

Australian environmental offsets policy released

The Australian Government has released a new policy for assessing the offsets to environmental impacts arising out of project proposals and applications.

Offsets are mitigating actions offered by project proponents to counterbalance the environmental impact on a significant habitat or species caused by a project or operations.

While the government has been applying a draft offsets policy for many years, the new policy does contain some important differences. Companies contemplating new developments that may trigger the application of the Australian *Environment Protection and Biodiversity Conservation Act 1999* (Cth) should familiarise themselves with the requirements of the policy.

Background

The Australian Department of Sustainability, Environment, Water, Population and Communities (SEWPAC) has released its new Environmental Offsets Policy (October 2012).

The policy has been in development for 12 months and replaces the 2007 draft policy statement.

It will be applied to referrals and applications for variations to approval conditions made from 2 October 2012, as well as to proposals and applications made before that date where a decision is still outstanding.

Policy content

The policy is built on 10 principles focussing on conservation gain, scientific robustness and transparent governance. It will be applied when a

proposed action will have residual adverse impacts on a matter of national environmental significance (MNES) as defined in the Environment Protection and Biodiversity Conservation Act 1999 (Cth).

While offsets cannot be considered at the referral stage of a proposed action to determine whether that action might have a significant impact on a MNES, it is important for companies to consider offset options in the planning phase of their proposals, and to discuss offset options early with SEWPAC officers to ensure that any offset package that may ultimately be required will be acceptable and workable.

The policy requires an offsets package to consist of "direct offsets" that meet at least 90% of the offset

Key issues

- The Australian Government's new Offsets Policy requires the residual impact of a proposed action to be offset. 90% of the offset requirement must be met by direct actions that provide a measurable conservation gain.
- The policy will be applied to all new referrals made from 2 October 2012.
- Proposals and applications made before that date will also be subject to the new policy if no decision has been made.
- Projects that could trigger the application of the Australian *Environment Protection and Biodiversity Conservation Act 1999* (Cth) should be reviewed against this new policy.

requirement with the balance to consist of “other compensatory measures”. The definition of “direct offsets” is broader than that used in the draft policy. Direct offsets are “those actions that provide a measurable conservation gain for an impacted protected matter”. SEWPAC will relax the 90% direct offset requirement only in limited circumstances.

The policy acknowledges that proponents may need to provide an offsets package under both the EPBC Act and under state or territory laws, and that an offsets package produced to meet state or territory level requirements can be used to compensate for a significant residual impact on a MNES.

However, if a conservation gain is being achieved as a result of participation in another programme (such as a biosequestration project developed under the Carbon Farming Initiative), this cannot be used as an offset under the policy.

Assessment tools

In addition to the policy itself, SEWPAC has also released its Offsets Assessment Guide and associated spreadsheet, which are the tools SEWPAC officers will use to assess the acceptability of a proposed offsets package.

The spreadsheet uses a “balance sheet” approach to determine whether the policy’s 90% direct offset requirement will be met in any given case. SEWPAC is encouraging proponents to use the Guide and spreadsheet, which is accessible on the EPBC Act website (www.environment.gov.au/epbc), in developing their proposed offsets package.

Impact

Early engagement with SEWPAC officers on a proposed offsets package should ensure that the proposed package will be acceptable to the Commonwealth Minister and facilitate the grant of approval under the EPBC Act allowing a proposed action to be implemented. Failure to work with SEWPAC on a proposed offsets package may increase the risk of delay in receiving a much-needed approval while a package is redesigned late in the process.

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