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Nature Conservation Saves for Tomorrow

Date: 9 June 2026

Minister Murray Watt

Minister for the Environment and Water

Department of Climate Change, Energy, the Environment and Water

Submitted via online survey: <https://consult.dcceew.gov.au/environmental-offsets-standard/survey?page=1>

Comments on National Environmental Standard (Environmental Offsets) 2026 Exposure draft.

Dear Minister Watt,

The Blue Mountains Conservation Society (the Society) is a community-based volunteer organisation with over 900 members. Our mission is to help protect, conserve and advocate for the natural environment of the Greater Blue Mountains. In fulfilling its mission the Society advocates for the protection of the Greater Blue Mountains World Heritage Area and adjoining natural, protected areas.

The Society's members are deeply dedicated to the protection of Australia's biodiversity, and expect the Federal government to implement the strongest laws that will be effective in ensuring no further loss of our natural places, plants and animals.

The Society is commenting on the "National Environmental Standard (Offsets) Exposure Draft" (the Exposure Draft) and the "Updated Draft Policy Position Paper NES for Offsets" (the draft Offsets Policy) in two separate uploaded documents.

The attached response is addressing the National Environmental Standard (Offsets) Exposure Draft.

The Society has focused on the sections which are more likely to impact our areas of concern, while recognising that UNESCO considers developments or projects outside the World Heritage Area need to be assessed to determine if an action will adversely impact the Outstanding Universal Value of the GBMWA.¹

¹ <https://whc.unesco.org/en/guidance-toolkit-impact-assessments/>

The notion of “environmental offsets” as a means to protect biodiversity creates the false narrative that habitat and biodiversity loss are replaceable, despite substantial scientific evidence that offsets typically fail to achieve restoration outcomes^{2 3}.

The Society is of the view that the current draft Standard is unsuitable to protect our fragile environment and will continue to contribute to further environmental destruction. We do not support the draft Exposure Draft and draft Offsets Policy in its current form.

Why is the Offset Standard important?

Australia is the only developed country listed as a global deforestation hotspot. Australia has no further habitat that it can afford to lose.

Australia has cleared 104 million hectares of forest since 1788. This is about the size of NSW (80 million ha) and Victoria (23 million ha) put together.⁴ Since the year 2000 Australia has cleared more than 7.7 million hectares of threatened species habitat - this is an area bigger than Tasmania (6.8 million ha)⁵.

Land clearing generated around 40 million tonnes of carbon emissions in the year to June 2022.

Nearly all land cleared in Australia is for livestock pasture and, of that, about three quarters is for beef. Urban expansion also drives smaller, but important clearing.

This continuing high rate of loss of habitats across Australia is leading to more species being declared threatened species and pushing more species to extinction. We are now in a situation where the survival of some entire species is dependent on the survival of every remaining individual of that species⁶. Each of those individuals requires suitable habitat and so we cannot afford to lose any further habitat.

Australia’s unique biodiversity will only survive if we prevent habitat loss, and regenerate lost habitats extensively. Regenerating forests and woodlands has the added benefit of reducing our carbon emissions, which is in line with our international agreements.

² Abdo, L.J., Griffin, S., Kemp, A. *et al.* Has a dedicated biodiversity offsets policy improved the environmental and social compensation outcomes of development in Australia?. *Environment Development and Sustainability* **28**, 9139–9164 (2026). <https://doi.org/10.1007/s10668-024-05108-0>

³ Sian Thorn, Richard J. Hobbs, Leonie E. Valentine. Effectiveness of biodiversity offsets: An assessment of a controversial offset in Perth, Western Australia, *Biological Conservation*, Volume 228, 2018, Pages 291-300, <https://doi.org/10.1016/j.biocon.2018.10.021> [Get rights and content](#)

⁴ Bradshaw CJA, 2012, *Little left to lose: deforestation and forest degradation in Australia since European colonisation*, *Journal of Plant Ecology*, Vol 5, Issue 1 referenced in https://assets.nationbuilder.com/lean/pages/559/attachments/original/1678066018/Fact_Sheet_4_-_Ending_broadscale_clearing_170223.pdf?1678066018

