

Consultation Summary

Draft Biodiversity Offsets Policy

Public Consultation October - November 2022

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Introduction

A draft Biodiversity Offsets Policy (draft Policy) and the associated draft Technical Guidelines were released for public consultation on 11 October 2022. The draft documents were published on the Department of Environment, Parks and Water Security (DEPWS) website, with submissions sought by 14 November 2022, and extensions granted to this date on request.

DEPWS received a total of 14 written submissions; five each from environmental and industry organisations, one from an Aboriginal Land Council, two from members of the public and one from an offset academic. During the consultation period, DEPWS officers held a number of face-to-face meetings with a range of stakeholders to introduce and discuss the draft Policy.

The submitted comments, with the exception of those from environmental groups, were generally supportive of what was considered a pragmatic approach to offsets within the Territory context, and the explicit target-based approach. However, all submitters raised a range of issues and concerns on different aspects of the draft Policy.

This report provides a summary of feedback provided during the consultation process, synthesised under common themes, and outlines how the Northern Territory (NT) Government has addressed stakeholder views in the final Biodiversity Offsets Policy (the final Policy).

A number of submitters also provided comments on the Technical Guidelines. The majority of these submitters acknowledged that the draft Technical Guidelines had been provided for information purposes and framed their comments within that context. Further consultation on these guidelines will be undertaken in early 2023.

1. Opposition to offsets and existing legislative and regulatory frameworks in the Territory

Submitters from the environment sector highlighted recent criticism of biodiversity offsetting within Australia and internationally. Reference was made to the biodiversity 'crisis' and 'collapsing ecosystems' within the NT and Australia more broadly, with the implication that offsets would not assist in addressing these issues (or would facilitate negative outcomes). The absence of an NT biodiversity conservation strategy with clearly defined biodiversity targets and outcomes, and the lack of fine-scale baseline biodiversity data were cited as reasons not to implement biodiversity offsetting in the NT. Further clarity was sought about how 'net gain' could be meaningfully calculated or monitored in the absence of this baseline information.

Some submissions also called for the legislative and policy architecture surrounding biodiversity conservation and environmental protection in the NT to be strengthened before offsets are implemented. Additional legislation and policies such as native vegetation management or biodiversity conservation legislation, and state of the environment reporting were suggested as necessary for effective implementation and enforcement of offsets.

1.1. NT Government Response

The approach to offsetting in the draft Policy was informed by public and academic criticism of biodiversity offsetting in other jurisdictions, such as the focus on restorative rather than averted loss offsets as recommended by Professor Graeme Samuel AC in his 2019 Independent Review of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). Many of the submitters recognised that the draft Policy adopted an approach that was appropriate to the NT context. Whilst the NT may lack

comprehensive, fine-scale biodiversity data, there is sufficient ecological understanding of the key threats to most components of biodiversity, based on decades of published research and presented in numerous land management and conservation plans and strategies. The habitat-based approach adopted by the final Policy has been designed to target the predominant, well-documented pressures underlying biodiversity decline in the Territory.

In response to concerns that the Policy should not be implemented until additional legislative and policy frameworks are established, it is acknowledged that the NT is a developing economy that remains strongly reliant on utilisation of natural resources assets, and that developments with the potential for environmental impacts will continue to be proposed. The *Environment Protection Act 2019* (EP Act) provides a strong legislative framework for the assessment and regulation of such proposals, and it is sensible that a Territory-specific offsetting regime be available as part of the environmental decision making hierarchy (s26 of the EP Act).

The NT Government recognises that there are significant pressures on biodiversity and ecosystem function in most Territory ecosystems but does not agree that these ecosystems are in a state of 'collapse'. Whilst there has been a well-documented historical decline of the native mammal fauna in arid NT (and Australia), and more recently in the tropical savannas, an accumulating body of research indicates this has occurred due to a combination of inappropriate fire regimes, grazing by stock and feral animals, and cat predation. Less than one percent of the Territory's native vegetation has been cleared to date. Management of broad landscape-scale threats are the key activities that will be supported by the habitat-based approach to offsets in the final Policy.

