

Senate Standing Committee on Environment and Communications
Legislation Committee
Answers to questions on notice
Environment portfolio

Question No: 77
Hearing: Additional Estimates
Outcome: Outcome 2
Programme: Emissions Reduction Fund
Topic: Additionality
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Question Type: Spoken

Senator Waters asked:

Senator WATERS: Can I quickly move, with my final question, to the New South Wales major projects offsets policy which, on its face, appears to allow double dipping in terms of biodiversity offsets and carbon credits. Is there anybody who is looking at that double dipping in the process of the accreditation of that policy under the proposed approval bail-out?

Ms Thompson: I understand that this is an issue that has been raised with colleagues in the broader department, who are also looking at this policy and that broader set of issues. It has been raised with us. We have indicated that we are very interested in working through those issues with our colleagues in the New South Wales government to ensure that the integrity of the Emissions Reduction Fund is maintained in that regard.

I think it is probably worth mentioning that the issue that Ms Tilley was talking about earlier, with respect to the waste coalmine gas, is a similar type of issue in as much as it turns around this regulatory additionality test which is endeavouring to ensure that projects are not required under either Commonwealth or other jurisdictions' legislation.

Senator WATERS: Perhaps you could take this on notice. I had thought that there was a legislative precluding of offsets being counted for ERF purposes. If that is not the case can you let me know, and whether there are any plans to make that the case.

Ms Thompson: Yes.

Answer:

For a project to be approved under the Emissions Reduction Fund, it must meet a newness requirement, a government programme requirement and a regulatory additionality requirement. Section 27(4A) of the *Carbon Credits (Carbon Farming Initiative) Act 2011* sets out these requirements.

The regulatory additionality requirement states that a project must not be carried out by or under a law of the Commonwealth, State or Territory. Accordingly, new projects carried out to meet approval conditions which have legal force under state law, including emissions, biodiversity or vegetation offsets projects, would be ineligible under the Emissions Reduction Fund.

An additional eligibility requirement for project approval, set out in Regulation 3.5 of the *Carbon Credits (Carbon Farming Initiative) Regulations 2011*, stipulates that projects registered under the Emissions Reduction Fund cannot later be used to meet an obligation under Commonwealth, State or Territory law to offset or compensate for adverse impacts on vegetation.

Offsets sites established under the *NSW Biodiversity Offsets Policy for Major Projects* would therefore not meet the eligibility requirements of the Carbon Farming Initiative or Emissions Reduction Fund.