



Environmental
Defenders Office

Submission on the A fresh start for Queensland's Environmental Offsets Framework Discussion paper

14 July 2026

About EDO

EDO is a community legal centre specialising in public interest environmental law. We help people who want to protect the environment through law. Our reputation is built on:

Successful environmental outcomes using the law. With over 40 years' experience in environmental law, EDO has a proven track record in achieving positive environmental outcomes for the community.

Broad environmental expertise. EDO is the acknowledged expert when it comes to the law and how it applies to the environment. We help the community to solve environmental issues by providing legal and scientific advice, community legal education and proposals for better laws.

Independent and accessible services. As a non-government and not-for-profit legal centre, our services are provided without fear or favour. Anyone can contact us to get free initial legal advice about an environmental problem, with many of our services targeted at rural and regional communities.

www.edo.org.au

Submitted to:

Department of the Environment, Tourism, Science and Innovation

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Acknowledgement of Country

The EDO recognises and pays respect to the First Nations peoples of the lands, seas and rivers of Australia. We pay our respects to the First Nations Elders past, present and emerging, and aspire to learn from traditional knowledges and customs that exist from and within First Laws so that together, we can protect our environment and First Nations cultural heritage through both First and Western laws. We recognise that First Nations Countries were never ceded and express our remorse for the injustices and inequities that have been and continue to be endured by the First Nations of Australia and the Torres Strait Islands since the beginning of colonisation.

EDO recognises self-determination as a person's right to freely determine their own political status and freely pursue their economic, social and cultural development. EDO respects all First Nations' right to be self-determined, which extends to recognising the many different First Nations within Australia and the Torres Strait Islands, as well as the multitude of languages, cultures, protocols and First Laws.

First Laws are the laws that existed prior to colonisation and continue to exist today within all First Nations. It refers to the learning and transmission of customs, traditions, kinship and heritage. First Laws are a way of living and interacting with Country that balances human needs and environmental needs to ensure the environment and ecosystems that nurture, support, and sustain human life are also nurtured, supported, and sustained. Country is sacred and spiritual, with culture, First Laws, spirituality, social obligations and kinship all stemming from relationships to and with the land.

A note on language

We acknowledge there is a legacy of writing about First Nations peoples without seeking guidance about terminology. We also acknowledge that where possible, specificity is more respectful. For the purpose of this submission, we have chosen to use the term First Nations. We acknowledge that not all First Nations People will identify with that term and that they may instead identify using other terms or with their immediate community or language group.

First Laws is a term used to describe the laws that exist within First Nations. It is not intended to diminish the importance or status of the customs, traditions, kinship and heritage of First Nations in Australia. The EDO respects all First Laws and values their inherent and immeasurable worth. EDO recognises there are many different terms used throughout First Nations for what is understood in the Western world as First Laws.

Executive Summary

- 1 Environmental Defenders Office (**EDO**) welcomes the opportunity to comment on the Department of Environment, Tourism, Science, and Innovation's Discussion Paper 'A fresh start for Queensland's Environmental Offsets Framework' (**Discussion Paper**).
- 2 Queensland's offsets framework has systematically failed to deliver real ecological benefits to protected matters impacted by development across the State. As is clear from the increasing funds held by the Queensland Government in the financial offsets fund, and ongoing unmitigated harms to Queensland's biodiversity and ecological systems from development, reform is necessary.
- 3 Queensland is a hot spot for biodiversity and is home to many threatened species and ecological communities, many of which are endemic. We welcome the Queensland Government's review and many of the proposed changes in the Discussion Paper. We strongly encourage any reforms to be backed by robust scientific expertise, transparent evaluation of the effectiveness of the framework to date, with a focus on ensuring empirical evidence demonstrates reforms proposed provide actual benefits to protected matters from offsets, financial or otherwise.
- 4 This submission addresses the following matters:
 - (a) the framing of the current landscape with respect to offsets should prioritise achieving ecological outcomes for protected matters;
 - (b) the mitigation hierarchy must be better embedded into offsets framework;
 - (c) financial offsets should only be available in limited circumstances;
 - (d) greater transparency around offsets would improve offsets delivery;
 - (e) offsets should be required in perpetuity where impacts are perpetual;
 - (f) offset requirements should be assessed and implemented prior to impacts;
 - (g) requirements of offset delivery should not be reduced;
 - (h) offsets must consider cumulative impacts of a project;
 - (i) calculation of costs must be improved to align with contemporary standards;
 - (j) land sector engagement and partnership models presents opportunities;
 - (k) benefits from simplifying the regulatory regime and introducing administrative processes;
 - (l) improved interactions with Commonwealth offset laws; and
 - (m) developing advanced offset markets and expansions of the protected area estate.

