

Draft Biodiversity Offsets Policy

Northern Territory Offsets Framework

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Contents

1. Purpose of the Biodiversity Offset Policy	4
2. The Northern Territory Offsets Framework	4
3. Policy application and scope.....	5
4. Use of biodiversity offsets in the Northern Territory	5
4.1. Determining when offsets are required	5
4.2. Biodiversity offset plans	6
4.3. Relationship to Commonwealth offsets	6
5. Territory target-based approach for biodiversity offsets	7
6. Eligible offset activities	8
6.1. Direct habitat management activities	8
6.2. Alternative direct measures	8
6.3. Other compensatory measures	9
6.4. Order of priority	9
6.5. Additionality requirements.....	9
7. Offset program requirements.....	9
7.1. Offset delivery	10
7.2. Offset location	10
7.3. Suitable habitat condition.....	10
7.4. Best practice management activities.....	11
7.5. Minimum offset scale and investments	11
7.5.1. Offsets calculator	12
7.6. Offset delivery timeframes	12
7.7. Monitoring, adjustments and reporting.....	13
8. Compliance and enforcement.....	13
9. Review of the policy	14

1. Purpose of the Biodiversity Offset Policy

Offsets provide a mechanism to compensate for impacts from development projects to biodiversity and the environment that cannot be avoided or mitigated (residual impacts). While avoiding or mitigating impacts to biodiversity is always the preferred approach, when used appropriately offsets are a tool within the environmental regulatory system that can help minimise environmental harm.

The purpose of the Biodiversity Offset Policy (the policy) is to establish how offsets for impacts to biodiversity should be designed and delivered in the Northern Territory (the Territory). The policy is a statutory instrument given effect under section 125(2) of the *Environment Protection Act 2019* (EP Act), and is a component of the Northern Territory Offsets Framework (the NT Offsets Framework).

The Technical Guidelines provide additional detailed advice on how to meet the requirements of this policy.

2. The Northern Territory Offsets Framework

The NT Offsets Framework¹ is established under section 125(1) of the EP Act and comprises the Northern Territory Offset Principles (the Offset Principles), Offset Policies and supporting Technical Guidelines, and Administrative Guidelines. The Framework guides the consistent and transparent establishment of offset programs as required under the EP Act or any other Territory Act prescribed under the *Environment Protection Regulations 2020* (EP Regulations)².

The Offset Principles guide the use of offsets in the Territory:

1. Offsets must contribute to relevant Territory targets.
2. Offsets must be designed to deliver maximum benefit to the Territory.
3. Benefits of offsets must be additional and secured.
4. Offsets must be knowledge-based and design must be responsive.
5. Stakeholder engagement, disclosure and transparency is required.
6. Duplication of offsets must be avoided.

The Offset Policies and Technical Guidelines describe the use, design and delivery of specific types of offsets, for example offsets required to compensate for impacts to biodiversity, or for greenhouse gas emissions.

The Administrative Guidelines outline the administrative processes, requirements, roles and responsibilities for all offsets required by Territory legislation.

¹ See <https://depws.nt.gov.au/environment-information/northern-territory-offsets-framework/northern-territory-offsets-framework>

² Refer to the EP Regulations for a current list of Acts prescribed under the NT Offsets Framework.

A public offset register³ is used to maintain transparent records of offsets secured under Territory legislation.

For further information about the NT Offsets Framework, including the above principles, policies and guidelines, refer to the Department of Environment, Parks and Water Security (DEPWS) website⁴.

3. Policy application and scope

This policy applies to the use of biodiversity offsets under the EP Act or Prescribed Acts.

Decision makers will consider this policy in applying a biodiversity offset approval condition. An offset that is developed and delivered to satisfy a biodiversity offset approval condition must also satisfy this policy.

The policy and associated technical guidelines inform:

- assessing entities and decision makers in applying biodiversity offset approval conditions to a statutory approval
- proponents in identifying potential biodiversity offset requirements, developing biodiversity offset proposals and plans, and delivering offsets to satisfy biodiversity offset approval conditions
- decision makers in assessing and approving biodiversity offset plans
- regulators in undertaking monitoring, compliance and enforcement activities related to the delivery of biodiversity offset requirements under Territory legislation.

The policy is designed to be read in conjunction with the Technical Guidelines and Administrative Guidelines.

