Evaluation of the Pilbara Environmental Offsets Fund

2024

CONTENTS

Acknowledgement

1. EXECUTIVE SUMMARY

All stakeholders agreed that a strategic, collaborative approach was needed to offset the cumulative environmental impacts of industry in the Pilbara, however the way that PEOF has been designed and is being delivered has not enabled this.

The Pilbara Environmental Offsets Fund (**PEOF**) was established as a strategic offsets fund to address the cumulative impacts of development on the Pilbara bioregion, in partnership with traditional owners, conservation agencies, industry and the government.

Stakeholders consulted were overwhelmingly supportive of the PEOF concept, provided frank feedback, and made improvement suggestions to help improve the impact of PEOF.

The Western Australian (**WA**) and Commonwealth legislative and policy frameworks surrounding offsets are complex, are not always aligned, and are being interpreted too rigidly. Three key policy challenges were identified:

1. **Security of offsets** – Stakeholders felt that this principle was being interpreted too rigidly to mean that secure tenure (for up to 20 years) was required to undertake offset activities on, which creates a significant hurdle for projects where such tenure is scarce. It was also perceived that the way this policy was being interpreted was preventing offsets being undertaken on land with complimentary land uses e.g. mixed land use, because stakeholders felt that offset projects would not be approved unless they had exclusive use of the tenure identified for the offset.

2. **Additionality** – This principle requires that offsets must be in addition to what is already being done. Many stakeholders felt that the strict way in which the additionality principle was being applied was preventing projects being approved that could have positive biodiversity impacts, and inhibiting existing successful projects being expanded by PEOF. Others were concerned that the current baselining of spend and impacts on conservation is insufficient and it is often difficult to 'prove' additionality.

3. **'Like for like' offsets** – PEOF was set up as a strategic offset fund but is increasingly being expected to deliver 'like for like' offsets as a condition of environmental approvals granted by the Environmental Protection Authority (**EPA**) (State Government), limiting the ability of PEOF to operate as a strategic fund.

Stakeholders suggested that PEOF needed to consider how policies could be applied more flexibly, whilst still ensuring that the integrity of these important policies were upheld, to ensure that projects which had the potential to improve biodiversity weren't overlooked due to rigid policy interpretation.

In addition to the complex legislative and policy frameworks governing offsets in WA, there are some challenges that are particularly complex in the Pilbara that cause further barriers to the approval and delivery of PEOF projects.

1. **Security of offsets = security of tenure** – Land tenure in the Pilbara is complex, with multiple overlapping tenures, resulting in it being difficult to put aside 'secure tenure' for the required duration for offsets. Stakeholders suggested that interpreting security of offsets to mean security of tenure for at least 20 years, was applying the policy too rigidly and mixed uses for land should be considered to give PEOF the best chance to deliver on its intended environmental outcomes.

2. **Capacity of Traditional Owners and the Natural Resource Management (NRM) sector in the Pilbara** – The capacity of Traditional Owner Groups to engage with the PEOF consultation process (Prescribed Bodies Corporate (PBCs)) and to undertake PEOF activities (ranger groups) varies. NRM groups also have limited presence and on ground capacity in the Pilbara. This lack of capacity contributes to the difficulty and expense of delivering offset projects in the Pilbara.

3. **Significant competition for land** – Land is scarce in the Pilbara. Therefore, even where 'secure tenure' can be identified for offset use, it often must compete with other land uses.

There are some key design features of PEOF which stakeholders felt were limiting its ability to approve and progress projects:

Strategic Intent	PEOF was set up with the strategic intent to address the cumulative impacts of industry in the Pilbara on the environment. While projects have been established based on the Implementation plan, due to the small number of active projects and the organic nature at which projects are expected to expand (as per the co-design approach), it is too early to determine if PEOF projects will address the cumulative effects of Industry.
Traditional Owner consultation	Consultation that has occurred was thought to have been done well. Some stakeholders questioned the capacity of Traditional Owner groups to engage meaningfully in the process, particularly as PEOF does not compensate Traditional Owners for their engagement. One Traditional Owner raised concerns that offset activities could sterilise their lands from future developments.
Offset pricing and fund expenditure restrictions	For various reasons, the cost of delivering offsets in the Pilbara are significant. Many stakeholders believe that what proponents are required to pay into PEOF is insufficient to deliver effective offset projects.
Governance	There is a lack of clarity about different PEOF governance bodies, and a lack of transparency and reporting to key stakeholders on fund progress. Clearer, more defined roles are needed, as well as further reengagement of the IAG to utilise their skills, experience, and relationships.
Role of other government departments	Many of the issues that PEOF is seeking to address are 'bigger' than PEOF and require input from multiple government departments to address. A whole of government approach is needed to enable PEOF to deliver on its outcomes.
Role of industry	There is a disconnect between those benefiting from PEOF (industry – through obtaining environmental approvals) and those delivering PEOF (government – DWER). Many stakeholders felt that industry should play a greater role in supporting PEOF to deliver intended outcomes.
Project development and approval	While the project development and approval process is illustrated in the current Implementation and Engagement plans, third party stakeholders reported that the project development and approval process is unclear and lengthy and project appraisal and decision-making lacks transparency.
Resourcing	Designing, implementing, and managing an offset program is a complex task. The functions and capabilities required, and resources needed to fulfil them have been underestimated. The PEOF team is only funded to fulfil a subset of these tasks, and despite significant effort, have been limited in what they have been able to deliver.

The evaluation has identified several complex factors that are preventing PEOF projects being approved and delivered, and therefore from achieving the intended outcomes of PEOF. Given the complexity, there is no easy solution. A series of strategic recommendations as well as recommendations relating to design and implementation are proposed.

STRATEGIC RECOMMENDATIONS:

1. Undertake an **options analysis and risk assessment to determine the immediate next steps** for PEOF.

2. **Determine an approach and allocate resourcing to address cross-government issues** relevant to PEOF for example securing land for offset projects, modifying EPA approvals to ensure that proponents have 'skin in the game', and supporting capacity building of Traditional Owners and the NRM sector in the Pilbara.

3. **Review and reform policies to enable flexible application** e.g. 'like for like', 'additionality' and 'security of tenure', so that more projects can be approved under PEOF. This should include development of a policy to address the restriction on PEOF funds being used for research projects.

DESIGN AND IMPLEMENTATION RECOMMENDATIONS:

4. **Refine, optimise, and clarify governance** structures that support PEOF to ensure clear, effective, and transparent governance structures for PEOF.

5. **Review capabilities and resources** needed to deliver PEOF and **secure resources to fund PEOF effectively**.

6. **Review PEOF offset pricing** to ensure offsets are priced to cover the true cost of delivering offsets.

2. OVERVIEW OF THIS REPORT

The evaluators were commissioned by the Department of Water and Environmental Regulation (**DWER**) on behalf of the PEOF Board, to undertake the first substantive evaluation of the PEOF in September 2023. This report contains the findings and recommendations from that evaluation process.

The report contains the following sections:

Section	Contents
PART A – Context	
3. PEOF Context	Overview of PEOF including its measures of success, governance framework, how it has evolved over the last six years, and approved projects.
4. Methodology	Summary of the methodological approach for this evaluation including evaluation questions and a summary of the stakeholder consultation.
PART B – Evaluation findings	
5. State and Commonwealth policy framework	Summary of how State and Commonwealth offset policy applies to PEOF and the challenges for PEOF in applying those policies.
6. Pilbara regional context	Summary of the Pilbara region in which PEOF operates and how this creates further complexity within the policy environment for offsets.
7. Design and implementation of PEOF	Detailed review of the design and implementation of PEOF and stakeholder views on what is not working and needs to be changed to allow PEOF to deliver on its environmental outcomes.
8. Measures of success	Summary of the evidence demonstrating whether PEOF is meeting the key measures of success and additional evaluation questions.
Part C – Recommendations	
9. Key recommendations	Key recommendations for DWER to consider.

PART A – CONTEXT
3. PEOF CONTEXT

3.1 OVERVIEW OF PEOF

In 2012 the Western Australian Minster for Energy; Environment; Climate Action mandated that proponents in the Pilbara pay their environmental offsets into a strategic fund for conservation. Environmental offsets are actions that provide environmental benefits which counterbalance the significant residual environmental impacts or risks of a project or activity that remain after mitigation (including rehabilitation). In the same year, the federal Minister for Environment also gave proponents the option to either implement their own offset projects or pay into a strategic fund. In a report to the Minister for Energy; Environment; Climate Action, *Cumulative environmental impacts of development in the Pilbara region* (EPA 2014), the EPA provided further justification for a strategic conservation initiative as a mechanism to pool offset funds to achieve broad scale biodiversity conservation outcomes for the Pilbara.

These developments led to the establishment of the Pilbara Strategic Conservation Fund which was then transitioned to PEOF and moved to DWER in 2018,[1] to facilitate the coordinated delivery of environmental offset projects within the Pilbara bioregion of Western Australia. PEOF combines money from individual offset payments required under both the Environmental Protection Act 1986 (WA) (**EP Act**) and the Environment Protection and Biodiversity Conservation Act 1999 (Cth) (**EPBC Act**) into a special purpose account.[2]

DWER administers PEOF under the *Financial Management Act 2006* (WA) and is responsible for demonstrating that vegetation and habitat has been improved through its investment.

$90 million has been conditioned to PEOF for projects anticipated over the next 40 years, and this figure is expected to grow as more projects are approved and further offsets are conditioned to the fund. Actual contributions made by proponents into PEOF depend on the extent of their impact to environmental matters over time, for example their impact to vegetation and habitat, including Matters of National Environmental Significance (**MNES**) under the EPBC Act.[3]

PEOF delivers environmental offset projects in the Pilbara bioregion of Western Australia in partnership with Traditional Owners, conservation agencies, industry, and government. PEOF aims to deliver environmental offsets in the Pilbara, through a strategic landscape-scale approach, building on regional programs including ranger groups, so that environmental offset outcomes are greater than the sum of individual offset contributions.

The establishment of PEOF aimed to enable the government to combine offset money and partner with regional land management organisations and Traditional Owners, to deliver projects that achieve better and more connected biodiversity conservation outcomes. The logic behind PEOF was that combining money from multiple offsets in the Pilbara would allow the delivery of larger and more strategic landscape scale projects that could help protect the biodiversity of the Pilbara. It was thought that given the extensive, cumulative impact that industry was having on the Pilbara a coordinated approach to offsets was required. Further, given the complex tenure situation in the Pilbara, a coordinated, government led approach was perceived to be better equipped to address some of the challenges in delivering offset projects in the Pilbara.

The PEOF Implementation Plan was published in November 2019 (**Implementation Plan**). Its sets out in detail the strategic focus for the next five years including what success looks like, environmental matters to be improved, scope, priority locations and the process to plan, implement, monitor, evaluate and improve delivery of projects and the fund over time.

---

[1] Media Statement – New approach to Pilbara conservation (8 July 2016): New approach to Pilbara conservation | EPA Western Australia.

[2] Implementation Plan, page 1.

[3] Implementation Plan, page 1.

By the end of FY24, proponents will have paid over $15 million into PEOF,[4] with total expenditure from PEOF expected to be $3.9 million.

The WA Minister for Energy; Environment; Climate Action has endorsed five policy principles for the delivery of PEOF:[5]

- Transparent and accountable fund administration.
- Cost-efficiency, including maximising leveraging opportunities to achieve regional environmental outcomes and minimising administration.
- Effective performance evaluation and continual improvement.
- Clear roles, responsibilities, and accountabilities.
- Constructive and transparent engagement with key stakeholders.

The Implementation Plan also sets out the project selection criteria:[6]

- Projects must: (primary fund outcomes)

  - Improve at least one of the environmental matters listed in the project register to the Pilbara Environmental Offset Fund's implementation plan.

  - Be designed to align with the offset principles of the WA and Australian governments and the implementation principles in Chapter 2 so that the outcomes of projects:

    - tangibly and measurably improve environmental matters,

    - are value for money and have a high chance of success,

    - are strategic and have landscape-scale outcomes where achievable,

    - are long term and enduring (ideally outcomes will endure for at least 20 years) – in some cases this will require agreements to be established between the department and parties with interests or rights to the land,

    - are additional to activities that are already required as a condition of approval or lease or a legislative requirement.

