

National Environmental Standards for Matters of National Environmental Significance and Environmental Offsets

February 2026



The National Farmers' Federation (NFF) is the voice of Australian farmers.

The NFF was established in 1979 as the national peak body representing farmers and more broadly, agriculture across Australia. The NFF's membership comprises all of Australia's major agricultural commodities across the breadth and the length of the supply chain.

Operating under a federated structure, individual farmers join their respective state farm organisation and/or national commodity council. These organisations form the NFF.

The NFF represents Australian agriculture on national and foreign policy issues including workplace relations, trade, and natural resource management. Our members complement this work through the delivery of direct 'grass roots' member services as well as state-based policy and commodity-specific interests.

NFF Member Organisations



Executive Summary

The National Farmers' Federation (NFF) welcomes the opportunity to provide a submission to the Department of Climate Change, Energy, the Environment, and Water (Department) to inform the development of proposed National Environmental Standards (Standards) for Matters of National Environmental Significance (MNES) and Environmental Offsets. NFF supports the development of Standards as a core element of reform to National Environmental Law. Properly designed and implemented, Standards have the potential to improve environmental outcomes and establish clear decision-making parameters and rules for assessment and approval processes that impact regulated sectors, including agriculture.

NFF understands that a robust and agreed set of Standards is a prerequisite to negotiate bilateral agreements with jurisdictions for decision-making for agricultural land-use. Appropriate time must be undertaken to ensure that they are properly developed, practical, and fit-for-purpose. Given the likely complexity and impact of the Standards, they should also be subject to 'road-testing' to ensure they provide the anticipated outcomes.

As a general principle, and consistent with the recommendations of Professor Graeme Samuel AC, specificity in legislation is critical, and Standards need to be granular, detailed, explicit, and supported by relevant guidelines and rulings. NFF notes the following remark by Prof. Samuel during the 14 November 2025 Senate Inquiry hearing: *"Anything that might look a bit vague in legislation is intended to be completely overcome by the instruments which are Standards which will be part of regulations"*¹.

It is against this benchmark that NFF has assessed the draft Standards for MNES and Environmental Offsets. While we support the intent underpinning the Standards, further refinement is required to ensure they deliver the clarity and safeguards necessary for effective decision-making and the agricultural sector. The proposed MNES Standard should also be aligned with the recommendations of the Samuel Review to ensure there is a stronger and more explicit embedding of the principle of Ecologically Sustainable Development (ESD) throughout the entirety of the Standard.

National Environmental Standard for Matters of National Environmental Significance

Ecologically Sustainable Development

This Standard is intended to safeguard the protection and conservation of MNES in a manner consistent with the principles of ESD, a key Object of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). However, as currently drafted, the Standard does not provide this outcome.

¹ November 2025, Senate Environment and Communications Legislation Committee: [Environment Protection Reform Bill 2025 and Six Related Bills Senate Inquiry Hearings](#)

While ESD is referenced in the Objects of the draft legislative instrument, it is reflected in only a single Outcome and there are no corresponding Principles to guide how environmental, social, and economic considerations are to be balanced in decision-making. Given that decisions made under the EPBC Act must not be inconsistent with Standards, NFF considers that this balance should be more explicitly reflected within the legislative instrument. In the absence of such guidance and specificity, the Standard risks skewing regulatory outcomes toward one Object of the EPBC Act at the expense of others, resulting in decisions that may prioritise conservation without due regard for sustainable land-use, food, and fibre production. This contrasts with Prof. Samuel's Standard proposed outlined in the Samuel Review which clearly embeds the principles of ESD within actions, decisions, plans, and policies relating to MNES.

Clarifying Scale of Obligations

The Objectives outlined in the Standard are framed in a way that implies individual actions are responsible for delivering landscape-scale conservation or recovery outcomes. This does not reflect the cumulative nature of biodiversity outcomes and places unrealistic expectations on individual landholders and proponents. Standards must resolve rather than perpetuate uncertainty. It is on this basis that we seek further refinement and distinction between outcomes expected to be delivered at the individual level and collectively across the landscape.

Indigenous Heritage Values

National Heritage Places are a MNES under the Act, and NFF recognises the importance of protecting these places and their associated values. However, the current Standard includes drafting that imposes a behaviour obligation, specifically, the requirement that *“Indigenous Heritage values of a National Heritage place be treated in a manner respectful of Indigenous traditions and beliefs”*. This language introduces a subjective requirement and is arguably out-of-place as it departs from the measurable and outcome-based objectives applied to other protected matters (which are framed around *“environmental protection”*, *“conservation”*, *“restoration”*, *“rehabilitation”*, and *“sustainable management”*). Separately, we also note that National Heritage Places contain multiple values beyond Indigenous Heritage, including but not limited to natural and historical value.

Indigenous engagement requirements should be confined to a single, high-level reference within the MNES Standard to maintain clarity and consistency. As the foundational Standard, this Standard sets the broader architecture for decision-making with relevant detail addressed through subsequent enabling Standards (i.e., Data and Information, Community Consultation, and First Nations Engagement in Decision-Making). Principle 4 already performs this function as it outlines general requirements for Indigenous engagement while deferring detail (the Policy Paper does) to the forthcoming First Nations Standard.

The Objective relating to Indigenous Heritage values in Section 5 introduces a level of specificity that is inconsistent with this structure and risks creating uncertainty through duplication. It is on this basis that we seek removal of its reference. Consideration of Indigenous Heritage engagement would be more appropriately addressed through the forthcoming First Nations Standard which is being developed to address and define such expectations.