Summary of Recommendations

1. The review of Queensland's offsets framework:
 - (a) includes appropriate consideration of the current landscape including the futures of key industries in Australia, the impacts to these industries from climate change and ongoing environmental decline, and how that in turn impacts the delivery of offsets.
 - (b) is informed by scientific review of Queensland biodiversity and state of the environment generally. It should also recognise the intrinsic values of Queensland biodiversity.

2. The mitigation hierarchy must be better embedded into the offsets framework, including requirements that proponents demonstrate compliance with the mitigation hierarchy, decision makers consider the mitigation hierarchy prior to approving offsets, monitoring and reporting structures and robust compliance and enforcement.
3. Reliance on financial offsets should only be allowed as an absolute last resort, for protected matters that can be financially offset. Proponents should be required to demonstrate and declare they have exhausted all reasonable efforts to obtain direct offsets.
4. The offsets register should be improved to be more robust, detailing:
 - (a) the nature and extent of impacts where offsets are sought, including the species or values impacted and how they will be impacted upon and the science relied upon to determine this;
 - (b) how an offset was determined to compensate for impacts, either the amount via financial settlement or a site specific offset, and the science relied upon to determine this;
 - (c) how effective an offset is in compensating for the impact;
 - (d) where there are failures in offsets and actions taken to address these failures;
 - (e) the real cost of undertaking an offset, to enable comparison with the amounts being received and whether recalculations are needed going forward for establishing offsets;
 - (f) impacted protected matters where offsets conditions are yet to be delivered;
 - (g) timelines for delivering offsets;
 - (h) any research or understanding as to whether outstanding offsets can realistically be achieved; and
 - (i) protected species where offsets are disproportionately relied upon/unfulfilled.
5. The baseline legal security required for offsets should require perpetual protection for the protected matter offset, unless there is clear evidence that the impact being compensated for will be not perpetual.
6. Offset requirements are required to be assessed, and implemented, prior to activities being undertaken, and the accuracy of estimated offsets are audited once the activity is complete.
7. Like for like requirements of offsets and limitations on the use of indirect offsets should be retained and flexibilities in relation offsets should not be adopted where they result in the proponent being able to circumvent obligations to offset actual impacts.
8. Any amendments to the offsets regulatory regime must clarify that the cumulative impacts of a project *must*, and not *may*, be considered.
9. Modify the method through which financial offsets are calculated including through ensuring:
 - (a) financial offsets reflect the actual costs of delivering the offsets;
 - (b) the availability of sliding scale discounts is greatly reduced; and
 - (c) multipliers are appropriately calibrated to account for risks in failure of delivery.Updates to the financial offsets calculator must be informed by a science based and precautionary approach.

10. Better engagement of landholders of potential offset areas is supported. Similarly, partnerships with environmental NGOs, natural resource management organisations and community organisations is supported to the extent that appropriate accountability mechanisms for delivering offsets is ensured.
11. Allow for the use of environmental offset protection areas to satisfy Commonwealth offset obligations, and allow for advanced offsets to be used under Commonwealth framework, where they meet Commonwealth offset requirements.
12. Develop an advanced offsets market while accounting for needs and issues with the current system including the requirement for offsets to be secured in perpetuity. Do not include offset areas in consideration of increases to the protected area estate where this is not appropriate accounting to meet international protected area commitments.
- 13.