- Projects should: (secondary fund outcomes)

  - Benefit multiple environmental matters (as per Table 1) and other species of conservation significance. Projects that address matters with high conservation status will be given priority.

  - Be connected to other areas of conservation significance and/or create corridors across the landscape.

  - Be guided by the high-priority areas for environmental matters and the land access mapping. Where practicable, these datasets will be made accessible to project proponents.

  - Build on successful programs already underway to improve environmental matters. The department will support project proponents to identify regional programs already underway.

  - Be co-designed and co-delivered with Traditional Owners and implemented wherever possible with Aboriginal people and ranger groups. This includes aligning offset projects with healthy country plans and including Aboriginal people as part of project development and site visits.

  - Be developed in collaboration with other regional stakeholders involved in land management, including lessees, regional natural resource management groups, state government agencies, not-for-profit and community organisations. Provide regional employment outcomes including opportunities for Traditional Owners and inclusion of local knowledge and expertise.

---

[4] Based on forecasted figures for FY23/24 provided by DWER.

[5] Program: Pilbara Environmental Offsets Fund | Western Australian Government (www.wa.gov.au)

[6] Implementation Plan, Appendix 6.

3.2   MEASURES OF SUCCESS FOR PEOF

The Implementation Plan sets out the following 'Measures of Success' for PEOF.

The fund's **primary measures of success** will be the extent to which:

- Environmental matters are improved – to the same or greater value than the development impact being offset.
- Delivery of the fund aligns with the:
  - Environmental offset policies of the Western Australian and Australian governments.
  - Implementation principles in the Implementation Plan.
  - Fund's governance framework.

The fund's secondary measures of success will be how much the offset projects:

- Build on successful regional programs.
- Are co-designed with Traditional Owners and implemented by Aboriginal people including ranger groups.
- Are developed in collaboration with other regional stakeholders involved in land management, including lessees, regional natural resource management groups, the State Government, proponents, and the community.

Figure 1 - Measures of success for PEOF

3.3   GOVERNANCE FRAMEWORK

PEOF is governed by a Governance Framework (published in August 2019) and the Implementation Plan. A summary of the governance structure set out in the Governance Framework is set out in figure 2 and table 2.
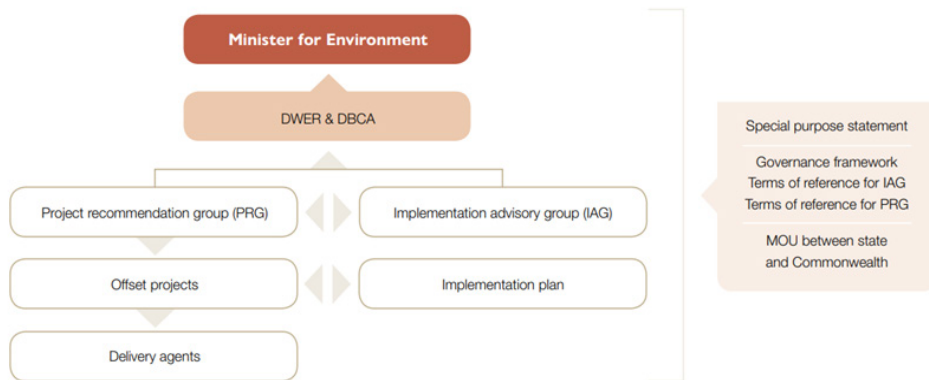

Figure 2 - Governance Framework for PEOF

Under current governance arrangements, a PEOF Board has been established and is responsible for providing recommendations to the Minister of Energy; Environment; Climate Action on proposed PEOF projects, although this role is not set out in the current Governance Framework.

Party	Role
Minister for Energy; Environment; Climate Action	• PEOF's key decision maker with ultimate decision-making authority for which projects get funded, based on the criteria set out in the Implementation Plan.
DWER	• Responsible for managing PEOF and ensuring compliance with the *Financial Management Act 1997*, Part IV of the EP Act (Ministerial Conditions), the Western Australian Offsets Policy and conditions of the special purpose account. • DWER also chairs and provides secretariat for the Implementation Advisory Group and the Project Recommendation Group. • DWER, along with DBCA jointly advise the Minister of Energy; Environment; Climate Action including putting forward the recommendations of the Implementation Advisory Group and the Project Recommendation Group.

Implementation Advisory Group (IAG)	• IAG consists of a group of experts associated with rehabilitation and conservation projects in the Pilbara, representing: the mining industry, state government agencies, non-government land management and conservation organisations, Traditional Owners, and Western Australian Biodiversity Science Institute (**WABSI**).
	
	• The IAG provides advice to the Directors General of DWER and DBCA and the Minister of Environment on:
	
	   a) Strategies, plans, reports, and projects that exist to conserve biodiversity in the Pilbara.
	   b) Leveraging opportunities.
	   c) The five-year Implementation Plan.
	   d) The scope of each project round.
	   e) The funds monitoring, evaluation, reporting and improvement framework.

Project Recommendation Group (PRG)	• PRG consists of representatives from DWER, DBCA and the federal Department of Climate Change, Energy, the Environment and Water (**DCCEEW**), all of whom have experience in the deployment of biodiversity conservation projects. An independent probity officer attends PRG meetings to ensure that project recommendation decisions are made in accordance with the Implementation Plan. • The PRG reviews project applications against selection criteria in Appendix 4 of the Implementation Plan and recommends projects to be funded to the PEOF Board, who then put them forward to the Minister for Energy; Environment; Climate Action.

Table 1 - PEOF governance structure - roles and responsibilities

3.4   PEOF 2018 – 2023

Several different approaches have been adopted to identify suitable projects for PEOF. Following an initial open call for applications which resulted in limited suitable applications being put forward, DWER ran a competitive grants process in November 2019 to seek expressions of interest for PEOF projects. This was a two-stage process run over eight months which required a submission of an expression of interest followed by a requirement to submit a detailed project plan. DWER only received two applications, both from Aboriginal corporations. The PRG recommended that one of those projects be funded, and that in addition the grant process be changed because it didn't enable collaboration with Traditional Owners. The competitive grant process highlighted several key learnings set out in the PEOF Co-Design and Engagement Framework:[7]

- There are only a few organisations capable of delivering large land management projects in the Pilbara and they have specific management objectives (e.g., a focus on a particular threat, such as management of biosecurity issues, or jurisdiction over specific tenure). This provides for an intrinsic market failure (i.e., lack of a competitive market).

- There is potential for greater effectiveness and efficiency where these limited number of organisations can work together rather than in competition.

- A competitive process also stymied the ability of DWER to collaborate with multiple applicants to refine applications.

- The process did not support relationship building with Aboriginal corporations and Traditional Owners and did not incorporate Traditional Owner aspirations for land management.

Following the grant process in 2019, DWER shifted to a more collaborative process working with land holders and managers across the Pilbara region to develop projects. This unique co-design process is set out in the PEOF Co-design and Engagement Framework which supports a collaborative approach between regional land managers, government, and Traditional Owners. The Shaw River program below was the first to go through this unique co-design process.
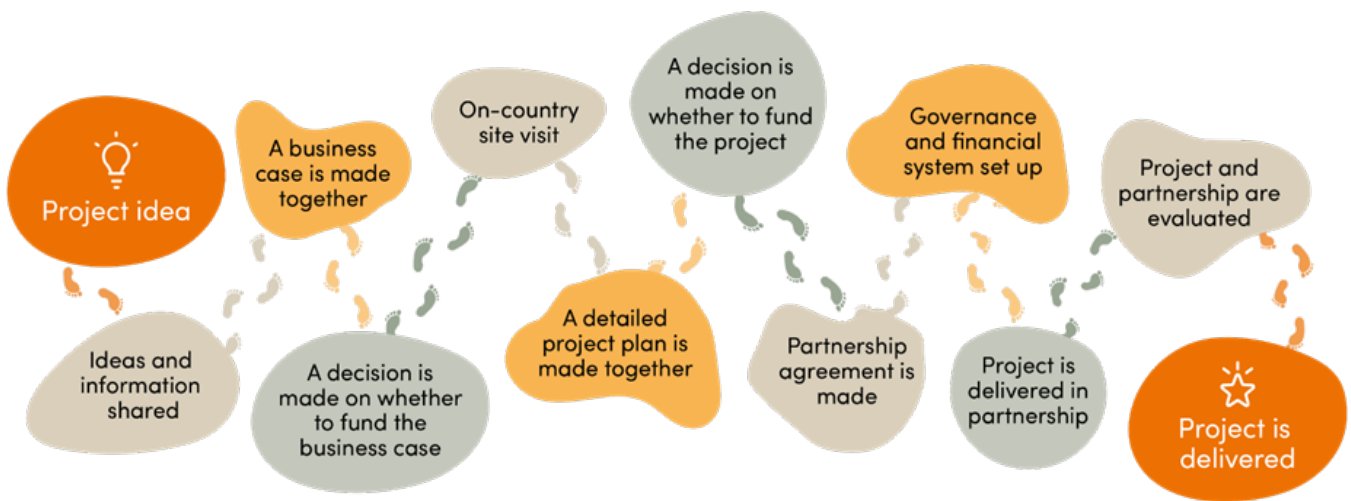

Figure 3 - Co-design process for PEOF

---

[7] PEOF Engagement Plan, page 6

Since its establishment in 2018, only four projects have been established under PEOF:

Project	Overview	Status	Location	Tenure
Calatropis Weed Management Project (Tharra)	Undertaken by the Budadee Rangers in the Woodstock Abydos Protected Reserve. In 2020 PEOF granted Budadee Aboriginal Corporation $600,000 over three years to deliver a weed management program at Tharra, to respond to the recent increase in Calotropis procera along rivers at the reserve.	The Budadee Aboriginal Rangers have now completed two years of the project, identified monitoring points, and developed a long-term weed control plan. The Rangers undertook five weed control trips throughout 2022, with the expectation that Calotropis procera will be managed across 1,000 ha of Tharra. The Rangers are now delivering their third year of weed control activities at Tharra.	Woodstock Abydos Protected Reserve - the reserve covers 154,000 ha and is about 150 km south of Port Hedland, between the Roebourne plains in the north and the Chichester Range in the south. It is one of the most archeologically and culturally significant places in Western Australia.	No security required as the project is on Woodstock Abydos (protected reserve under the Native Title Act 1993 (Cth) (NTA)).
Bilby Monitoring Project (Tharra)	Project will be undertaken by the Budadee Rangers with logistical and technical support from Terra Rosa Consulting and technical support from DBCA.	Project commences in June 2023 with the collection of baseline data and identification of primary threatened processes which will be used to develop a report describing bilby populations and identifying long-term management actions.	Southeastern 'Tharra' section of the Woodstock Abydos Protected Reserve.	No security required as the project is on Woodstock Abydos (protected reserve under the NTA).
Parkinsonia weed management (Shaw River)	The Pilbara Mesquite Management Committee will receive ~$1 million in funding over five years to progress eradication of Parkinsonia aculeata along the Shaw River riparian zone, on Hillside Station. The project aims to directly improve an estimated 12,000 ha of riparian vegetation as well as prevent the spread of the weed further downstream.	Commenced in April 2023, to be delivered over five years.	Shaw River, Hillside Station.	Approved to proceed based on letter of support for access by pastoral station manager, and PEOF trying to secure a BC Act Covenant for the area.
Fauna Investment Plan development	DBCA is currently summarising the current knowledge gaps, research, and management priorities for MNES in the Pilbara to inform a fauna investment plan for PEOF.	Currently underway.	N/A	N/A

*Table 2 - Summary of current PEOF projects*

CASE STUDY: WOODSTOCK ABYDOS[8]

Background

The Woodstock Abydos Protected Reserve is located approximately 150 km south of Port Hedland. The reserve connects several communities through Traditional Law including Palyku, Kariyarra, Nyamal, Nyiyarparli and Martu people. Budadee Aboriginal Corporation applied for project funding in the Inaugural PEOF grant round in 2020 and was the only successful funding recipient.

Budadee Aboriginal Corporation commissioned Terra Rosa Consulting to assist in the delivery of the project which includes environmental planning, monitoring, and rehabilitation activities across Tharra (the Palyku section of the reserve). The objective of the project is to both meet the offset condition relating to 'good to excellent' vegetation but also to enhance the environment at Tharra defined by both conservation and cultural values. Security of tenure for the offsets project is provided for under the Aboriginal Heritage Act 1972 (WA).

