



Environment Institute
of Australia and
New Zealand Inc.

POLICY SUBMISSION

National Environmental Standard for Environmental Offsets

January 2026

1. About EIANZ

The Environment Institute of Australia and New Zealand (EIANZ) is the not-for-profit, multidisciplinary association of environmental practitioners across Australia and New Zealand. Our members include scientists, ecologists, planners, engineers, lawyers, economists and policy specialists, many with direct experience designing, assessing, approving, delivering, monitoring and enforcing environmental offsets under the EPBC Act. This submission reflects practitioner experience and draws on consultation across EIANZ specialist groups, including biodiversity offsets, heritage, ecology and impact assessment.

Further detail is provided in EIANZ's Biodiversity Offsets Position Statement (found here: <https://www.eianz.org/document/item/8479>), which articulates the practitioner perspective on the distinction between statutory decision-making functions and professional practice responsibilities in the offsets context.

2. Executive Summary

EIANZ welcomes the opportunity to comment on the Draft National Environmental Standard for Environmental Offsets and the accompanying Exposure Draft legislative instrument. We acknowledge the substantial effort that has gone into developing these materials and the clear intent to address long-standing weaknesses in offset integrity under national environmental law.

The proposed Standard represents a material improvement on the current *Environment Protection Biodiversity Conservation Act 1999* (EPBC Act) *Environmental Offsets Policy* (2012). However, EIANZ has identified several areas where the Standard, as currently drafted, risks undermining its stated objectives and may perpetuate known implementation failures.

Key concerns relate to:

- **Scope ambiguity**, particularly whether the Standard applies solely to biodiversity offsets or also extends to cultural heritage.
- **Undefined key terms**, including “adequately” and “contribute to”, which weaken enforceability.
- **Weakened confidence thresholds**, particularly the use of “likely” where high certainty is intended.
- **Security and maintenance provisions** that allow time-bounded or self-terminating obligations despite permanent impacts.
- **Erosion of like-for-like requirements** through discretionary departure pathways.
- **Restoration Contribution mechanisms** that risk under-delivery, delay and non-equivalence if not tightly governed.
- **Narrow application of net gain to MNES**, enabling broader biodiversity loss within project footprints.

Addressing these issues is essential if the Standard is to deliver genuine net gain outcomes and restore confidence in offsets as a last-resort mechanism within the mitigation hierarchy.

3. Scope and objects of the Standard

3.1. Scope

The scope of the Offset Standard is not clearly articulated. It is unclear whether the Standard is intended to apply solely to biodiversity offsets, or whether it also extends to cultural heritage offsets. This distinction is critical, as the principles, objectives and methodologies applicable to biodiversity offsets differ substantially from those relevant to cultural heritage.

Greater clarity is required to avoid inappropriate or inconsistent application of offset principles across fundamentally different value sets.

Recommendation

1. Clarify that the Standard applies to biodiversity offsets only, and not to cultural heritage.

If the standard aims to address all types of offset, adopting a more integrated and balanced approach that explicitly sets out how ecological, cultural, and social values are to be considered together would enhance the robustness and credibility of the Standards, noting that offsetting cultural heritage is not supported by EIANZ.

3.2 Objects of the Standard

The stated object of the Standard is to provide a framework in which offsets (where permitted) adequately compensate for residual significant impacts to deliver a net gain and contribute to the protection and enhancement of protected matters. Key terms within this objective, including “adequately” and “contribute to”, are not defined.

Without clear definitions or thresholds, it is difficult to determine how these concepts are to be applied in practice and how compliance with the stated objective is to be demonstrated.

Recommendations

- Define “adequately compensate” in operational terms, linked to net gain and feasibility requirements.
- Clarify that “contribute to” requires material, demonstrable, measurable outcomes, rather than aspirational alignment.

3.3 Outcomes

The Outcomes of the Offset Standard are appropriate in principle. However, further clarification is required. In some circumstances offsets may reasonably be expected to deliver outcomes that go beyond baseline condition, rather than merely marginal improvement.

