Australian Government
Department of the Environment and Energy

Policy statement: Advanced environmental offsets under the *Environment Protection and Biodiversity Conservation Act 1999*

September 2017

Introduction

This policy statement provides guidance on the Australian Government's approach to the use of advanced offsets and should be read in conjunction with the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) environmental offsets policy* (October 2012) (the 'EPBC Offset Policy') and *How to use the offsets assessment guide* (the guide) available at: **www.environment.gov.au/epbc/publications/environmental-offsets-policy.html**

Reviews of this policy statement will be undertaken in alignment with reviews of the EPBC Offset Policy.

Definition

Advanced environmental offsets are a supply of offsets for future use, transfer or sale by proponents or offset providers. Unlike conventional offsets, which are generally put in place to compensate for the residual adverse impacts of an action **following** approval, advanced offsets are implemented **prior** to any impact occurring. This increases the ecological benefit of the offset; thereby reducing a proponent's overall offset liability.

Advanced offsets need to be rigorously planned and monitored to demonstrate the conservation benefit that will be delivered for the relevant protected matter. Like conventional offsets, the suitability of an advanced offset proposal will be determined based on the principles outlined in the EPBC Offset Policy.

The conservation benefit of the advanced offset is determined by quantifying improvements in the quality of habitat for a protected matter and/or averting the loss of a protected matter or its habitat from future degradation.

As with all offset proposals, the suitability of an advanced offset can only be formally considered through the assessment and approval process, set out in Part 8 and Part 9 of the EPBC Act. Offsets cannot be considered during the EPBC Act referral process.

When can advanced offsets be considered?

An advanced offset must have the following characteristics:

- the offset consists of one or more sites and/or activities, undertaken for the explicit purpose of protecting or managing a matter of national environmental significance, at any point following commencement of the EPBC Act, on 16 July 2000
- there is sufficient information to enable a clear assessment of the conservation benefit that has been realised as a result of the offset
- there is sufficient information to demonstrate that this conservation benefit is additional to existing obligations under other planning regimes, legislation, schemes or duty of care.

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Image credit: Dragi Markovic

A proposal could be prepared by a proponent when:

- a future action is likely to have a significant residual impact on a protected matter, is likely to, or may, require an offset, and the offset has not yet been implemented, or
- an offset has already been implemented, or is proposed to be implemented and a proponent wishes to demonstrate that this may meet the offsetting requirements for a future action.

More detail concerning what is required in an advanced offsets proposal is set out below. Section 7.6 of the EPBC Offsets Policy contains further information on whether an offset is considered additional or not.

Potential benefits

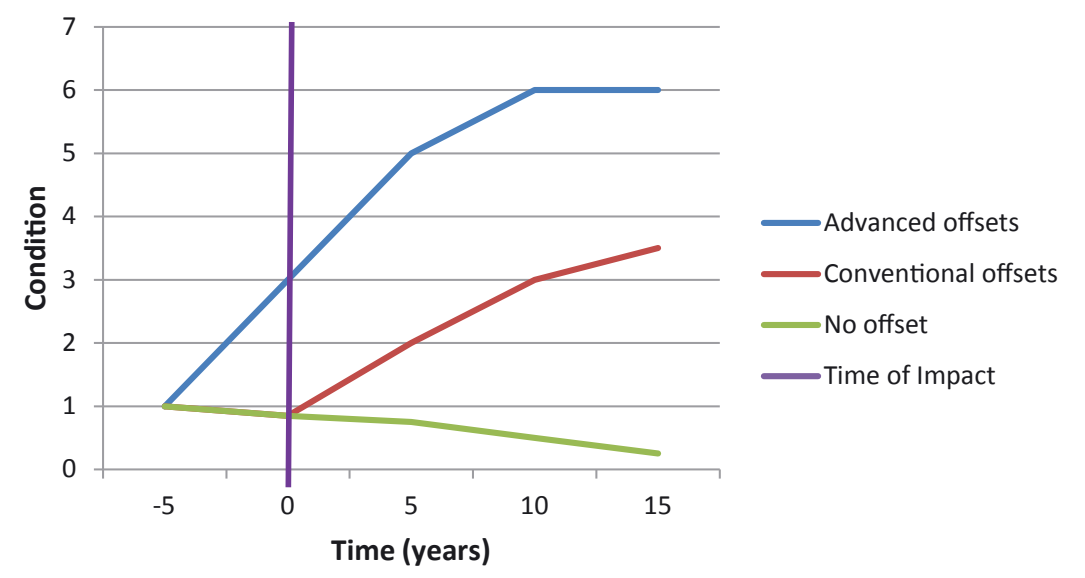
Advanced offsets have three potential key benefits.