The project was designed in two delivery stages:

- Stage 1 was funded ~$185,000 from the PEOF in 2021 and focussed on creating a plan for integrated riparian management, building Ranger capacity, and establishing a vegetation monitoring system to evaluated vegetation condition change over time.

- Stage 2 was funded ~$322,000 in 2022 and focussed on targeted and opportunistic control of Calotropis procera with the primary objective of improving the condition of at least 1000ha of riparian vegetation.
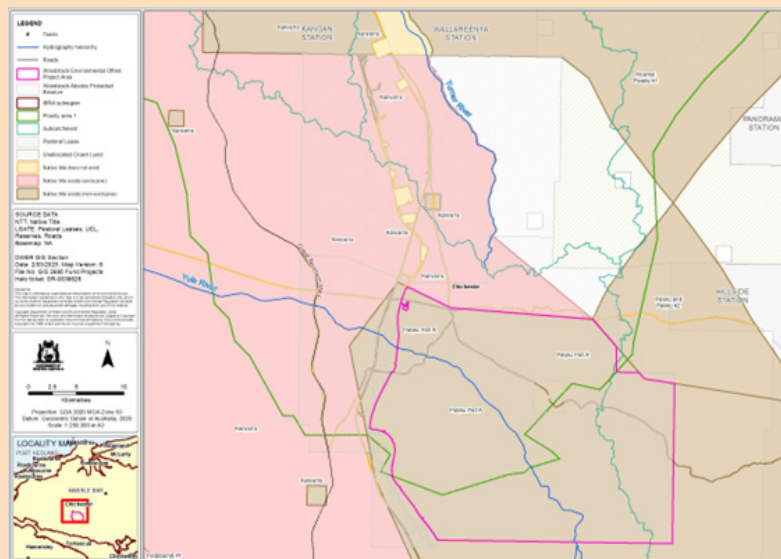
Map: Woodstock environmental offset project area.

Challenges in development - There were two main challenges in the development of the program – COVID-19 restrictions, and the development of the vegetation condition monitoring program. COVID-19 restrictions resulted in the Ranger teams needing to find alternate accommodation for field activities in 2022 (stage 2) as in-kind support by way of accommodation at FMG rail camp 145 was no longer accessible. These catering and camping costs were budgeted for in the stage 2 cost estimate.

There were also several challenges with the development of vegetation condition monitoring program:

- The vegetation condition assessment and monitoring program was intended to run separate but complimentary to the Woodstock Environmental Offset Project, however it is currently still under development.

- Regional coordination for a standardised approach is tenable, however currently lacks direct oversight.

- Disconnect between data collection and data analysis for vegetation condition assessment (photo points). Data was collected as per TERN Ausplot procedure in 2021 for forty riparian sites across the reserve but requires external analysis for interpretation.

- How to capture meaningful data on preventative management actions – for example weed control conducted at recently established Calotropis areas likely has small effect on immediate vegetation condition but a large long-term payoff.

[8] Note that this case study was prepared by DWER.

Outcomes -A review of the project by DWER identified that the project had achieved four primary measures of success:

1. Environmental matters improved.

2. Delivery aligns with offset policies.

3. Delivery aligns with implementation principles.

4. Delivery aligns with governance frameworks.

It also determined that it had met the secondary measures of success by building on successful programs, being co-designed and delivered with TOs and was in progress to being developed in collaboration with other regional stakeholders. The following factors were identified as key success factors for the project:

- The project has been highly successful both in delivering much needed weed mapping and weed control within riparian systems of Tharra and Karnparnmarma. This has been the only funded weed management within the reserve (outside of the mining excise areas and ranger training activities).

- Timely intervention of Calotropis procera within the reserve has prevented establishment of mature plants within the Yule River and reduced the distribution of the worse effected Turner River to within manageable levels.

- Project success is based on the speed of delivery (consultation to implementation), Traditional Owner leadership during both field implementation and planning, collaborative partnerships (Budadee, Terra Rosa, DWER) and flexibility in implementation to deal with changing circumstances (project evolved alongside the PEOF delivery expectations).

Several positive unexpected outcomes were also achieved:

- Survey strategy pairs very well with opportunistic general weed mapping. Able to spatially map distribution of non-priority weeds across the reserve and plan future control methods accordingly.

- Elder participation allows cultural knowledge transfer and opportunistic knowledge capture of remote heritage places. Also provides cultural safety to teams as they access heritage sites (many linked to riparian systems).

- Project synergised with Budadee's Aboriginal Ranger Program (DBCA grant). PEOF team provided mentorship and training to junior rangers in Calotropis identification and removal. Extra hands drafted through ARP for high density weed control.

- Project synergised with Palyku's healthy water program. Rangers/coordinators involved in PEOF program mentored broader Palyku community in identifying Calotropis across the Palyku Native Title area.

- Heightened awareness of Calotropis procera among the communities of Nullagine, Marble Bar, Yandeyarra and South Hedland. Broader awareness and understanding of the threat of Calotropis infestation and broad support for control programs.

- Total area covered greater than expected. Distribution and density of Calotropis procera across the reserve suggests recent establishment, and early control highly effective at preventing large scale infestations (such as those seen in the De- Grey River and parts of the Turner Rivers).

- Project designed based on current-best practice methods of Calotropis procera control (training with Pilbara Mesquite Management Council). Techniques standardised for collaboration across groups.

- Photo-point monitoring (stage 1) based on AusPlots Rangelands Survey Protocols (Terrestrial Ecosystem Research Network). Budadee Ranger team gaining experience in environmental data collection for standardisation with vegetation condition assessment and monitoring frameworks (in development).

4. METHODOLOGY

4.1 SCOPE OF EVALUATION

This evaluation covers the first six years of PEOF's operation (2018 – 2023) and is the first evaluation of the fund. It has been designed as a process evaluation to focus on the establishment and operation of PEOF over that period. Given that PEOF is still in a development phase, and that there have been significant challenges in getting offset projects approved and delivered under PEOF (only four projects have been approved since 2018), a process evaluation, rather than an outcomes evaluation, was determined the most appropriate evaluation at this time, given that it is too early to evaluate whether the intended environmental outcomes of PEOF have been met.

The Implementation Plan sets out that PEOF has been designed to be adaptively managed, with an evaluation to be undertaken every three years. In briefing evaluators, DWER recognised that the first six years of PEOF had been challenging. The evaluation was viewed as an opportunity to better understand the challenges through open and transparent consultation with stakeholders.

4.2 EVALUATION PROCESS

Given the limited number of approved PEOF projects, this evaluation focussed primarily on stakeholder consultation and thematic analysis, rather than evaluation of quantitative evidence. A five-step evaluation process was followed:

| 1. Develop evaluation plan | 2. Undertake document review | 3. Stakeholder engagement | 4. Analysis of key themes and findings | 5. Draft evaluation report |

4.3 KEY EVALUATION QUESTIONS

The Implementation Plan sets out the scope of the three yearly evaluations in section 4.3 and Appendix 5 – the evaluation is required to consider the key measures of success for PEOF, and therefore seeks to answer the following evaluation questions:

- Does the delivery of PEOF align with:
  - Environmental offset policies of the Western Australian and Australian governments?
  - Implementation principles in the Implementation Plan?
  - PEOF's governance framework?
- Do the PEOF projects build on successful regional programs?
- Are PEOF projects co-designed with Traditional Owners and implemented by Aboriginal people including ranger groups?
- Are PEOF projects developed in collaboration with other regional stakeholders involved in land management, including lessees, regional natural resource management groups, the State Government, proponents, and the community?

In commissioning this evaluation, the PEOF Board determined that it was too early to evaluate whether the first measure of success in the Implementation Plan has been met (that environmental values are improved), and therefore this measure was not in scope for this evaluation. However, stakeholders were asked whether they thought PEOF was on track to meet its environmental outcomes as part of the evaluation process.

In addition to evaluating the measures of success, the PEOF Board decided that as PEOF was still in a development phase that the evaluation should also consider the following Additional Evaluation Questions:

- Whether PEOF has been delivered efficiently and effectively?
- Whether PEOF settings/design are appropriate to meet measures of success?
- What opportunities exist for PEOF to improve on both points above?

4.4   SUMMARY OF STAKEHOLDER CONSULTATION

Extensive stakeholder consultation was undertaken as part of this evaluation. The interviews focused on understanding stakeholder perceptions and feedback on the process to establish PEOF, whether the key measures of success had been met, what barriers and challenges had been faced, whether the design of PEOF enables it to meet its intended outcomes, and what changes could be made to better position PEOF to do this.

Stakeholder Type	Organisation
Internal	DWER – Native Veg and Program Recovery
	DWER – Environmental Protection Authority Services (EPA)
	PCLMP (previous PEOF Program Manager)
PEOF Board	DWER – Native Vegetation Services
	DWER – Northwest Region
	DWER – EPA Services
	DWER – Approvals
	DBCA
PEOF Projects	DWER – PEOF
	Terra Rosa + Budadee
	Pilbara Mesquite Management Committee
Industry Representatives	Fortescue
	Consolidated Minerals
	De Grey Mining
	Calidus Resources Limited
	Roy Hill
	Chamber Minerals and Energy
	AMEC
	Rio Tinto
	Consolidated Minerals
	BHP
	Alinta Energy
	APIJV
	MRL
Other	Chair – EPA Board
	DCCEEW
	Greening Australia (NRM)
	DMIRS
	DBCA
	DPLH
	WABSI
	Pilbara Development Commission
	Yindjibarndi Aboriginal Corporation
	Freelance Ecologist

Table 3 - Stakeholders consulted for the evaluation.

PART B – EVALUATION FINDINGS
5. STATE AND COMMONWEALTH POLICY FRAMEWORK

PEOF is governed by complex State and Commonwealth policy principles that oversee how offsets can be delivered in the Pilbara. These policy principles are set out in Appendix A. The overarching stakeholder view was that the WA and Commonwealth legislative and policy frameworks surrounding offsets are complex, do not work well together, and are being interpreted too rigidly, creating a 'high bar' which prevents projects which could have positive biodiversity benefits from being approved under PEOF. The view was that the fund is being 'paralysed' in the pursuit of perfection and consequently very few projects are being delivered under PEOF.

5.1 APPLICATION OF STATE AND COMMONWEALTH POLICY FRAMEWORKS THROUGH PEOF

The Implementation Plan sets out the key offset policy principles for the implementation of the PEOF fund – these are not intended to replace or contradict the State or Commonwealth Government policies, but detail how they will apply to PEOF in practice.[9]

Key principle	Detail
Relevant and proportionate	Projects implemented through PEOF must improve environmental matters by a value that is equal or greater than the impact approved to be offset. This should occur in the same Interim Biogeographic Regionalisation for Australia (**IBRA**) sub-region as where the impact occurred.
Cost effective	Offset projects must be designed so they are value for money and have a high chance of success. Contributions under the EP Act can be spent on: • Environmental offset projects located in the Pilbara IBRA region which counterbalance the residual impacts to environmental matters. • Administering the fund. • Monitoring, reporting, and evaluating the funds performance.
Strategic and landscape scale	• Deliver projects that are linked and integrated across the Pilbara bioregion. • Enable threats such as weeds, fire, and feral animals to be addressed more cost-effectively at an appropriate scale. • Build on existing successful regional programs (e.g. State Government conservation initiatives, current biosecurity management programs and ranger groups) to increase the conservation outcomes of offset activities.

Tangible improvement	Projects must lead directly to a tangible and measurable improvement to the environmental matters required to be offset. Of the environmental offset projects delivered through the fund, about 90 per cent will have an 'on-ground' focus and 10 per cent will have a 'research' focus. [10]
	
	The Implementation Plan lists several activities that will not be implemented through PEOF:
	• The development and writing of:
	  − Threatened species plans.
	  − Conservation estate management plans.
	  − Healthy country plans.
	• Research that does not have a direct link to an on-ground outcome that improves an environmental matter.
	• Trials, research, and monitoring for best practice rehabilitation as part of mine closure.
	• Standalone training or capability building (training and capacity building may be funded if it is part of a broader on-ground project).
	• Establishment of an organisation or group.

[9] Implementation Plan, page 13; Program: Pilbara Environmental Offsets Fund | Western Australian Government (www.wa.gov.au)

[10] There are no further guidelines about how this split is required to be calculated.

