

To: Department of Environment, Parks and Water Security

Re: Draft Biodiversity Offsets Policy and Technical Guidelines

14 November 2022

Introduction

AMEC appreciates the opportunity to provide industry consultation on the Draft Biodiversity Offsets Policy and Technical Guidelines proposed by the Department of Environment, Parks and Water Security. AMEC and its members are committed to establishing a more sustainable method of mining and appropriate use of biodiversity offsets.

About AMEC

The Association of Mining and Exploration Companies (AMEC) is a national peak industry body representing over 530 mining and mineral exploration companies across Australia. Over thirty of AMEC's member companies are investing in the future of the Northern Territory. Our members are mineral explorers, emerging miners, producers, and a wide range of businesses working in and for the industry. Collectively, AMEC's member companies account for over \$100 billion of the mineral exploration and mining sector's capital value.

Mineral exploration and mining make a critical contribution to Australia's economy, directly employing over 274,00 people. In 2020/21 Industry generated a record high \$301 billion in mining exports, invested \$3.2 billion in exploration expenditure to discover the mines of the future, and collectively paid over \$39.3 billion in royalties and taxes.

General Comments

The policy provides a broad and pragmatic framework for the consideration of a range of projects. However, the policy does not provide an interested proponent with a definitive answer as to how many offsets, where and when. The policy relies on a proponent consulting with the Department. While AMEC does not oppose this approach, it is the reality that this document alone cannot provide all the answers to a proponent.

Use of Biodiversity Offsets in the Northern Territory

The use of biodiversity offsets is an integral part to the development of the mining and mineral exploration industry in the Territory, allowing for companies to offset remaining impacts that cannot be avoided or mitigated as residual impacts.

The approval process for a biodiversity offset plan requires the decision maker to determine whether the plan meets the requirements established by the policy and technical guidelines. In addition to those requirements, it is important that all offsets are based on sound environmental information and knowledge, similar to the Western Australia model.

As stated in the policy document, offsets may be required under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999 Act (EPBC Act)* if environmental disturbance affects protected matters. The Territory states that there should be no duplication of offset requirements and is working with the Commonwealth government to ensure this. This aligns with AMEC views that where possible regulatory duplication is removed and makes it easier for companies to do business in any jurisdiction inside Australia.

Territory target-based approach for biodiversity offsets

AMEC understands the need for a Territory target-based approach due to the unique nature of the land tenure being primarily Aboriginal freehold and pastoral leasehold in comparison to other jurisdictions.

Nesting the Policy beneath the Offset Principles Framework provides a clear structure and hierarchy for decision making. However, the publication of this Policy has resurfaced that a key aspect of the Offsets Principles Framework is unresolved: what offsets are the Territory seeking?

On page 7 of the Policy, it is stated: “*The general target to which biodiversity offsets should contribute is a net gain in the ecological condition of natural habitats in the Territory.*”. This is not an unreasonable target to aim for, however, if it is the intended target it would be beneficial to clearly define it as that. The language in this section seems to imply that there may be other targets.

AMEC encourages the Department to clearly publish the targets being sought from the Biodiversity Offset Policy. Clarifying what the targets are, so a future proponent can know what they are before beginning the process is crucial. It is important that the targets are set in a manner that is specific, measurable and regionally appropriate.

Eligible offset activities

AMEC is supportive of direct habitat management activities, alternative direct measures and other compensatory measures. Each of the eligible offset activities allow for companies to find affective ways to meet their environmental responsibilities and to cater for the uniqueness of each project. Due to the fact Aboriginal freehold and pastoral leasehold constitute a large portion of the Territory, it is difficult to incorporate offsets such as land acquisition that is used in other jurisdictions. This lends to the need for Territory specific eligible offset activities.

AMEC understands the preferred type of offset being the habitat-based offset as this allows for the management of priority threats. Under section 6.1 of the policy, it mentions this can include ‘capacity building’ and in the technical guidelines it states, “capacity building costs – up front dollar costs of building threat management capacity to the required levels.”. Capacity building is then not mentioned again in the technical guidelines to how much this would cost proponents, further clarity on how companies would contribute to land managers in this sense and the potential costs is needed.

Offset Program Requirements

Under the offset delivery the policy paper explains there are no current plans considering financial payment into an offset fund as an alternative to proponents. The Department of Environment, Parks and Water Security (DEPWS) should provide a pathway for the development of an offset fund in the

future. If done correctly an offset fund has the potential to provide substantial environmental improvements by collating financial payments from a range of proponents, similar to the Pilbara Environmental Offset Fund (PEOF) in WA.

In the technical guidelines under the offset's calculator, the loss that is being offset is considered to be of a habitat in the best possible condition. Compared to the WA model which ranks the impacted area from 1 – 10 on a keighery and trudgen vegetation scale, the NT policy automatically assumes the habitat is in perfect condition. Although AMEC understands this is the first policy of its type in the Territory, we believe that the technical guidelines should follow a similar approach to WA in determining the impacted area and incorporating that into the offset calculator, to create a more cost effective model.

Overall, AMEC has no issue around the offset delivery timeframes of 15 years in monsoonal areas and 25 years in arid areas. However, there should be the inclusion of whether the proponent will be responsible for the offset following the completion of their project. This is explicitly outlined in the WA offset policy and as 25 years can be longer than the average mine life this must be clarified.

Technical guidelines

The Technical guidelines do not appear to be complete, with section's highlighted. Given their depth of detail provides this provides an opportunity for further consideration and analysis for industry. Will there be further consultation on the guidelines? AMEC would appreciate greater clarity as to what the Department's process in choosing the values that they have ascribed to various figures in the guidelines?

The Administrative Guidelines & Offset Register

We look forward to future consultation on the Administrative Guidelines, which carry much of the functional detail as to how to apply for a Biodiversity Offset, how to draft a Biodiversity Offset Plan and importantly, define expectations of the paperwork submitted. If as much clarity can be provided early it will reduce the cost and time of proponent and Government in administering this new system.

The future establishment of a certain and transparent Offset Register is welcomed. Identifying the location of Offsets will provide the community with a clearer understanding of the commitment of Industry to ensuring the environment is not only returned to a similar environment quality after operations, but that additional ecological benefits have also been secured.

Final Comments

AMEC appreciates the opportunity to provide a submission to the Northern Territory Biodiversity Offset Policy and is broadly supportive of a pragmatic approach drafted document. We look forward to further engagement in this space moving forward.

For further information contact:

Neil van Drunen
Director WA, NT, SA and Industry Policy
neil.vandrunen@amec.org.au

Nicolas Parry
Policy Advisor WA, NT, SA
nicolas.parry@amec.org.au