2. Offset duration

There was concern from several submitters that an offset program with a set delivery timeframe would provide only temporary gain, in exchange for the permanent loss created by the impact. Concern was raised that any gains achieved during the offset period would decline again following cessation of the management activities. One submission from the environmental sector suggested that offset sites should require a change in tenure to ensure permanence and ongoing protection.

Evidence was sought by many submitters for the assumptions and rationale behind the expert elicitation process used in setting the expected offset delivery timeframes (a minimum of 15 years in the monsoonal biome and 25 years in the arid biome). Industry submitters wanted clarity around proponent obligations following completion of an offset, and suggested that Government could support additional monitoring following the set offset period to verify the adequacy of these timeframes.

Several submitters also highlighted the need to minimise any time lags between the impact and the gains associated with the offset activity. To aid this, there was a recommendation that the draft Policy explicitly require approval of an offset plan prior to the commencement of any impact, as well as clear and measurable requirements for the delivery timeframe for offsets.

2.1. NT Government Response

The NT Government acknowledges the intent of these comments to maximise the security and longevity of biodiversity gains that are achieved through offsets.

The practical and legal challenges associated with securing land in the Territory for conservation management in perpetuity is one of the factors that was considered in designing an offsets regime suited to the Territory circumstances. Consequently the Policy does not seek to ensure permanence through tenure changes. Additionally, the approach in the Policy is that it is the management that is applied across the selected area that is critical to improving ecological health, rather than the underlying tenure. Given

the nature of key threats to biodiversity in the NT, conservation gains from offsets can only ever be 'permanent' where there is threat management (at the appropriate level to ensure biodiversity values are maintained) in perpetuity. The NT Government does not believe it is reasonable, or likely to be practical, to expect proponents to contribute to maintenance of offset areas perpetually and this requirement in the Policy would be an excessive disincentive to development.

It is recognised that there is a risk that potential ecological gains could be lost following the completion of an offset. However, the creation of a substantial area of habitat in good ecological condition from an extended period of investment in land management through an offset creates a powerful incentive for investment from other sources in maintenance of this landscape, as well as leaving a legacy of lower ongoing management costs (because threats have been reduced to 'maintenance' levels) and enhanced capability in landowners. In response to stakeholder concerns about the period of offsets, section 7.6 of the Policy has been amended to state that in most cases the minimum period for an offset will be 20 years (or the lifetime of the project if that is longer).

The rationale for establishing the minimum offset period will be explained in more detail in the Technical Guidelines, which will be subject to further consultation with stakeholders.

The words "in general" have been removed from section 4.2 of the final Policy so that it is unambiguous that a biodiversity offset plan must be approved prior to the impacts which are being offset occurring. The Policy (section 7.6) also states that ecological gains in habitat condition should occur as close in time as possible to the impact, and that for direct habitat management activities, threats must be managed to the required levels as quickly as is feasible.

As stated in section 7.6, "offset delivery is completed once the decision maker is satisfied that all offsets have been delivered in accordance with the approved biodiversity offset plan". This would end the proponent's obligations. The requirements of the content of the biodiversity offset plan will be elaborated in the Technical Guidelines.

3. Habitat-focused approach and equivalence of impact

Several submitters suggested the need for clearer linkage between the value requiring offsetting and the offset activities i.e. a greater equivalence between the impacted value and the offset activity. There was concern that the habitat condition approach - a more flexible interpretation of the traditional 'like for like' approach - would not adequately ensure no net loss for some values.

Submitters queried how threat management will improve the condition of habitats equivalent to the loss of biodiversity that is required to be offset. Further detail was sought around the mechanisms by which a net environmental gain would be measured, together with a suggestion for a more explicit statement of the net outcome required by the offset activities.

Multiple submitters requested further information regarding Territory targets. It was noted that the draft Policy and Technical Guidelines made reference to these but provided only an overall target of a net gain in the ecological condition of natural habitats in the Territory. Submitters suggested the draft Policy would be improved with the addition of specific targets set for the biomes and individual habitats.