Key principle	Detail

Enduring and secure in the long term	Environmental offset projects must endure for as long as possible (ideally at least 20 years). The likelihood of an offset being long term and enduring is largely determined by the:
	
	• The rights and interests to land and whether they are consistent with the endurance of an offset.
	• Resourcing of ongoing activities that maintain the environmental offset.
	• The nature of agreements with land managers and eligible interest holders that secure offsets in the longer term. The agreements that can be put in place to 'secure' offsets largely fall into two categories:
	   – Contracts – which are tenure-blind and provide security through commercial law.
	   – Memorials, caveats, and covenants – which allow third parties to register an interest on crown land without changing the tenure. In most cases these require landholder consent. Ownership of the land remains with the primary holder, but the third party's rights are formally recognised.

Additional to exiting legislative obligations	Environmental offsets are additional when they are added to those that are already required by way of condition or approval or lease, or legislation. Obligations to already manage or rehabilitate land include: • Conditions of approval under Part IV or V of the EP Act and/or Parts 9 and 10 of the EPBC Act (e.g., conditions which require proponents to manage their impacts during mine operation, rehabilitation, and closure). • Leases as defined under the Land Administration Act 1997 (WA) (**LA Act**). For example, lessees must not cause, or permit contamination, pollution, or environmental harm. • Mining tenements as defined under the Mining Act 1978 (WA). • Management of the conservation estate under the Conservation and Land Management Act 1984 (WA). • Management of pests under the Biosecurity and Agricultural Management Act 2007. For example, land managers are required to manage the impact and spread of classified pests already present in WA.

5.2   PEOF POLICY CHALLENGES

There are three key policy requirements that create significant challenges when attempting to get projects approved and delivered under PEOF:

• 'Security of offsets' being interpreted to mean 'security of tenure'.
• The requirement for activities to be additional to what is already being done.
• The increasing requirement for offset projects to deliver a 'like for like' offset, or specific predetermined outcomes.

Security of offset – security of tenure.

Both the State and Commonwealth biodiversity offset policies require offset outcomes to endure over the long term – this has been termed 'security for offsets'. The Implementation Plan states that security of offsets means that the offsets must be long term and endure for at least 20 years. In practice, stakeholders reflected that security of offsets had been interpreted to mean security of tenure. Therefore, under this interpretation, PEOF projects were required to show that the underlying tenure will be secure for at least 20 years before they can be approved. This is extremely difficult in the Pilbara– see 'section 6.1 – Land Tenure'. Stakeholders suggested that interpreting security of offsets to mean security of tenure for at least 20 years, was applying the policy too rigidly and mixed uses for land should be considered to give PEOF the best chance to deliver on its intended environmental outcomes.

Additionality

Commonwealth offset policy requires that offsets must be 'in addition' to what is already required under approvals, leases and legislation.. Stakeholders expressed a range of views about the principle of additionality, with some indicating that the principle, as it was currently being interpreted and applied, was a limiting factor to approving projects under PEOF because it was preventing potential PEOF projects building on other successful Pilbara biodiversity activities. Such a narrow interpretation of the additionality principle appears to be at odds with one of PEOF's key measures of success – that PEOF projects build on regional initiatives.

Some stakeholders were concerned that the current baselining of spend and impacts on conservation is insufficient across the Pilbara and therefore it is often difficult to 'prove additionality'. These stakeholders want to ensure that PEOF expenditure is truly in addition to what the government already is and should be doing (which should be increasing).

Some stakeholders wanted to understand why PEOF isn't being used to expand projects that DBCA, Department of Primary Industries and Regional Development (**DPIRD**) and Department Planning, Lands and Heritage (**DPLH**) are already delivering that deliver conservation outcomes and could be scaled with more funding.

There was a call for PEOF to be more sophisticated about additionality and have a broader conservation plan for the conservation state. While some stakeholders pointed to the Pilbara Conservation Strategy (which was developed at the time of PEOF) as providing this broader plan, it is quite high level and is likely to only provide a starting point for the more detailed planning of the Pilbara called for by stakeholders to address the complexities of additionality.

'Like for like'

PEOF was set up to be a strategic fund to address the cumulative environmental impacts of industry in the Pilbara, however there is a view that this has shifted and that PEOF is now being required to deliver project specific outcomes. When granting environmental approvals the EPA (Western Australia) is increasingly seeking confirmation from DWER that if proponents pay into PEOF, that PEOF will be able to deliver 'like for like' offsets relative to the environmental impact those environmental approvals granted are having (i.e. deliver offsets which directly offset the environmental impact the environmental approval is having). This is problematic because PEOF was not designed to deliver 'like for like' or specific project offset outcomes and it is not always practical to do so.

The EPA has raised significant concerns that PEOF is not able to deliver environmental outcomes, and that its 'like for like' conditions may not be met, raising questions about whether it can continue to grant environmental approvals that require payment into PEOF. This raises a key question about how PEOF can be strategic at the same time as meeting the requirements of the Commonwealth and Western Australian governments for PEOF projects to deliver specific offset outcomes relative to the damage caused by the approvals granted (that gave rise to the contributions to PEOF), rather than offset outcomes which contribute to broader strategic offset outcomes in the Pilbara.

Some stakeholders suggested that this could be achieved by more upfront planning from PEOF to identify strategic areas in which offsets could be undertaken. Upfront planning could build on the Pilbara Conservation Strategy, with more detailed regional, strategic planning and more detailed mapping of the Pilbara landscape to identify areas where offsets could be undertaken that would have a positive environmental impact and support the protection of MNES and achieve specific offset outcomes.

6. PILBARA REGIONAL CONTEXT

The Pilbara bioregion is about 179,000 square kilometres and consists of four subregions: the Fortescue, Hamersley, Chichester, and Roebourne. The region has a very high biodiversity value, possessing high species richness and many endemic flora and fauna species. It has 150 conservation significant flora species and the greatest reptile diversity in Western Australia. It is also an international hotspot for subterranean fauna.[11] Most of the Pilbara's threatened and priority species, including 50% of animals and 62% of plants are not currently protected in conservation reserves, with only 6.4% of the Pilbara under government managed conservation reserves – well below the international target of 17% set in 2020.[12]

The Pilbara is also one of Australia's most important regions for mineral wealth, generating about 40% of Western Australia's GDP.[13] Because of industrial development, the region has been identified as one of 15 national biodiversity hotspots – areas with many endemic species where the levels of stress or future threat are high. While industry is vital to Western Australia's economic progress, its impacts need to be balanced with the conservation of the region's diverse natural environment and exceptional biodiversity.[14]

With this context, in addition to the complex legislative and policy regime governing offsets in Western Australia, there are some challenges that are particularly complex in the Pilbara that cause further barriers to the approval and delivery of projects under PEOF.

6.1   LAND TENURE

As discussed in section 5.2 above, State and Commonwealth offset policies require offsets to endure in the long term, known as 'security for offsets'. In the PEOF Implementation Plan this has been interpreted to mean 20 years – requiring that offset activities can only be undertaken on tenure which is 'secure' for at least 20 years.

The land tenure situation in the Pilbara is complex, with multiple overlapping tenures on predominately Crown land. There is limited freehold land in the Pilbara and Crown land cannot be bought or sold. 60% of the Pilbara is covered by pastoral leases and 80% by mining tenements. Only 6.4% of the region is under state-managed conservation reserves, and there is limited suitable land that can be turned into a Class A reserve under the EP Act. This creates a complex environment, in which securing tenure for 20 years - before offset projects can be approved and commence - extremely challenging.

The main challenge is that no land has been expressly set aside for offset activity. When PEOF was established, the original intention was that through the 2015 pastoral lese renewal process under the Land Administration Act 1997 (WA) the formal reserve system would increase, which would create land that could be used for offsets - however this did not happen which has increased tenure challenges. With no specific land set aside for offset activities in the Pilbara, the DWER project team has had to work within a complex land tenure system and negotiate with multiple landholders and managers to try and identify land suitable to undertake offset activities on.

The Implementation Plan identifies that the biggest challenge to achieving landscape-scale offset benefits through PEOF will be the extent to which the State government – working with industry, natural resource management groups and Traditional Owners – can access land with overlapping mining, pastoral, and native title interests to deliver enduring outcomes for offsets. The Implementation Plan identifies several options to progress security for offsets for PEOF, including:

- Tenure conversion.

- Management of part or all of pastoral leases for biodiversity conservation.

- Identifying areas of mining lease where offsets would be viable – for example areas already mined where resources have been exhausted.

- Identifying opportunities through other government policies and initiatives, including carbon farming.

- Identifying areas where development impacts should be avoided to inform environmental impact assessment.

- Using Indigenous land use agreements which align with environmental offsets to provide non-statutory protection, such as Commonwealth Indigenous Protected Areas (IPA) or Indigenous Land Use (ILUA) agreements.

---

[11] The Pilbara bioregion (2023) Government of Western Australia, Program: Pilbara Environmental Offsets Fund
[12] WA's Pilbara region has potential for world-leading conservation partnership: new report (2022) The Enduring Pilbara, WA's Pilbara region has potential for world-leading conservation partnership: new report (2022)
[13] Implementation Plan, page 5.
[14] Implementation Plan, page 5.

Evaluation of the Pilbara Environmental Offsets Fund 2024

The requirement for secure tenure for at least 20 years, in combination with the complexities of land tenure the Pilbara region has resulted in:

- Limited areas in the Pilbara where the tenure situation is conducive to running offset activities.

- Only a handful of projects have been approved under PEOF, predominately in areas where negotiating land access and complex tenure arrangements was not required because the underlying tenure was Crown reserve land.

- Project proposals have not progressed which could have had positive biodiversity impacts on the Pilbara because they cannot guarantee secure tenure for 20 years.

- Negotiating secure tenure arrangements with multiple land holders and managers has made the process of getting projects designed, approved, and delivered under PEOF slow and time consuming.

- Land holders and managers being reluctant to approve offset projects on their land or tenure because they are concerned about 'locking up land' for 20 years and not being able to undertake concurrent activities on it. This concern was expressed by all tenure holders – government, industry, and Traditional Owners.

Stakeholders questioned whether in some situations, secure, exclusive tenure for 20 year was required, or whether other land uses could continue at the same time as the offset activities, without preventing the offset activities from achieving environmental outcomes. For example, offset activities that could occur with other land uses include feral animal management and weed management. Stakeholders indicated that these offset activities could be done pursuant to a licence and coexist with other land activities and were still highly likely to deliver positive biodiversity outcomes.

One stakeholder gave an example of how this situation had played out in practice. Prior to the commencement of PEOF, they were running their own offset project in the Pilbara, on pastoral land with Commonwealth government support. The project was delivering positive environmental outcomes for Northern Quolls and had several expansion options. When the proponent sought to extend the project and fund it under PEOF, the Commonwealth government wouldn't sign off on the project citing one of the main reasons being that as the offset activities were being undertaken on a pastoral lease, the tenure was not deemed 'secure'. The proponent found the reapproval process too difficult, so elected instead to pay into PEOF, rather than to continue running the offset project themselves. The result is that environmental outcomes that would likely have been achieved if the project continued, were not realised.

Another opportunity to explore would be to fund groups like Bush Heritage Australia or Australian Wildlife Conservancy to buy pastoral leases or lease land for conservation to deliver offset projects. These groups could enter management arrangements with Traditional Owners and coordinate the monitoring and reporting of offset outcomes.

Some stakeholders highlighted the fact that PEOF was set up to address issues that proponents couldn't – for example securing tenure in the Pilbara. However, securing tenure for PEOF requires a whole of government approach.

6.2   SIGNIFICANT COMPETITION FOR LAND

Land is scarce in the Pilbara and subject to competition to use for mining, agriculture, renewable energy etc. Even where 'secure tenure' can be identified for biodiversity offsets, it often has to compete with other more profitable land uses such as mining and carbon farming.

Further, even where other land uses could occur concurrently with offset activities, such as carbon farming, land holders and managers are reluctant to approve offset activities on their land given the requirement for security of tenure for offsets which, as the policy is currently being interpreted, prevents other land uses occurring concurrently.

Many stakeholders suggested that policy reform is needed to resolve the security for offsets issue, and the way it's applied in the Pilbara, to allow offset activities to occur concurrently with other compatible land uses. For example, Traditional Owner stakeholders indicated one of the key reasons they were hesitant to agree to offset activities being undertaken on their native title lands was that the PEOF project team could not guarantee it wouldn't prevent them from using the land for other purposes at the same time.