4. Use of biodiversity offsets in the Northern Territory

The NT Government is committed to protecting the environment, while ensuring opportunities for sustainable development. The use of biodiversity offsets is one of a range of measures to ensure that the impacts of development on the environment are minimised and targets to maintain or improve the health of Territory ecosystems are met. Applying a biodiversity offset is an option that may be available to proponents to address residual impacts to biodiversity associated with a proposed development.

4.1. Determining when offsets are required

Offset requirements can be applied to statutory environmental approvals under the EP Act, or other statutory authorisations if these are prescribed under the *Environment Protection Regulations*. Determination of whether offsets are required will occur during the environmental assessment and approval processes. Offsets can only be considered where all reasonable steps have been taken to avoid

³ <https://depws.nt.gov.au/environment-information/northern-territory-offsets-framework/northern-territory-offsets-register>

⁴ <https://depws.nt.gov.au/environment-information>

and mitigate potential impacts to the environment⁵. Any remaining impacts that cannot be avoided or mitigated are referred to as residual impacts.

Where a biodiversity offset is determined to be appropriate, the decision maker for the approval may require significant residual impacts to be offset as a condition of the approval (a **biodiversity offset approval condition**). For development that requires an environmental approval under the EP Act, the Minister for Environment is the decision maker. The Northern Territory Environment Protection Authority (NT EPA) is the entity responsible for assessing the development proposal, and may recommend to the Minister for the Environment that a biodiversity offset approval condition should be applied to the project.

Under the EP Act, offsets will only be necessary where residual impacts can be considered 'significant'. For further information about the assessment and approval of proposals under the EP Act, including what constitutes a significant impact, refer to the NT EPA website⁶.

Offsets are not always an appropriate response. Under the Offset Principles, offsets cannot be used to make acceptable an activity with unacceptable impacts, meaning not all residual impacts can be offset (for example, the irreplaceable loss of species or ecosystems). Offsets may be inappropriate where the magnitude of residual impacts cannot be determined, or where uncertainty around the impacts on biodiversity values is so great that appropriate biodiversity offset conditions cannot be determined.

4.2. Biodiversity offset plans

Where the statutory approval for a project is subject to a biodiversity offset approval condition, proponents must develop a **biodiversity offset plan** outlining how offsets will be designed and delivered in accordance with this policy and the NT Offsets Framework. A biodiversity offset plan must be approved by the decision maker in accordance with the approval condition, this policy and the Administrative Guidelines. In general, the plan must be approved prior to the impacts which are being offset occurring. In approving a biodiversity offset plan, the decision maker will determine whether the offset design and delivery requirements established by this policy and associated technical guidelines have been met, and may seek independent assessment where required.

The Administrative Guidelines provide further information about the roles, responsibilities and administrative requirements underpinning these approval processes.

4.3. Relationship to Commonwealth offsets

Offsets may also be required under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999 Act* (EPBC Act) for significant impacts on protected matters arising from proposed development projects in the Territory.

The NT Offsets Principles establish that there should be no duplication in offsets required by the Commonwealth and Northern Territory for projects in the Territory. The NT Government is working with

⁵ See the [NT Offset Principles](#) for further information on the mitigation hierarchy for offsets in the Territory.

⁶ <https://ntepa.nt.gov.au/your-business/environment-impact-assessment>

the Commonwealth Government to enable this policy to be used to inform offsets required in the Territory under either the NT Offsets Framework or the EPBC Act.

Where the Commonwealth Government has accredited this policy as also meeting offset requirements under the EPBC Act, all offsets in the Territory required by either Territory legislation or the EPBC Act should be delivered in accordance with this policy.

If the Commonwealth Government has not accredited this policy, and offsets are required in the Territory under the EPBC Act, these offsets should be delivered to meet Commonwealth Government requirements, and in a way that aligns with this policy to the greatest extent possible. The Territory will not require additional or different offsets in relation to the same residual impacts subject to offsets under the EPBC Act. However, offsets may be required under Territory legislation and in accordance with this policy for significant residual impacts not recognised under the EPBC Act.

For more information on biodiversity offsets under the EPBC Act, refer to the Commonwealth Department of Climate Change, Energy the Environment and Water website⁷.

5. Territory target-based approach for biodiversity offsets

The NT approach to biodiversity offsets seeks to recognise the unique circumstances of the Territory, where there are largely unfragmented landscapes, where land tenure is primarily Aboriginal freehold or pastoral leasehold, and where the primary threats to biodiversity operate and must be managed at landscape scales. Offsets should be applied in a way that can best contribute to broader environmental targets in the Territory, and where possible be delivered by, and maximise any co-benefit to, regional and remote communities. Evidence from poor performance of offset mechanisms in other jurisdictions suggest offsets should focus on restoration offsets rather than averted loss offsets; and the offsets approach should be simple and transparent. Additionally, limited fine-scale biodiversity data for much of the Territory necessitates the need for a simple, risk-based and precautionary approach to calculating offset requirements.