3.1. NT Government Response

The Policy adopts a habitat-focused approach, and does not require precise 'like-for-like' matching of impact and offset areas, in recognition of the facts that most of the key threats to biodiversity in the NT occur across broad landscape scales; that many threatened species which may trigger offset requirements have relatively broad distributions and habitat requirements; and that the Territory lacks consistent fine-

scale environmental mapping to apply a strict like-for-like approach. However, the NT Government acknowledges the concerns that too generalised an approach to the concept of equivalence of type for impacts and offsets may result in net losses accumulating for some values. To address this, section 7.2 of the Policy has been amended to state that offset programs must be located “in areas that support, or are likely to support, the value or values that are being offset” (this is also reflected in section 5.2 of the Policy). Criteria used to demonstrate that offset areas meet this requirement will be described in detail in the Technical Guidelines.

It is agreed that the Policy can be improved with the addition of more specific targets (whether these be biomes, habitats or particular values). Section 5.2 of the Policy foreshadows that additional targets will be included in future revisions of the Policy, which will be informed both by accumulating scientific data relating to the biodiversity of the NT and experience in the implementation of the Policy. In the first instance the Policy sets a broad general target for offsets to contribute to a net gain in the ecological condition of natural habitats in the Territory. While broad, this target is important because it underpins the general habitat-based approach of the Policy, and contributes to the calculation of offset requirements (i.e. greater than “no net loss”).

A fundamental concept in the proposed Territory approach to offsets is that the loss of habitat supporting the significant biodiversity value(s) at the impact site is compensated for by improvement in ecological condition of similar habitats (and therefore the capacity to support the same significant value) in the offset area. The Technical Guidelines describe the calculations for ensuring equivalence (or actually, overall net gain) which is based on expert elicitation from ecologists and land management practitioners as to the expected outcomes from threat management in the offset area.

The measurement of net environmental gain will occur through the monitoring program required for each offset (section 7.7 of the Policy). The Technical Guidelines will provide additional detail about monitoring standards and the required or recommended indicators for monitoring (noting that the detail of these will vary between offset projects).

4. Additionality

Multiple submitters expressed concern that activities proposed as offsets are those typically required as a matter of standard environmental management practice or under legislation, and therefore not additional. Some submitters identified concerns that through this policy, landholders or developers would benefit financially from activities that are already required of a landholder by law (e.g. weed control activities which are already required under the *Weeds Management Act 2001*).

Clarity was also sought regarding the use of the same offset area to compensate for more than one value, given the perceived difficulty in determining additionality for each value and in separating the benefits to evaluate the effectiveness of the offset. The development of clear criteria was suggested to ensure that offsets are not approved unless they provide a conservation benefit additional to what is already required under existing legislative frameworks.

4.1. NT Government Response

Additionality is a core requirement for offsets, both in offset frameworks in other jurisdictions and as proposed for the NT. The requirement for additionality is described in the NT Offsets Principles (principle 3) and in section 6.5 of the draft Policy. Various NT legislation establishes that the management of weeds, fire and feral animals is the responsibility of landholders, nevertheless many landholders have insufficient resources to adequately manage these threats, particularly to the extent that is optimal for biodiversity conservation. This is recognised in the many funding programs, grants and subsidies directed toward natural resource management programs and capacity building from both the NT and Australian

governments. As described in the draft Policy (section 6.5), the key requirements in relation to additionality of offsets is to demonstrate that offsets must be additional to what has already been committed to under existing management plans or funding agreements, and should not replace or displace land management investment that is available from other sources. The fundamental test is that offset funding supports the achievement of environmental outcomes that could not otherwise be realised.

It is acknowledged that clearly demonstrating additionality may be problematic in some circumstances, and similarly unambiguously separating and reporting outcomes attributable to offset contributions from those achieved through other investment in land management activities. This is a complex issue, because offset activities that occur in areas where there is no existing threat management activities or capability may be less likely to be effective, so it is not desirable to prohibit offset investment that builds on existing capability and activities. Additional guidance that addresses this issue including clear criteria for how additionality requirements should be met, and how the additional outcomes from offsets in the context of other concurrent land management activities should be demonstrated, will be provided in the Technical Guidelines, following further consultation with stakeholders.