- ***Improved environmental outcomes***
  - Advanced offsets generally have greater conservation benefits, as they are established prior to any impact occurring (see **Box 1**). As they can be implemented well in advance of the action and there is time to plan, advanced offsets can be delivered more strategically, such as being placed close to wildlife corridors, key wildlife hotspots or other important areas for protected matters, including marine areas.
- ***Efficient resource allocation and streamlining***
  - When used in conjunction with the guide, advanced offsets may reduce the overall magnitude of the offset required compared to conventional offsets. This is because an advanced offset that is already in place is less subject to time discounting (the time taken until the benefit is realised) and is likely to have increased confidence regarding the delivery of a conservation benefit (expressed as *time until ecological benefit* and *confidence in result* respectively in the guide). This may represent cost savings for proponents who can reasonably estimate future offset requirements (see **Box 2**). The high level of information and confidence around advanced offsets at the time of approval also streamlines the post-approval process.
  - Advanced offsets can also streamline the EPBC process for project implementation. An approved advanced offsets package can reduce post-approval delays through time saved in locating and procuring suitable offsets, and potentially avoiding delays to other project activities that are dependent on an approved offset.
- ***Third party participation***
  - If a third party is managing or establishing an offset area or program, the proponent must make contractual arrangements with the third party to deliver the offset in accordance with their approval conditions. Regardless of the delivery mechanism, project proponents remain responsible for ensuring that their conditions of approval are met.
  - If a third party has entered into an agreement to deliver an advanced offset and then the EPBC Act approval is subsequently withdrawn because the development will not go ahead, the proponent does not have to comply with the approval conditions, including those related to the delivery of offsets and advanced offsets. In these situations, subject to any contractual obligations, the proponent or the third party may then be able to advertise their advanced offset site to find an alternative proponent.
  - There can be opportunities for Indigenous peoples (such as Indigenous Rangers) to work collaboratively with project developers to manage an environmental offset and/or manage their country as environmental offsets. This could involve protecting or managing an area of land or sea to benefit a protected matter, such as a particular threatened species or heritage place, using offset funding provided by a proponent.

Box 1—In support of advanced offsets

In scientific research which looked at the implementation of native grassland offsets in Melbourne's urban growth boundary, Gordon *et al.* examined the changes that can occur across offset properties during different scenarios. The results indicated that areas established as advanced offsets would result in better condition grasslands than those established and managed as conventional offsets. This was primarily due to the earlier management intervention that provided for a greater improvement in the quality of the native grassland offset sites.

Figure 1—Representation of conservation benefits from different approaches to offsets.



Gordon, A., et al., Assessing the impacts of biodiversity offset policies, Environmental Modelling & Software(2011), **www.sciencedirect.com/science/article/pii/S1364815211001824**

Alignment with other Australian Government policies and strategies

Although the primary consideration should be to determine whether the advanced offset addresses the impact, proponents or offset providers may also wish to consider how a proposed advanced offset could potentially align with other Australian Government policies and strategies, including:

- *Australia's Biodiversity Conservation Strategy 2010–2030*
- *Australia's Native Vegetation Framework (2012)*
- *Australia's Strategy for the National Reserve System 2009–2030*
- *Indigenous Advancement Strategy*
- *Reef 2050 Plan*
- *Threatened species strategy (2015)*

For example, an advanced offset could potentially be located adjacent to a protected area under the National Reserve System, an existing offset, close to a wildlife corridor, or contributes towards the goals of *Australia's Native Vegetation Framework* through the protection and sustainable management of native vegetation. Improving the conservation benefits of an advanced offset through such alignment is likely to enhance the value of the offset.

As per the EPBC Offset Policy, there may be opportunities for proponents to explore social and economic co-benefits where an advanced offset aligns with broader government strategies, including *Closing the Gap* and the *Indigenous Advancement Strategy*. In some circumstances, there may be opportunities for proponents to help build or support the capacity of Indigenous groups in delivering advanced offsets.

The Reef Trust

The Reef Trust, one of the key mechanisms for the delivery of the *Reef 2050 Plan*, is able to accept financial contributions from proponents to deliver on-ground offset projects within the Great Barrier Reef and its catchments. In line with the key principles of advanced offsets, proponents providing offset specific funds to the Reef Trust are encouraged to begin discussions about their contributions as soon as possible to allow the maximum environmental benefit to be achieved prior to the impact occurring.

