



## environmental affairs

Department:  
Environmental Affairs  
REPUBLIC OF SOUTH AFRICA

### Environmental Offsets Discussion Document Workshop: Summary of Proceedings

DATE: 31 March 2015

TIME: 10h30 – 15h00

VENUE: Manhattan Hotel, Pretoria

CHAIRPERSON: Peter Lukey

#### **1. Introduction**

*Peter Lukey presented an overview of the project purpose and status.*

- The South Durban Community Environmental Alliance (SDCEA) representative was concerned by the fixed times for the project completion and apparent need for stakeholder buy-in within tight time-frames – it suggests that the “train has already left” and the department has already decided on a policy in relation to offsets.
- *Peter clarified that the discussion document is not policy, and that there is as yet no time frame for drawing up policy*
- It was noted that there was a problem with competing mandates for environmental offsets (e.g. National Treasury in relation to carbon offsets, Dept. Of Water Affairs in relation to water offsets).
- *Peter acknowledged that this was an issue, but noted that the process around the discussion document had been an open one to which other government departments had been invited, and in which they had participated. He further observed that in terms of developing an overarching policy for environmental offsets, this would have to be presented and approved by cabinet and would represent government policy, not DEA policy.*
- A SANBI representative said that it was problematic that no timeframes existed for developing policy – there was an urgent need for an overarching policy framework and we needed more specific deliverables and timeframes to achieve this.
- *Peter agreed with this, but said that a roadmap for developing policy has not yet been drawn up, and assured stakeholders that they would be kept apprised of progress in this regard. Amongst other things, a regulatory impact assessment would probably need to be performed.*
- A Chamber of Mines representative expressed concern about alignment with existing guidelines and coordination between the different government departments – need for regulatory certainty amongst business
- *Peter noted that the process around the discussion document had been useful in that it had already thrown up a number of such issues.*

#### **2. Presentation**

*Matthew Gaylard from Linkd gave a presentation on the Discussion Document*

### **3. Discussion**

- A Groundwork representative read a statement representing the views of a consortium of NGOs (attached).
- A SANBI representative suggested that not all offsets are equal in terms of maturity and risk, and that there was a risk of offsetting around biodiversity and wetlands being held back due to lack of stakeholder confidence in particular offsets such as air quality offsets.
- A question was raised as to whether the Eastern Cape Government and ECPTA were invited to the forum.
  - *Peter clarified that although the forum was open, a separate and clearly defined process existed for inter-governmental consultation – it would not have been practical or appropriate to include all provincial governments in this meeting.*
- A CSIR representative questioned the articulation of the principle of no net loss in the presentation – did this imply no net gain? She also suggested that we need to develop specific tools for different types of offsets to ensure that they are implemented correctly.
  - *Peter clarified that the principle referred to in the presentation was no net loss and/or net environmental gain*
- A representative from EMG warned of the risk of terminology creep and suggested that a policy framework for environmental offsets needs to be underlined by definite principles. Currently, the distinction between compensation and offsetting is addressed in a confusing way in the discussion document. The discussion document should include a matrix of current policy in relation to environmental offsets. He suggested a moratorium on offsets should be considered, making the argument that wetland offsets should not go ahead in the absence of accurate state information on the nature and extent of current wetlands. There is a need to clearly identify the key conditions under which offsets should happen.
- A Groundworks representative raised concerns with the manner in which the quotation from the NDP conceptualizes the problem as one of “market failures”. It suggests that the solution is to correct these failures to ensure trading happens, and that this is only going to lead to further environmental degradation when the problem is framed in this way. David also expressed concern that the portrayal of the planetary boundaries model in the discussion document gave an unrealistic impression of the potential impact of environmental offsets – they cannot solve the problem. He also indicated that government capacity in relation to implementing offsets is a serious concern.
- A Forest Industry Association?? representative indicated that offsetting needs to be more clearly framed as an aspect of mitigation policy and expressed concern that biodiversity offsets need to be applied to existing land management rather than the potential of unmanaged land.

