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Inquiry into the history, appropriateness and effectiveness of the use of environmental offsets

Thank you for conducting this inquiry into offsets. Please accept this submission from North Queensland Conservation Council (NQCC). NQCC is the regional conservation council for north Queensland, acting as the 'voice for the environment' in the region from Bowen to Cardwell and from the Great Barrier Reef to the border with the Northern Territory.

Over the last few years especially, NQCC has been concerned about the increasing use of offsets in the environmental impact assessment process. It is alleged that, despite the original intent of offsets, they are increasingly being used as a way to 'buy' approval for proposed projects, rather than as a last resort to minimise the net cost of essential development projects.

Furthermore, they are more often than not poorly designed, unlikely to be able to deliver the alleged benefits and rarely checked to see if the proposed benefit has been delivered.

We ask you to take the following comments into consideration.

The Concept of Offsets

NQCC shares with others a deep-seated concern about the very concept. This is based on the fact that, in essence, offsets can exceedingly rarely compensate for damage to the environment and very more often than not result in a net loss; as has been said by others, while 1000 hectares of land can be reduced to sterile bare earth, a thousand bare hectares can rarely be transformed into a healthy, natural environment complete with biodiversity.

Moreover, the increasing use of offsets as a way of replacing efforts to 'avoid' or 'mitigate' in the application/approval process, means greater loss of biodiversity at a time when Australia's abysmal record in biodiversity loss is set to increase with the inevitable impacts of government-assisted climate change.

In summary, NQCC concurs with the following statements:

'Biodiversity is not fungible, it is not possible to trade it from one place to another and hope to retain its value; biodiversity is dependent on where it is in the landscape (place) and when it is (time).

Prof. Hugh Possingham, quoted in *Wildlife Australia*, Vol 50, No. 3, p.40

However, on the assumption that offsets will continue (at least for the while) to be used in decision-making, NQCC makes the following comments.

Many of these comments were developed in response to the recent circulation of the proposed new Queensland offset policy. Nevertheless, some are generic and apply equally to Federal policy, while others parallel the weaknesses in Federal offsets policy. And **all** become highly relevant in the light of the impending delegation of responsibility for environmental assessments from the Federal government to state governments.

The Use of Offsets

With the drive to 'simplify' and so speed up the process of application for development for economic gain (often just for a few), appreciation of the complexity of ecosystems – similar to the complexity of the human body – is being lost. As is noted in the [Independent report on biodiversity offsets](#) prepared by the International Council on Mining and Metals (ICMM) and the International Union for Conservation of Nature (IUCN) (hereinafter referred to as the ICMM/IUCN report):

'There is no one-size-fits-all approach to follow in determining a fair exchange.'

This needs to become a cornerstone for the development of all policies related to the environment. The following design principals

1. The design of offset policy needs to be brought into line with ICMM/IUCN report, in relation to the following.

(a) Limits to offsetting

The ICMM/IUCN report recognizes, and discusses at some length, the fact that not everything (for example, species extinction) can be offset. In some cases, losses are likely to be so great in type or amount that no offset could appropriately compensate for them. This would apply to the World Heritage GBR.

With the disastrous proposal for the Federal government to delegate all responsibility for environmental assessment to the State governments coming to fruition, the policy of the Queensland government becomes highly relevant. The recently released Queensland Framework paper could be seen to accept extinction of species as a possible outcome of development.

The framework will support the government's four pillar economy by reducing green tape whilst allowing important projects to proceed without losing irreplaceable and highly valuable species and other matters of environmental significance [emphasis added (p.1)], and

In other words, Queensland is starting from the proposition that some species (those deemed 'replaceable or not 'highly valuable') are expendable. This is totally unacceptable and indicative of a complete lack of understanding of ecosystems.

Even without extinction, the Queensland paper leaves open to question the level of protection afforded the environment. It uses terms such as 'environmental outcomes' and 'conservation outcomes', but leaves the definition of 'outcomes' poorly defined.