5. Application and scope

A number of submitters in the environment sector suggested that the threshold for application of the draft Policy is too narrow, and requested it be applied to a broader range of development. Of particular focus was the clearing of native vegetation on pastoral land, with comment that more pastoral land clearing should be referred for assessment under the EP Act given a perceived potential for significant impact on the environment.

Conversely, a stakeholder from the agricultural industry suggested that development within 'agricultural precincts' should be exempt from requiring offsets, to facilitate economic development.

5.1. NT Government Response

The issue of which development activities should be referred for assessment under the EP Act is not a matter for the Policy. The Policy applies to biodiversity offsets where they are required by environmental approvals under the EP Act and authorisations under other Acts separately prescribed by the EP Regulations. Currently only the *Petroleum Act 1984* is intended to be prescribed. Offsets under the EP Act or Petroleum Act will only be necessary where residual impacts from a development are considered significant.

The EP Act applies to developments of any type with potentially significant impacts. This legislation establishes the criteria as to whether a specific project such as a land clearing proposal will have a potentially significant impact. Applications to clear land are required to take into account either the Pastoral Land Clearing Guidelines or the NT Planning Scheme Land Clearing Guidelines, which detail environmental considerations to avoid degradation of the environment. Adherence to these guidelines are an effective means to avoid significant impacts. Nevertheless, land clearing proposals that cannot meet these guidelines and particularly those for large clearing areas may be subject to assessment under the EP Act.

6. Determining when offsets are required

A range of feedback was given from submitters on determining the requirement for an offset, in relation to the mitigation hierarchy, defining significant residual impact, and triggers for the requirement of offsets. This feedback, and the NT Government's response, is summarised in Table 1 below.

Table 1: Offset determinations

Theme	Consultation feedback	NT Government Response
The mitigation hierarchy	A number of submitters recommended placing greater emphasis on the prerequisite that offsets are a tool of last resort and can only be applied where all reasonable steps have been taken to avoid and mitigate environmental impacts, and significant residual impacts will remain.	<p>The assessment of whether avoidance and mitigation has been explored and applied to the greatest reasonable extent is governed by assessment provisions and processes under the EP Act. These processes ensure that the use of offsets will only be considered where all reasonable steps have first been taken to avoid and mitigate impacts to the environment.</p> <p>Section 2 of the final Policy has been amended to stress the preconditions established in section 5 of the NT Offset Principles that: (i) all precursor steps in the mitigation hierarchy must be appropriately applied before the use of an offset is considered; and (ii) offsets will not always be available or appropriate.</p>
When offsets are required, definition and assessment of 'significance'	<p>Industry submitters wanted greater clarity on when an offset would be required, and suggested inclusion of a definition for 'significance'.</p> <p>One industry stakeholder suggested use of significant impact criteria similar to those provided for Commonwealth Matters of National Environmental Significance, to avoid a perceived subjectivity in the assessment of significance.</p>	<p>The decision to require an offset as part of the approval conditions for a project is based on assessment and approval provisions and processes under Territory legislation, and is not determined by the Policy.</p> <p>The definition of significant impact is provided in section 11 of the EP Act. Section 4.1 of the final Policy has been amended to include this definition.</p> <p>The role of the NT EPA under the EP Act is to decide when a project requires assessment, and advise the Minister for Environment on its assessment of a project, including a recommendation on whether it should be approved and conditions that should apply. This includes consideration of whether impacts can be considered significant.</p> <p>The NT EPA has prepared 'environmental objectives' and organised these by theme in structured divisions of the environment, called 'environmental factors', for the purpose of informing environmental impact assessment under the EP Act. The NT EPA has published guidance</p>