The delivery of an advanced offset which utilises the Reef Trust's overarching approach of strategic investment through the pooling of offset contributions is likely to enhance the value and environmental benefit of the offset, while increasing confidence in the result and reducing the time until ecological benefit.

Box 2—Advanced offset example

A company plans out its future projects and anticipates that it is likely that one or more of these projects will have a significant impact on a matter of national environmental significance over the next ten years. The company assesses avoidance and mitigation measures for these projects and concludes that there will still be some residual impacts. It therefore initiates work to implement environmental offsets for the relevant protected matters, based on estimates from the guide.

The company does this by commencing conservation management activities on parcels of land that it owns and looking to protect these sites with conservation covenants. By initiating this work prior to referring the projects under the EPBC Act, it has developed offsets and delivered a conservation benefit much earlier than if it waited until the projects were being assessed. These offsets can also be planned to complement other conservation activities, such as improving connectivity in the landscape between important habitat sites.

A single site may meet offset requirements for different projects, provided the offset area for each project is clearly delineated within the overall site (Figure 2).

Figure 2—Advanced offset: consolidated effort

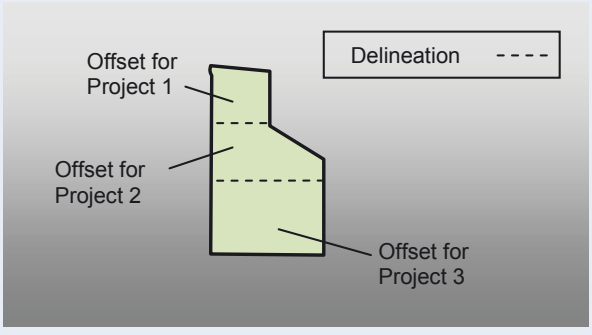
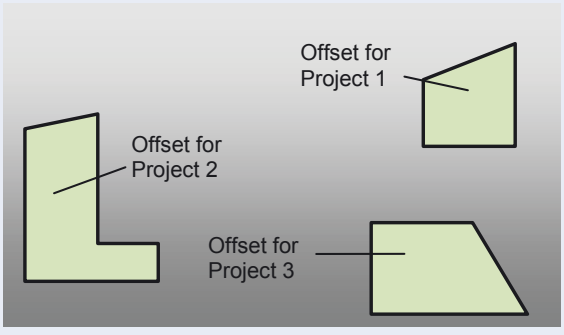


Figure 3—Conventional offset: dispersed effort



If the company had used conventional offsetting, which involves implementing offsets individually as each project is approved, it is possible that the offset requirement would be larger due to the lower environmental benefits associated with conventional offsets (Figure 3).

What information is required for an advanced offsets proposal?

When preparing and delivering an advanced offset proposal, it is important to ensure that sufficient data is available to delineate the ecological baseline from the point at which the offset was established. From this baseline, monitoring data collected over time can be used to calculate a conservation benefit, using the offset assessment guide.

An advanced offset proposal should outline key information, including:

- the protected matter(s) that the offset is targeting
- baseline data on the protected matter(s) at the time the offset site is/was established, including 'risk of loss' and 'quality', as relevant
- the actions undertaken to maintain and/or improve the viability of the protected matter(s) on the offset site such as plantings, fencing and weed management and the associated timeframes for implementation
- the data collected, methods used, and the data and metadata standards applied. Monitoring and data collection methods may include desktop reviews, aerial photos, LIDAR and other remote sensing, photo points and/or field surveys
- information on how the 'risk of loss' has been affected on the offset site through establishment of the offset, if relevant
- information on how the 'quality' of the offset site has been affected as a result of any offset-related actions. This should include monitoring data illustrating how the quality of the offset site has improved over time, along with the modelled business-as-usual (or 'without offset') scenario.

It is the proponent or offset provider's role to manage and collate this information, including all relevant spatial and ecological data. This information should be provided to the Department at the time that the advanced offset proposal is submitted.

Calculating the benefit of an advanced offset

As with conventional offsets, advanced offsets proposals should meet the principles of the EPBC Offsets Policy and be tested against the guide.

Confidence in result

Conventional offsets may carry considerable uncertainty about their ability to fully deliver a conservation benefit. For example, an offset involving revegetation of a degraded site may have uncertainty associated with the survival rates of tree and shrub plantings. The guide captures this uncertainty in the *confidence in result* score, which has bearing on the overall magnitude of an offset requirement. Advanced offsets would generally increase the *confidence in result* score, as the conservation gain for these offsets has already been delivered at the time of approval, thereby lessening the magnitude of the offset required.