The only attempt to define the level of outcome aspired to (in the section 'What an offset must achieve') refers only to the requirement to maintain the viability of impacted MNES. This ignores that fact that something may be viable without being healthy or resilient.

(b) Equivalency

According to the ICMM/IUCN report:

Equivalency requires that the balance of losses and gains represents a fair exchange. This requires quantitative measurement of losses and gains to biodiversity and the scaling of compensatory gains. This includes consideration of trading systems such as like-for-like and like for better/"trading up".

And, importantly:

There is no one-size-fits-all approach to follow in determining a fair exchange.

The greatest weakness of the proposed Queensland Framework is the notion of providing a set ratio of 1:4 (damage to offsets) – especially when this is, in other than specific situations, a maximum ratio, and there is no minimum ratio.

As the scientific research undertaken for the Framework apparently identified, the amount of offset required to ensure the 'viability' of a species can be very much higher than this.

As Pickett (2103)¹ found, the ratio of habitat loss to offset to allow for the survival of the green and golden bell frog (*Litoria aurea*) was 1:19. And survival also depended on close monitoring. The recent Auditor General Report into the Queensland Department of Environment and Heritage Protection demonstrates the woeful level of monitoring undertaken in relation to many environmental projects.

To set a (low) ratio for the sake of simplicity for developers is to doom many species to at least local loss, involving diminishment of the gene pool and potentially further reaching impacts.

The ratio of habitat loss to offset needs to vary with the needs of the species/community 'impacted', not be set at a (low) fixed ratio. In addition, there should also be a (high) minimum ratio.

(c) Permanence

Permanence (or longevity) refers to ensuring that gains last at least as long as impacts.

Under the proposed Framework, there is no guarantee that areas set aside as offsets will not, themselves, be subject to development. Indeed, we have recently seen that legal agreements for protection 'in perpetuity' can be ignored in the light of a development application (vide the Carmichael mine approval).

Areas with previously acknowledged high conservation value (including but not limited to National Parks, Marine Parks, Conservation Parks and Nature Refuges), as well as land previously set aside as offset should be deemed 'no-go' areas for development.

¹ Pickett, EJ, Stockwell MP et al. 2013 'Achieving no net loss in habitat offset of a threatened frog required high offset ratio and intensive monitoring', *Biological Conservation*, 157 (2103) 156-162

2. Staged offsets

Staging of offsets in line with development may or may not be appropriate. It is less likely to be suitable (effective) where recreation of habitat is being considered as the habitat will inevitably need much time to become suitably established. In many cases adjacent development will sufficiently degrade the environment that staging is not appropriate.

Staging of offsets must be permitted only in case where it is deemed by experts to be appropriate.

3. Level of discretion

The proposed Framework/policy allows for a large amount of discretion at virtually all stages. This, in effect, rebuilds uncertainty into the system. It also provides the potential undue pressure on or corruption of decision-making processes.

The level of decision in the offset process must be limited.

4. Conflict of interest for Coordinator-General

The discretionary powers of the CG at all stages of the offset process is unacceptable; with the CG's main role being the facilitation of economic development there would exist an overwhelming conflict of interest.

Any discretionary power that is incorporated into the Framework/policy must rest exclusively with the Minister for the Environment and be exercised only on the basis of expert peer-reviewed advice in the public domain.

5. Scope for 'moral hazard'

The fact that all impacts do not have to be acknowledged at the time of application, provides an incentive for developers to avoid identifying or mentioning MES when seeking approval.

All impacts must be identified and acknowledged prior to approval being granted.

6. Calculator

As mentioned above, the formulaic approach to biodiversity is doomed to failure. One size does not fit all, and those matters not complying with the formula are destined to suffer – even to the point of extinction.