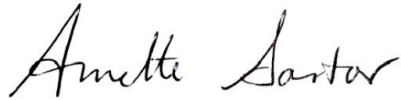
⁵ Australian Government, Department of Climate Change, Energy, the Environment and Water, Australia State of the Environment 2021, fact sheet Habitat and Natural Capital, https://www.dcceew.gov.au/sites/default/files/documents/6.%20DCCEEW-SOE_factsheet_Habitat%20and%20Natural%20Capital.pdf

⁶ Examples include the Regent Honeyeater, Swift Parrot, slender-nerved acacia (*Acacia leptoneura*)

Our National Environment Standards must meet this challenge if they are to achieve this critical goal. It will take bold action on the part of the Federal Government to meet this challenge, but this action is expected by the Australian people.

Thank you for the opportunity to comment on this important National Environmental Standard. You are welcome to contact me on my email: president@bluemountains.org.au

Yours sincerely,

A handwritten signature in black ink, reading "Annette Sartor". The signature is written in a cursive style with a large initial 'A'.

Dr Annette Sartor
President
Blue Mountains Conservation Society

Introduction

Although the May 2026 updated Exposure Draft strengthens aspects of the framework compared with the January 2026 consultation draft, significant concerns remain regarding its legal enforceability, scientific integrity and ecological effectiveness.

The updated draft continues to rely on broad, subjective and insufficiently defined language, together with extensive ministerial discretion in key areas, including:

1. Assessing offset adequacy
2. Determining whether impacts can be offset
3. Approving restoration contribution arrangements
4. Determining whether uncertain ecological outcomes are acceptable.

Without clear legal thresholds, these discretionary powers risk undermining consistent, transparent and credible environmental decision-making.

The framework also gives the Restoration Contributions Holder substantial flexibility, creating a risk that restoration payments may fund projects unrelated to the impacted ecosystem and weaken biodiversity outcomes. In addition, the draft does not adequately address cumulative impacts or climate change risks, as offset sites may be affected by drought, bushfires, flooding and other climate-related events that could compromise long-term restoration success.

Many ecosystems and habitats affected by development are highly complex, site-specific and may require decades or centuries to recover, if recovery is achievable at all.

To ensure the Standard delivers effective environmental protection outcomes, the framework should:

- adopt clear, measurable and legally enforceable definitions
- require independently verified scientific evidence
- further limit discretionary decision-making powers
- strengthen like-for-like and relevant area requirements
- ensure offsets are secured and operational before impacts occur
- restrict indirect offsets and restoration contribution flexibility
- incorporate climate resilience and cumulative impact assessment into offset design
- mandate independent monitoring, public reporting and enforceable compliance mechanisms

Without stronger reforms, continued reliance on uncertain restoration outcomes and flexible offset pathways, including indirect offsets and restoration contribution payments, risks ongoing biodiversity loss through arrangements that fail to achieve meaningful ecological outcomes.

Comments on National Environmental Standard (Environmental Offsets) 2026 Exposure draft

Key Concerns

Objectives and outcomes

5 Objective (page 3)

The intention of the draft Standard is to provide “a framework to ensure that offset activities (where permitted) adequately compensate for the residual significant impacts of an action or class of actions on an affected protected matter to deliver the required net gain in a way that contributes to the restoration, recovery and enhancement of that protected matter.”

The Society welcomes the expansion in the revised draft of the “Objective” to include “restoration, recovery and enhancement of that protected matter.”

6 Outcomes (page 3)

The outcomes of the revised draft Standard are intended to ensure, with a high level of certainty, a net gain and measurable improvement in protected matters. The Society has some concerns about the ability of the revised Standards to meet these outcomes.

1. Uncertainty about “required net gain”.

The draft Standard requires that offset activities deliver “the required net gain”, and that this will be the test of whether the Offset Standard has been met. “Required net gain” means the net gain for the protected matter within the meaning of section 527K of the EPBC Act⁷.

