

SUBMISSION TO THE CONSULTATION DRAFT - ENVIRONMENTAL OFFSETS POLICY

21 OCTOBER 2011

The Urban Development Institute of Australia (UDIA) welcomes the opportunity to provide this submission on the Consultation Draft of Environmental Offsets Policy to the Department of Sustainability, Environment, Water, Population and Communities.

UDIA is the peak body representing the property development industry throughout Australia. Our goal is to secure the economic prosperity and future of the development industry in Australia, recognizing that national prosperity is dependent on our success in housing our communities and building and rebuilding cities for future generations.

Our members cover a wide range of specialist and industry fields, including: Developers, Valuers, Planners, Engineers, Architects, Marketers, Researchers, Project Managers, Surveyors, Landscape Architects, Community Consultants, Environmental Consultants, Lawyers, Sales and Marketing Professionals, Financial Institutions, State and Local Government Authorities, and Product Suppliers.

UDIA welcomes the opportunity to participate in this consultation process. UDIA's membership has increasingly embraced principles of environmentally sustainable development largely as a result of industry-driven innovation and initiatives in sustainability practice and also in response to legislation enacted by government agencies. The development industry's commitment to sustainability is strongly evidenced by its adoption and promotion of the EnviroDevelopment initiative, which through an independent certification process recognises sustainable developments that exceed regulation.

Environmental offsets from the development industry's perspective

UDIA lends in principle support to the idea of a Federal offsets policy provided that it offers a greater degree of certainty to the property development sector. Our members recognise the need to provide and preserve appropriate habitat for nationally significant flora and fauna and we believe that offsets is only one of a number of measures which can be used to achieve such an outcome. Offsets are an expensive form of intervention, particularly to an industry which is already facing significant obstacles to providing much needed affordable housing. To this end, UDIA is supportive of discussion paper's approach that the use of offsets is subordinate to avoidance and mitigation strategies.

Nevertheless, there is an appreciation that offsets do provide another option for developers wanting to carry out a project which will have an unavoidable impact on areas of national environmental significance. Offsets are thus a reality under Part 9 of the Environmental Protection Biodiversity Conservation (EPBC) Act. The consultation paper clearly articulates the aims of the Government's proposed policy and UDIA is supportive of the four key aims (particularly 1, 2 & 3). These aims promote transparency, robust science as a basis for decision-making, certainty and consistency in application.

The paper also clearly points out when to apply offsets within the EPBC Act. While it was firmly stated at the 28 September DSEWPaC Offsets Policy Stakeholder workshop that alignment of state and national environmental laws was a matter for COAG, UDIA supports the consideration of offsets early in the approval process and it is our firm view that where there are compatible outcomes for state and federal offsets the state offset should be given full consideration as an approved outcome.

The consultation paper lists two factors as the drivers of Government decision making in the field of offsets - it must be informed by scientifically robust information and conducted in a consistent and transparent manner. The development industry believes both factors are critical to the effective functioning of any environmental offsets policy. UDIA has long called for up-to-date scientific research to inform national environmental policy. This principal should also form the basis for constructing any offsets package. Peer reviewed and publicly documented species recovery plans should form the bedrock for offsets plans. In terms of decision making being conducted in a consistent and transparent manner, UDIA acknowledges that one of the positive themes of the EPBC Act reforms has been a greater commitment by the Government to transparency. There also seems to a greater emphasis on delivering consistent outcomes as evidenced by the development of the Environmental Offset Assessment Guide.

Environmental Offsets Assessment Guide

There is no doubt that a controversial issue such as environmental offsets will benefit from a quantitative tool. Theoretically, this would allow for a consistent decision making process which fosters certainty for industry. It should be for the standard for departmental assessment officers and would give proponents a clearer understanding of how their projects are likely to proceed. In practice, however, the use of the guide will need to be subject to real time evaluation.

UDIA believes that the impact/offsets ledger style calculator is a step is a step in the right direction. However, there is still too much opportunity for subjective assessment in a number of the categories. Developing a sound methodology around categories such as high, medium or low is challenging. To adequately quantify these categories (on both the impact and offsets side of the calculator) requires rigorous testing and thorough consultation. We understand that DSEWPaC has embarked on a meticulous process of scenario testing in developing the assessment guide. Nevertheless, UDIA suggests a round of "blind testing" where industry, non-industry representatives and assessment officers conduct independent calculations on a number of actual developments and then compare their findings. This could lead to a more stringent pre-use testing regime which may iron out potential creases in the assessment guide.

In addition, it may be useful if the assessment guide could be evaluated soon after it comes into use. While the consultation draft has stated that the effectiveness of the offsets policy as

a whole will be reviewed on a five-yearly basis, the assessment guide may benefit from more regular evaluations.

The Consultation paper suggests that the assessment guide will require that a minimum of 75 per cent of offset points required must be derived from direct offsets while a maximum of 25 per cent can be derived from indirect offsets. UDIA notes that this is a rule which reflects the consultation paper's view that in general direct offsets provide more certain, more measurable and lower risk than indirect offsets. There are, however, situations where indirect offsets may be more appropriate for species preservation, as evidenced by the example of the Tasmanian Devil in the consultation draft.

There may be situations where the lines between direct and indirect offsets may be blurred and there is need for flexibility in assessing the offset ratio. Land vested to an entity will have to be maintained and continuously monitored to ensure that the land is providing the full value of the offset. It is also possible that an indirect offset such as an area for rehabilitation may deliver a better outcome than a direct offset that is not sufficiently well maintained. This needs to be acknowledged and reflected in the allocation of direct/indirect offsets. The role of bio-banking should also be further explored.

UDIA would like to reiterate that we welcome this attempt to develop a consistent methodology for determining offsets packages. We also acknowledge the challenges in developing such a system and would be available to assist in any attempts to refine the assessment guide.

Concluding Remarks

UDIA would like to thank the Department of Sustainability, Environment, Water, Population and Communities for the opportunity to provide this submission. We also appreciate the invitations to participate in the various roundtables and workshops. We would welcome the opportunity to discuss any aspect of this submission in greater detail. For further information, please contact James Voortman on 02 6230 0255 or at udia@udia.com.au.