6.3   CAPACITY OF TRADITIONAL OWNER GROUPS AND RANGER GROUPS

Traditional Owner groups have varying capacity and capability levels, both within their PBCs – the body that holds the native title rights and interest on behalf of native title holders, and their ranger groups. The capacity of PBCs to work together with the PEOF project team to codesign PEOF projects, and for their ranger groups to execute PEOF projects is varied. Further, most PBCs and ranger groups in the Pilbara have competing demands on their time, in particular engaging with mining companies (who are able to provide significant compensation for Traditional Owner's time). PEOF does not currently compensate Traditional Owner groups for the consultation time they invest in developing PEOF projects to the point of approval. Some stakeholders suggested that this may have further limited the ability of Traditional Owner groups to engage with PEOF to develop and/or deliver projects, in addition to the capacity restraints they already face in engaging with stakeholders generally.

6.4   CAPACITY LIMITATIONS OF NRM GROUPS AND STAFF IN THE PILBARA

Another deliverer of offset projects are NRM groups. However, NRM groups have limited presence in the Pilbara, and those that are present have limited on the ground capacity. Stakeholders indicated that the presence of NRM groups in the Pilbara had declined in recent years. There is a broader capacity issue across the Pilbara in that there are simply not enough employees to deliver these types of offset projects. The lack of suitable employees, in addition to competition from the mining industry for employees (which pays high salaries) means that even where employees can be found, high Pilbara salaries leads to higher costs to deliver projects. This capacity limitation is a significant contributor to the difficulty and high cost of delivering offset projects in the Pilbara.

7. DESIGN AND IMPLEMENTATION OF PEOF

This section considers the design and implementation of PEOF, and the elements that could be improved or modified to enhance outcome delivery. Overall, stakeholders felt that PEOF was not designed, nor was it being implemented in a way that would result in the intended environmental outcomes being achieved. Stakeholders commented on key design features limiting PEOF's ability to develop, approve and deliver projects. This section considers eight key elements of PEOF:

1. The strategic intent of PEOF.
2. Traditional Owner consultation.
3. Offset pricing and fund expenditure restrictions.
4. Governance.
5. Role of other government departments.
6. Role of industry.
7. Project approval process.
8. Resourcing.

7.1   THE STRATEGIC INTENT OF PEOF

PEOF was set up with the strategic intent to address the cumulative impacts of industry in the Pilbara on the environment. While projects have been established based on the Implementation plan, due to the small number of active projects and the organic nature at which projects are expected to expand (as per the co-design approach), it is too early to determine if PEOF projects will address the cumulative effects of Industry.

PEOF has received and is continuing to receive significant funds. Over $90m over 40 years has been conditioned to PEOF. One of the reasons that PEOF was established, was in recognition of the significant and numerous environmental impacts that industry was having on the biodiversity of the Pilbara, and a desire to take a strategic, landscape scale approach to addressing these impacts through a strategic offsets fund.

Due to a variety of significant barriers, PEOF has only delivered a handful of projects since it was established and is therefore at risk of not delivering the environmental outcomes it was established to deliver. Many stakeholders raised significant concerns about the ability of PEOF to deliver the intended environmental outcomes, and the viability of PEOF going forward. Further, there was a view that the projects which had been approved were not strategic as they didn't propose a landscape scale approach.

Some stakeholders reflected that one problem was a shift in the policy and enabling environment surrounding PEOF since the fund had been established. Specifically, a shift from a strategic approach to offsets, to a situation where DWER is being asked to show how PEOF projects deliver a 'like for like' benefit to the environmental harm they were offsetting, has reduced PEOFs ability to design and deliver strategic projects.

Stakeholders suggested several ways PEOF could be refocused to enable it to deliver on its strategic intent – most focused on PEOF taking a more proactive approach to designing and selecting projects:

Proposed Initiative	Detail
Mapping the Pilbara landscape	PEOF should undertake detailed mapping to understand in detail the biodiversity of different regions of the Pilbara and the current conservation activities being undertaken. A deeper understanding of current conservation activities will place PEOF in a better place to build on what is currently being done. Stakeholders reported that significant parts of the Pilbara had not been environmentally mapped, and where environmental mapping had been undertaken, it was typically in areas that were subject to mining activity and not suitable for offset projects.
Develop an overall strategy for offsets in the Pilbara	This would be broader than PEOF – a multi-government strategy that PEOF would contribute to. The strategy should identify key priorities for the Pilbara region, including environmental matters and locations. Some stakeholders felt that the Implementation Plan served this purpose but noted that it does not go far enough in providing the PEOF team with the information needed to proactively seek projects. Additionally, the Pilbara Conservation Strategy provides a basis for this work, but does not go far enough as to the level of detail that would allow the PEOF project team to take a proactive approach to seek and develop offset projects under PEOF. This offset strategy should align with the broader WA offsets strategy that is being developed.
Actively seek projects and coordinate parties	Developing an overall Pilbara offsets strategy would empower PEOF to take a strategic, convening approach to developing offset projects in the Pilbara – PEOF should identify through the strategic process where the need is and then seek parties to develop and deliver projects to meet that need. As part of this process PEOF should consider how it could scale up projects already delivering conservation outcomes in the region (reconciling the confusion between the additionality principle and the PEOF measure of success to 'build on successful regional programs').
Centralised approach to monitoring and evaluation	By adopting a centralised approach to environmental monitoring and evaluation, for example, through a research partner, PEOF would be able to ensure an accurate understanding of offset program impacts. This would also give greater credibility to the programs. A centralised approach to monitoring would also reduce some of the time burden on the PEOF team. Whilst a centralised approach to monitoring could be adopted for PEOF(at a fund level), each project will need to have tailored monitoring and evaluation which considers the unique environmental outcomes each project is seeking to achieve.

7.2 TRADITIONAL OWNER CONSULTATION

Consultation that has occurred was thought to have been done well. Some stakeholders questioned the capacity of Traditional Owner groups to engage meaningfully in the process, particularly as PEOF does not compensate Traditional Owners for their engagement. One Traditional Owner raised concerns that offset activities could sterilise their lands from future developments.

One of the secondary measures of success of PEOF is that offset projects are co-designed with Traditional Owners and implemented by Aboriginal people, including ranger groups. Most stakeholders felt that consultation with Traditional Owners had been done well, acknowledging that it is costly and time-consuming to do properly. In person engagement is critical, so having PEOF presence in the Pilbara is essential.

The capacity of Traditional Owner PBC groups in the Pilbara to consult on, and the capacity of ranger groups to deliver PEOF projects is varied. Most ranger programs are in early development and there are many competing demands for PBC time, including from the mining industry which is able to offer fees for consultation.

Most groups in the Pilbara do not have Healthy Country Plans and therefore had not yet identified what is environmentally important to their groups and what they would be willing to partner with PEOF on. Stakeholders noted that what is environmentally important from an EPA/DBCA perspective is not always what is important to Traditional Owners. Not having a Healthy Country Plan does not prevent Traditional Owners from engaging with PEOF, but some stakeholders suggested that it does make it more difficult. Under the Implementation Plan, Healthy Country Plans cannot be funded as part of PEOF.[15]

---

[15] Implementation Plan, page 15.

Some stakeholders felt that there may potentially be circumstances where it was not necessary to engage Traditional Owners in the project development process, and whether co-design with Traditional Owners was the appropriate approach, especially in the early stages of project development. Some stakeholders reported that given the lengthy and uncertain project approval process, they were cautious about consulting with, and raising the expectations of Traditional Owners, without a guarantee of an approved offset project. Additionally, the cost of this upfront consultation with Traditional Owners falls on NRM organisations or other bodies who are developing offset project proposals for PEOF and is not funded by PEOF. Some stakeholders saw this as a barrier to effectively engaging with Traditional Owners. A phased project development approach was suggested to help address this issue, for example initial project scoping could be done by organisations proposing a specific offset project, and then detailed consultation with Traditional Owners could commence after the high-level proposal has been endorsed by the PEOF Board.

One Traditional Owner raised concerns that offset activities could sterilize their lands from future development and were therefore hesitant to approve offset projects on their lands*.

7.3 OFFSET PRICING AND FUND EXPENDITURE RESTRICTIONS

For various reasons, the cost of delivering offsets in the Pilbara are significant. Many stakeholders believe that what proponents are required to pay into PEOF is insufficient to deliver effective offset projects.

There are three key design elements of PEOF pricing and funding expenditure restrictions which stakeholders felt limited the ability of PEOF to deliver on its intended outcomes:

- The price of offsets paid into PEOF is too low.

- The way money is paid into the fund creates uncertainty.

- There are unhelpful restrictions on what can be funded through PEOF.

The price of offsets is too low

The cost of delivering offsets in the Pilbara is significant, including substantial upfront costs to get an offset project up and running – these include the cost of consulting with Traditional Owners and undertaking environmental research and surveying to understand the current condition of the land on which offsets are proposed. Given the remote location of the Pilbara, competing demands on Traditional Owner time, the lack of local staff and competition with the mining industry, biodiversity activities are thought to cost considerably more in the Pilbara than elsewhere in Australia. Some stakeholders believe that in this context, the price proponents pay into PEOF for offsets is lower than the cost to deliver them when you consider the research, planning, consultation, and project design work involved.

At the time of this evaluation, DWER and DCCEEW were working together to review the current clearing rates for PEOF, which range from $893-$3,781 per hectare. Their preliminary investigations suggest that the clearing rates have been set too low for PEOF.

One stakeholder interviewed provided an example of the significant costs of getting an offset project up and running, even before any offset activity commences – it cost the company $1 million in upfront costs before any activity commenced. This particular offset project went on to deliver $3 million worth of offset activities – therefore significant upfront costs were required for a relatively small offset project.

---

* It should be noted that only two Traditional Owners were able to be engaged in the evaluation and so insights should be read with that considered. All stakeholders were asked about their observations of TO consultation.

The way that proponents pay money into PEOF creates uncertainty

When environmental approvals are granted on the condition that proponents pay offsets into PEOF, they are not actually required to pay the amount 'conditioned' when the approval is granted, rather they pay it once they start undertaking the clearing activities subject to the environmental approval. For Commonwealth approvals only, 10% of the offsets are due to be paid into PEOF upon the environmental approval being granted. This means that there is some uncertainty about the actual amount of money in PEOF that can be used to spend on projects, reducing the capacity of PEOF to plan offsets projects with certainty. Some stakeholders recommended a higher proportion of offsets should be required to be paid upfront upon granting the environmental approval – 80% was the recommended amount.

There are unhelpful restrictions on how PEOF funding can be spent

Stakeholders reported several limitations they perceived in the way PEOF funding can be spent, which they felt limited the ability of PEOF to operate as a strategic fund and design and deliver projects:

- There was confusion amongst stakeholders (both external and within government) as to how the administration of PEOF and the cost of stakeholder consultation to develop PEOF projects was resourced. There was consistent feedback that PEOF administration was under resourced. Further, some stakeholders felt that because PEOF was subject to the yearly Treasury budget process this created limitations on ensuring PEOF was properly resourced (some stakeholders suggested that other approaches to funding PEOF overheads should continue to be explored, including accessing the interest generated by the funds in PEOF).

- Based on current policy, only 10% of PEOF funds can be used on research (and there are currently no guidelines as to how this should be calculated) Some stakeholders viewed this as limiting given that there are significant environmental knowledge gaps in the Pilbara for certain species and emerging MNES.

- Funding cannot be used to build the capacity of Traditional Owner groups or NRM groups, which is necessary for Traditional Owner groups to engage with the PEOF team to develop and deliver offset projects and for environmental outcomes to be achieved. For example, the Implementation Plan specifically states that PEOF funds cannot be used to develop Healthy Country Plans (HCPs) for Traditional Owner groups, but without HCPs, Traditional Owner groups are unlikely to have gone through the process of internally identifying their own conservation priorities, and therefore are often not in a ready position work with the PEOF team to co-design PEOF projects.

7.4 GOVERNANCE

There is a lack of clarity around different PEOF governance bodies, and a lack of transparency and reporting to key stakeholders on fund progress. Clearer, more defined roles are needed, as well as reengagement of the IAG to utilise their skills, experience, and relationships.