However, it is unclear what “net gain” means and there is no clear definition for this term provided in the draft Standards, nor in the draft Policy Statement. Likewise, there are **no** details given in either document about:

- guidance for the application of the net gain test for protected matters
- the evidence required for the Minister to be satisfied compensation would achieve a net gain
- a proposed updated Offsets Calculator or new Restoration Contributions Calculator

Given the absence of this information, the Society cannot assess whether the draft Standard will require actions that deliver genuine, on-ground improvements and environmental outcomes.

⁷ Section 527K provides that an action “passes the net gain test” if complying with the conditions of the approval results in a net gain, **as prescribed by regulations, or** otherwise as the **Minister is satisfied in appropriate**.

2. Provisions in the Standard that make Objects and Outcomes irrelevant

The draft Standard contains subclauses in “7 Principles” stating the Outcomes and Objectives will be achieved if an offset activity is consistent with the Principles in the Standard (which includes restoration recovery payments in lieu of actual offsets); there is no requirement for the offset to achieve the actual outcomes and objectives listed in “5 Objectives” or “6 Outcomes” of a “net gain” for protected matters. Hence, the provisions render the Objectives and Outcomes themselves irrelevant, and proponents and decision-makers can circumvent achieving them through their actions.

3. Improvement in language

Some language (listed below) used in the Outcomes has been strengthened in the revision:

- Point (b) now includes “provide a **measurable improvement** . . . that is equal to or greater than the required net gain for the protected matter” (emphasis added) and;
- Point (c) a requirement that “offset activities provide a **high level of certainty**” that affected protected matters will be protected and enhanced (emphasis added).

Recommendations

- Remove subclauses of Point 7 which allow proponents to implement offset activities that do not meet the draft Standard’s Objectives and Outcomes.
- Prior to the adoption of the new Standards, the Regulations must:
 - Clearly define “net gain”.
 - Publish the evidence that will satisfy the Minister that the compensation will achieve a net gain.
 - Publish details of an updated Offsets Calculator and new Restoration Contributions Calculator

7 Principles (pages 3-4)

This section of the revised draft Standards is greatly expanded compared to the initial draft and includes mention of bioregional plans. However, the Society’s view is that these Principles have been watered down rather than strengthened.

Restoration Contribution Payments

The draft Standard introduces the proposal to compensate for the damage that may or will be caused by a residual significant impact on a protected matter by way of a “restoration contribution payment”⁸ to reduce residual significant impacts. This allows proponents to avoid complying with the Principles of the Standard, which only apply to “offset activities”. The Restoration Contributions Holder will not be required to act consistently with the draft

⁸ “A decision-maker may be satisfied that:

- (a) a decision to approve the taking of an action or class of actions, taking into account any conditions to be attached to the approval, is consistent with this standard if the damage that will or may be caused by any residual significant impacts of the action or class of actions on an affected protected matter will be compensated by:
- (ii) the payment of a restoration contribution charge;” Principles (4) (a) (ii) draft Standard page 3

Standard, so they can depart from the Principles including the “like-for-like” principle (Principle 6).

This proposal means that proponents will have the ability to ‘pay to destroy’ rather than securing the direct offset which is required for all other offsetting activities and lets them “off the hook” for damage done by their project.

Restoration contributions are fundamentally different to a biodiversity offset and these payments shift responsibility from the proponent to a statutory body.

This proposal replicates the well-known problems found in the New South Wales (NSW) offsetting regime, where a similar “pay-to-destroy” scheme operating over more than a decade, has led to poor environmental outcomes and significant integrity risks.⁹

The integrity of the Offsets framework will be undermined if there are no strict limitations on allowing proponents to make restoration contributions payments rather than putting in place genuine direct offsets. The result will be continuing loss of habitat and degradation of our biodiversity. This will not fulfil the promise of the Federal Government.

Recommendations

- Reject the proposal for restoration contribution payments rather than offsetting.
- If restoration contribution payments are introduced, then amend the draft Standard to provide more specific restrictions on the payments to meet offset requirements.
- Add into the draft Standard a requirement for genuine consideration of offset activity options to be made before allowing a restoration contribution payment.
- The draft Standard must ensure that consideration is given to whether there exists a suitable offset for the protected matter prior to allowing compensation by way of a restoration contribution payment.
- Under the current framework, offsets delivered through restoration contribution payments may be exempt from complying with the Principles of the draft Standard. The draft Standard should be amended to ensure that all offsets, regardless of their type or delivery mechanism, are required to fully comply with the Principles of the draft Standard.