Consequently this policy adopts a target-based approach to offsets in the NT that prioritises offsets projects that improve habitat condition to deliver ecological gains, through supporting activities that manage key threats to Territory landscapes and environments, such as poor fire regimes, feral animals and weeds.

The general target to which biodiversity offsets should contribute is **a net gain in the ecological condition of natural habitats in the Territory**.

Additional, or more habitat- and value-specific targets that offsets should contribute to may be included in future revisions of this policy, based on scientific evidence and priorities set by the Territory Government.

Offsets can achieve this by supporting actions or activities that:

- contribute to measurable positive outcomes in the condition of natural habitats, in habitats that are most relevant to the significant residual impact associated with the development, and

⁷ <https://www.dcceew.gov.au/environment/epbc/publications/epbc-act-environmental-offsets-policy>

- address priority transformative threats to the value or values that are the subject of the significant residual impact, and the habitats in which they occur.

To support this habitat-focused approach to biodiversity offsets, Schedule 1 of the Technical Guidelines describes biomes and broadly defined habitats for the Territory, and the key threats and pressures for biodiversity within each habitat.

Applying offsets in the same biome and broad habitat type as the impact will ensure a broadly defined 'like-for-like' approach but this policy does not require precise matching of, for example, fine-scale vegetation types, recognising that consistent fine environmental mapping is not available across the NT, and that threats to biodiversity primarily occur across broad landscapes.

6. Eligible offset activities

Biodiversity offsets may be delivered using direct habitat management activities, alternative direct measures, or via other compensatory measures. The appropriate offset type will be informed by the nature of the biodiversity values for which there is a significant residual impact, the type of habitat in which these values and the impact occur, the opportunities for suitable threat management activities, and the extent of knowledge of values, threats and management actions. The preferred type of offset is a 'habitat-based' offset with direct habitat management activities.

6.1. Direct habitat management activities

Direct habitat management offsets involve landscape-scale management of priority threats, compensating for impacts to biodiversity values by improving the ecological condition of habitat. This can include capacity building for land managers to the extent that this is required to effectively implement management activities.

6.2. Alternative direct measures

Alternative direct offsets involve targeted interventions other than landscape scale threat management, such as area-based protection of habitat, or translocation.

Alternative direct offsets may be used where there is credible evidence that habitat-based offsets cannot be applied or are unlikely to be effective. This is most likely to occur for biodiversity values which:

- have a highly restricted distribution or ecological niche, and/or
- are subject to localised threats or pressures that require targeted intervention (e.g. a novel predator or pathogen).

In these cases effective offsets may require highly targeted location- and/or species-specific activities such as translocation or area-based protection (such as fencing to exclude predators or other feral animals).

It is important to note that in such situations there is also a higher likelihood that offsets will not be considered an acceptable method to compensate for a significant residual impact.

6.3. Other compensatory measures

Other compensatory measures involve activities other than direct management, such as research, engagement and education, other capacity building activities, or support for other identified priority management approaches (e.g. support for sea country plans in the marine biome).

Such compensatory measures should generally form part of a longer-term offset program that includes direct habitat management measures and/or alternative direct offsets (e.g. after the relevant research has identified the most effective management actions).

6.4. Order of priority

Direct habitat management activities must be used to deliver as much of an offset requirement as possible.

Alternative direct measures or other compensatory measures may only be used where:

- It can be demonstrated that direct habitat management may not be appropriate to entirely satisfy offset requirements, due to high levels of uncertainty about threats or pressures, and/or the most effective measures to manage them.
- They are identified in credible, published plans or reviews as being the highest priority actions for conservation management of the relevant value.
- The other measures will support the direct habitat management components of the offset plan, or inform future implementation of direct habitat management activities relevant to the biodiversity value triggering the offset.

6.5. Additionality requirements

The NT Offsets Principles require all offsets delivered under Territory legislation to be additional. This means the outcomes of the offset must be additional to what would have otherwise occurred without the offset. For biodiversity offsets, this means that the management activities supported by the offset must not:

- already be required or committed to under other statutory requirement, management plans or funding programs; or
- displace investment in other management activities in the same area that are aimed at achieving environmental, economic or social improvements.

