



Environmental Offsets in Queensland

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Overview

This factsheet provides information about environmental offsets in Queensland and covers:

1. [What offsets are](#) and how they are legislated;
2. The [types of offsets](#) available;
3. How and when offsets are [used](#);
4. Key [offset principles](#);
5. Reporting [concerns with proposed offsets](#);
6. [Common issues](#) with offsets; and
7. The [offsets public register](#).

This factsheet also contains a [glossary](#) of key terms used and useful resources.

What are Environmental Offsets?

Environmental (or biodiversity) offsets are activities undertaken by a developer or mining company to ‘counterbalance’ significant environmental impacts of their development that cannot be mitigated or avoided (i.e. a ‘significant residual impact’).¹ Environmental offsets often involve, for example, securing the protection or revegetation of a particular impacted species or species habitat that would otherwise be lost, or making financial contributions to a fund that is used to secure environmental areas strategically or for relevant research. The majority of offsets approved in Queensland are via financial contributions.

Administering authorities, such as the Department of Environment, Tourism, Science and Innovation (**DETSI**), the Department of Resources (**DoR**) or a local government, can impose offset conditions on permits such as Environmental Authorities (**EA**) or Development Approvals.²

¹ *Environmental Offsets Act 2014* (Qld) (**EO Act**) ss 7-8.

² EO Act s 14.

Read: The general guide to the Queensland Environmental Offsets Framework is available [here](#).

Legislation of Offsets

In Queensland, biodiversity offsets are legislated under the *Environmental Offsets Act 2014* (Qld) (**EO Act**) and the *Environmental Offsets Regulation 2014* (Qld) (**EO Regulation**).

However, other legislation can also require use of offsets as conditions on approval, such as the *Environmental Protection Act 1994* (Qld) (**EP Act**),³ the *Nature Conservation Act 1992* (Qld),⁴ the *Marine Parks Act 2004* (Qld),⁵ or the *Planning Act 2016* (Qld) (**Planning Act**).⁶

In addition to environmental offsets being a condition on development permits under the Planning Act involving clearing, environmental offsets can also be required under the *Vegetation Management Act 1999* (Qld) through the accepted development codes.⁷

The Queensland Environmental Offsets Policy (**EO Policy**) provides the framework for the implementation of the EO Act and EO Regulation and set out how offsets are to be used, developed and assessed to ensure compliance with the legislation. The EO Policy is an ‘environmental offsets policy’ under section 12 of the EO Act, pursuant to clause 6 of the EO Regulation. Section 13 of the EO Act outlines what matters the EO Policy may cover, including any provisions relating to the main purpose of the Act, being to counterbalance the significant residual impacts of activities on prescribed environmental matters through use of environmental offsets.

The EO Act and EO Policy require that an environmental offset must achieve a conservation outcome. This means that the offset maintains the viability of the environmental matter it is designed to conserve.⁸

There are also federal offsets regulated under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (**EPBC Act**).⁹ Where the federal government has considered an impact and made a decision as to whether offsets apply to the matters impacted, the state or local government relevant to the activity cannot then consider the matter again in applying the state offsets regime.¹⁰

Visit: You can review the EO Act, EO Regulation and EO Policy [here](#).

Types of Offsets

There are two main types of offsets used in Queensland:

³ *Environmental Protection Act 1994* (Qld) s 209.

⁴ *Nature Conservation Act 1992* (Qld) ss 66, 100I.

⁵ *Marine Parks Act 2004* (Qld) s 151A.

⁶ *Planning Act 2016* (Qld) sch 2, see definition of ‘development condition’.

⁷ See General Guide to the Vegetation Clearing Codes, available [here](#).

⁸ EO Act s 11.

⁹ *Environment Protection and Biodiversity Conservation Act 1999* (Cth) s 134.

¹⁰ EO Act s 15(1).

1. financial settlement offsets; and
2. proponent-driven offsets.

A combination of these offsets may be used.

Financial Settlement Offsets

Financial settlement offsets involve a payment being made into the administering agency's offsets account.¹¹

N.B. Financial offsets are calculated using the [Financial Offsets Calculator](#).

Financial settlement offsets must be paid into the account by the proponent prior to undertaking prescribed activity for which the offset is a condition.¹²

Where the offset condition relates to matters of local environmental significance, the local government is the administering agency.¹³ Where the offset condition relates to a matter of state environmental significance, the administering agency is DETSI.¹⁴ Where an offset condition relates to a matter of national environmental significance, the federal Environment Minister is the administrator.

