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Offsets the Queensland Way Development of the Queensland Government Environmental Offsets Policy

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Development of the Queensland Government Environmental Offsets Policy

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Abstract

The Queensland Government Environmental Offsets Policy provides an overarching framework for environmental offsets in Queensland. The policy provides a consistent and transparent approach to the use of offsets. It contains principles and guidelines for developing and applying more detailed ‘specific-issue’ policies for offsetting important environmental values such as vegetation or fish habitats.

Currently, offsets use in Queensland can be characterised as a compliance mechanism as they are required to meet development conditions. Developers will face higher costs if they need an offset and this provides a greater incentive to avoid and minimise impacts on areas with significant environmental values. The paper canvasses opportunities to now move to develop efficient offset markets in Queensland.

Key words: environment, offsets, policy, market based instruments.

Introduction

The use of environmental offsets as a market based instrument to address the negative externalities of development has been increasing, with many Australian and international jurisdictions introducing policies to facilitate offsets. Industry bodies such as the mining industry are also promoting the use of environmental offsets (see for example ten Kate et al 2004).

This paper outlines the development of environmental offset policy in Queensland to date. Currently, offsets use in Queensland can be characterised as a compliance mechanism as they are required to meet development conditions. Developers will face higher costs if they need an offset and this provides a greater incentive to avoid and minimise impacts on areas with significant environmental values. This is the simplest form of the use of environmental offsets.

Currently each offset is negotiated individually which entails potentially high transactions costs for developers. There are opportunities to develop more functional offset markets in Queensland. These include opportunities to improve environmental equivalence metrics, meet information needs for developing markets and modify institutional structures.

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The Queensland Government Environmental Offsets Policy

The Queensland Government Environmental Offsets Policy (QGEOP) came into effect on 1 July 2008. It provides an overarching framework for environmental offsets in Queensland. The policy provides a consistent and transparent approach to the use of offsets. It contains principles and guidelines for developing and applying more detailed 'specific-issue' policies for offsetting important environmental values such as vegetation or fish habitats.

The QGEOP was developed by the Environmental Protection Agency in response to the Queensland Government's need to have a consistent approach to the use of environmental offsets that did not result in cumulative environmental loss. The policy was developed to apply to all decisions made by state government agencies, be they environmental regulators or agencies that facilitate or undertake development. It also applies to private development.

Prior to the QGEOP, there were three formal environmental offsets policies applying under three different pieces of legislation to specific environmental characteristics; vegetation, koala habitat and fish habitat. In addition there was ad hoc use of offsets negotiated with or required from developers, without any Queensland Government endorsed policy position.

It was clear in the development of the QGEOP that it was not possible to develop one policy to fit all situations where environmental offsets may be considered. There are a number of Queensland Government legislative instruments that govern decision making on 'the environment'. Each has specific triggers and requirements. It was also clear that the detail of what would constitute an appropriate offset differs according to the environmental characteristics of particular development sites and the impacts on the natural environment and it was not practical to put all this detail in one policy.

The QGEOP was therefore developed as an overarching framework, under which the detailed specific-issue offset policies sit as shown in Figure 1. The overarching framework sets out principles for the use of environmental offsets in Queensland. All specific-issue offset policies need to comply with these principles.

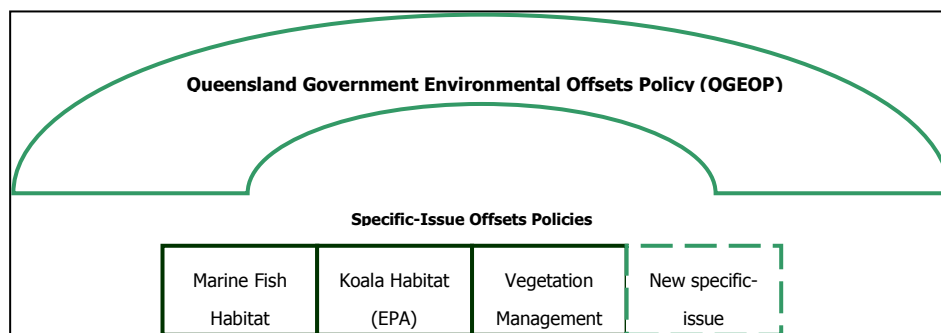


Figure 1: Structure of Queensland Government Environmental Offsets Policy

The QGEOP also contains guidelines of what should be included in a specific-issue offset policy, including in some cases a 'menu' of acceptable options for some approaches. The QGEOP governs the content of existing^g and any new specific-issue offsets policies.

^g The three existing policies will be reviewed for consistency with the QGEOP.