Theme	Consultation feedback	NT Government Response
		<p>describing the use of these factors and objectives in organising and systemising information about the environment to enable effective environmental impact assessment and reporting, while taking a holistic view of the environment.</p> <p>The NT EPA's guidance on 'Referring a proposal to the NT EPA' also provides information on matters the NT EPA may have regard to in determining significant impact.</p> <p>It is acknowledged that stakeholders will continue to seek further certainty as to how significant impacts are determined, and the NT EPA and DEPWS will continue to develop targeted guidance material to assist with this, noting that case by case consideration of the potential impacts of proposals will always be required. The Commonwealth's 'Significant Impact Guidelines 1.1 - Matters of National Environmental Significance' is one useful model for such guidance.</p>
Unacceptable impacts	<p>One environmental stakeholder recommended 'no go' areas, delineated within both legislation and policy, to explicitly state when offsets are not appropriate.</p> <p>Another stakeholder suggested that impacts to 'culturally important species' should be considered unacceptable and not appropriate for an offset arrangement.</p>	<p>The EP Act (section 26), the NT Offset Principles (section 5) and the Policy (sections 2 and 4.1) are explicit that offsets will not always be available or appropriate; that not all residual impacts can be offset; and that offsets cannot be used to make acceptable an activity with unacceptable impacts. It is acknowledged that it would be helpful to provide additional example or criteria in the Technical Guidelines of circumstances where an offset is unlikely to be acceptable, noting this is ultimately determined by the decision maker on the advice of the NT EPA.</p> <p>It is not practical to delineate all areas within the Territory where offsets may not be appropriate, and the appropriateness of an offset will also depend on the specific nature of the project and the potential specific residual impact.</p> <p>While outside the scope of the Policy, it is noted that there are mechanisms under the EP Act for the declaration of protected environmental areas and prohibited actions, which are ways of protecting particularly sensitive environmental values (as has been done in the case of seabed mining).</p> <p>With specific reference to onshore petroleum activities, implementation of the NT Government's Petroleum Reserved Block Policy has established</p>

Theme	Consultation feedback	NT Government Response
		areas where onshore petroleum activities are not allowed, including areas based on their high ecological value.

7. Eligible activities

A number of submitters provided feedback regarding the suitability or otherwise of activities as offsets. This feedback, and the NT Government's response, is summarised in Table 2 below.

Table 2: Eligible offset activities

Theme	Consultation feedback	NT Government Response
Direct habitat measures - capacity-building	<p>Greater clarity about how proponents could contribute to capacity-building and what this would cost was requested.</p> <p>Parameters were suggested for the amount deemed acceptable.</p>	<p>Section 6.1 of the Policy mentions that direct habitat management activities supported by offsets can include capacity building for land managers "to the extent that this is required to effectively implement management activities". The intent was to recognise that many land managers may wish to deliver offset activities but be limited by capacity or capability (for example, insufficient training or certification for the use of chemicals to control weeds).</p> <p>It is recognised that it will be helpful to provide greater clarity as to the types of capability or capacity building that can be appropriately funded by an offset; and any limits on the proportion of total offset investment that this can represent. Further guidance on these issues will be provided in the Technical Guidelines. In addition to further consultation with stakeholders, this will be informed by a consultancy to review current threat management practices and associated costs (including building capacity and capability) in the NT.</p>
Alternative direct measures	<p>An environmental stakeholder suggested the establishment of clear limits on the use of alternative direct measures.</p> <p>Some submitters did not consider translocation to be an appropriate offset given the level of uncertainty associated with this activity.</p>	<p>The Policy clearly states (section 6.4) that direct habitat management activities must be used to deliver as much of an offset requirement as possible, and sections 6.2 and 6.4 provide some criteria for situations where alternative direct measures can be considered. The NT Government does not believe it is appropriate to specify a limit on the use of alternative direct measures (for example a percentage of the total offset investment) because there are feasible circumstances where these measures may make up the entirety of an offset.</p>