Proponent-driven Offsets

Proponent-driven offsets are offsets where the proponent is responsible for undertaking the delivery of the offsets, whether directly or indirectly.¹⁵ Examples of proponent-driven offsets include:

- *Land-based offsets* → where a specific area of land is proposed to be managed to provide for the offset of the 'significant residual impact' of the development; or
- *Direct Benefit Management Plans (DBMPs)* → a pre-approved plan outlining activities that the proponent will undertake to improve or maintain the viability of the prescribed environmental matter.

Visit: More information about types of offsets used in Queensland is available [here](#).

We also recommend reviewing the [EO Policy](#) for more information on the types of offsets and how they are implemented and managed.

Land-Based Offsets

Land-based offsets are designed to result in a conservation outcome for the impacted prescribed environmental matter and should be undertaken on land that is owned by the proponent, or subject to an agreement between the landholder and the proponent for the purpose of the offset. This means that a proponent can enter into an agreement with a landholder to pay to use some of their land as a land-based offset.

¹¹ EO Act s 23.

¹² EO Act s 24.

¹³ EO Act s 24(2)(a).

¹⁴ EO Act s 24(2)(b).

¹⁵ EO Act s 21.

Direct Benefit Management Plans

DBMPs should outline what activities the proponent will undertake to conserve the prescribed environmental matter and can include things that will indirectly improve environmental outcomes, such as investing in research and education. However, DBMPs must also include direct actions to improve environmental outcomes.

When Offsets are Used

Offsets are used to counterbalance a significant residual impact of a prescribed activity on a prescribed environmental matter.¹⁶ An offset may be required as a condition of approval.

Offsets are also used where an activity will impact a protected area.

Significant Residual Impact

A ‘significant residual impact’ is an adverse impact on a prescribed environmental matter caused by a prescribed activity that will remain despite mitigation or avoidance measures and will be (or is likely to be) significant.¹⁷

Read: The Significant Residual Impact Guideline is available [here](#).

Prescribed Activity

A ‘prescribed activity’ is an activity that is subject to an authority under another Act (such as an Environmental Authority (**EA**) under the EP Act) for which an offset is a condition and that is prescribed under a regulation.¹⁸

Examples of prescribed activities include:

- Prescribed Environmentally Relevant Activities (**ERAs**) under the EP Act (see e.g. the list of prescribed ERAs in [Schedule 2](#) of the EP Regulation);
- carrying out works authorised under the MP Act within a marine park;
- activities conducted in a protected area authorised under the NC Act; or
- resources activities (i.e. mining, coal or coal seam gas etc.) carried out under an EA granted in accordance with the EP Act.

Read: A list of prescribed activities is provided in [Schedule 1](#) of the EO Regulation.

Prescribed Environmental Matter

A ‘prescribed environmental matter’ is an environmental matter prescribed to be a matter of national, state or local environmental significance.

Read: A list of matters of state environmental significance that are prescribed environmental matters is provided in [Schedule 2](#) of the EO Regulation.

¹⁶ EO Act s 7.

¹⁷ EO Act s 8.

¹⁸ EO Act s 9.

N.B. Matters of local environmental significance can also be prescribed environmental matters. Information about matters of local environmental significance can be found in the relevant council's planning scheme.

N.B. There are nine matters of national environmental significance. Information about these nine protected matters is available [here](#).

Offset Principles

Under the EO Policy all environmental offsets should meet the following seven offset principles:

1. Offsets will not replace or undermine existing environmental standards or regulatory requirements or be used to allow development in areas otherwise prohibited through legislation or policy.
2. Impacts must first be avoided, then mitigated, before considering the use of offsets for any remaining (residual) impact.
3. Offsets must achieve a conservation outcome that counterbalances the significant residual impact for which the offset was required.
4. Offsets must provide environmental values as similar as possible to those being lost.
5. Offset provision must minimise the time-lag between the impact and the delivery of the offset.
6. Offsets must provide additional protection to environmental values at risk, or additional management actions to improve environmental values.
7. Where legal security is required, offsets must be legally secured for the duration of the impact on the prescribed environmental matter.

Read: Clause 1.3 of the EO Policy (available [here](#)) sets out the offset principles.

Commenting on and Challenging Proposed Offsets

Has there been adequate analysis of avoidance or mitigation measures?

It is important to be aware of the circumstances in which the offset is being proposed.

The government will be making their decision based on the 'avoid - mitigate - offset' approach so it is important to consider whether an adequate analysis has been done for avoiding or mitigating the impact first. For example, is the area on or close to protected species of sensitive areas with high ecological values or cultural heritage sites?