Explicit recognition of this expectation would strengthen alignment with the concept of net gain.

4. Net gain and the scope of offsetting

Projects can be structured and assessed in a way that delivers an apparent net gain for MNES metrics while still causing net loss to broader biodiversity values within the impact footprint. This outcome risks compounding cumulative decline through incremental loss and is inconsistent with national biodiversity ambitions.

Recommendations

- Require offset design and approval decision-making to explicitly consider and prevent outcomes where MNES net gain is achieved alongside material net loss to broader biodiversity values impacted by the project.
- Require alignment between project-level offset outcomes and Australia’s broader biodiversity conservation targets, without expanding offsets into a generalised biodiversity regulation mechanism.

5. Commentary on Principles

5.1 Principle 1 – Feasibility

The Standard requires offset activities to be feasible and supported by data demonstrating, with a high degree of certainty, that the activity will likely contribute to recovery or conservation. The use of “likely” weakens this requirement and is inconsistent with the stated intent to deliver certainty and measurable improvement.

The phrase “recovery or conservation” is also open to interpretation, particularly whether it refers to restoration to baseline condition or achievement of a secure, functional state consistent with recovery objectives.

Recommendations

- Remove “likely” and require that offset activities demonstrate, with a high degree of certainty, that they will contribute to recovery or conservation.

- Clarify that “recovery or conservation” refers to achievement of a functional, secure condition consistent with recovery objectives, not merely baseline restoration.

5.2 Principle 2 – Security

Strong, enforceable security arrangements are foundational to offset integrity. The current drafting introduces ambiguity by implying that strong legal instruments may be used only “where possible”, and by allowing obligations to end after fixed periods or when outcomes are deemed “self-sustaining”.

For permanent or effectively permanent impacts, time-bounded security creates an unacceptable risk that offsets will fail to compensate over ecologically relevant timeframes.

The concept of “self-sustaining” outcomes is particularly problematic. In contemporary Australian landscapes, ongoing pressures such as climate change, invasive species and altered fire regimes mean that ecological outcomes rarely persist without continued management.

Recommendations

- Require offsets to be secured through legally binding, enforceable instruments as a mandatory requirement for direct offsets.
- Require in-perpetuity security and management for permanent or effectively permanent impacts.
- Remove provisions allowing offset obligations to end on the basis of outcomes being “self-sustaining”, unless a defensible, standardised and independently verifiable method is established.
- Require ongoing management for the full maintenance period, and in perpetuity where impacts are permanent.

5.3 Principle 3 – Direct and Tangible

EIANZ supports the requirement that offsets deliver direct and tangible benefits, and the preference for direct offsets over indirect measures such as research or education. Recognition that indirect offsets may be appropriate where identified as a higher priority in conservation planning documents is sensible, provided this is not used to circumvent feasible direct offset delivery.

Recommendation

- Retain the current framing of Principle 3, including the preference for direct offsets, and ensure indirect offsets are not expanded beyond circumstances explicitly identified in conservation planning documents.

5.4 Principle 4 – Measurable Improvements

The Standard requires measurable improvement relative to baseline but provides limited guidance on baselines, monitoring design or performance thresholds. Without MNES-specific guidance, implementation is likely to be inconsistent and difficult to audit.

Recommendations

- Develop MNES-specific monitoring and survey guidance, including baseline requirements, monitoring frequency and performance thresholds.
- Require monitoring frameworks to be designed for auditability, transparency and public reporting.

5.5 Principle 5 – Additionality

EIANZ supports the Additionality principle and the requirement that offsets deliver benefits beyond existing obligations. While recognition of approved state or territory offsets is pragmatic, equivalence with the outcomes and objectives of this Standard must be demonstrable, not assumed.

Recommendation

- Require that state or territory offsets relied upon to meet Commonwealth obligations demonstrably meet the outcomes and objectives of this Standard.

5.6 Principle 6 – Like-for-like

Like-for-like is a core integrity safeguard. Draft wording that allows departures where strict equivalence cannot be readily achieved materially weakens this principle and creates a foreseeable pathway for non-equivalent outcomes to be justified on convenience, cost or availability grounds.