Theme	Consultation feedback	NT Government Response
		<p>It is agreed that there are very limited circumstances where translocation may be an acceptable offset. Any translocation of wildlife within the Northern Territory requires a permit under the <i>Territory Parks and Wildlife Conservation Act 1976</i>, and there are very stringent requirements for translocation plans that demonstrate a high likelihood of success. The Policy also notes that offsets are less likely to be considered appropriate in such circumstances.</p>
Other compensatory measures	<p>Submitters in the environment sector expressed significant concerns about the concept of indirect offsets (referred to in the Policy as ‘other compensatory measures’). This approach would enable a portion of an offset requirement to be satisfied via funding of activities such as research and education in the NT.</p>	<p>The use of indirect offsets is an element of biodiversity offsetting schemes in other jurisdictions and is included in the Policy as an appropriate measure to deal with circumstances where there is inadequate information to determine the best direct management approach for habitats and species of concern. In certain circumstances management and education may be the most effective measure to address certain threats (for example, reduction of the spread of pest ants or myrtle rust through transport via soils or pot plants; reducing the number of cats in communities where these are important sources that sustain feral cat populations).</p> <p>The Policy clearly states (section 6.4) that direct habitat management activities must be used to deliver as much of an offset requirement as possible. Section 6.3 states that other compensatory measures should generally form part of a longer-term offset program that includes direct habitat management measures, and section 6.4 provides some criteria which must be met for other compensatory measures to be considered.</p> <p>The NT Government does not propose to prescribe the maximum proportion of an offset that can be devoted to ‘indirect’ offsets at this stage, but this will be subject to further consideration in future reviews of the Policy, particularly if there is any indication that these types of offsets are being overused.</p>
Offset fund	<p>Industry submitters were interested in the establishment of a centralised fund as an alternative to implementing on-ground offsets and a means to collate payment from multiple proponents.</p>	<p>Financial payment into an offset fund is not currently being considered by the NT Government. While there may be potential advantages to a centralised fund as a means of delivering more strategic outcomes from multiple offsets, this approach imposes additional transaction costs and effectively transfers all risks associated with offset delivery from proponents to government.</p>

Theme	Consultation feedback	NT Government Response
		<p>The annual number of offsets required in the NT is not expected to be of sufficient volume to justify the governance and administrative costs associated with the establishment of a fund.</p> <p>The utility of a centralised offset fund will be considered during future reviews of this Policy.</p>
Advanced offsets and staging of offsets	Industry submitters requested consideration of the inclusion of advanced offsets, and the staging of offsets in line with development project staging.	<p>Advanced offsets are measures put in place before the impact requiring the offset occurs. Offset frameworks in some other jurisdictions allow for advanced offsets (for example under the EPBC Act).</p> <p>Advanced offsets have some theoretical advantages as they reduce the time until an ecological benefit is realised and improve confidence that positive environmental outcomes will occur. However, there are also significant complexities for advanced offsets in clearly demonstrating additionality and ensuring there is adequate baseline data from the time the advanced offset measures were commenced.</p> <p>Given these complexities, advanced offsets have not been allowed in the final Policy in this initial stage of its development and implementation.</p> <p>However, the value of advanced offsets and appropriate mechanisms to ensure their robustness will be reconsidered during future reviews of this Policy.</p> <p>The timing of offset delivery, including staging, will be detailed in the approved biodiversity offset plan. The delivery of offsets may be staged in line with project development staging and more specifically the timing of impacts, and section 7.6 of the final Policy has been amended to make this explicit. It is noted that such staging may extend the overall timeframe to complete offset requirements and there may be advantages in 'frontloading' offset delivery. This is distinct from 'advanced' offsets as described above.</p>

8. Offset program delivery and compliance

There was a range of views and recommendations made in relation to offset delivery and compliance, including feedback on roles and responsibilities, accountability, timing, monitoring, reporting, adjustments

and the compliance and enforcement approach. This feedback, and the NT Government's response, is summarised in Table 3 below.