Visit: Maps of environmentally sensitive areas are available [here](#).
The cultural heritage database and register is available [here](#).

Does the offset comply with the EO Policy and Offset Principles?

When reviewing the proposed offset measures, you should consider whether they meet the offset principles and are compliant with the EO Policy.

N.B. If you think a proposed offset does not comply with the EO Act and EO Policy, or is inconsistent with the [Offset Principles](#), you should report the inconsistencies to the administering agency (i.e. DETSI or the local council).

Get involved early during the assessment process

If you are concerned about the impacts of a project and the strategies the proponent has for dealing with those impacts, it is important that you are involved early on in the planning and assessment process for the development because:

1. the initial assessment phase (i.e. the Environmental Impact Statement) will almost always inform the final conditions of the approval for a project so it is a key chance to understand the impacts and scrutinise how the proponent says it might deal with the impacts; and
2. for mining and gas projects in Queensland, this may be the only opportunity you have to comment on a project and retain your Court appeal rights.

Read: Our factsheet on Community Rights to Object to Mines in Qld is available [here](#).

Breach of Offset Conditions

Under the EO Act, environmental offsets must be carried out in accordance with the agreed delivery arrangement, this is called a 'deemed condition'.¹⁹

Failure to comply with the agreed delivery arrangement for the offset is considered to be a breach of the offset condition on the relevant authority/permit under which the offset was required and is dealt with under the authorising legislation.

For example, where an environmental offset was required under the Planning Act and the proponent contravenes the offsets delivery arrangement, it would be dealt with as if it were a breach of the offset conditions under the Planning Act.

We have provided a table below summarising the key enforcement options where an environmental offset condition has been breached.

Legislation	Enforcement Provision – Breach of Offset Condition
Environmental Protection Act	An environmental offset may be a condition of an environmental authority. It is an offence to contravene a condition of an environmental authority. ²⁰ A person must have their interests affected by the offence to have leave of the Court to bring civil

¹⁹ EO Act ss 19B, 22 and 25.

²⁰ EP Act s 430.

	enforcement proceedings under the EP Act. ²¹ See our factsheet on Enforcement of Environmental Offences under the Environmental Protection Act 1994 (Qld) for more information
Planning Act	An environmental offset may be a development condition on the development approval. It is an offence to contravene a development approval. ²² Any person may bring civil enforcement proceedings in the Planning and Environment Court to remedy or restrain a development offence. ²³ See our factsheet on Appealing, Enforcing Development Approvals and Seeking Declarations for more information.
EPBC Act (Cth)	Offsets may be a condition imposed on approval. It is an offence to fail to comply with a condition imposed on the approval. ²⁴ To commence proceedings for an injunction to remedy or restrain an offence, you must be an interested person, i.e. have been involved in activities for the protection or conservation or, or research into the environment within the 2 years prior to the offence. ²⁵

Issues with Offsets Framework and Proposed Reforms

Environmental offsets are designed to balance environmental conservation and economic needs. However, they can be a controversial tool in practice as there is a need to accept environmental losses in return for uncertain gains.

In 2019-2020 a review of the EO Framework was undertaken to evaluate its efficacy and operation. EDO made a submission during the public consultation period for the review, which outlined our recommendations for reform, including but not limited to:

- Prohibitions across legislation to protect vulnerable environmental values so offsets are not needed, such that the ‘avoid’ step is properly implemented by all decision makers.
- Ensure that offsets are truly ‘additional’ in their provision of environmental protection and do not simply ‘protect’ something that was not at risk.
- Requiring evidence that an impact can be offset prior to the decision being made.
- Compensate losses with tangible improvements for the matter or environmental value being impacted to there is no net decline.
- All residual impacts, not just significant residual impacts, should be offset.
- Remove exemptions from existing state legislation for developments across Queensland.
- Require long term security for offsets.
- Provide for enforcement (by government and third parties) of offset achievement and improve resourcing for enforcement agencies to monitor and enforce compliance with offset requirements.

²¹ EP Act s 505.

²² Planning Act s 164.

²³ Planning Act s 180.

²⁴ EPBC Act s 142A.

²⁵ EPBC Act s 475.

- Require timely implementation of offsets, i.e. before the impact is undertaken where possible.
- Increase the information in Offset Register and reporting requirements.
- Return concurrence power to DETSI for assessment of offsets proposed during the assessment process across all frameworks.

Read: EDO's submission on the EO Framework review is available [here](#).

