Submission
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Inquiry into Environmental Offsets

Senate Standing Committees on Environment and Communications

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About CME

CME is the peak resources sector representative body in Western Australia (WA) funded by its member companies who generate 95 per cent of the value of all mineral and energy production and employ 80 per cent of the resources sector workforce in the State.

The Western Australian resources sector is diverse and complex covering exploration, processing, downstream value adding and refining of over 50 different types of mineral and energy resources.

In 2012-13, the value of Western Australia's mineral and petroleum production was $102 billion, accounting for 89 per cent of Western Australia's total merchandise exports and thus representing the majority of Western Australia's 47 per cent contribution to Australian merchandise exports. Furthermore, royalty payments to the state government totalled $ 4.87 billion in 2012-13.

Recommendations

- The key principle of environmental offsets should be to ensure unavoidable irreversible environmental impacts of development are counterbalanced by environmental gains, with the overall aim of achieving a net neutral or net positive outcome.

- Where projects trigger assessment under both State and Commonwealth Environment legislation, approval agencies should agree to provide a single set of approval conditions including any offsets requirements.

- State and Territory approval agencies should establish clear and transparent environmental offsets guidelines for the assessment of environmental impacts and the application of environmental offsets. These guidance documents should cover where projects impact on matters of national environmental significance (MNES).

- Environmental offsets determinations must be underpinned by a clear definition of significant residual environmental impact and a science-based methodology for quantifying project impacts.

- Environmental offsets must only be considered after a mitigation hierarchy, involving avoidance, minimise, and rehabilitation measures are pursued, and significant residual environmental impacts can be demonstrated to remain.

- Establish a system to measure offsets performance including a database of historical offset conditions.

- Strategic approaches to offsets have the potential to reduce duplication and improve timeframes as well as providing a mechanism to move away from case-by-case assessments to strategic assessment at a landscape or regional scale.

- Ensure clear governance arrangements are in place for application of environmental offsets. Where strategic conservation funds are created there must be an industry oversight group given responsibility for research planning, management and expenditure of the funds.

Context

Background

In the past decade, environmental offsets have increasingly been employed as a mechanism for responding to potential environmental impact resulting from the granting of approval for resource sector projects.

Environmental offsets are intended to be applied as the last resort management tool once all avoidance and mitigation efforts have been exhausted. Ideally offsets should deliver 'net positive' outcomes with long lasting environmental benefits.

The fundamental principle of offsetting a significant residual environmental impact to achieve a net positive outcome is one which is well embedded within the resource sector. However, environmental offsets being applied in the absence of clear significant residual environmental impacts has caused the resource sector to question the basis of their application.

In 2013, CME together with the Association of Mining and Exploration Companies developed a Western Australia (WA) Resources Sector Position Paper on Environmental Offsets. The Environmental Offsets Position Paper included 11 recommendations and in response the WA Government agreed to establish an Industry Government Working Group to develop a new WA Government Environmental Offsets Guideline.

The Industry Government Working Group met throughout the second half of 2013 and through this process agreed to a new draft Guideline for consideration of the WA Minister for Environment and Minister for Mines and Petroleum.

CME considers it vital the basis for decision-making on environmental offsets is understood by government, industry, and the community. Therefore, clear governance arrangements must be established to ensure environmental offsets are consistently applied by decision-makers.

While the scope of the inquiry is focussed on the application of environmental offsets in commonwealth environmental approvals, CME considers the agreement of a single set of clear and transparent offsets guidelines is important for the successful implementation of a 'one-stop-shop' for environmental approvals.

CME considers the Terms of Reference of this inquiry does not address the key issues of environmental offsets. With State and Commonwealth governments having already developed and agreed with stakeholders offset policy principles, the inquiry would be more relevant examining governance arrangements of offsets and giving consideration to the effectiveness of offsets in achieving positive environmental outcomes.

Offset Policy Principles

In WA, six high level principles underpin the WA Government's Offset Policy. CME supports these principles and consider they are applicable for offsets under both State and Commonwealth environment legislation. The principles are:

1. Environmental offsets will only be considered after avoidance and mitigation options have been pursued.
2. Environmental offsets are not appropriate for all projects
3. Environmental offsets will be cost-effective, as well as relevant and proportionate to the significance of the environmental value being impacted
4. Environmental offsets will be based on sound environmental information and knowledge
5. Environmental offsets will be applied within a framework of adaptive management

6. Environmental offsets will be focussed on longer term strategic outcomes.

What are environmental offsets?