Table 3: Offset delivery and compliance

Theme	Consultation feedback	NT Government Response
Roles and responsibilities	Submitters across sectors requested additional information and clarity about roles and responsibilities in the offsets approach.	The NT Government is developing Administrative Guidelines under the NT Offsets Framework that will clearly define roles and responsibilities in relation to offset administration (for example decision makers for approvals). These Administrative Guidelines will reflect feedback on the administration of offsets received in recent consultation processes on offsets.
Offset location	An Aboriginal land council submission suggested the requirement that offsets are sourced from the country of, or as close as possible to, the Aboriginal group impacted.	Additional criteria for determining the appropriate location of offsets has been elevated from the Technical Guidelines into section 7.2 of the final Policy. This includes a recommendation that an offset is within the same indigenous estate as the impact. This has not been made an absolute requirement because traditional owners may not wish for their offset activities to occur within their country, or a suitable area for an offset may not be available in that estate.
Suitable habitat condition	One stakeholder queried the exclusion of areas of poor and good habitat condition as being unsuitable for offset activities. Others commented that the guidance material appeared to be simplistic.	There has been a deliberate policy decision to exclude offsets from areas in the worst and best ecological condition, because in the worst areas the cost of improvement is likely to be very high relative to the benefits; and in the best areas there is limited or no opportunity for further gains (section 7.4 of the Policy). The exception is where alternative direct offsets are justified as appropriate. In these more limited circumstances they may target areas in the best available habitat condition. The Policy is written to be as simple as possible. Nevertheless, the draft Technical Guidelines provided detailed guidance about indicative habitat condition characteristics for selected habitats. This guidance will continue to be elaborated as the need for additional information is indicated through implementation of the Policy.
Monitoring and reporting	There was support amongst submitters for ensuring that reporting is made public. However, greater clarity was requested by submitters on monitoring and review of offset delivery.	Self-reporting is an accepted part of most regulatory regimes. The NT Government agrees that any self-reporting regime should be accompanied by appropriate compliance and enforcement by regulators. It is also recognised that it is important to ensure that monitoring is of a sufficient standard to unambiguously demonstrate progress toward meeting the specific objectives of each offset, and

Theme	Consultation feedback	NT Government Response
	<p>Concern was raised by some submitters about the reliance on self-monitoring and reporting, with one industry stakeholder suggesting the need for government to undertake this work.</p>	<p>ultimately completion. The Technical Guidelines will provide additional detail about monitoring standards and required or recommended indicators for monitoring (noting that the detail of these will vary between offset projects).</p> <p>The draft Technical Guidelines currently specify a minimum investment into monitoring of 15% of the total value of the offset, which is line with or exceeds monitoring, evaluation and reporting requirements of most natural resource management funding programs.</p> <p>The EP Act is built on transparency objectives. It is a matter for decision makers in imposing conditions as to what level of public disclosure of environmental outcomes is required. The expectation is that monitoring reports will be made publicly available as part of public registers under the EP Act.</p>
Compliance and enforcement	<p>Multiple submitters requested more clarity about how offset delivery would be monitored and enforced by the NT Government.</p> <p>Several submitters also made recommendations about ensuring the regulation of offset activities is appropriately funded to undertake monitoring and compliance activities.</p> <p>An industry stakeholder suggested the need for compliance-monitoring to discriminate between 'non-compliance' and 'deviations from environmental targets'.</p>	<p>The NT Government adopts a risk-based and proportionate approach to compliance.</p> <p>The monitoring and enforcement of offset delivery will be undertaken in the same way as other approval conditions applied to environmental authorisations in the NT. The compliance and enforcement approach will depend on the Regulator responsible for the environmental authorisation. It is not the role of the Policy to restrict or expand on the Regulator's compliance and enforcement approach.</p> <p>Deviations from environmental targets would initially be addressed as part of the monitoring, reporting and adjustment process (section 7.7 of the Policy) rather than as a matter of non-compliance.</p>
Offsets advisory group	<p>One stakeholder made the suggestion for the establishment of a statutory offsets advisory group, with membership from offsets providers and experts, assessments and regulatory staff, as well as Land Councils.</p>	<p>The NT Government acknowledges this suggestion, which will be considered further in the development of the Administrative Guidelines.</p>

9. Other feedback

A range of other miscellaneous feedback was provided by submitters including implications for indigenous communities, a biodiversity credit market, climate change implications, and adequate resourcing. This feedback, and the NT Government's response, is summarised in Table 5 below.