Following the public consultation period, DETSI published the Consultation and Response Report (**Report**), which outlined the 15 key areas for reform, to be carried out across two stages. The consultation and Report had five focus areas and identified areas for reform:

Focus Area	Proposed Reform	Stage
Environmental outcomes	Increase supply of land for offsets	1&2
	Streamline processes for offsets delivery	2
	Improve monitoring, management and compliance	
	Prevent unachievable offset conditions	
	Clarify the scope of the framework	
Alignment with best practice	Identify and deliver offsets in strategic locations	1&2
	Align with best practice principles for environmental offsets.	2
	Align with key conservation priorities.	
How offsets are measured	Make it easier to do business with the Qld government	1&2
	Consolidate requirements and clarify core terms	2
	Maintain the value of offset funds over time.	
Security and transparency	Simplify requirements for legal security	2
	Establish the foundations for an offsets market	
Offset opportunities	Build and support relationships with First Nations people	2
	Encourage delivery of co-benefits	

Presently, the substantial reforms have not been implemented into practice other than additional land for advanced offsets and an ability for landholders to register interest in offset delivery, so the offsets framework has continued to operate largely unchanged.

Read: The Consultation and Response Report is available [here](#).

Public Register of Offsets

Each administering agency for an offset is required to maintain a register of approved offsets available for public inspection.²⁶ Following the enactment of the EO Act on 1 July 2014, details of all offsets are maintained in a single register administered by DETSI. Prior to 1 July 2014, individual administering authorities maintained separated registers.

²⁶ EO Act s 90.

The offsets register must contain:²⁷

- the reference number for the authority under which the offset condition is made;
- information about the prescribed environmental matter relevant to the offset condition; and
- the location of the impact.

Visit: The offsets register for all offsets after 1 July 2014 is available [here](#).

For biodiversity offsets before 1 July 2014, contact DETSI ([here](#)).

For all other offsets before 1 July 2014 contact either:

- Department of Resources ([here](#))
- Department of Agriculture and Fisheries ([here](#))

Glossary and Resources

Environmental Offset means an activity undertaken to counterbalance a significant residual impact of a prescribed activity on a prescribed environmental matter.

Financial Offset means a payment, in relation to delivering an offset condition imposed on an authority, by the authority holder to the department or a local government or an amount required by the administering agency that granted the authority.

Land Based Offset means an offset where a suitable area of land is protected to result in a conservation outcome for the prescribed environmental matter.

Legally Secured Offset Area means an area of land that is an environmental offset protection area or declared as an area of high nature conservation value under section 19F of the *Vegetation Management Act 1999* (Qld), or another area prescribed under a regulation.

Offset Register means a register of offset conditions that the administering agency is required to maintain for public inspection under section 90 of the EO Act.

Prescribed Activity means an activity that is subject to an authority under another Act, for which an offset condition may be imposed under the other Act and that is prescribed under a regulation.

Prescribed Environmental Matter means any matter prescribed under a regulation to be a prescribed environmental matter, including matters of national, state or local environmental significance.

Proponent-Driven Offset means an environmental offset that the entity proposing the activity undertakes directly or indirectly.

Significant Residual Impact means an adverse environmental impact, whether direct or indirect, of a prescribed activity on all or part of a prescribed environmental matter that remains, will remain, or is likely to remain, despite on-site mitigation measures for the prescribed activity and is, will be, or is likely to be significant.

²⁷ EO Act s 90(2).

DETSI	Department of Environment, Tourism, Science and Innovation Phone: 13 QGOV (13 74 68) Postal address: GPO Box 2454, Brisbane, Queensland, Australia, 4001 Online enquiry form: Enquiry form
EO Legislation	Environmental Offsets Act 2014 (Qld) Environmental Offsets Regulation 2014 (Qld) Queensland Environmental Offsets Policy (current Policy as at the date this factsheet is published)
Offsets Register	The Queensland Offsets Register is available here (post 1 July 2014)
Other Legislation	Environmental Protection Act 1994 (Qld) Nature Conservation Act (Qld) Planning Act 2016 (Qld) Environment Protection and Biodiversity Conservation Act 1999 (Cth) EPBC Act Environmental Offsets Policy
Other Contacts	Department of Resources (Qld) Phone: 13 QGOV (13 74 68) Email: resources.info@resources.qld.gov.au Department of Climate Change, Energy, Environment & Water (Cth) General enquiries: 1800 920 528 Online enquiries form: Online Enquiry Your local council - you can find out who your local council is here

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