Individual Principles

Further discussion about the individual Principles is detailed below.

8 Principle 1 - Feasibility (pages 4-5)

- The Society notes that the requirements concerning the commencement of the offsets have been moved to Principle 8. However, the feasibility of an offset depends also upon whether the offset activity can be commenced at the time the relevant decision is made under the Act and thus should be included here.

⁹<https://australiainstitute.org.au/wp-content/uploads/2025/11/P1938-Payments-to-destroy-Env-protection-reform-bill-2025-Web.pdf>

- Removed from the revised draft is a requirement that if a proposed offset action is not likely to achieve required outcomes, the offset activity should not be pursued. Alternative methods of addressing residual significant impacts should be sought.
- The replacement in this Principle of the objective wording “**with a high degree of certainty**” used in the NES (Offset Standard) 2025 with the subjective wording “**a high level of confidence**” used in the draft NES (Offset Standard) 2026 is disappointing as it downgrades the requirement to ensure that the offset activity is feasible and that the requirement is based on objective, scientific evidence.
- This revised draft is less science-policy oriented and removes the requirement for independent verification of evidence.
- **Removal of any reference to impacts of climate change**
 - The Society notes the absence of any reference to climate change in the revised draft Standard. There was one reference in the Draft Policy Position: National Environmental Standard (Environmental Offsets) 2025¹⁰, where there is an acknowledgement of the adverse future impacts of climate change on page 3 under the heading “Principal 1 Feasibility”¹¹.
 - This failure to acknowledge the reality of climate change and its impact on the natural world is both disappointing and disturbing and will fail to ensure conservation of protected matters. There is already documented research of the current adverse impacts of climate change on Australian fauna (e.g. the Superb Fairy-wren *Malurus cyaneus* in the ACT) which is predicted to lead to extinction of the local population in 30 years¹².

Recommendations

- The following requirements which were in the original document should be reinstated:
 - requirements that an offset activity should be capable of being commenced at the time the relevant decision is made under the Act; and
 - requirements that where a proposed offset activity is not likely to achieve required outcomes, the offset activity should not be pursued and alternative methods of addressing residual significant impacts should be explored.
- Reinstate use of the term “high degree of certainty”.
- Include a statement about the potential for the adverse effects of climate change to impact the effectiveness of a particular offset, and that this needs to be taken into account when determining suitable offsets to ensure that they will support the protected matter well into the future (based upon rigorous scientific research).
- Review the Principle to ensure it is scientifically oriented, and reinstate a requirement for independent verification of evidence.

¹⁰ https://storage.googleapis.com/files-au-climate/climate-au/prj38a8e553bef96ceb5490c/page/Draft_Offset_Standard_policy_paper.pdf

¹¹ “taking into consideration the reasonably foreseeable future adverse impacts of climate change (including recommended actions in **conservation planning documents**)” page 3 of the NES Standard (Environmental Offsets) 2025.

¹² <https://www.nature.com/articles/s41467-026-70758-9>

9 Principle 2 - Security (pages 5 - 6)

The Society recognises some welcome changes in Principle 2 which strengthen requirements:

- Changing of “should” to “must”
- Addition of need for “appropriate evidence” in part (3)
- Addition of point (7) and of need for evidence in part (3) welcomed, as is the need for legal protections of offsets.

However, there are some further changes which are needed to further strengthen the Principle:

- Again, use of the term high level of “confidence” rather than “certainty” is more subjective and reduces the requirement for scientific certainty.
- Reduction in times for applicable maintenance activity may lead to a reduction in obligation long-term which lessens the effectiveness of the offset to conserve the protected matter for perpetuity.¹³
- On page 5, is the statement:
 - “(6) The outcome of an offset activity becomes self-sustaining at the point at which maintenance is no longer needed to maintain that outcome.
 - Note: Self-sustaining outcomes will not be achieved for all offset activities, and where this is the case, continuation of maintenance activities will be required for the duration of the approval.”