PEOF is governed by a Governance Framework (published in August 2019) and the Implementation Plan. The governance structure for PEOF is set out in section 3.3. While the Implementation Plan and Governance Framework set up a strong governance structure for PEOF, it is not operating as intended resulting in a lack of clarity around roles. There is also no clear reporting process for PEOF, and stakeholders reported a lack of transparency and reporting back on PEOF progress and decisions.

Minister for Energy; Environment; Climate Action

Under the current governance structure, the Minister for Energy; Environment; Climate Action has ultimate decision-making power and endorses each proposed project. Given the small number of projects that have been approved under PEOF to date this has been manageable but given that PEOF has $90 million worth of funds conditioned over the next 40 years it is questionable whether this will continue to be practical if PEOF is restructured and more projects are approved and running under PEOF, each requiring the Minister's approval. As part of redesigning the governance structure consideration should be given as to whether delegating the Minister's role in some circumstances may be appropriate.

PEOF Board

A PEOF Board consisting of senior DWER and DBCA staff also exists and plays a key role in overseeing PEOF. The Board is not mentioned in the Implementation Plan or the Governance Framework, making its role and relationship with the Project Recommendation Group and Implementation Advisory Group unclear. The PEOF Board reported that it needed to meet more frequently and be empowered to play a more strategic role. Further, cross government representation on the Board would be valuable given the complex policy issues PEOF needs to address to be successful, however consideration should also be given to how existing cross government boards could be used to help address some of the government wide issues impacting PEOF such as tenure and Traditional Owner capacity building.

Project Recommendation Group (PRG)

Some stakeholders were unclear of the process the PRG used to endorse projects.

Some stakeholders felt that the PRG lacked sufficient government seniority, subject matter expertise and Pilbara specific knowledge to be effective in considering proposals and making recommendations to the Minister for Energy; Environment; Climate Action on which offset projects should be approved Concerns were also raised about DBCA representatives both sitting on the PRG and receiving PEOF funds, which was perceived by some stakeholders as a conflict of interest.

Implementation Advisory Group (IAG)

The IAG had played an important role in designing PEOF and creating the Implementation Plan, however it is currently being underutilised and has only recently been reengaged, after not meeting for 12 months. Currently there is no Traditional Owner representation on the IAG resulting in the perspectives of an important stakeholder group being missed. Members of the IAG felt that the role of the IAG should be clarified and that it could be used at both a strategic and operational level, for example, helping to remove barriers and enabling access to key stakeholders needed for project development. Some stakeholders felt that paying NRM and Traditional Owner IAG members would lead to better representation and input.

Progress reporting

Finally, reporting on PEOF progress is very limited, which many stakeholders were frustrated by. The PEOF website contains limited detail, and the Project Register and Annual Reporting which is supposed to be published under the Implementation Plan are not.

7.5 ROLE OF OTHER GOVERNMENT DEPARTMENTS

Many of the issues that PEOF is seeking to address are 'bigger' than PEOF and require input from multiple government departments to address. A whole of government approach is needed to enable PEOF to deliver on its outcomes.

As discussed in section 5 above, the PEOF team has needed to address complex policy and contextual issues in order to get projects approved under PEOF. The PEOF team spends considerable time addressing these issues, when many of these issues actually need input and buy-in from multiple government departments to be address properly. The relevant government departments include:

- DBCA.
- DPIRD.
- DMIRS.
- DPLH.
- Central government (Department of Premier and Cabinet and Treasury).

These government departments are integral to the success of PEOF, but currently almost all accountability lies with DWER. A 'whole of government' approach to PEOF is needed that ensures that all relevant governments and agencies are invested in supporting PEOF to achieve its intended outcomes.

Some stakeholders questioned whether DWER is the right home for PEOF within government on the basis that:

- DWER is the environmental regulator, and there should be independence between the regulator (the body granting approvals and requiring offsets) and the body meeting the conditions and delivering the offsets.
- DWER has limited experience delivering on-ground projects.
- PEOF requires cross-government accountability and therefore may be better placed within a central government agency.

Some stakeholders questioned if PEOF should sit outside government entirely given governments low-risk appetite. However, this may not be possible given the complex legislative and policy requirements surrounding PEOF.

7.6 ROLE OF INDUSTRY

There is a disconnect between those benefiting from PEOF (industry – through obtaining environmental approvals) and those delivering PEOF (government – DWER). Many stakeholders felt that industry should play a greater role in supporting PEOF to deliver intended outcomes.

Currently, where proponents are granted environmental approvals with a requirement to pay into PEOF as an offset fund, they have no obligation to ensure that those offsets are actually delivered. Instead, the obligation to ensure that PEOF delivers offset projects and delivers on its environmental outcomes lies with DWER. There was a view amongst some stakeholders that proponents paying into PEOF (rather than having to deliver offset projects themselves) and the disconnect between who gets the benefit of the approvals (industry) and who is required to deliver them (government) means that industry has no 'skin in the game'. Industry representatives were concerned that even though they pay money into PEOF and then the obligation is on DWER to deliver the offset projects, they could still be held to account by the Federal Minster of Environment if offsets aren't delivering intended outcomes, and therefore they want to see PEOF progress more projects and be more transparent about progress.

Industry is a key enabler to the success of PEOF because it:

- is a key land manager in the Pilbara,

- has relationships with key stakeholders who are integral to the success of PEOF projects, including Traditional Owners and pastoralists, and

- has key knowledge of, and presence in the Pilbara.

Industry and its strengths should be better leveraged to progress PEOF projects. Some stakeholders suggested that this could be achieved by creating obligations on proponents under their environmental approvals to work with PEOF to design and deliver offset programs, for example supporting land access. This raises significant questions, for example: what would happen if industry couldn't secure tenure to deliver the offset, would they forfeit their environmental approval?

There was some suggestion that industry might be willing to undertake offset activity on their mining leases, but that approval from DMIRS for this was a challenge. This again points to the need for cross-government accountability to address the complex issues surrounding PEOF.

7.7 PROJECT DEVELOPMENT AND APPROVAL PROCESS

While the project development and approval process is illustrated in the current Implementation and Engagement plans, third party stakeholders reported that the project development and approval process is unclear and lengthy and project appraisal and decision-making lacks transparency.

Several different approaches have been used to identify projects for approval under PEOF. Initially, the PEOF project development and approval process was set up as an open call for projects, however most of the projects submitted did not meet the program criteria and there were conflict of interest issues. Next, the PEOF project development and approval process was set up as a competitive tender process. This only attracted two applications and was viewed as not conducive to effective co-design with Traditional Owners. DWER then changed to a collaborative, co-design approach. Stakeholders indicated that the current process of developing up a business case and taking it through to implementation under PEOF was lengthy and unclear. Specifically:

- The proposal document that proponents were required to use was too short and assumed that the PRG held a level of Pilbara and technical knowledge, which some stakeholders believed they didn't. This meant the PRG lacked important background information when assessing projects.

- The governance process surrounding development and approval of a project was unclear and not transparent (see section 7.4 above) in particular the role of the PRG and the PEOF Board was not clear, and the IAG was not sufficiently engaged meaning that the process lacked relevant industry and technical input.

- Some stakeholders commented on a disconnect between the PEOF team who supported proponents to develop project proposals and the PRG who appraise proposals, and a perceived difference in how each was applying relevant government policy. Some stakeholders suggested that it should be a more collaborative process with the PRG involved in the process to develop a business case.

- The process relied on proponents to come up with ideas and bring them to the PEOF project team. Alongside the co-design process with TO's and other stakeholders there is the ability for third parties to present project concepts to the PEOF project team. Some stakeholders suggested that it should be the DWER project team, following a process of strategic planning and mapping, identifying priorities and/or potential projects, and then approaching and convening the necessary third parties to deliver them (see section 7.1 above).

7.8 RESOURCING

Designing, implementing, and managing an offset program is a complex task. The functions and capabilities required, and resources needed to fulfil them have been underestimated. The PEOF team is only funded to fulfil a subset of these tasks, and therefore despite significant effort, have been limited in what they have been able to deliver.

The general sentiment from stakeholders was that the PEOF team had done extremely well to deliver what they had with the resources allocated, but that they were significantly under resourced to deliver a fund of this size and complexity. Currently 2.8 FTE is allocated within DWER to run PEOF. Some stakeholders suggested that the current resource model is inadequate due to DWER not fully understanding all the roles and capabilities that were required to deliver an offsets fund when PEOF was established. These responsibilities are set out it figure 4 below and include addressing policy barriers, planning, research, governance, due diligence, business case development, reporting, engagement on ground, monitoring and evaluation, data management, financial management etc.

Stakeholders reported that the current FTE and turnover of PEOF project staff has limited PEOFs ability to deliver. Some stakeholders suggested that a fund of this size should have a more significant FTE – including additional resources within the PEOF project team, as well as additional dedicated support from other functions within DWER and other government departments. As PEOF approves more projects and begins to oversee multiple offset projects, resourcing will likely need to increase further.

Additionally, there was confusion amongst stakeholders (both externally and within government) as to how the PEOF team and upfront strategy and planning work required to make PEOF effective was and could be funded. The administration costs associated with running offset projects in the Pilbara are significant - one proponent interviewed provided an example of the significant costs in establishing an offset project, even before the offset activity commenced – it cost the company $1 million in upfront costs before any activity commenced. This particular offset project went on to deliver a relatively small $3 million worth of offset activities.

A comprehensive review of the resources required to run PEOF effectively is needed. Any such review should consider the following:

- What elements of the PEOF administration can be outsourced? For example, some stakeholders suggested the monitoring and evaluation of environmental impacts of offsets should be outsourced.
- What elements of PEOF should other DWER teams, departments or a 'whole of government' body be accountable for?
- What elements of PEOF are not covered by the current FTE, and how could this be funded?
- PEOF is still in an establishment phase, once it is overseeing multiple complex offset projects, the resourcing requirements of PEOF will likely increase.
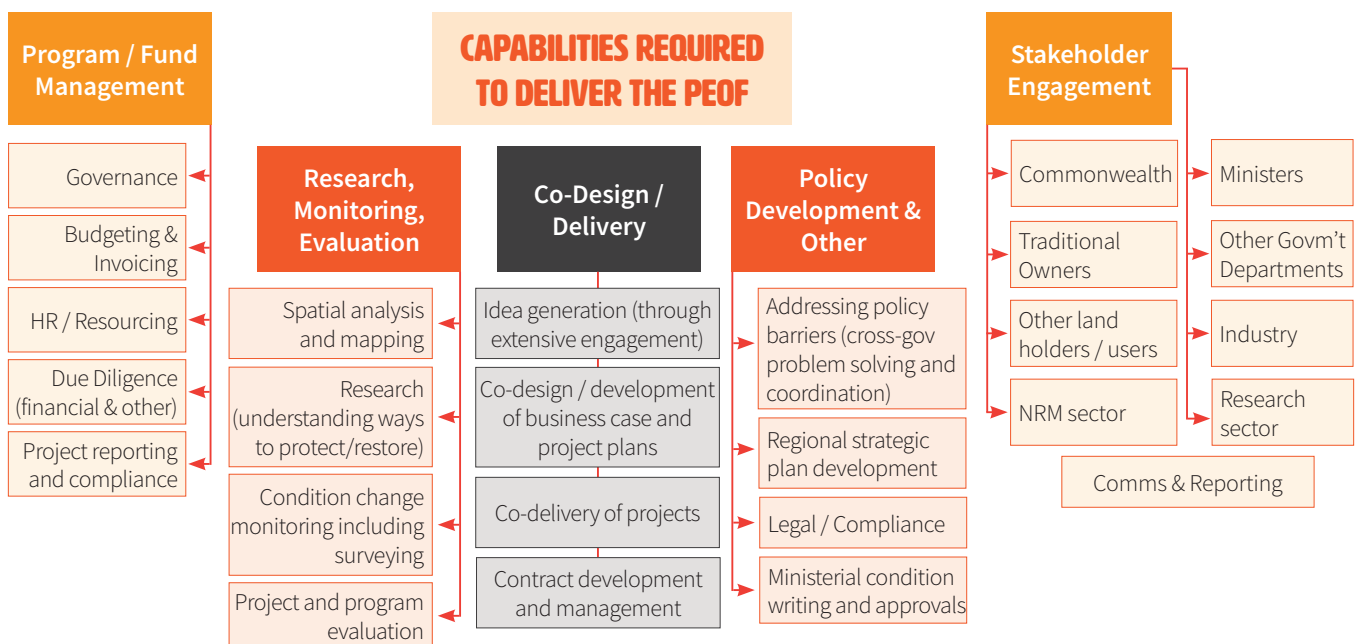
Figure 4 - Capabilities required to deliver PEOF

8. MEASURES OF SUCCESS

8.1 EVALUATION QUESTIONS

The PEOF Implementation Plan identifies the 'Measures of success' against which PEOF should be evaluated – these are set out above in figure 1. Given that PEOF is still in an early development phase and that only a handful of projects have been approved, the IAG determined that:

- It was too early to assess whether 'environmental matters are improved' for this evaluation, although did stakeholders were asked whether they thought PEOF was designed to enable this.