- Representatives from the Vaal Environmental Justice Alliance (VEGA) raised a number of concerns about air quality offsets:
  - Allowing ambient air quality standards to be offset against interventions focused on indoor air quality amounted to trading off impacts between different communities.
  - Concern was raised about the impacts on air quality that have already been incurred. Industries are currently polluting and it is unacceptable that offsets will allow this without having any actual impact.
  - The implications of transferring mitigation intervention across different categories of environmental impact are problematic.
  - This process is being driven by business and consultants who are just interested in making money
- A consultant suggested that the policy process needed to be focused on integrating offsets into the mitigation hierarchy. He also suggested in relation to the financing of offsets that applicants must be held financially responsible for achieving the outcomes of the offset. Offsets should not substitute for government responsibilities (such as in terms of management of existing protected areas). He further suggested that EPWP programmes were not suitable as offsets as their primary target was job creation rather than environmental impact. He also suggested that the discussion document should articulate principles for offsetting, and suggested that these could be drawn from the BBOP principles.
- A Groundwork representative?? said that it was not appropriate to allow air quality offsets to be considered for emissions that have an impact on a different location.
  - *Peter clarified that air quality offsets must take place within the airshed of the emissions source and deliver a net environmental benefit, which reductions of indoor air pollution can deliver.*
- A Groundwork representative asserted that household emitters are not equivalent to industry. Section 24 of the Constitution (right to a healthy environment) was being ignored. There should not be an option to comply OR offset.
- A WWF representative pointed out the industry should be more circumspect about pursuing offsets, as their contingent liability was potentially huge. He noted the need to take into account both continuous impacts from emissions and residual impact from past emissions. He questioned the appropriateness of conflating social problems with environmental problems within air quality offsets.
- Representatives from VEGA raised a number of concerns, primarily in terms of air quality offsets:
  - Black people were being stereotyped as killing themselves by burning coal
  - Processes in relation to air quality management lack real transparency. Communities have been repeatedly called to meetings for years, but continue to suffer from air pollution – nothing changes.
  - Offsets are being implemented but there is no policy. The discussion document provides no guidance.
  - Why are externalities only being considered now? – it is too late
  - Offsets should not be used as a fig leaf in the licensing process

- A Groundwork representative suggested that “alternative, legally binding strategies for addressing residual impacts need to be developed” and suggested that until such time as a framework acceptable to stakeholders had been developed there should be a moratorium on offsets, particularly in terms of offsets being used as a way to avoid or delay compliance with standards.
- A Consultant indicated that the role of EAP consultants was to give sound advice to business before incurring the costs of EIA processes if “fatal flaws” exist, and this includes warning of the potential financial impacts of offset requirements in relation to profitability – for instance, where there is a risk of AMD.
- A Legal Resources Centre representative wanted to know what the outcomes of the offset for Velle Colliery had been, as this was not in the public domain. He also wanted to know if there was a register of offsets, and if not, why not? He suggested that there was a role for offsets as part of the legal settlement in “punishment” for transgressions of the environmental authorizations and standards.
- A BBOP representative suggested that the current working definition should be reframed to define offsets as measurable outcomes rather than as interventions. She also said that the definition of additionality needed more attention and needed to take into account the permanence of the outcomes.
- A SANBI representative agreed that there was a need for a register of offsets and said that there needed to be enabling legislation to ensure that this was accomplished as a legal requirement. SANBI have been attempting to establish a record of offsets, but have encountered practical challenges in getting details on past offsets described in Record of Decisions – in many cases, this knowledge seemed to rest with the individuals involved.
- A Soweto CBO representative indicated that Induction Training for EPWP workers was hypocritical – the programme did not practice what they preached. There is a need for a reality check on environmental impacts on townships before undertaking offsets.
- Concerns were raised about financial offsets – who will monitor them, who will pay, how will concerns about capacity be addressed?
- Records of Decision in relation to environmental authorisations must address the mitigation hierarchy fully.
- A SANBI representative noted that the biodiversity and wetlands offset calculators are useful for quantifying impacts, but the determination of thresholds for offsets is a pragmatic question and should not be framed as a strategic issue.
- A DAFF representative indicated that DAFF have a register of 12 offset projects that were undertaken for land use changes that would have been granted irrespective of the offsets.
- A SDCEA representative voiced concern about offsets in low income areas that already have a shortage of biodiversity assets – offsets are not appropriate in all areas. Some things are not replaceable. Carbon offsets from forest plantations are environmentally problematic – there are negative consequences to biodiversity and the water balance from plantations.

- A VEGA representative voiced concerns about ESKOM and the impact of Meduphi in terms of water consumption and pollution.
- A Groundwork representative noted the need for broader planning regimes to be considered in the identification of offset receiving areas. There was a risk of a “postage stamp” effect with small, isolated offset projects.
- An Earthlife Africa representative raised concerns about the next steps in the process. He noted that the statement in the Water Resource Strategy about the need for policy on water resource offsets emanated from a meeting of the Water Leadership Group from which NGOs’ and CBOs were excluded as a problem with the lack of consultation on this issue. He observed that there was no consensus on the issue and reiterated that there should be a moratorium on offsets.

#### **4. Concluding Remarks**

*In closing the meeting, Peter Lukey:*

- *Thanked participants, and noted that the discussion document had already succeeded in stimulating discussion.*
- *Said that the discussion document, to be published at the end of April, would be accompanied by a document containing all submissions on the discussion document that the relevant parties were willing to be made publically available.*
- *That a record of proceedings (not a verbatim transcript) would be distributed to all stakeholders.*