The framing of the current landscape with respect to offsets should prioritise achieving ecological outcomes for protected matters

- 5 The Discussion Paper frames the ‘current landscape’ with a particular focus on the development needs of Queensland and particularly in South East Queensland. Any reform needs to be better informed by mention of the current status of Queensland’s ecological values, particularly protected matters, and the way the offsets framework has been delivering (or failing to deliver) outcomes for protected matters. In doing so, it is essential that the Queensland Government draws on the wisdom of the many ecological experts in this field and existing and required data to inform this reform.
- 6 Further, the Discussion Paper references coal and gas projects as ‘exciting opportunities’ in a thriving resources sector.¹ However, those portrayals need to paint a realistic picture of the future of coal and gas given the global commitment to phase out fossil fuels. Similarly, the current landscape of the tourism and agricultural industries could also be more honestly framed, in light of how environmental and biodiversity decline is impacting these two industries, and how climate change will exacerbate these impacts. To this end, the *Queensland State of Environment 2024* provides valuable reference and context.
- 7 EDO also holds concerns with respect to comments in the Discussion Paper relating to reductions in property values, restrictions on future income opportunities for land delivering offsets, and difficulties with obtaining 20 year consents for offset agreement.² Nature is chronically undervalued in our capitalist system, and this reflected in the framing of the Discussion Paper.³ Queensland’s biodiversity and ecological systems hold intrinsic values outside of other uses and these values should be appropriately recognised.

¹ Discussion Paper, p 6.

² Discussion Paper 7.

³ Discussion Paper 7.

Recommendation 1:

- (a) The review of Queensland's offsets framework includes appropriate consideration of the current landscape including the futures of key industries in Australia, the impacts to these industries from climate change and ongoing environmental decline, and how that in turn impacts the delivery of offsets.
- (b) The review must be informed by scientific review of Queensland biodiversity and state of the environment generally. It should also recognise the intrinsic values of Queensland biodiversity.

The mitigation hierarchy must be better embedded into offsets framework

- 8 EDO strongly supports proposals to better define the mitigation hierarchy and ensure offsets are last resort, after demonstrating reasonable steps have been taken to avoid impact entirely. Options for better embedding the mitigation hierarchy include:
- (a) requiring assessment materials to address how the mitigation hierarchy has been applied;
 - (b) requiring decisions that approve projects that propose offsets to demonstrate compliance with the mitigation hierarchy;
 - (c) requiring monitoring and reporting on environmental offsets and whether they are achieving intended outcomes;
 - (d) creating robust compliance and enforcement powers, including third-party enforcement.

Recommendation 2:

The mitigation hierarchy must be better embedded into the offsets framework, including requirements that proponents demonstrate compliance with the mitigation hierarchy, decision makers consider the mitigation hierarchy prior to approving offsets, monitoring and reporting structures and robust compliance and enforcement.

Financial offsets should only be available in limited circumstances

- 9 It is clear the current financial settlement framework has fundamentally failed. This is evidenced in the large sums of unspent financial offset contributions remaining in the Financial Offsets Account.⁴ Impacts relating to these funds were approved on the basis they would be offset. However, despite the impacts likely having already occurred, the harms have

⁴ Discussion Paper 7.

not been compensated for. It also may be the case that those impacts are not in fact ecologically capable of being offset. What's more, we understand from speaking with ecological experts that the funds that have been accumulated are nowhere near sufficient to actually undertake the offset activity needed to compensate for the impacts the money enabled.

- 10 If financial offsets are to be retained, they should only be allowed as an absolute last resort and with guardrails in place. Such guardrails could include:
- (a) creating a list of protected matters that cannot be offset via a financial offset (as has been proposed under reforms to the *Environment Protection and Biodiversity Conservation Act 1999* (Cth); and
 - (b) requiring proponents to first demonstrate and declare they have comprehensively looked but failed to secure direct offsets, before being allowed to seek to rely on financial offsets.