- This evaluation should include an assessment of the Additional Evaluation Questions.

The tables below set out an assessment as to how PEOF has delivered on the measures of success from the Implementation Plan, and the Additional Evaluation Questions raised by the IAG.

8.2   EVALUATION OF PRIMARY MEASURES OF SUCCESS

Evaluation question	Rating	Explanation	Relevant sections
Are environmental matters being improved – to the same or greater value than the development impact being offset? *Not specifically evaluated as part of this evaluation.*	LOW	• The extent to which environmental matters were improved as a result of PEOF was not specifically evaluated for this evaluation. At the time of this report there were 4 active projects that had been in place only a couple or years and therefore there has been insufficient time to measure improvements to environmental matters at this time. • Most stakeholders asked assessed that PEOF would struggle to deliver the environmental outcomes it was established to deliver within the limitations of the existing PEOF structure. The primary reason cited was that the policy environment and design of PEOF had created significant barriers to getting projects up and running and approved by the Minister.	Part B

Does the fund align with the environmental offset policies of the Western Australian and Australian governments?	MEDIUM	• Overall stakeholders reflected that approved PEOF projects are being delivered in accordance with the relevant Western Australian and Commonwealth government offset policies, but that these policies were not completely aligned with each other. Further, the rigid application of these policies is limiting the number of projects being approved under PEOF and therefore resulting in a situation where strict compliance with the offset policies is effectively 'paralysing' PEOF. The specific policies that were perceived as being applied in an overly strict manner were:
		
		   – The WA and Commonwealth policy requirement for security of offsets, which was interpreted in the Implementation Plan to mean security of tenure for 20 years.
		
		   – The Commonwealth policy requirement of 'additionality', which is potentially also misaligned with one of PEOF's secondary measures of success, to build on regional programs.
		
		   – The increasing requirement from the EPA requiring PEOF to demonstrate 'like for like' offsets.
		
		• Further, the intent of PEOF to deliver strategic, landscape-scale projects, is also at odds with some of the key principles in the offsets policies, for example PEOF was established to provide strategic offsets, but is increasingly being required to demonstrate how it is delivering 'like for like' offsets by both the EPA and that it is improving MNES by the Commonwealth government.
			Sections 5 and 6.1

Does the delivery of PEOF align with the Implementation Principles in the Implementation Plan?			
1. Relevant and proportionate	LOW	• Despite significant payments being made into PEOF only four projects have been approved under PEOF over its first six years - this means that there is substantial environmental impact occurring for which payments are being made into PEOF, but very few offset activities being delivered at this time, and therefore there is limited ability to measure environmental outcomes currently being realised from PEOF. Given significant barriers exist to developing and approving projects under PEOF, this is highly likely to be an ongoing problem where PEOF is limited in its ability to develop landscape scale projects (and therefore deliver cumulative environmental impacts offsets). • Some stakeholders perceived that the amount of money being paid into PEOF was too low to truly offset the environmental damage done – preliminary investigations by DWER and DCCEW into the PEOF clearing rates suggest they have been set too low.	Section 7.3

Evaluation question	Rating	Explanation	Relevant sections
2. Cost effective	*Insufficient evidence to assess*	• Given the low number of projects that have been approved and delivered under PEOF, there is insufficient evidence to determine whether this is being achieved.	N/A
3. Strategic and landscape scale	**LOW**	• PEOF's strategic pathway is illustrated in the Implementation plan where by environmental assets are overlaid with suitable tenure and avoiding no-go areas to provide a heat map which has guided project development. Despite this initial prioritisation process, and given the short timeframe over which projects have been implemented, it is hard to assess if PEOF is yet having a strategic and landscape scale impact on biodiversity in the Pilbara. Some stakeholders did not consider that the PEOF projects currently being delivered were strategic (landscape scale) in nature. The PEOF policy environment is a significant barrier to it operating in a strategic way, especially given the increasing pressure for PEOF to deliver 'like for 'like' offset projects (which some stakeholders indicated did not exist when PEOF was first established) and the limitations of the tenure situation in the Pilbara. It is unlikely that PEOF will be able to operate in strategic and landscape scale way until these issues are addressed.	Section 7.1
4. Tangible improvement	*Insufficient evidence to assess*	• Given the low number of projects approved and delivered under PEOF, there is insufficient evidence to determine whether this is being achieved. However, given the significant barriers to getting projects approved stakeholders raised significant concerns about PEOF being able to deliver tangible improvements to the environment without a significant redesign.	N/A
5. Additional to what is already being required to manage biodiversity	**HIGH**	• Given the strict application of WA and Commonwealth government offset policy, those projects that have been approved are additional to what is already being required to manage biodiversity in the Pilbara. It should be noted that this evaluation highlighted that this Implementation Principle that is based on the Commonwealth requirement for additionality for offsets projects, appears to be at odds with one of the secondary Measures of Success for PEOF - that it builds on regional programs. This may limit projects which could have a positive impact on Pilbara biodiversity being approved under PEOF.	Section 5.1 and 5.2
6. Enduring and secure in the longer term	*Insufficient evidence to assess*	• Given that only four projects have been approved under PEOF it is too early to determine whether those projects will be enduring and secure in the long term. However, those projects that have been approved so far have been secured through voluntary project led land agreements e.g. commitment from land owners to enter a BC Act conservation covenant, which should ensure security of offset in the longer term. Two of the projects are on Woodstock Abydos (Protected Reserve under Native Title Act) and therefore security of tenure is not required. Importantly, stakeholders felt that the strict application of the security of offsets principle was preventing projects being approved under PEOF that could have a positive impact on biodiversity in the Pilbara.	N/A

8.3 EVALUATION OF SECONDARY MEASURES OF SUCCESS

Evaluation question	Rating	Explanation	Relevant sections

Does the delivery of PEOF align with its governance framework?	LOW	• The governance framework designed for PEOF has been implemented largely as set out in the Governance Framework and Implementation Plan, however, there have been some elements of the governance framework as originally designed that are not working as effectively as they could be:
		  − A Board has been created for PEOF which was not part of the original governance framework and its role compared to the PRG is unclear. The PEOF Board is not currently documented in the Governance Framework or Implementation Plan.
		  − Concerns were raised about the role of the PRG, including its membership, that it was not strategic enough in nature and did not work with the PEOF Project team throughout the project development process.
		  − The IAG has only recently been reengaged after a 12-month hiatus. The role of the IAG is unclear, with some stakeholders feeling that it is being underutilised (stakeholders suggest it could have a more strategic and operational role).
		  − It should be noted that this evaluation highlighted that this Implementation Principle that is based on the Commonwealth requirement for additionality for offsets projects, appears to be at odds with one of the secondary Measures of Success for PEOF - that it builds on regional programs. This may limit projects which could have a positive impact on Pilbara biodiversity being approved under PEOF.
		  − The requirements of annual review and reporting, and a project register have not been met.
			Section 7.4

Are the offset programs co-designed with Traditional Owners, and implemented by Aboriginal people including ranger groups?	MEDIUM	• Following an initial competitive grant process in 2018, which received only two applications from Traditional Owner groups, DWER revised the process of identifying and approving projects under PEOF and launched the PEOF Co-design and Engagement Framework which supports a collaborative approach between regional land managers, government, and Traditional Owners. • The Shaw River program was the first to go through this unique co-design process. Stakeholders reported that consultation that has occurred with Traditional Owners under PEOF, was generally perceived to be done well, noting that time and money was required to do this consultation properly. • Overall stakeholders reflected that Traditional Owners have significant external constraints on their time and capacity which made engaging in consultation for PEOF projects difficult. PEOF does not currently pay Traditional Owners for their consultation time, which was thought to exacerbate this issue. • Some stakeholders suggested that there potentially may be some circumstance where it wasn't necessary to engage Traditional Owners in the project development process. • Others raised concerns that co-design with Traditional Owners required time and money and that this significant investment was being borne by the project proponents and/or the Traditional Owners themselves as consultation with Traditional Owners to scope up a proposed project was not compensable under the PEOF fund. • PEOF funds can also not be used for Healthy Country Planning which is a key step in Traditional Owners identifying their own priorities. • Further, some stakeholders raised concerns that agreeing to offset activities on their lands could sterilise those lands, which would prevent them from using the land for more economic uses in the future.	Sections 6.2 and 7.2

8.4 EVALUATION OF ADDITIONAL EVALUATION QUESTIONS

Evaluation question	Rating	Explanation	Relevant sections
Are the offset projects building on successful regional programs?	LOW	• The projects with Budadee Aboriginal Corporation demonstrate how PEOF can build on the priorities of Traditional Owner groups and their plans to keep country healthy (although, it is important to note that under the Implementation Plan, PEOF funds cannot be used to develop Healthy Country Plans for Traditional Owner groups, which are a key tool in helping Traditional Owners articulate their aspirations for their country). • However, the strict way in which the additionality principle is being applied means that it has been difficult for projects to be approved under PEOF which build on other successful regional programs. • Stakeholders felt that PEOF has an important role to play in broader, upfront strategic planning to help identify what is already being done in the Pilbara region from a biodiversity perspective which PEOF could then build on (however this is not yet happening, and it is unclear whether this could be funded by PEOF under the current Implementation Plan).	Sections 3.5 and 5.2

Are the offset projects developed in collaboration with other regional stakeholders involved in land management, including lessees, regional natural resource management groups, the State Government, proponents, and the community?	MEDIUM	• A broad range of regional stakeholders were consulted for this evaluation, all who expressed commitment to PEOF being successful and were engaged and invested in its outcome. The degree to which regional stakeholders had been engaged and the success of that regional stakeholder involvement depended in part on the stakeholder group. Some of the limitations raised to collaborating with specific stakeholder groups included:
		
		  – Proponents did not have sufficient 'skin in the game' – they paid money into PEOF but were not responsible for supporting the development of offsets. Stakeholders indicated that proponents had relevant on-ground relationships and experience, as well as access to land, that could be better utilised to support project development and delivery.
		
		  – Greater cross-government accountability was needed e.g. to identify secure tenure.
		