7. Offset program requirements

The habitat-based offsets model under this policy requires that offsets deliver ecological gains by reducing the most pervasive threats to Territory biodiversity values and habitats. The following sections outline how biodiversity offset programs, (i.e. the set of activities under the plan), should be designed to satisfy this requirement.

7.1. Offset delivery

Proponents may feasibly implement offset actions themselves but will more likely procure them from offset providers, who are better placed to implement land management activities (such as fire, weed and feral animal management) at a broad landscape scale. Offset providers could include Aboriginal ranger groups and land and sea managers, or other conservation land management organisations.

The supplementation of existing threat management programs (for example in Indigenous Protected Areas or the conservation estate) may also be a valid delivery mechanism where:

- it can be clearly demonstrated that significant additional outcomes can be achieved as a result of offset funding (e.g. through integrating feral animal control with fire management)
- the quantum of the offset requirement is not sufficient to establish an effective new landscape-scale threat programs (for example because it would not achieve a minimum effective threat management area).

In all instances, proponents will be responsible for the delivery of the outcomes described in the approved biodiversity offset plan, and will therefore need to ensure that appropriate agreements, approvals and contracts are in place to manage any risks to the successful delivery of the offset requirements.

The Northern Territory Government is not currently considering financial payment into an offset fund as an alternative to proponents being responsible for offset delivery.

7.2. Offset location

Biodiversity offset plans should demonstrate how the location of offset activities is consistent with the offset objectives. Offsets programs must be located:

- within the same biome (as outlined in Schedule 1 of the Technical Guidelines) as the impact
- within the same broad habitat type as the impact or, if this is not achievable, within a habitat that supports the same biodiversity value(s) subject to the significant residual impact, and
- in areas within that habitat type that also contain any finer-scale habitat features that are known to be essential for the survival of the value being offset.

Additional guidance to preferred locations for offsets is provided in the Technical Guidelines.

7.3. Suitable habitat condition

Habitat 'condition' is a measure of the current capacity of an ecosystem to support the suite of species expected to occur there, and associated ecological processes. Offset activities should lead to a significant gain in habitat condition and such gains are most likely to be achieved when offset programs are located in areas that are currently in moderate to poor condition.

Offsets should not be located in areas of very poor condition that are ecologically compromised, meaning such areas cannot recover to the required condition without active rehabilitation actions, even if threats

are managed effectively. Within the Territory context, active rehabilitation would not generally be a cost-effective offset, compared to natural recovery following threat reduction in areas of moderate condition.

Offsets should not generally be located in areas in good condition, as there is little scope for improvement in habitat condition through management of threats. The exception is situations where alternative direct offsets are appropriate, and areas within the best available habitat condition may be targeted for protection.

Additional guidance about habitat condition is given in the Technical Guidelines.

7.4. Best practice management activities

Offset programs should align with leading practice in relation to management of each priority threat, the broad habitat type, and the relevant biodiversity value. Programs should align with any environmental or conservation plans, strategies or actions developed by the Government (Territory or Commonwealth) or the landholder, applicable to the offset area or the relevant biodiversity value.

In most cases, priority threats to biodiversity values are interrelated (for example, grassy weeds facilitate poor fire regimes; feral herbivores promote weed spread). Consequently, priority threats should be managed in an integrated way whenever possible, in order to achieve the greatest improvement to habitat condition and positive biodiversity outcomes.

Schedule 2 of the Technical Guidelines provides guidance as to management thresholds for priority threats that should be achieved in different habitats in order to facilitate improvement in ecological condition to 'good'. Biodiversity offset plans will need to demonstrate how these threat benchmarks will be achieved.

7.5. Minimum offset scale and investments

In order to adequately compensate for impacts to biodiversity, and achieve an overall net gain in the condition of natural habitats in the Territory, an offset must be applied over an appropriate area, and be supported by a sufficient level of funding. The scale (area) of an offset program must be sufficient to generate ecological gains that are greater than those required to compensate for the potential loss from the significant residual impact of the development. In order to achieve this, calculation of the required offset must consider:

1. the amount of ecological gain (improvement in habitat condition) required to compensate for the potential loss
2. an additional, meaningful amount of ecological gain to support the target of net gain, and
3. uncertainty about the predicted ecological gain from offset, notably the risk of lower than predicted gain.

The minimum scale for an offset should also exceed the minimum practical threat management area, as specified in Schedule 2 of the Technical Guidelines. Where it cannot, the offset program should supplement existing management activities rather than the establishment of new ones.