This statement demonstrates a recognition on the part of the Federal Government that damaging actions which have been approved, may **not** be able to be remediated by offsetting. Such circumstances are not acceptable outcomes for our natural environment.

Recommendations

- Replace the word “confidence” with “certainty”.
- Reinstate the longer time-frame of 25 years as the maintenance period of achievement of an outcome by an offset activity for a temporary impact.
- Reinstate the requirement of security in perpetuity for impacts that are permanent.

¹³ In **Offset Exposure Draft 2025**: “The ***maintenance period*** is the time which begins when the outcome intended by an offset activity has been achieved and ends:
(a) where the impact of the action is temporary—the later of 25 years and when the outcome of the restoration measure is self-sustaining;”
compared to:
In **Offset Exposure Draft 2026**: “(a) where the damage to the affected protected matter is short term or temporary – the earlier of:
(i) 20 years; or
(ii) until the outcome of the offset activity becomes self-sustaining;”
(b) where the damage to the affected protected matter is long term or permanent – the earlier of:
(i) the period of the approval or bioregional plan (as relevant); or
(ii) until the outcome of the offset activity becomes self-sustaining.

- The Environment Minister must ensure that all approvals of damaging actions and proposed offsets on clear and rigorous scientific, ecological evidence to avoid the circumstance where an outcome does not become self-sustaining.
- Delete “Note: Self-sustaining outcomes will not be achieved for all offset activities, and where this is the case, continuation of maintenance activities will be required for the duration of the approval.”

10 Principle 3 - Direct and tangible (page 6)

This revision defines a “direct offset” which is useful and was absent in the 2025 draft. It would be useful to also define an “indirect offset” in the legislation.

It is an improvement that point (5) of Principle 3 states “An offset activity must be a direct offset unless a relevant conservation planning document identifies an indirect offset as a higher priority measure for the affected protected matter.”

Use of indirect offsets is potentially problematic. If a habitat will be damaged and that habitat cannot be replaced, and the habitat is rare or excessively diminished (for example, due to previous clearing) then the development must not be allowed to go ahead. If however, there is a loss of habitat that includes the protected matter, and the habitat itself is not rare, then there could be an argument for an indirect offset - e.g. scientific research to find ways to reintroduce a species to areas of previous habitat.

Recommendations

- Direct offsets must account for a minimum of 90 per cent of offset activities, consistent with the current EPBC Act environmental offset policy. If this is not maintained, then the revised Standard will weaken environmental protection.
- The use of indirect offsets must not be allowed unless there are valid, scientifically backed reasons for their use. The use of indirect offsets must not be used as an easy way for proponents to meet the requirements of the Mitigation Hierarchy as detailed in the NES (MNES) Exposure draft.
- In instances where indirect offsets are allowed and implemented, the reasons for this should be published on the Government website for public access.

11 Principle 4 - Measurable improvements (page 7)

Point (1) of this Principle states:

(1) “There **must** be a high level of confidence that an offset activity” (emphasis added)

Despite the welcome replacement of the weak term “should” by the stronger word “must” in the first sentence in (1), the point goes on to use the term “high level of confidence”, which is subjective, despite the qualification that this confidence must be based on “appropriate evidence”.

In (2), the clarification of “relevant baseline” is a useful addition.

A shift towards the need for evidence-based information is welcomed, but there is doubt about what defines a “suitably qualified expert” and what sort of “other evidence” may be admissible.

Recommendations

- Define a suitably qualified expert and what other sort of evidence may be admissible in the legislation. This “expert” must be independent and should have appropriate scientific qualifications and experience in the protected matter being assessed.
- Whilst a definition of “suitably qualified expert” is included in the Policy statement¹⁴, it needs to be also in the legislation.
- Replace “high level of confidence” with “high level of certainty” and ensure stringent evidence is required in establishing these improvements.

12 Principle 5 - Additionality (page 7)

In point (1) states: “An offset activity **must be likely** to deliver an additional benefit to the affected protected matter that would not have otherwise occurred.” (emphasis added).