Recommendations

- Require strict like-for-like outcomes as the default and primary pathway.
- Treat inability to deliver like-for-like offsets as evidence that impacts cannot be feasibly compensated and the proposal should not proceed, consistent with the mitigation hierarchy.

5.7 Principle 7 – Relevant area

Offsets should be delivered within the same bioregion as the impact to prevent progressive depletion of protected matters in regions experiencing concentrated development pressure.

Recommendations

- Mandate offsets be delivered within the same bioregion as the impact, without exemptions for cost or convenience.
- Treat inability to meet this requirement as a feasibility failure, not a justification to export the offset obligation.

5.8 Principle 8 – Offset commenced prior to impact

The intent that offsets commence prior to impacts is appropriate. However, payment-based approaches risk enabling “pay and proceed” outcomes unless accompanied by strict delivery obligations.

Recommendation

- Require offsets, including security instruments and management commencement, to be demonstrably in place prior to impacts commencing.

6. Restoration Contribution Charge

6.1 Pricing, adequacy and expenditure controls

Once paid, the Restoration Contribution Charge acquits the proponent's residual compensation liability. This creates a material integrity risk if pricing, governance and delivery controls are insufficient.

Experience with state-based schemes demonstrates that under-calibrated charges lead to delivery delays, funding gaps and disincentives for direct offset provision.

Recommendations

- Publish a transparent, auditable pricing methodology, including contingencies, indexation and risk premiums.
- Legislate strict governance and expenditure constraints to ensure like-for-like, measurable outcomes.
- Mandate time-bound delivery and reporting obligations.
- Apply a meaningful premium to reflect delivery risk and deter routine use.

6.2 Restoration Contributions Holder – integrity and constraints

The Draft Policy Position indicates that the Restoration Contributions Holder may consider the Standard “where possible” and may depart from like-for-like where it is “not feasible”. This materially undermines offset integrity by enabling non-equivalent outcomes precisely where offsets are most challenging.

If an offset requirement is not feasible, the appropriate regulatory response is that the impact should not be approved, rather than transferring the problem to government delivery mechanisms.

While landscape-scale delivery may offer strategic benefits in some circumstances, any flexibility afforded to the Holder must be tightly constrained and treated as exceptional, not routine.

Recommendations

- Require the Restoration Contributions Holder to be bound by, and not act inconsistently with, the Offset Standard, including strict like-for-like requirements.
- Remove broad feasibility-based departure provisions.
- If any limited flexibility is retained, require departures to be exceptional, transparently justified, independently audited and publicly reported.
- Where like-for-like outcomes cannot be achieved by the Holder despite time and resources, treat this as strong evidence that impacts of this nature are not feasibly offsettable and should not be approved in future decision-making.

7. Offsets calculator – transparency and scientific rigour

Offset calculators can only support integrity if methodologies are scientifically rigorous, transparent and consistently applied.

Recommendations

- Publish detailed methodologies for all calculator inputs, including field survey protocols and evidence standards.
- Require independent scientific review and periodic revalidation.

8. Advanced restoration actions, public registers and market interaction

Public registers and advanced restoration actions are conceptually valuable but must integrate effectively with state and territory schemes to avoid double counting or market confusion.

Offset frameworks under this Standard must also be clearly distinguished from, and not create perverse interactions with, biodiversity credit mechanisms established under the *Nature Repair Act 2023* (Cth).

Recommendations

- Ensure interoperability with state and territory schemes, with explicit rules to prevent double counting.
- Establish nationally consistent data standards for register entries.
- Ensure clear separation and coherence between offset obligations under this Standard and biodiversity markets operating under the *Nature Repair Act*. (2023).

9. Concluding remarks

EIANZ supports a disciplined, residual role for offsets within a strong mitigation hierarchy. With targeted amendments, the National Environmental Standard for Environmental Offsets has the potential to materially improve offset integrity and environmental outcomes. Addressing the issues outlined above is essential to avoid repeating known failures and to ensure offsets deliver genuine, durable net gain.

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