		  – External factors, such as capacity constraints of Traditional Owners and NRM groups in teh Pilbara to consult on and undertake projects, create obstacles to PEOF engaging sufficiently with all stakeholders.
			Sections 6 and 7.4

Has the program has been delivered efficiently and effectively?	LOW	• Stakeholders were very complementary of the PEOF project team given limited resources, regional delivery challenges and existing policy constraints. It was noted that the PEOF project team had tried multiple ways to address the complex policy environment they were operating in but were not resourced or empowered (given the need for cross-government accountability and investment) to address these issues. The resulting impact was that the PEOF project team spent a significant amount of time trying to resolve complex policy issues, for example in relation to security of offset, which many stakeholders viewed were 'bigger than PEOF' and not the role of the project team to address. This reduced the time the team had available to work on getting projects approved and up and running under PEOF. • Designing, implementing, and managing an offset program is a complex task. Stakeholders reflected that the functions and capabilities required, and resources needed to fulfil them. The PEOF project team is only funded to fulfil a subset of these tasks, and therefore despite significant effort, have been limited in what they have been able to deliver. In addition to the low FTE allocated to PEOF, stakeholders noted that the team also did not have sufficient buy-in and authority to address the complex cross-governmental policy issues it was faced with. Without cross-government accountability, PEOF was limited in its ability to deliver on its intended outcomes.	Sections 5 – 7

Evaluation question	Rating	Explanation	Relevant sections
Are the program settings/design appropriate to meet measures of success?	**LOW**	• Stakeholders overwhelmingly indicated that the current design and policy environment of PEOF meant that it was not in a position to deliver on the environmental outcomes it was set up to achieve. PEOF has been limited by a complex policy environment and Pilbara specific restrictions which have significantly limited its ability to meet the measures of success. These include: 　− Strict application of WA and Commonwealth offsets policy (e.g. security of tenure, additionality and 'like for like' requirements), which are not always aligned. 　− Limited tenure available in the Pilbara, with significant competition for available tenure. 　− Limited capacity of Traditional Owners and NRM providers to deliver PEOF projects. • Further, a summary of the key limitations of the current PEOF design, and **a detailed review of those limitations are set out in section 6.** • Significant redesign of PEOF is required to enable it to deliver on the measures of success set out in the Implementation Plan.	Sections 5 – 7
What opportunities are there for PEOF to improve on both points above?	**NA**	• All stakeholders demonstrated significant goodwill for PEOF and a desire to see it be successful. Given the complex barriers and environment it is working in, a number of recommendations have been proposed to increase the chances of PEOF delivering on intended environmental outcomes. These recommendations include a significant redesign of PEOF, and harnessing cross-government accountability to address some of the difficult policy issues that the PEOF project team has had to address.	Section 9

PART C – RECOMMENDATIONS
9. STRATEGIC AND DESIGN AND DELIVERY RECOMMENDATIONS

The evaluation has identified several complex factors that are preventing PEOF projects being approved and delivered and therefore preventing PEOF from achieving its intended environmental outcomes. Given the complexity, there is no 'quick fix' or easy solution. Instead, six recommendations have been proposed – the first three relate to the strategic nature of PEOF, and the next four to its design and delivery.

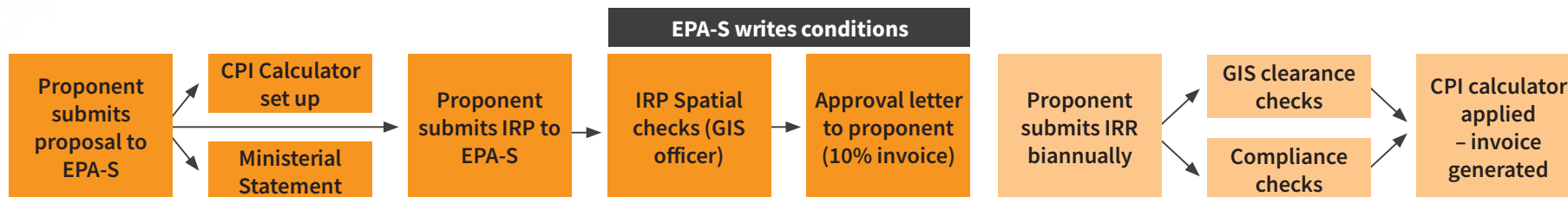| #	Recommendations
	Strategic recommendations
1.	Undertake an **options analysis and risk assessment to determine the immediate next steps** for PEOF. Given concerns raised by multiple stakeholders about PEOF not delivering projects and therefore being at risk of not delivering on its environmental outcomes, it is recommended that DWER undertake this options analysis as a matter of urgency. The following options could be included in the analysis: • DWER to stop taking payments into PEOF while it focuses on redesigning PEOF and on the strategic planning required to enable PEOF to deliver on its strategic intent. • DWER continues to receive funds into PEOF but finds ways to enable flexible application of policy constraints and ensure that there is a flow of PEOF funds to 'good enough' projects which deliver positive biodiversity outcomes but may not perfectly meet all offset policy requirements. This could be through regular funding rounds. • DWER continues to receive funds as set out in option II above, but at the same time undertakes a redesign of PEOF and strategic planning required to ensure it delivers on its strategic intent. • PEOF continues to operate as currently structured (not recommended). • Other suitable options.
2.	**Determine an approach and allocate resourcing to address cross-government issues** relevant to PEOF. This could be through identifying appropriate cross-government bodies that already exist and engaging their support to address these issues. Consideration should be given to which government departments need to be involved and how to resource them appropriately. Issues include: • Securing land for offset projects. • Modifying EPA approvals processes to ensure that proponents have 'skin in the game', and certainty that impacts can be offset (within reasonable cost) before approvals are made. • Regional strategic planning (mapping landscape and identifying priorities). • Supporting Traditional Owner capacity building through compensation for time engaged in PEOF project development. • Supporting NRMs to have a presence and build capacity in Pilbara.
3.	**Review and reform policies to enable flexible application** and progress projects being approved under PEOF. The relevant policies that need to be reviewed and reformed, or reframed, are: • The increasing requirement from the EPA that offset projects under PEOF deliver 'like for like' offsets and the intention of PEOF to deliver strategic offset projects for the Pilbara. • 'Additionality' – a deeper understanding needs to be developed of what this means and how this sits with the PEOF measure of success – to build on regional programs. Clarity is needed as to the circumstances under which adding to existing programs is acceptable under PEOF. • The requirement for 'security of tenure', what is acceptable in the complex tenure situation in the Pilbara, and in what situations multiple land use agreements can be used to secure offsets. • The limitation that only 10% of PEOF funds can be used for research activities, and how this could be flexible to enhance the research and understanding of lesser-known species and areas of the Pilbara. Including clarifying how 'research activities' are determined and calculated.

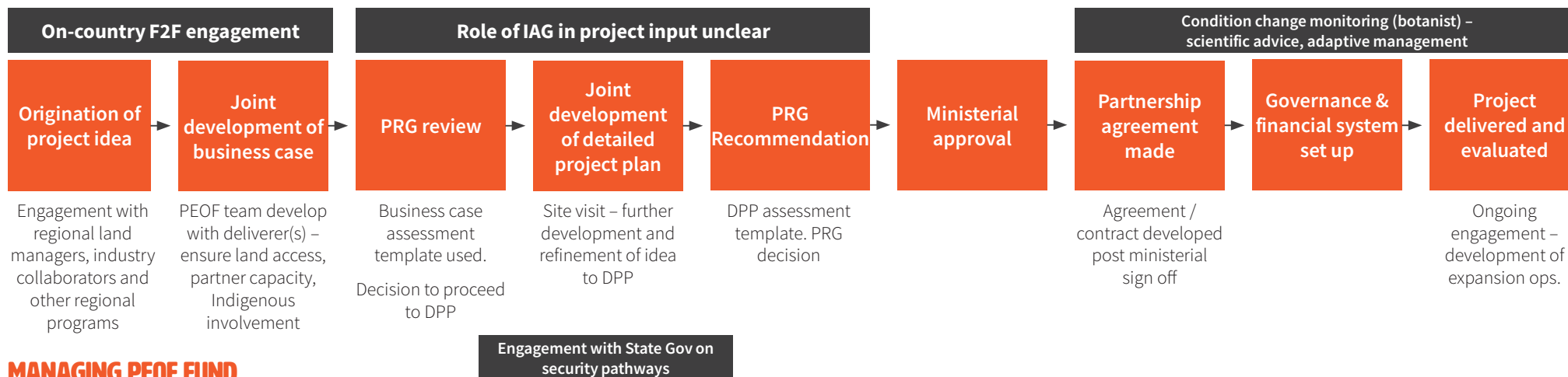| #	Recommendations
	Design and delivery recommendations
4.	**Refine, optimise, and clarify governance** structures that support PEOF to ensure clear, effective, and transparent governance structures for PEOF. This process should include: • Review and clarify the respective roles of the PEOF Board and the PRG, including the membership of both, to ensure that they have an appropriate and strategic role and cross-government representation. • Continueto re-engage the IAG, including reappointing Traditional Owner representation, and reconsider the role of the IAG so that its strategic and operational value can be leveraged in delivering PEOF. • Clarify and communicate project development, due diligence, and approval processes to ensure robust decisions can be made effectively. • Increase PEOF progress reporting to all stakeholders. • Develop the project register and ensure it is publicly available.

5.	**Review capabilities and resources needed to deliver PEOF**, based on the outcomes of recommendations one and two, determine the best place for resources to sit within government **and secure adequate resources to deliver PEOF effectively**. This process should include:
	• External resource modelling to:
	  − Determine the capability required within the PEOF project team and elsewhere within DWER and other government departments.
	  − Understanding the overheads required to fund enhanced resource model, for example strategic planning and consultation with land holders and managers including Traditional Owners.
	  − Develop a business case for the proposed for greater resourcing to be allocated through Treasury budget cycles.
	• Formally allocating resources in supporting teams in DWER and other government departments to ensure accountability to deliver on the PEOF objectives.
	• Consider outsourcing environmental monitoring and evaluation to reduce load on DWER project team, and to enhance credibility and transparency.

6.	**Review PEOF offset pricing** to ensure offsets are priced to cover the true cost of delivering offsets in the Pilbara. At the time of this evaluation, DWER and DCCEEW were working together to review the current clearing rates for PEOF, which range from $893-$3,781 per hectare. Their preliminary investigations suggest that the clearing rates have been set too low for PEOF.

APPENDIX – PEOF PROCESS DIAGRAMS

MANAGING IMPACTS

| Proponent submits proposal to EPA-S | → | CPI Calculator set up | | | |
| | → | Ministerial Statement | → Proponent submits IRP to EPA-S | | |

EPA-S writes conditions

Proponent submits IRP to EPA-S → IRP Spatial checks (GIS officer) → Approval letter to proponent (10% invoice)

Proponent submits IRR biannually → GIS clearance checks / Compliance checks → CPI calculator applied – invoice generated

IRP = Impact Reconciliation Proposal;
IRR = Impact Reconciliation Report

MANAGING OFFSET PROGRAMS

On-country F2F engagement

Origination of project idea	→	Joint development of business case

Role of IAG in project input unclear

PRG review → Joint development of detailed project plan → PRG Recommendation

Ministerial approval

Condition change monitoring (botanist) – scientific advice, adaptive management

Partnership agreement made → Governance & financial system set up → Project delivered and evaluated

Origination of project idea: Engagement with regional land managers, industry collaborators and other regional programs

Joint development of business case: PEOF team develop with deliverer(s) – ensure land access, partner capacity, Indigenous involvement

PRG review: Business case assessment template used.

Decision to proceed to DPP

Joint development of detailed project plan: Site visit – further development and refinement of idea to DPP

PRG Recommendation: DPP assessment template. PRG decision

Partnership agreement made: Agreement / contract developed post ministerial sign off

Project delivered and evaluated: Ongoing engagement – development of expansion ops.

Engagement with State Gov on security pathways

MANAGING PEOF FUND

Set up / design
- Cwth/State MOU
- Implementation plan
- Engagement Plan
- Evaluation framework
- Governance (TOR's)
- Vegetation investment plan and monitoring guidelines

Regional strategic planning
– Mapping landscape (cumulative impacts, existing conservation activity, tenure)
- Identifying priorities

Annual Project Register

Research
Best approaches to conserving MNES (current & future)

Managing governance & reporting

Evaluation

Stakeholder engagement
(Various internal / external)

Managing MOU with Cwth

HR, Budget PM

Comms, ministerials

Addressing policy barriers

Diagram 1: PEOF processes and roles.

GLOSSARY
OF TERMS

Term	Definition
Central government	Department of Premier and Cabinet and Treasury
DBCA	Department of Biodiversity, Conservation and Attractions
DCCEEW	Department of Climate Change, Energy, the Environment and Water (Cth)
DPLH	Department of Planning, Lands and Heritage
DWER	Department of Water and Environmental Regulation
EPA	Environmental Protection Authority (WA)
EP Act	Environmental Protection Act 1986 (WA)
EPBC Act	Environment Protection and Biodiversity Conservation Act 1999 (Cth)
Governance Framework	Pilbara Environmental Offsets Fund Governance Framework 2019
IBRA	Interim Biogeographic Regionalisation for Australia (Pilbara region: Chichester, Fortescue, and Hamersley).
IAG	PEOF Implementation Advisory Group
Implementation Plan	Pilbara Environmental Offsets Fund Implementation Plan 2019
LA Act	Land Administration Act 1997 (WA)
MNES	Matters of National Environmental Significance
PBC	Prescribed Body Corporate
PCLMP	Pilbara Cultural Land Management Project
PEOF	Pilbara Environmental Offsets Fund
PRG	PEOF Project Recommendation Group
WABSI	Western Australian Biodiversity Science Institute