The value put on 'protected land' is insultingly low. Nature Refuges and Conservation Parks and National Parks have often had thousands of hours of care dedicated to them to protect, weed and rehabilitate them. They may have given millions of hours worth of pleasure to hundreds of thousands of people. To regard this land as 'unimproved' is ludicrous. To sell National Park to a developer (but no one else) for clearing for the paltry sum of \$5000 per hectare or nature Refuge for \$2500/hectare (as would be permitted under this model) would be totally unacceptable to the public.

The yet-to-be created (or made public?) calculator must allow for offset ratios suited to each species, realistic values on all land and acknowledgement of the value of/investment in the land to/by the owner/community.

7. Corridors

While the recreation and/or maintenance of corridors in devastated environments is increasingly popular and often cases effective, it needs to be borne in mind that this is not always the case. Corridors can be counter-effective when they facilitate the spread of pests (flora and fauna), over-assist dominant species and/or fail to provide the aged habitat required etc.

The Framework needs to make it clear that any corridors would need to be located in the most appropriate place for the environment and MES threatened by the development. As it stands, the locating of corridors only seems to be feasible on land that is not required for anything else, bringing into question their suitability.

The government needs to consider the views of experts and government and other agencies (such as, the Nature Conservation Trust of NSW) that assess the benefits and risks of corridors in specific situations and their location.

8. Examples of how the concept of offsets has become abused

Offset proposed in the EIS for Townsville Port expansion

By far the greatest offset proposed (93%) is that attributed to '*Protection of an additional area of intertidal benthic habitat as Fish Habitat Area*'. This would involve the inclusion of an additional sliver of sea (between the edge of the port expansion footprint and an existing Fish Habitat Area (FHA)) to the existing FHA. The value of this is calculated as \$142 million.

The fabulous irony of this proposed offset contribution is that, as pointed out in the EIS, the "*POTL [Port of Townsville Ltd] does not own or lease the seabed proposed for the FHA extension...*". The sole relationship between the POTL and the area proposed to be added to the existing FHA is that the "*... POTL has previously objected to the inclusion of the seabed immediately adjacent to and east of the Ross River channel mouth in the FHA*".

The POTL is now offering to "*rescind its previous objection*" and putting that rescission up as an offset worth \$142 million! This is an abuse of the offset process and an insult to the community (which does own the seabed!).

And to add injury to insult, the FHA is no guarantee of protection (for example, in a previous development, FHA was sacrificed for the construction of the Townsville Marine Precinct – the offset for which was a boat ramp for fishers!).

Offsets proposed for the Abbot Point Dredging/Dumping proposal

As has been publicly noted by scientists such as Selina Ward and Jon Brodie, the 'condition' attached to the approval of the dredging at Abbot Point are, to all intents and purposes, 'undoable'.

The condition requires that 150% of the amount of 'fines' (about 40% of sediment dredged) that would be dredged from the GBRWHA being prevented from entering the waters of the GBR from the Burdekin and Don catchments. This would require an

additional 1.8 million cubic metres of fine run-off from the two catchments being stopped.

It is known that over the past two decades, a total of 360,000 tonnes of sediment (presumably largely 'fines') has been prevented from entering the GBR waters at a cost of \$200 million.

To expect an additional 1.8 million cubic metres (over 3 million tonnes or going on for 10 times the amount of sediment stopped over the last two decades) to be stopped appears preposterous.

Furthermore, there is no indication of how the proponent (North Queensland Bulk Ports) would have the means and/or authority to control the actions of landholders in the catchment, no idea of the length of time that would be required to achieve and maintain this level of water quality improvement, no idea of the source of the funds to attempt such a 'solution' and no indication of how this would be monitored over time.

This proposal is an outstanding example of how the dubious concept of offsets has been consistently bastardised over the years.

In an attempt to cover over the environmental damage caused by some developments in order to assuage the concerns of the community, offsets have been downgraded to the point that they are meaningless. Nevertheless, they continue to be used as a fig-leaf to obscure from the public the damage being done.

Yours faithfully

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Coordinator