Wording of this point has been strengthened by use of “must” rather than “should” as in the 2025 draft, which is welcome. However, the statement continues thus: “must be **likely** to deliver” which again brings an unacceptable degree of uncertainty into the requirement.

Specific information about types of activities that cannot be considered additional has been removed, removing certainty about what activities will be acceptable and leading to a situation where inappropriate offset activities may be approved.

Addition of point “(2) An offset activity that is required to be undertaken by another law, or would otherwise have occurred in the absence of the action being taken, does not deliver an additional benefit.” is welcome.

Recommendations

- Whilst the Society acknowledges that one can never be 100 per cent sure of the outcome of an activity, the Standard should at least require that the offset must be “**highly likely** to deliver an additional benefit.” and should be rewritten to reflect this expectation.
- The draft Standard should reinstate information about the types of activities that cannot be considered additional.

13 Principle 6 - Like-for-like (page 7-8)

The Society notes that Principle 6 as drafted in the revised document allows for situations where **not** providing “like-for-like” offsets will be approved. The Society is of the view that this action must not be permitted, except in very rare circumstances. This variation of the need for like-for-like can be approved if it is judged to deliver “a greater conservation benefit” and is a priority in a conservation planning document. However, a “conservation planning document” now includes Ministerial rulings which are not required to have an ecological basis.

¹⁴ Page 14 **UPDATED Draft Policy Position Paper: National Environmental Standard for Environmental Offsets**

The addition of the need for “appropriate evidence” in Principle 6 (3) to support a decision about situations where not providing “like-for-like” is welcomed but only if based upon rigorous scientific data.

If the inability to provide “like-for-like” results from the rarity of the habitat being impacted, then the action should not be permitted. In this circumstance, allowing another type of offset will seriously reduce the ability of the species or community to survive and may lead to serious decline or extinction.

In the instance where the habitat is not rare and there is rigorous scientific evidence that another offset activity may provide a better conservation outcome, then this may be an acceptable decision.

Recommendations

- The approval of offset activities other than “like-for-like” must only be allowed when there is strong scientific evidence of it providing a better outcome, but not allowed in the instance of the habitat being rare.
- Variations to like-for-like requirements should be strictly limited and must be based on scientific, ecological principles.
- Reasons for this decision are to be published and available for public scrutiny.

14 Principle 7 - Relevant area (page 8)

In point (1), the replacement of the weak term “should be delivered” in the previous draft, with the stronger term “must be located” is welcome, as is the requirement for appropriate evidence in point (3).

15 Principle 8 - Offset commenced prior to impact (page 8 - 9)

The Society is pleased to see the addition of regulations requiring registration, evidence of offsets, and increased enforceability of this requirement.

The Society is concerned that evidence of “a proposed plan and timeframe”, as referenced in point (3) (a) in Principle 8¹⁵, may be taken to be sufficient to claim that the offset has commenced. The Society’s view is that a proposed plan alone is insufficient evidence to show that the offset activity has commenced.

This action will not ensure that the actual land area which will be the offset has been set aside and protected, or if an area of land needs to be revegetated to meet the offset requirements, that this revegetation work has been commenced well before the action causing damage has commenced.¹⁶

¹⁵ Principle 8 Offset commenced prior to impact

(3) (a) “Appropriate evidence may include:

(a) a proposed plan and timeframe for securing, managing and registering the offset activity;”

¹⁶ The Society acknowledges that there is substantial benefit to be gained from the revegetation of and the rehabilitation of land for conservation, but it takes sometimes up to several decades for such land to actually replace the original habitat. (A good example of this is the fact that it takes decades for hollows to develop in trees. In the case of birds and mammals that require hollows for nesting or roosting, the species could become extinct in the time taken for hollows to develop.)

Recommendations

- Rewrite the regulation to ensure that offsets are secured before commencement of the proposed plan.
- Where land containing existing, suitable habitat is to be reserved as an offset, this must be done before the damaging action or class of actions is allowed to start.
- Where land acquisition and revegetation are proposed, then measurable ecological improvements and above baseline conditions must be achieved and must be independently verified before the proposed action is permitted to commence.