Environmental offsets are actions that provide environmental benefits which counterbalance the significant residual environmental impacts or risks of a project or activity. Unlike mitigation actions which occur on-site as part of the project and reduce the direct impact of that project, offsets are undertaken outside of the project area and counterbalance significant residual impacts.

Offset Assessment Process

An environmental offsets framework must include a clear and transparent process and methodology for quantifying the potential, likely and anticipated environmental impacts of a project proposal.

This process is necessarily iterative; it should occur during initial project scoping between the proponent and regulator and later during the formal assessment of project impacts. Critically, the methodology must recognise where there is an opportunity for proponents to address initial anticipated impacts (i.e. through avoidance, project footprint adjustments) prior to formal impact assessment (and any decisions around offsets being required).

Environmental offset determinations must be underpinned by a clear definition of significant residual environmental impact and include science-based methodology for quantifying project impacts.

If a project is assessed as having a significant residual impact requiring environmental offsets, the next step is to determine what an appropriate offset is. In order to provide rigour to the offset setting process the default position should always be based on the best available science.

An offsets methodology should also have an open and transparent method of converting biodiversity values into monetary values for instances where replacement biodiversity values cannot be found.

Mitigation process

Environmental offsets should only be considered after avoidance and mitigation options have been pursued.

CME considers there are four steps in the mitigation hierarchy – Avoid, Minimise, Rehabilitate and Offset. In developing a project, proponents and regulators should apply this hierarchy to assess a projects potential impact on the environment.

The mitigation hierarchy starts with an assessment of environmental asset condition, followed by the quantum of impact on the identified assets. The next stages are the consideration of avoidance and minimisation and rehabilitation measures and a determination of whether any significant residual impact remains. Finally, an offset should be proposed to address any significant residual impacts.

Reducing the environmental impact of a project benefits both the proponent or applicant and the environment by reducing the likelihood that an offset may be required and also the magnitude of any offset that is required.

Strategic Offset Initiatives

Strategic approaches to offsets have the potential to reduce duplication and improve timeframes as well as providing a mechanism to move away from case-by-case assessments to strategic assessment at a landscape or regional scale.

The application of strategic offsets can reduce the time lag normally associated with offsets as the improvement value of the offset can be advanced ahead of the impact.

The use of strategic offsets arrangements is supported by industry. However, governance to ensure consistency in the application of these and the appropriate use of strategic offsets funds in particular are essential.

Monitoring of Offsets

Offsets can be considered as an investment in the environmental asset, similar to a business investing in commercial assets. In making the investment a business is concerned with the ongoing performance of the asset. This principle can be applied to the investment in environmental offsets. Therefore monitoring of the environmental offsets is required for the following reasons:

- ensure offsets are working in the manner intended, and;
- as a feedback loop for future offset condition setting.

A fundamental component of monitoring and compliance are the systems and processes required to measure the outcomes. The asset assessment tool should form the basis of this system.

Industry requires a comprehensive offsets register, including historical data, to provide transparency and set clear expectations around this process.

Interaction between State and Commonwealth processes

Duplication of State and Commonwealth environment assessment processes and requirements creates significant and unnecessary costs for resource projects. Additionally, the doubling up of offsets requirement is a significant concern to industry and should be avoided.

Any offset requirements imposed under both State and Commonwealth legislation must be complementary and should not impose additional costs on industry above and beyond what would be required to mitigate the significant residual environmental impact.

While it is understood the Commonwealth and the States differ in environmental focus, significant process/time efficiencies and cost benefit to both the regulator and proponent can be drawn from alignment of process.

Where projects trigger assessment under both State and Commonwealth Environment legislation, approval agencies should agree to provide a single set of approval conditions including any offsets requirements.

Conclusion

CME considers the application of environmental offsets is an important element of the overall approvals framework. The decision making processes surrounding environmental offsets can be improved through the establishment of guidance material which gives clear direction to agencies and proponents on the process and requirements governing the application of environmental offsets.

CME would welcome the opportunity for further input to the Senate inquiry into environmental offsets. If you have any further queries regarding the above matters, please do not hesitate to contact Kane Moyle, Manager – Environment, on (08) 9220 8511 or k.moyle@cmewa.com.