Finally the QGEOP provides direction to state government decision makers and development proponents that specific-issue offset policies should be considered in all the development approval processes that exist in Queensland. Importantly, the QGEOP also requires that offsets should not be used as a tool outside specific-issue offsets policies, to avoid the ad hoc use of offsets^h.

The QGEOP covers decision making by Queensland Government decision makers. It applies to offsets for impacts to the natural environment. It does not cover offsets for carbon emissions, as rules for these are being developed nationally and internationally.

QGEOP Policy Principles

Seven policy principles were developed following review of offset policies in other jurisdictions and public consultation.

Principle 1: Offsets will not replace or undermine existing environmental standards or regulatory requirements, or be used to allow development in areas otherwise prohibited through legislation or policy.

Note that this principle is supported by restricting the use of offsets to circumstances where there is a specific-issue offsets policy, where the conditions for the appropriate use of offsets are defined within the legislative and policy setting.

Principle 2: Environmental impacts must first be avoided, then minimised before considering the use of offsets for any remaining impact.

Note that this principle is qualified in that where there is an approved trading scheme; offsets should operate in the context of caps or targets of the scheme.

Principle 3: Offsets must achieve an equivalent or better environmental outcome.

Principle 4: Offsets must provide environmental values as similar as possible to those being lost.

Principle 5: Offsets should be provided with a minimal time-lag between the impact and delivery of the offset.

Principle 6: Offsets must provide additional protection to environmental values at risk or additional management actions to improve environmental values.

Principle 7: Offsets must be legally secured for the duration of the offset requirement.

^h The exception is that the Coordinator General may require offsets for impacts not covered by a specific issue offsets policy.

Queensland Government Environmental Offsets Policy guidelines for specific-issue offset policies

The QGEOP provides a number of guidelines for developing specific-issue policies with respect to environmental metrics, direct and indirect offsets, delivery options and legally securing offsets.

Environmental metrics

A specific-issue policy should include a metric which is a means of describing and measuring the values lost due to the impact and the values of a potential offset.

Direct and indirect offsets

Direct offsets provide substitute environmental values, such as restoration measures at other sites. Indirect offsets support the intended environmental outcomes for the environmental values impacted (e.g. assisted fauna crossings, targeted research). Direct and indirect offsets are acknowledged as acceptable offset actions in the QGEOP, but a specific-issue policy may identify if only direct offsets are to be used or if indirect offsets may also be used.

Delivery options

Specific-issue policies can select from the menu of potential delivery options, to specify how a proponent can supply an offset. Options that a proponent can employ include:

- Directly provide and manage an offset
- Engage a third party to supply an offset (e.g. a landholder who agrees to place a nature refuge on their property and manage it over time).
- Supply or purchase credits from an ‘advance offset’ (established ahead of need)
- Provide a financial contribution to an offset fund

The QGEOP contains more detailed guidelines for the establishment of advance offsets, which are essentially direct offsets that are registered ahead of an offset requirement. Key to advance offsets is that the ‘additional action’, such as protecting areas against clearing and/or establishing a management regime must be registered at the time of the action as a potential offset. The QGEOP also contains principles for financial contributions to an offsets fund. Note that not all the existing specific-issue policies allow for financial contributions.

Legally securing land based offsets

The QGEOP requires that any land based offsets be legally secured for the duration of the offset requirement. In some cases, such as for the proposed biodiversity offsets, this is likely to be in perpetuity. A number of acceptable legal mechanisms for placing a covenant on title of land are listed in the QGEOP.

Existing and future specific-issue offsets policies

As noted already, there were three specific-issue offsets policies in operation at the time the QGEOP came into effect. These are:

- Vegetation Management—Policy for Vegetation Management Offsets, September 2007, Department of Natural Resources and Water

- Marine Fish Habitat—Mitigation and Compensation for Works or Activities Causing Marine Fish Habitat Loss, 2002, Department of Primary Industries and Fisheries
- Koala Habitat—Offsets for Net Benefit to Koalas and Koala Habitat, 2006, Environmental Protection Agency.

These policies are to be reviewed and amended during the 5-year period of operation of the QGEOP to ensure that these policies align with and reflect the objectives of the QGEOP.

The EPA is currently preparing two additional specific-issue offsets policies, under the guidance of the QGEOP. The draft waste water discharge offset policy builds on experience particularly in the United States where point source or land management based offsets are used to address water quality issues. The EPA also released a draft policy for biodiversity offsets in late December 2008, for stakeholder comment. This draft policy aims to provide a consistent and transparent approach to offsets for impacts to biodiversity, where the Queensland government is the decision maker or a concurrence agency on development proposals.