Time until ecological benefit

Conventional offsets may take years to deliver their full conservation benefit. For example, there may be a significant time lag time for tree plantings to become suitable foraging habitat for a threatened bird species. The *time until ecological benefit* score is used in the guide to consider this time lag when calculating the required size of the offset. This score would be significantly reduced, or non-existent for advanced offsets because they deliver a conservation benefit before an impact occurs. This means that the magnitude of the offset required is less.

Additionality

Consistent with section 7.6 of the EPBC Offset Policy, a key requirement for all offsets including advanced offsets is that they be additional to what is already required by an existing duty of care, existing legal or planning instruments at any level of government, or in exchange for payment under other schemes or programs. That is, advanced offsets must deliver a conservation benefit for the impacted protected matter that would not have occurred in a business-as-usual scenario.

Submitting an advanced offset proposal

If you wish to notify the Department that you are about to start (or have started) an advanced offset, please email **epbc.referrals@environment.gov.au**

The approval of an advanced offset can occur at two stages. The Minister (or delegate) can decide whether to approve an advanced offset for an action:

- at the assessment stage when deciding whether to approve the action under the EPBC Act
- at the post approval stage where the advanced offset satisfies the requirements of a relevant approval condition.

Consequently, the Department can only assess the suitability of an advanced offset to compensate for the impacts of an action during the assessment or post approval stage.

Like any investment there is an element of risk attached to implementing an advanced offset. Proponents and offset providers should consider a range of issues when implementing advanced offsets.

- An advanced offset proposal must include as much information as possible, as outlined above, as insufficient information could mean the offset proposal is not able to be acknowledged by the Department.
- The Department will consider advanced offset proposals in the context of the EPBC Offset Policy and the guide. Proponents and offset providers should assess any advanced offset proposal against the guide to quantify its suitability in each instance.
- An advanced offset may meet the requirements for multiple projects but must be able to sufficiently offset the residual impacts of each of the actions. If proposing to secure and manage land as an offset, each offset area on the advanced offset site must be clearly delineated to clarify which offset area relates to which protected matter, and for compliance purposes must be able to be clearly linked to a project (see **Box 2**).
- Consistent with the EPBC Offset Policy, where an action would have an unacceptable impact on a protected matter, the existence of an advanced offset (even if previously acknowledged by the Department) would not be sufficient to make the action acceptable.

It should also be noted that at this stage there is no formal scheme or market for environmental offsets at a national level, although advanced offsets proposals may complement state-based schemes, in some instances. Any sale, purchase or trade of offsets is a private matter between the proponent and the seller.

Box 3—Advanced offsets and third parties

It is possible for a third party, such as a rural landholder, Indigenous corporation or a conservation organisation, to establish an area of land suitable for an advanced offset and sell the conservation benefit to a proponent. This enables proponents to focus on their core business and contract other organisations to deliver offset options on their behalf.

For example, a landholder has an area on her property that is habitat for a listed threatened species. She considers that the quality of the habitat for that species could be improved, through plantings, weed management and fencing. She identifies a developer in the region, who is interested in expanding an already established residential development. Negotiations between the parties result in an agreement for the developer to fund ongoing conservation work and management, as well as place a conservation covenant on the site. The landholder may also choose to sell the site to the developer once the conservation covenant is in place.

After several years of conservation work, surveys indicate that numbers of the listed threatened species using the habitat have increased, documenting the conservation benefit that is being gained.

In this example, the developer has effectively 'purchased' the conservation benefit that has been put in place by the landholder on this site for the particular threatened species. The developer can now look at using this site as an advanced offset for his proposed residential development expansion. He can prepare an advanced offset proposal that includes monitoring data from the years of conservation work undertaken on the site. This will demonstrate the conservation benefit that has been achieved for a threatened species that is likely to be significantly impacted by the proposed development.

If additional offset requirements are likely to be needed, the developer may also contract a third party to undertake additional management measures in an already protected site, to improve habitat quality in that location for the threatened species.

Further information

For further information concerning offsets under the *Environment Protection and Biodiversity Conservation Act 1999*, see the *EPBC Act environmental offsets policy* and associated documents.

www.environment.gov.au/epbc/publications/environmental-offsets-policy.html

For further information concerning what is a significant impact and determining what protected matters an action may impact, see the significant impact guidelines on matters of national environmental significance.

www.environment.gov.au/epbc/publications/nes-guidelines.html

For further information concerning proposed offsets, contact the Department on **1800 803 772** or email us at **epbc.referrals@environment.gov.au**.