Recommendation 3:

Reliance on financial offsets should only be allowed as an absolute last resort, for protected matters that can be financially offset. Proponents should be required to demonstrate and declare they have exhausted all reasonable efforts to obtain direct offsets.

Greater transparency around offsets would improve offsets delivery

- 11 The operation of the offsets framework could be greatly improved through greater transparency. This includes transparency as to:
- (a) the nature and extent of impacts where offsets are sought, including the species or values impacted, how they will be impacted upon and the science relied upon to determine this;
 - (b) how an offset was determined to compensate for the impacts, either the amount via financial settlement or a site-specific offset, and the science relied upon to determine this;
 - (c) how effective an offset is in compensating for impacts;
 - (d) where there are failures in offsets and actions taken to address these failures;
 - (e) the real cost of undertaking an offset, to enable comparison with the amounts being received and whether recalculations are needed going forward for establishing offsets;
 - (f) impacted protected matters where offsets conditions are yet to be delivered;
 - (g) timelines for delivering offsets;
 - (h) any research or understanding as to whether outstanding offsets can realistically be achieved; and
 - (i) protected species where offsets are disproportionately relied upon/unfulfilled.
- 12 This could be achieved through more fulsome registers addressing the matters listed above. This information should address both direct offsets and financial settlement offsets. The benefits of centralising such information would include:

- (a) informing decision-makers of cumulative impacts and the relative significance of proposed impacts, particularly with reference to the application of the mitigation hierarchy;
- (b) assisting industry in understanding challenges associated with offsetting impacts from proposed developments, and help inform consideration of suitable places for development; and
- (c) assisting those delivering offsets to understand protected matters to prioritise and assisting possible landholder partners in understanding the significance of potential offset areas.

13 In addition, it would be helpful to increase transparency around the efforts being taken to spend the amount of money received via financial settlement – including what the impact was that the money has been received for, how any offset is then established and the real costs associated with actually delivering the offset.

Recommendation 4:

The offsets register should be improved to be more robust, detailing:

- (a) the nature and extent of impacts where offsets are sought, including the species or values impacted and how they will be impacted upon and the science relied upon to determine this;
- (b) how an offset was determined to compensate for impacts, either the amount via financial settlement or a site specific offset, and the science relied upon to determine this;
- (c) how effective an offset is in compensating for the impact;
- (d) where there are failures in offsets and actions taken to address these failures;
- (e) the real cost of undertaking an offset, to enable comparison with the amounts being received and whether recalculations are needed going forward for establishing offsets;
- (f) impacted protected matters where offsets conditions are yet to be delivered;
- (g) timelines for delivering offsets;
- (h) any research or understanding as to whether outstanding offsets can realistically be achieved; and
- (i) protected species where offsets are disproportionately relied upon/unfulfilled.

Offsets should be required in perpetuity where impacts are perpetual

14 The temporal requirements of the delivery of offsets must be directly linked to the harm. If the harm cannot be rehabilitated, and unless there is clear evidence that the impact being compensated for will be not perpetual, then the baseline legal security required to ensure protection of offsets sites should also be perpetual. EDO strongly opposes any reductions in the timeframes for which offset conservation outcome remain protected.

Recommendation 5:

The baseline legal security required for offsets should require perpetual protection for the protected matter offset, unless there is clear evidence that the impact being compensated for will be not perpetual.

Offset requirements should be assessed and implemented prior to impacts

- 15 The Discussion Paper proposes to enable approval of proposed offsets during or after impacts have taken place. EDO strongly opposes this approach. It would be contrary to the precautionary principle to allow activities to be approved without fully understanding the quantum of impacts, and the feasibility of offsetting those impacts.

