

Monday 12 October, 2015

Manager
Policy Reform Branch
Department of the Environment
GPO Box 787
Canberra ACT 2601

By email: EPBCActPolicy@environment.gov.au

Dear Sir/Madam,

Draft Policy Statement: Advanced environmental offsets under the EPBC Act

Thank you for the opportunity to provide comment on the *Draft Policy Statement: Advanced environmental offsets under the EPBC Act*.

The Property Council is generally supportive of a move to provide additional options to facilitate an advanced approach to offsets under the EPBC Act and believes that if appropriately implemented and managed they can improve environmental outcomes and help streamline the environmental assessment process.

The release of the advanced environmental offsets policy guides the supply of offsets for future use, transfer or sale by proponents or offset providers. Unlike conventional offsets, which are generally put in place to compensate for the residual adverse significant impacts of an action following approval, advanced offsets are put in place before any impact occurs.

Conservation management actions therefore can be implemented early and with time in advance of the action to plan, advanced offsets provide an option to deliver a strategic approach to the offset for improved environmental outcomes and should be provided as an option for proponents of land development.

However, the management of offsets, particularly where third parties are involved, will require careful consideration to ensure that the development industry does not bear unnecessary risk for issues which are beyond their control or expertise.

Where an advanced offset has been established there will be a requirement to achieve a conservation benefit over and above simply ringfencing a portion of a land holding and leaving in its historical condition. There could be some considerable cost to achieving conservation benefits. These costs could include the removal or control of threatening processes (e.g. weeds, pest animals, inappropriate fire regimes), creating natural regeneration and active revegetation, repairing eroding stream banks and gullies and re-establishing wildlife linkages across the landscape.

It is important that any final policy be clear about the liabilities carried by developers and third parties for the management of any advanced offsets. If developers are held liable for the management of an offset that should otherwise be the responsibility of a third party, then it is likely that the advanced offsets process will not be used by industry. Similarly, it is important that third party providers of offsets are appropriately regulated to ensure that environmental outcomes are not compromised.

It is more likely that an advanced offset could bring forward decisions to offset when the development is more likely to proceed, which is when business and consumer confidence in the upswing phase of a growing economy.

When confidence is on the rise there will be tendency for a development to move through to completion and this portion of the land holding cost would be recovered. Improved environmental outcomes in these settings can be achieved in hand with economic and housing delivery gains.

Property sector confidence as per the ANZ/Property Council Survey December 2015 has declined significantly in the latest quarter for residential development which is to be expected as the industry starts to come down from record levels of residential development activity. If the advanced offset requirement applied on those holding land or those looking to buy over the next part of the economic cycle, then this would have an impact on future land transactions and dampen sector confidence further.

Where an advanced offset has been entered into but a development does not proceed due to economic or other factors, then further consideration could be undertaken on the offset application for future purchasers of that land. The implications for an advanced offset management covenant sitting on the land title and for the transfer of the land requires some further attention.

Further clarification is required regarding the interaction of advanced offsets with current Development Assessment processes in all jurisdictions, as well as the interaction between Federal, State and Local Government requirements for offsets to ensure there is no 'double dipping' and unnecessary costs to developers. If an existing offset meets the requirements under the EPBC Act, then it should be clear that it will be accepted.

In order for advanced offsets to be truly effective it is also important that states and territories adopt a broad State-wide strategic assessment approach to determining the nature and potential location of offsets. This will ensure that the best possible environmental outcomes can be achieved and more appropriate decisions can be made regarding offset locations and conservation areas, rather than the piecemeal approach that is currently occurring in many areas.

Whilst statewide strategic assessments are beyond the scope of this consultation, we would urge the Federal Government to continue to work with State and Territory Governments to implement a more strategic approach. It is important to see the Federal Government participating and willing to assist in this strategic assessment approach where appropriate.

Similarly, the streamlining of the environmental assessment process could be further improved by the finalisation of Assessment and Approval Bilateral Agreements between the Federal and State/Territory Governments. The Property Council commends the work done thus far in this space, and would welcome the opportunity to continue to work with the Federal Government on the next steps.

The Property Council looks forward to further engagement with Government on these and other issues related to the interaction of the EPBC Act with residential development around Australia. In the meantime, if you have any queries, please do not hesitate to contact our offices on (02) 6276 3601.

Kind regards



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Property Council of Australia