Table 4: Other feedback

Theme	Consultation feedback	NT Government Response
Offsets Framework and Principles	<p>Some submitters provided feedback in relation to other components of the NT Offsets Framework, including suggesting amendments to the NT Offset Principles.</p> <p>Expediting completion of the Administrative Guidelines to assist with offset policy interpretation was part of this feedback.</p>	<p>The NT Offset Principles were developed in consultation with a range of key stakeholder groups and were approved by the NT Government in June 2020. The outcomes of this previous consultation is published on the DEPWS website, including a full Consultation Report.</p> <p>The NT Government acknowledges the feedback received which will be considered in any future review of the Principles.</p> <p>The NT Government agrees that completion of the Administrative Guidelines will support interpretation of the Biodiversity Offsets Policy and other types of offsets used under the NT Offsets Framework. Completion of the Administrative Guidelines, which will reflect feedback on the administration of offsets received in recent consultation processes on offsets, will form an important part of policy implementation.</p>
Credit market	<p>During meetings with stakeholders, some were interested in the relationship between offsets and the recent Commonwealth proposal for a biodiversity credits market, as well as with carbon credits.</p> <p>An agricultural industry stakeholder recommended the creation of a voluntary, incentivised market to trade biodiversity credits.</p> <p>Other submitters queried if a biodiversity offset area could also be used to generate carbon credits.</p>	<p>No market-based mechanism for biodiversity 'credits' is proposed under this policy. A new section 4.4 has been included in the final Policy to reflect this.</p> <p>However, the NT Government recognises that this is a rapidly evolving area, and will review this position as market-based mechanisms for biodiversity credits develop further nationally.</p> <p>Nothing in the Policy or the NT Offsets Framework specifically prevents the generation of carbon credits within an area where biodiversity offset activities occur, providing additionality requirements are satisfied for both schemes. It would be necessary to demonstrate that the emission reduction or carbon sequestration activities did not compromise the achievement of threat management and habitat condition objectives required for the biodiversity offset.</p>
Climate change	<p>Environment sector submitters provided feedback that the implications of climate change</p>	<p>The NT Government acknowledges that the risk to offset delivery from climate change is an important consideration. The final Policy has been updated to</p>

Theme	Consultation feedback	NT Government Response
	risks should be considered in more detail, in both the draft Policy and the Technical Guidelines.	reflect this (section 7.2), and it will be considered further in the Technical Guidelines.
Force majeure	One industry stakeholder requested that the Policy should clearly absolve proponents of offset delivery responsibility in the event of unforeseen circumstances outside the control of a proponent.	It is not the place of the Policy to do this. Rather, it is a compliance and enforcement question based on specific circumstances and facts. Such considerations are part of risk-based and proportionate compliance and enforcement frameworks.
Language	Multiple submitters offered suggestions for tighter language in the draft Policy to provide greater clarity for the reader. A glossary of terms was suggested, as well as consistency of terminology between the Policy and the assessment process under the EP Act, to assist with interpretation.	<p>The final Policy has been amended to provide further clarity regarding key concepts such as the offset preconditions and the definition of significant impact.</p> <p>The need for a glossary will be considered in the development of the Technical Guidelines.</p>
Aboriginal people	One stakeholder made recommendations about considering or improving the way the draft Policy supports Aboriginal people. It was suggested that priority be given to offsets that provide social, cultural or economic benefits for people affected by the impact, and that further information on co-benefits be provided within the Policy.	<p>A key consideration in designing the Territory approach to biodiversity offsets was that, where possible, activities funded by offsets should be able to be delivered by landowners and managers in remote and regional parts of the Territory (section 5.1), and that this could bring social, cultural and economic benefits as well as positive ecological outcomes.</p> <p>The final Policy (section 7.2) has been amended to recommend that offsets occur within the same Indigenous estate as the impact (see also Table 3 above).</p> <p>The NT Government will continue to work closely with Land Councils and other relevant stakeholders to recognise the role Aboriginal people play in land management in the Territory, and maximise the social and economic opportunities for these communities through the Territory's policy positions.</p>
Adequate resourcing for regulator	Several submitters raised concerns about adequate resourcing for the regulator.	The appropriate resourcing of regulators is a key requirement to deliver any regulatory system. Stakeholder concerns in this regard are noted.

10. Technical guidelines

A range of feedback was provided relating to the draft Technical Guidelines.

The draft Guidelines were released with the draft Policy in order to assist in interpretation of the Policy, and the Technical Guidelines will continue to be developed in early 2023, including through further stakeholder consultation. Feedback provided on the draft Guidelines to date will be considered during their further development.