The amount of investment must be sufficient to establish and implement the required management activities over the required offset area and timeframe, including monitoring and evaluation activities.

7.5.1. Offsets calculator

An offsets calculator is provided in the Technical Guidelines to help proponents estimate the offset scale and investment for a biodiversity offset plan that will meet the requirements of this policy.

The offsets calculator will estimate minimum offset scale and investment requirements for direct threat management activities. The calculator does not cater for alternative direct offsets or other compensatory measures, and in these cases the required investment to satisfy the offset requirement will be determined by the decision maker on a case by case basis.

The methods and metrics underpinning the offsets calculator are described in the Technical Guidelines, and are designed to satisfy the policy requirements for minimum offset scale and investment, based on:

- the losses associated with the significant residual impact
- the potential ecological gains in habitat condition in the offset area
- an offset 'loss to gain' ratio, designed to contribute to the offset target
- offset timeframes
- costs of program establishment and annual management.

Proponents may use the calculator as a guide to the minimum investment required to satisfy the requirements of this policy, but should consider the appropriate investment to meet offset objectives on a case by case basis, and describe this in the biodiversity offset plan. If the proposed investment is less than the estimate from the calculator, then a robust justification must be provided.

7.6. Offset delivery timeframes

The delivery timeframes for biodiversity offsets should be specified in the approved biodiversity offset plan. Biodiversity offset plans must demonstrate that:

- the ecological gains in habitat condition will occur as close in time as possible to the impact
- for direct habitat management activities, threats must be managed to the required levels as quickly as is feasible, followed by maintenance of those levels for at least the period of the offset
- the lifespan of alternative direct measures or other compensatory measure should continue until the agreed measures are complete (e.g. achievement of translocation, research or education commitments).

The Technical Guidelines provide more detail regarding expected timeframes for offsets delivery. In many cases this will require offsets to continue (at least in a maintenance phase) for a minimum of 15 years in the monsoonal biome and 25 years in the arid biome. This policy does not generally require an offset to be implemented in perpetuity.

Offset delivery is completed once the decision maker is satisfied that all offsets have been delivered in accordance with the approved biodiversity offset plan.

7.7. Monitoring, adjustments and reporting

The delivery of biodiversity offsets must be monitored, adjusted if required and reported as specified in the biodiversity offset approval condition and/or the approved biodiversity offset plan.

Offset programs need to be supported by practical and cost-effective approaches to monitoring and evaluation, with the scope proportional to the scale of the offset investment. The Technical Guidelines specify a minimum default investment in monitoring and evaluation for an offset program. Where this percentage is not applied, proponents will need to provide appropriate justification for the use of a smaller amount.

Adjustments to the way an offset is being delivered may be required where monitoring identifies that the identified threat benchmarks or expected ecological gains are not being achieved. Biodiversity offset plans should demonstrate how proponents will respond to monitoring results that indicate that desired outcomes are not being achieved.

Reporting requirements established through biodiversity offset plans should include:

- Reports at specified intervals (e.g. annually) covering:
 - the implementation of the agreed offset measures
 - results of monitoring and evaluation of the success of threat management and other offset measures, such as the response of key ecological indicators for habitat condition
 - any adjustments to offset activities, or any required amendments to the approved biodiversity offset plan, to address issues identified in monitoring and evaluation.
- A final report demonstrating the overall completion of offset delivery.

The NT Government recognises it has a role in assurance monitoring to assess success of the biodiversity offset framework in contributing to the maintenance of the Territory's biodiversity

8. Compliance and enforcement

The delivery of biodiversity offsets to satisfy a biodiversity offset approval condition will be subject to compliance monitoring by the regulator to ensure reporting requirements are met, and offsets are delivered in accordance with the biodiversity offset plan, the biodiversity offset approval condition, this policy (and Technical Guidelines) and the Administrative Guidelines.

Where a biodiversity offset approval condition has not been met, it will be regarded as a contravention of the approval conditions and dealt with in accordance with the regulator's compliance and enforcement approach.

9. Review of the policy

The policy will be reviewed in five years including consideration of:

- the policy's overall success in facilitating offsets that appropriately compensate for biodiversity impacts and achieve an overall net gain in the condition of habitats in the Territory
- any additional policy or strategy development by the NT Government in relation to biodiversity conservation
- any changes in international obligations or Australian Government policy.

The Technical Guidelines will be reviewed when required as their application is tested and, for instance, where new research provides additional relevant information about effective management of biodiversity values in the Territory.