Recommendation 6:

Offset requirements are required to be assessed, and implemented, prior to activities being undertaken, and the accuracy of estimated offsets are audited once the activity is complete.

Requirements of offset delivery should not be reduced

- 16 As noted above, EDO strongly opposes proposals to alter “like-for-like” requirements. EDO also holds significant concerns relating to reducing restrictions on indirect offsets. The fact that offsets are in high demand for proponents simply means proponents are not managing to avoid and mitigate damage to the environment. Loosening like-for-like requirements risks enabling proponents to rely on ‘easy to deliver’ offsets rather than actually compensating for the harms to biodiversity arising from their activities. Similarly, given that indirect offsets do not actually offset the impact, broader restrictions should remain.
- 17 Currently indirect offsets are limited to 10% where the remaining 90% must be land based. There is good reason for this approach as it maintains like for like for the impact compensation. The Discussion Paper proposes to enable use of indirect offsets for more than 10% where a ‘greater conservation outcome’ can be demonstrated. If this approach is allowed, there must be clear evidence supporting ecological benefits of indirect offsets, including independent verification as to whether the indirect offset is a legitimate outcome for a species or ecological community.
- 18 The Discussion Paper also proposes broadening the definition of indirect offsets to clarify that they involve actions that do not directly offset the impacts, but are anticipated to benefit the impacted protected matter (eg education). EDO does not support this approach as it is a weakening on the current definition; namely, actions that do not directly counterbalance the impacts but can deliver measurable conservation outcomes. The Discussion Paper suggests

this broader definition could also enable threat mitigation options, which we would argue should already be captured within the definition.

- 19 Ultimately, it is unclear what is intended in exploring flexibility, in particular any possible departure from the requirement of like-for-like requirements, ‘removing unnecessary barriers’ and changing limitations on indirect offsets.⁵ More information is needed to understand the implications of proposals. Ultimately, flexibilities in relation to offsets should not be adopted where they fail to account for the true costs and measurable outcomes of delivering offsets. Any watering down of offsets requirements would compound existing issues with the delivery of offsets and uncompensated harms to protected matters.

Recommendation 7:

Like for like requirements of offsets and limitations on the use of indirect offsets should be retained and flexibilities in relation offsets should not be adopted where they result in the proponent being able to circumvent obligations to offset actual impacts.

Offsets must consider cumulative impacts of a project

- 10 The Discussion Paper proposes to amend the Act to clarify that significant residual impacts include ‘cumulative impacts’ of a project. It also notes that the Policy requires consideration of ‘total impacts’ of a project. It is unclear the distinction between these terms. Otherwise, EDO is generally supportive of ensuring the cumulative impacts, being the impacts of the project in light of other development in an area, are a mandatory consideration. Cumulative impacts must be effectively assessed and compensated in order to further to the objective of the EO Act.

Recommendation 8:

Any amendments to the offsets regulatory regime must clarify that the cumulative impacts of a project *must*, and not *may*, be considered.

Calculation of costs must be improved to align with contemporary standards

- 11 The offset calculator has not been updated since 2014, even for CPI indexation. If financial offsets continue to be an option for fulfilling offset obligations, then that financial amount must be appropriately costed with reference to contemporary costings for delivering the offset outcome. This should also be reflected in sliding scale discounts which enable larger areas to reduce offset liability. While the benefits of obtaining large offset areas over piecemeal disconnected areas is acknowledged, the available costs reductions should be limited to ensure actual offset delivery.

⁵ Discussion Paper, pp 9 and 13.

- 12 EDO also supports proposals to modernise multipliers which are applied to the calculation of offset areas to appropriately mitigate the risk of project failure. A review of those multipliers should be underscored by expert evidence.

Recommendation 9:

Modify the method through which financial offsets are calculated including through ensuring:

- (a) financial offsets reflect the actual costs of delivering the offsets;
- (b) the availability of sliding scale discounts is greatly reduced; and
- (c) multipliers are appropriately calibrated to account for risks in failure of delivery.

