



5th Western Australian State

COASTAL CONFERENCE 2009

*Whose Coast Is It?
adapting for the future*

7B:

Modelling,
Mitigating and
Management:
11.25–11.55am
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Sirius Room

The Use of Environmental Offsets in EIAs as a Way of Mitigating Coastal and Marine Impacts of Major Resource Proposals in the North West of Western Australia

PRESENTER:

Associate Professor Garry Middle
Curtain University of Technology

CONTACT DETAILS:

Phone: +61 (8) 9266 9058

Email: g.middle@curtin.edu.au

Postal Address: GPO Box U1987 Perth, WA 6845

Introduction

The use of offsets as a counterbalance to unavoidable impacts of development proposals (also called compensatory habitat, ecological compensation, environmental compensation and mitigation banks) has been used for nearly 20 years in the United States, Canada (Harper and Quigley 2005) and the UK (Morris *et al.* 2006) but is a fairly recent policy tool in Australia (Gibbons and Lindenmayer 2007). It is normally applied to achieve a 'no net loss' (NNL) outcome involving both no loss of total area and function of the asset to be impacted.

The peak environmental agency in Western Australia (WA), the Environmental Protection Authority (EPA), has recently adopted an offsets policy to apply to certain new proposal undergoing EIA (EPA 2006, 2008). This paper examines the use of offsets by the EPA in the environmental assessment of some recent major resource related proposals planned for the north of WA, with a particular focus on their use in coastal and marine environments. The paper also examines the effectiveness of those offsets, identifies some key problems associated with their use, and sets out the key policy issues that need to be addressed if the use of offsets is to continue.

Background

The current EPA policy (EPA 2006) establishes eight broad principles in applying offsets:

- Environmental offsets should only be considered after all other reasonable attempts to mitigate adverse impacts have been exhausted;
- An environmental offset package should address both direct offsets and 'contributing' offsets;
- Offsets should be 'like for like or better';
- If there is a risk that the offset could fail, then the offset ratio should be greater than 1:1;
- The process to determine and assess the offset should be 'robust, consistent and transparent';
- Offsets must meet statutory requirements;

- Offsets must be 'clearly defines, transparent and enforceable'; and
- The offset must be long lasting in delivering the benefit.

The policy and its application have three special features not normally found in the use of offsets elsewhere, two are part of the policy design and one that has emerged and evolved through implementation of the policy: the latter feature will be discussed later. Firstly, the policy is not a strict NNL policy, but requires that an offset be provided only where the environmental asset to be impacted is considered 'critical'. These are assets where the cumulative loss to-date has exceeded a critical level and further loss would be considered unacceptable.

The second feature is that the EPA has set an 'aspirational goal' for offsets that they should achieve a net environmental benefit: that is, an offset should contain a 'direct offset' which is the counterbalance to the impacts of the proposal (no loss of environmental value), and a 'contributing offset' which are other complementary actions or activities which would provide the actual net benefit. This goes beyond the NNL principle, but it should be noted that it is applied only where 'critical' assets are involved.

Methodology

The first part of the study was a review of the literature and a review of the implementation of the EPA's offsets policy. The second part involved interviewing key stakeholders who either have been involved in the development of the EPA policy, represented proponents who have had offsets applied to their proposal or represented key stakeholder groups who are involved or have an interest in the EPA assessment process.

Project Outcomes/Conclusion

The third feature of the EPA's offsets policy is one that has emerged through practice rather than design, and involves the notion of 'offsets for uncertainty'. These offsets for uncertainty have emerged in response to the inherent environmental uncertainty associated with many of the major resources proposals planned for the north of WA. Two types of 'offsets for uncertainty' are used. The first type of offset is called a 'residual risk' offset, which is provided not because adverse impacts are expected but in recognition of the residual risk associated with the proposal. The second type is a 'banked' offset, which is an offset that would be 'cashed in' only in the event that negative environmental impacts occur. In support of this offset, the proponent is required to carry out environmental monitoring to look for negative impacts, and if any occur and these impacts cannot be mitigated through adaptive management, then the offset is called upon commensurate with the monitored impacts.

In relation to the second part of the study, several concerns have been identified about the use of offsets and these will be presented at the conference. A full paper giving a more detailed description of the analysis and findings of this study will also be made available.

References

- EPA. 2006. *Environmental Offsets. Position Statement No 9*. Perth, Western Australia: Environmental Protection Authority.
- EPA. 2008. *Guidance for the Assessment of Environmental Factors (in accordance with the Environmental Protection Act 1986): Environmental Offsets - Biodiversity. No 19* Perth, Western Australia: Environmental Protection Authority.
- Gibbons, P., and D. B. Lindenmayer. 2007. Offsets for Land Clearing: No net loss or the tail wagging the dog? *Ecological Management & Restoration* 8 (1): 26–31.
- Harper, D. J., and J. T. Quigley. 2005. No Net Loss of Fish Habitat: A review and analysis of habitat compensation in Canada. *Environmental Management*. 36 (3): 343–355.
- Morris, R. K. A., I. Alonso, R. G. Jefferson, and K. J. Kirby. 2006. The Creation of Compensatory Habitat-Can it secure sustainable development? *Journal for Nature Conservation* 14 (2): 106–116. <http://www.sciencedirect.com/science/article/B7GJ6-4JF8HH2-1/2/a0e4f1a969727cbddc81a801316df61e> (accessed)