

NELA policy on national environment protection laws

A NELA delegation met with Environment Minister Greg Hunt on 15 January 2014.

During the meeting the delegation presented NELA's views on the government's plans to introduce a one stop shop for environment approvals under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The delegation said NELA does not support the Australian Government delegating its responsibility for environment approvals under the EPBC Act to the states and territories. It also presented the concerns of NELA members about a rapid shift of responsibility to state and territory agencies that are often under resourced and ill equipped for the task. They urged a staged approach to avoid unnecessary complexity and uncertainty, as supported by the Productivity Commission's research report on Major Project Development Assessment Processes, December 2013.

In the context of that discussion the delegation proposed a national standard for biodiversity offsets to underpin a more effective approach to putting a value on biodiversity. The Minister requested further information and NELA's follow up brief to the Minister is set out below.

NELA's proposal for a national biodiversity offset standard

Currently the Australian, state and territory governments have very different policies for environment offsets and only two states have markets for biodiversity. The complexity of the current offset regimes makes it very difficult to compare them and the extent of exceptions and discretionary decision making undermines certainty. Limited monitoring and reporting makes it difficult to measure the outcomes they are delivering.

The *Report of the Independent Review of the EPBC Act in 2009* (the Review) pointed out that Australia lags behind other OECD countries in the use of measures to appropriately value biodiversity (3.74). It said a systematic approach to biobanking would bring considerable benefits to biodiversity conservation in Australia (3.86).

The Review recommended that the Australian Government work with the states and territories to develop national standards for state biobanking schemes or create a national biobanking scheme (3.98 and recommendation 7).

NELA believes a national biodiversity offset standard would facilitate alignment between the offsets policies of all jurisdictions, and promote transparency and certainty in offset practices. In doing so it would provide the basis for effective offset programs that support the goal of maintaining and enhancing Australia's biodiversity.

A key element of the standard would be the 'like-for-like' rules and the methods used to measure biodiversity losses and gains. Another key element would be the obligation on proponents to demonstrate that they have taken steps to avoid and minimise impacts on biodiversity before offsets are available. As the Review pointed out, the most important driver

of demand in a biodiversity market is the level of enforcement of requirements to avoid impacts on species and habitats (3.87).

The standard would also cover matters such as:

- setting aside designated high value conservation areas where offsets are not permitted;
- setting aside areas where offset delivery is prioritized to provide strategic landscape scale benefits;
- making information available to the public on offset trades;
- specifying what offset types are allowed (direct and indirect) and how they address the relevant impact on biodiversity;
- providing greater legal security for offsets and how they are managed – only some jurisdictions require a management plan and legally binding agreement with land holders;
- providing adequate resources for monitoring and enforcement of offset agreements.

NELA believes it is crucial that the standard is incorporated into the environmental assessment and approval framework under the EPBC Act. Your current discussions with the states and territories on approval bilateral agreements provide the opportunity to do so.

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