Updates to the financial offsets calculator must be informed by a science based and precautionary approach.

Land sector engagement and partnership models presents opportunities

- 13 EDO generally supports better engagement with landholders with respect to the opportunities presented by offsets. We encourage the Department to also consider partnerships with local conservation councils, resource management organisations and other community land management bodies who may also be able to provide pertinent information as to how to better deliver offset outcomes. Exploring partnership opportunities is also supported where those partners are legitimate and have good governance arrangements and accountability mechanisms to ensure the actual delivery of offsets and/or conservation outcomes. Regardless of whoever is responsible for delivering financial offsets, the true costs associated with obtaining the ecological outcome should be appropriately documented and made public to ensure future reliance on financial offsets is appropriately costed.

Recommendation 10:

Better engagement of landholders of potential offset areas is supported. Similarly, partnerships with environmental NGOs, natural resource management organisations and community organisations is supported to the extent that appropriate accountability mechanisms for delivering offsets is ensured.

Benefits from simplifying the regulatory regime and introducing administrative processes

- 14 EDO supports proposals to simplify the legislative framework through bringing key provisions of the Regulation and related policies into the Act. Enshrining the key principles and mechanisms for regulating offsets in the Act will create a clearer system, that is easier to navigate by project proponents and the public alike. It will also ensure amendments to the framework can only be made via parliament.

15 EDO also generally supports proposals regarding introducing administrative processes into the Act, including the proposals to:⁶

- providing for situations where applications are not properly made;
- creating mechanisms for requesting additional information in respect of an application;
- allowing applicants to withdraw applications;
- ensuring applications evidence landowner consent;
- requiring decision-makers to provide the grounds for decisions; and
- providing timeframes that apply to key processes and decisions.

These proposals would facilitate smoother applications and assessments process.

Improved interactions with Commonwealth offset laws

The Discussion Paper proposes to enable the use of environmental offset protection areas under Queensland's offset framework to satisfy Commonwealth offset obligations.⁷ EDO is supportive of this approach, as it enables a broader range of offsets to be delivered (including grasslands and mangroves), and creates a simpler system with improved enforcement. If such an approach is adopted, then it must ensure that environmental offset protections areas satisfy Commonwealth offsets requirements and that they are truly additional (for example, they do not allow offsets to be double-counted).

EDO also supports proposals to allow advanced offsets under the Commonwealth offsets framework. This approach is beneficial as it will facilitate advanced indication that an area is suitable as a future offsets site, therefore enabling faster offset delivery.

Recommendation 11:

Allow for the use of environmental offset protection areas to satisfy Commonwealth offset obligations, and allow for advanced offsets to be used under Commonwealth framework, where they meet Commonwealth offset requirements.

Developing advanced offset markets and expansions of the protected area estate

10 EDO generally supports the development of an advanced offset market and protected area estate. We note that mapping of the most suitable areas in advance is already provided through the register of advanced offsets in the current framework. Overall, it is unclear how this is proposed to be altered. We recommend providing more information as to the extent the current system has been operating to date as this will be critical to informing any reform options.

⁶ Discussion Paper, p 16.

⁷ Discussion Paper, p 19.

- 11 Increasing Queensland's protected area system is a worthy goal, however we recommend against conflating offset areas with the establishment of increases to the protected area estate in Queensland, for example with a view to meeting 30 by 30 commitments. EDO is also concerned that declarations of private protected areas in Queensland are not made in perpetuity and therefore are not necessarily afforded appropriate legal security. The use of private protected areas could be bolstered could be improved by ensuring perpetual protection.

Recommendation 12:

Develop an advanced offsets market while accounting for needs and issues with the current system including the requirement for offsets to be secured in perpetuity.

Do not include offset areas in consideration of increases to the protected area estate where this is not appropriate accounting to meet international protected area commitments.

*Thank you for the opportunity to make this submission.
Please do not hesitate to contact our office should you have further enquiries.*