

30th March, 2014

Committee Secretary
Senate Standing Committees on Environment and Communications
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Dear Senators,

1. The history, appropriateness and effectiveness of the use of environmental offsets in federal environmental approvals in Australia

Thank you for the opportunity of commenting on environmental offsets. My comments only relate to biodiversity, not to emissions.

The principles that underpin the use of offsets.

“Environmental offsets aim to ensure that significant and unavoidable adverse environmental impacts are counterbalanced by a positive environmental gain, with an aspirational goal of achieving a 'net environmental benefit'.” (Reference: Chairman's foreword to the Environmental Protection Authority's Environmental Offsets Position Statement No. 9, January, 2006.) The above quote encapsulates the foremost principle which underpins the use of offsets in Western Australia.

In all but a few cases, it is impossible to meet the aspirational goal of achieving a *'net environmental benefit'*. A *'net loss'* of habitat inevitably occurs, even when offset replacement habitat is acquired. However the Commonwealth Government has, by applying a land acquisition ratio replacement of 10:1ha, recognised its responsibilities under the EPBC Act to protect biodiversity. Recently this ratio has dropped much lower which is disappointing.

The EPA's Position Statement 9 warns of the limitations of environmental offsets saying that the EPA needs *'to establish strong principles based on a foundation of environmental protection.'* If strong principles of environmental protection aren't applied then the use of offsets in environmental impact assessments will not deliver sound environmental outcomes.

The application of offsets has also enabled some proposals to proceed, which otherwise would have been unacceptable.

The processes used to develop and assess proposed offsets.

The Western Australian EPA after a lengthy, and exhaustive consultation process involving industry, non government organizations and the general community, released its Environmental Offsets Position Statement. This was followed by EPA Guidance Statement, No. 19, which deals with implementation.

Through the Commonwealth and State Bilateral Environmental Impact Assessments, offsets have been applied by the Commonwealth where proposals would have a significant impact due to habitat

loss or degradation.

There are 5 principles enshrined in the 1986 EPA Act which should be met in the Environmental Impact Assessment process. These are - the application of the precautionary principle; ensuring intergenerational equity; the conservation of biological diversity and ecological integrity; an improved valuation, pricing and incentive mechanisms; and waste minimisation.

A decision framework for the use of environmental offsets firstly considers the State's environmental assets. It requires 'Critical Assets' representing the State's most important environmental assets to be fully protected and conserved and any adverse impact to them be avoided at all costs. In such cases the EPA adopts '*a presumption against approval of project proposals where significant adverse impacts affect 'critical assets'*'. Therefore a number of proposals over the past 10 years where 'Critical Assets' are involved have not proceeded. A few have, where a substantial offset package has been provided involving the acquisition and securing in the conservation estate of replacement habitat.

Offsets are also applied to High Value Assets where a residual but significant impact remains after applying the hierarchy of mitigation of Avoidance, Minimisation, Rectification, and Reduction Direct Offsets, sometimes in combination with Contributing Offsets are required.

The adequacy of monitoring and evaluation of approved offsets arrangements to determine whether promised environmental outcomes are achieved over the short and long term

When considering the range of offsets which can be applied, it is obvious that the most valuable and productive offset is a direct one, involving the '*acquisition of land subject to threatening processes for the conservation estate*' (Reference: Western Australia EPA Environmental Offset, Position Statement No. 9)

In some instances offsets have involved restoration, rehabilitation, fencing and feral animal control within the development site. Such offsets **are not appropriate**. These management issues are part of a proponent's normal responsibilities, and cannot be considered an offset.

Where it is the proponent who selects an area for restoration/rehabilitation as an offset, and this is accepted, the outcome is generally poor. A Western Australian example of this was when a Minister for Environment required the government Main Roads Department to provide an offset (at the time called wetland replacement) for wetlands lost as a consequence of a freeway extension. The Department selected an area which required major rehabilitation. This legal offset has never been completed satisfactorily and consequently the Department remains non-compliant 25 years on. The government department has failed to comply with its own Rehabilitation Strategy criteria. There are other examples too where restoration/rehabilitation offsets have failed to deliver the promised outcomes. In these instances the environmental outcome is unacceptable.

2. In conducting the inquiry the committee consider the terms of reference in 1. with specific regard to, but not restricted to, the following projects;

I refer to the Jandakot Airport. This site was recognised for its outstanding natural biodiversity values. It was entered on the Interim List of the Register of the National Estate, subject to protection under the Commonwealth EPBC Act.

It is a Bush Forever site (No. 388). Bush Forever is a whole of government initiative recognising

the highest valued bushland/wetland areas in the metropolitan area on the Swan Coastal Plain.

In becoming a Bush Forever site, Jandakot Airport met 5 of the 6 criteria for environmental significance. It therefore easily qualified to be a *Critical Asset* under the EPA's Offsets Position Statement No. 9

The vegetation is Bassendean Complex – Central and South. This complex is becoming increasingly at risk due to ongoing clearing.

The Jandakot Airport bushland formerly protected under Bush Forever, covers a large area of around 410ha. In environmental terms, the loss of a large area of excellent condition bushland represents serious biodiversity loss. Despite this situation, the proposal on Commonwealth land was approved and offsets applied. In my view the loss of this *Critical Asset* should not have been considered acceptable, regardless of how attractive the offset package. The values were too high and the biodiversity price that has been paid too damaging.

Both the Commonwealth and the State have previously stated that a '*net environmental benefit*' means that there are more environmental gains compared to environmental losses. Also that there is an overall improvement in the total extent, quality, ecological integrity and security of environmental assets and their values. Unfortunately this was not applied to the Jandakot Airport Bush Forever site.

In conclusion. Should a proposal affecting High Value Assets be recommended for approval by the EPA, the application of an offset package which ensures the securing of alternative habitat at a high ratio and in excellent to very good condition is essential.

This offset should be achieved by providing funds to the relevant agency (in Western Australia, the Department of Parks and Wildlife, DPAW) to acquire land for inclusion in the conservation estate with a secure land tenure. DPAW is the only government agency which is in a position to determine where and how the offsets should be delivered.

It should be at a 10:1 ratio, preferably with the same vegetation complex, or if this is not possible with the same 'biodiversity values' as the habitat which would be lost. The land acquisition which is added to an existing secure conservation reserve can provide additional biodiversity values by increasing the size of the area and its long term viability. Merely putting a Conservation Covenant on land does not give any long term security and should be avoided.

However where a *Critical Asset* is affected, a proposal should not be considered environmentally acceptable. If the Government chose to ignore EPA advice of unacceptability and proceed, offsets of land acquisition should be applied at the highest ratio possible. If there is any doubt that the net environmental gain will not be far greater than any loss, it would be irresponsible to approve such a proposal, and apply offsets to deal with residual impact.

Yours faithfully,
Joan Payne AM