, their cumulative impact can result in long term damage to Australia’s land, water and marine ecosystems.

Therefore, by far the most effective way to promote development and deliver better environmental outcomes is to invest in long-term, landscape-scale planning to determine where, and under what conditions, development can safely occur.

Whether offsets are applied at a project or landscape level, they need to satisfy a range of criteria if they are to maintain or improve environmental outcomes.

Criteria for an Efficient and Effective Environmental Offsets Policy

The NSW *Environmental Outcomes Assessment Methodology* regulation lists 8 criteria⁷ that need to be satisfied to underpin an environmental offset scheme. These criteria should be used by the Commonwealth to underpin its policy to *‘deliver an overall conservation outcome that improves or maintains the viability of the aspect of the environment that is protected’*.⁸

1. The benefits from any offset, whether on the same property or elsewhere, must improve or maintain environmental outcomes for every environmental asset (water quality, salinity, biodiversity, soil health) affected by the development; and
2. The benefits of the offset must persist for at least the duration of the negative impact of the proposed clearing (usually in perpetuity); and
3. The offset vegetation for biodiversity must be either of equal or greater regional conservation significance as the site proposed for clearing; and
4. Management actions must be deliverable and enforceable; and
5. Permanent conservation measures should always be given greater value than other management actions; and
6. The benefits of the offset must be assessed using the same methodologies used to assess the impacts of the proposed clearing; and

7. The offset must be additional to actions or works carried out using public funds or to fulfil regulatory obligations; and
8. Only benefits from the management action or permanent conservation action may comprise the offset.

These criteria recognise some fundamental issues that an effective offsets scheme needs to address:

- If you plan to clear a patch of vegetation you need to replace the loss of that vegetation association by restoring the equivalent vegetation somewhere else in the landscape. Simply placing an existing piece of vegetation into a reserve does not constitute an offset because it is not improving or maintaining environmental assets; there is still a net loss of the environmental asset.
- It takes time for restored vegetation to grow. Until that patch reaches maturity there has been a significant loss of ecological value. An environmental offset needs to compensate for this loss in the short term by restoring sufficient vegetation to improve the condition of that asset in the long term.
- Not all patches of vegetation have the same value. Clearing a rare or endangered vegetation association causes far greater long-term damage than clearing a patch of vegetation that is widely distributed and not endangered. Therefore if an offset is to result in the maintenance or improvement of environmental outcomes, then the patch of vegetation that it replaces must be of equal or greater quality.
- If an offset is not maintained then it fails to maintain or improve environmental outcomes. It is therefore essential that all offset schemes are legally bound and audited to be certain that developers manage and resource the offset scheme to make sure it reaches full potential.
- Land clearing not only causes damage to biodiversity, it also often results in damage to other environmental assets (e.g. soils, groundwater hydrology, river systems, coastal and marine ecosystems). Therefore environmental offsets need to improve or maintain all affected environmental assets.

If based on these principles, offsets can enable new development to proceed whilst maintaining and often improving the long-term health of Australia's land, water and biodiversity assets.

Proposal for a National Standard for Assessing the Impact of Land Clearing on Matters of National Environmental Significance.

Over 70 per cent of projects referred to the Commonwealth over the life of the EPBC Act have not needed further assessment and approval. For those developments that do trigger the Act, 73 per cent do so because of their potential to have a significant impact on threatened species and ecological communities and/or migratory species.⁹

One way of improving or maintaining environmental outcomes and supporting more effective and efficient regulations to reduce the regulatory burden on business, is for the Commonwealth to develop or accredit an assessment methodology (such as the NSW *Environmental Outcomes Assessment Methodology*) that provides a transparent, science-based system for measuring the impact of a new development on Matters of National Environmental Significance.

We have demonstrated through our work with the New South Wales government that it is possible to produce a scientifically robust, yet practical assessment methodology that can be used by government and accredited private sector certifiers to determine whether an action to clear native vegetation is likely to have a significant impact on the environment.

This approach offers a proven and transparent method for assessing the impact of an action to clear native vegetation, and guarantees the maintenance of high environmental standards. At the same time this will also significantly reduce the regulatory burden for business by providing certainty against a standard early in the project life cycle.

Auditing Compliance of Offsets

If an offset is not maintained, then it fails to maintain or improve environmental outcomes. It is therefore essential that all offset schemes are audited to make sure that a proponent meets the requirements of the offset scheme.

According to the EPBC offsets policy, suitable offsets must 'have transparent governance arrangements including being able to be readily measured, monitored, audited and enforced'. In addition to auditing of compliance, a public register of offsets should be maintained and updated by an independent authority, as is the case for Property Vegetation Plans accredited under the NSW Native Vegetation Act. This function is essential to avoid duplication of offsets and for evaluation of the success or otherwise of offsets in restoring landscape processes.

It is common practice for urban and mining development approvals to require a bond or similar financial mechanism to make sure there are funds to maintain the offset. This principle needs to apply to all offset schemes, so that if a company fails the audit, then the financial resources are in place to secure the required offset.

Conclusion

We believe the Commonwealth can achieve the implementation of a scheme, such as the *Environmental Outcomes Assessment Methodology*, as a national standard without significant expenditure while still achieving the desired reduction in regulation.

Thank you for the opportunity to contribute to this senate inquiry. We look forward to discussing any part of our submission with the committee.

Yours sincerely,

Peter Cosier
on behalf of the Wentworth Group of Concerned Scientists

References

- ¹ Commonwealth Environmental Protection and Biodiversity Conservation Act 1999 Environmental Offsets Policy.
- ² Native Vegetation Regulation 2013 Environmental Outcomes Assessment Methodology, NSW Office of Environment and Heritage.
- ³ The Wentworth Group of Concerned Scientist (2003). A New Model for Landscape Conservation in New South Wales, February 2003.
- ⁴ Native Vegetation Regulation 2013 – clause 16, as published in the Gazette on 29 November 2013.
- ⁵ Natural Resources Commission (2010). Progress towards Healthy Resilient Landscapes: Implementing the Standard, Targets and Catchment Action Plans. December 2010 Progress Report.
- ⁶ Australian Government Department of the Environment, Water, Heritage and the Arts (2009) The Australian Environment Act – Report of the Independent Review of the Environment Protection and Biodiversity Conservation Act 1999, October 2009, Final Report. Commonwealth of Australia.
- ⁷ Native Vegetation Regulation 2013 Environmental Outcomes Assessment Methodology, p6.
- ⁸ Commonwealth Environmental Protection and Biodiversity Conservation Act 1999 Environmental Offsets Policy.
- ⁹ Wentworth Group of Concerned Scientists (2012). Statement on Changes to Commonwealth Powers to Protect Australia's Environment, September 2012, p9.