

2 August 2007



Mr Hans Jacob  
C/- Environmental Protection Authority  
PO Box K822  
PERTH WA 6842

Dear Mr Jacob

**DRAFT GUIDANCE STATEMENT NO. 19: GUIDANCE FOR ENVIRONMENTAL OFFSETS**

The Chamber of Minerals and Energy of Western Australia (CME) appreciates the opportunity to comment on Guidance for the Assessment of Environmental Factors (in accordance with the Environmental Protection Act 1986) *Environmental Offsets* Draft No. 19 June 2007.

CME has considered the Draft Guidance together with Position Statement No. 9 *Environmental Offsets* (EPA 2006) and supports the broad concept of environmental offsets comprising a part of certain development proposals whilst meeting the State's environmental objectives. Further to this, CME supports the principles, applied to environmental offsets, outlined in the Draft Guidance (Section 2.2, page 4).

However, the Draft Guidance raises a number of concerns for the resources sector:

**Environmental offsets in context**

CME is concerned that the requirement for proponents to negotiate offsets at the end of the approvals process lacks transparency and exposes proponents to unreasonable risks to costs and schedule. CME cautions that there is a risk to the integrity of the approvals process, and to government and industry reputation, in creating any perception that approvals can only be secured through substantial financial undertakings by the proponent in the form of offsets. Offset packages should be dealt with upfront in the scoping stage of a development proposal.

CME would emphasise the sentiment expressed in the foreword of Position Statement No. 9 "environmental offsets represent a 'last line of defence' for the environment, only being used when all other options to avoid and mitigate environmental impacts have been considered and exhausted".

Anecdotally, member representatives have expressed that evidence indicates environmental offsets are being required in every development approval.

In practice, CME does not want to see environmental offsets becoming common place or a matter of course.

#### **Net environmental benefit**

CME supports the use of environmental offsets in circumstances where a proposal would, but for the use of an offset package, fail to obtain approving recommendation of the EPA.

Net environmental benefit is not adequately quantified within the Draft Guidance and provides little certainty to the proponent. CME is concerned that there is a potential for environmental offsets to become a matter of course for development proposals and become a form of 'environmental tax'.

CME strongly suggests that the Draft Guidance be revised to clearly specify that environmental offsets will not be required for all development proposals, only where significant residual impacts occur.

Further to this, 'Net environmental benefit', a keyword (page 1), is not defined in appendix 2 and confusion exists with the phrase 'net benefit concept'.

It is also critical that the policy provides for flexibility to consider offsets in the context of the project as well as the nature of offsets provided, i.e. to allow proponents and the EPA to agree on the most appropriate offset or combination of offsets to provide the most cost effective and environmentally beneficial outcomes.

The Draft Guidance conveys a preference for offsets packages that include both direct and contributing offsets without offering a clear rationale 'it is expected that most offset actions will be developed as a package comprising at least one direct (where possible) and several contributing offsets' (section 2.3, page 5). In the absence of the EPA's rationale, proponents should be given the flexibility to provide a single direct offset if deemed adequate.

#### **Potential duplication of offset requirements**

CME is concerned there is a possibility that other decision making authorities may develop frameworks for offset requirements. Figure 1: Context for offsets in Western Australia (page 3) under heading 'Other development approvals processes' states that "Decision-making authorities administering other approvals processes may develop policies for requiring offsets". CME would seek to avoid the duplication of offset requirements and therefore creating conflicting standards and practices, which would not create positive outcome for industry or the environment.

#### **Scope**

If the definition of 'critical assets' and 'high level assets' are not more precisely or objectively defined, there is a great risk that environmental offsets will be used as a matter of course, rather than as an exception as originally intended. The onus must be on the EPA to demonstrate the environmental need for the offset against clear guidelines. At present, proponents are required to accept the regulator's judgment as against published 'examples'.

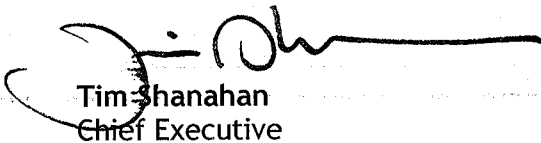
Not only is this uncertainty unacceptable to proponents, unless the scope for imposing environmental offsets is more clearly and narrowly defined, there exists a real risk that environmental offsets may effectively sterilise privately owned land, reducing its value without sound legal (or necessarily environmental) grounds and leaving the landowner without recourse to compensation.

#### Conclusion

The concept of environmental offsets has merit in the State's aim in achieving positive environmental outcomes alongside Western Australia's development. The EPA should ensure the Guidance does not place undue burden and cost on proponents by causing duplication or allowing divergent frameworks to emerge addressing environmental offsets. CME would respectfully request that offset packages do not become a requirement or matter of course for all development proposals.

Should you have any queries regarding this submission, please contact CME's Executive Officer Environment, Aileen Murrell on 9220 8507 or at [a.murrell@cmewa.com](mailto:a.murrell@cmewa.com)

Yours sincerely



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