Opportunities for developing a offset markets in Queensland

Having taken the first step to develop an overarching and specific-issues policies for offsets in Queensland, consideration is now being given to facilitating efficient offset markets. There is currently a demand for vegetation offsets and it is anticipated that biodiversity offsets will also be required to meet the development agenda in Queensland. However, there is also a need to stimulate the supply of offsets. There a number of challenges in the development of the offset market in Queensland which may need to be addressed to ensure the supply of offsets matches the demand, and markets operate as efficiently as possible. These include providing a clear methodology for assessing ecological equivalence so that tradable offset credits can be created, addressing information failure for market development and modifying current institutional structures where necessary.

The Queensland Government has been concerned about a thin market for offsets and has considered a number of models aimed at stimulating the supply side and facilitating the market. The Queensland Government has now launched ecoFund Queensland with the initial aim of finding and securing environmental offsets for Queensland Government agencies requiring offsets (mainly for infrastructure development).¹ ecoFund Queensland will provide a brokering role and in doing so will address information failure by stimulating landholder knowledge about and interest in providing offsets.

Improving ecological equivalence metrics

The development of a metric to determine environmental equivalence is a considerable challenge, given the range of factors that could be taken into account. In Queensland, the current specific-issue policies rely on good information available on the extent of relevant environmental characteristics. This is generally achieved through mapping which is accessible to the public. For example, Queensland has publicly available maps of all vegetation communities. There is less information available on the condition of the environment. Therefore, vegetation and biodiversity offset policies use a quantity metric with no inclusion of quality. The policies provide a hierarchy to show preferred options

¹ ecoFund will also broker offsets to meet the Queensland Government's commitment to voluntary carbon offsets.

(for example, the closer the offset is to the site of impact the lower the area ratio used). It could be argued that including the quality of the vegetation/habitat provides a more accurate approach to assessing if ecological equivalence has been achieved. This has a number of implications for facilitating environmental markets for offsets.

Metrics that assess both the quantity and quality of the habitat loss provide a more fungible approach. The “quantum of gain” achieved by an offset can be scored to ensure that it is commensurate with the calculated loss resulting from approved clearing. Therefore, any assessment of an offset requires calculating the current condition of the site to be cleared and the site which will be provided as an offset. In most cases the offset site will be required to be maintained and improved so an assessment of the site with improvements also needs to be undertaken. Including a quality factor may increase the options to provide an offset where management actions are taken into account in delivering environmentally equivalent outcomes.

Information for market development

Both New South Wales and Victoria have set up “BioBanking” schemes (the Biodiversity Banking and Offsets Scheme and BushBroker respectively) to create a market for the buying and selling of biodiversity credits. The BioBanking scheme uses a repeatable, defensible and transparent methodology to establish and assess the quantity and quality of the offset and assign offset credits. Queensland does not presently have a system of assessing offset credits rather offsets are negotiated between an individual buyer and sellers on a case by case basis.

From an economic perspective, the most important reason for developing vegetation and biodiversity offset metrics is to help build markets in offsets to facilitate the transaction between buyers and sellers of offsets who may be in different locations. There are many factors which may inhibit transactions and in particular, markets are unlikely to emerge when there is a lack of information or when the product (the offset) is not adequately defined in terms of quality/quantity. The information failure results from potential suppliers of offsets being unable to assess the value of their proposals. To stimulate the supply of offsets there needs to be both a mechanism for potential suppliers of offsets to estimate the value and likely demand for their proposals (including proposed management actions) and a facility to support offset exchange.

Institutional Structures

The institutional setting for each offsets policy developed to date in Australia is different, thus policies must be constructed with the particular circumstances in mind. It appears that Queensland is the only state with an overarching policy such as the QGEOP, which applies to all state government decision making. All states share the situation where policies can apply under specific pieces of legislation.

Offset trading schemes have been set up in other jurisdictions using a variety of institutional structures. For example, in NSW the *Threatened Species Conservation Act 1995* has established the BioBanking scheme. In Victoria the BushBroker system to register and facilitate trade in native vegetation credits has been established under the policy *Victoria’s Native Vegetation Management – A Framework for Action*.

All of the specific-issue offsets policies in Queensland operate within a framework of limits placed on development allowed to occur in environmentally significant areas. Where

development may occur within these limits, an offset may be required to secure an equivalent or better outcome. The creation of tradable offset credits supported by relevant regulatory settings would improve offset markets.

Conclusions

Environmental offsets are aimed at counterbalancing the negative externality of cumulative environmental loss associated with development. A compliance type of offset will address negative externalities where it provides an incentive to avoid and minimise impact and provides a means to redress environmental loss. The development of the QGEOP and the specific issue policies mean that a consistent and transparent approach is being taken to the use of environmental offsets.

The launch of ecoFund Queensland is an important step in developing and facilitating offset supply. There are other opportunities for developing offset markets based on improving environmental metrics, developing tradable offset credits and supporting these with relevant institutional structures.

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