Developing National Environmental Standards

As stated in the draft legislative instrument:

Principle 4: Appropriate Evidence, First Nations Engagement, and Consultation

Actions should be supported by appropriate and suitable:

- (a) data and information;
- (b) consultation with Aboriginal and Torres Strait Islander people and contribution of their knowledge; and
- (c) consultation with other interested parties.

NFF understands that subsequent enabling Standards are under development. We look forward to consultation on these Standards alongside the MNES Standard and prior to its finalisation to ensure alignment across the broader framework.

Principle 4 (Actions Are Supported by Evidence) and Social Licence

NFF supports the intent of Principle 4 that actions are supported by scientifically sound, legally defensible, transparent, and adaptive data and information. However, the inclusion of the reference within the Policy Paper to securing a proponent's "*social licence to operate*" as part of the description of what it means for actions to be supported by evidence raises concerns. This reference should be removed to ensure that the policy contents underpinning Principle 4 remains strictly confined to evidence only.

Social licence is not a defined concept under the EPBC Act and does not constitute a recognised evidentiary or legal threshold. While included as an example, its placement within an evidence-based Principle risks shifting the focus of assessment from the question of whether the evidence is sufficient to support a lawful decision, to whether an action has achieved broad public acceptance. This introduces a subjective consideration into what is intended to be a simple and clear-cut evidence-based decision-making framework and creates a risk that opposition from single-issue stakeholder groups could be treated as a deficiency in evidence, rather than a reflection of differing values or preferences.

National Environmental Standard for Environmental Offsets

Defining Net-Gain and Measurable Improvement

NFF supports defining net-gain as a 'measurable improvement'. This provides flexibility and avoids the need for fixed numerical targets. The Standard, however, does not clearly state that 'measurable improvement' is the mechanism through which the statutory net-gain test requirement is to be satisfied. This needs to be made explicit in the legislative instrument.

Security Principle (Principle 2)

NFF supports the principle that environmental offsets are secure and protected from degradation or loss. Security mechanisms, including active management, play an important role in underpinning and safeguarding the integrity and effectiveness of environmental offsets and preventing perverse outcomes at the broader landscape level.

As stated in the Policy Paper:

'In the context of offsets, secure means that the offset is legally, practically or administratively (in order of preference) protected such that there is high certainty that outcomes will be achieved and maintained'.

Land Covenants

While land covenants are voluntary, NFF is concerned that the proposed approach may normalise covenants as the preferred or default mechanism for securing environmental offsets. This may create a de-facto expectation that offsets are to be secured through permanent or long-term obligations on land title. Covenants, particularly those that operate in perpetuity or over extended timeframes can materially impact land value, flexibility around future land-use, succession planning, and may create tax implications which are significant issues for landholders. Where such mechanisms are utilised, landholders must be provided with clear and upfront information about the legal obligations and implications of entering into long-term or permanent agreements.

Maintenance Period

It is our position that maintenance periods should be sufficient to deliver and safeguard outcomes while not being so onerous as to compromise land tenure and/or discourage proponent development. The draft legislative instrument proposes maintenance periods of at least 25-years for temporary impacts and up to 100-years for non-temporary impacts, with maintenance obligations linked to when offset outcomes are considered 'self-sustaining'. In cases involving non-temporary impacts, the maintenance period may conclude earlier where the Minister determines that outcomes are 'self-sustaining'.

It is important to recognise that environmental offsets under the EPBC Act are intended to deliver biodiversity outcomes rather than carbon storage. Permanence periods of 25- and 100-years are commonly associated with Australian Carbon Credit Unit (ACCU) sequestration projects where long-term carbon storage must be guaranteed. Biodiversity restoration, however, is different as it occurs through ecological processes that can become established and self-sustaining well before these timeframes depending on ecosystem type, landscape and baseline condition, and the nature of the management intervention undertaken. The Department should therefore review the proposed maintenance settings to better balance recognition of self-sustaining restoration outcomes with management requirements to avoid unintended landscape impacts on adjoining agricultural land.

Relevant Area (Principle 7)

NFF supports the intent of Principle 7 to ensure offsets are delivered in areas that are ecologically and geographically relevant to the affected protected matter. The draft Policy Paper defines 'bioregion' by reference to the Interim Biogeographic Regionalisation for Australia (IBRA) framework. NFF has consistently raised concerns about the use of IBRA subregions as a planning and delivery framework (particularly in the context of Regional Planning) as boundaries can cross jurisdictional borders (introducing governance and implementation complexity).

The Policy Paper indicates that offsets should be delivered within the same bioregion as the impact, while also stating that offset activities should be situated within the same State or Territory as the impact. These requirements may conflict in-practice where IBRA regions extend across jurisdictional boundaries. NFF considers that other regional approaches such as Natural Resource Management (NRM) regions provide a more practical basis for coordinating offset delivery. NRM regions are already widely used as a basis for landscape-scale environmental planning and are generally well understood and aligned with existing regional governance arrangements.

No Duplication Principle

NFF recommends the inclusion of an additional Principle in the legislative instrument to avoid duplication between Commonwealth and State or Territory offset requirements. Existing State and Territory offset frameworks that deliver equivalent outcomes should be recognised under the Standard.

Conclusion

NFF remains committed to constructive engagement with the Commonwealth to support the development of robust Standards that provide clarity, certainty, and appropriate safeguards for decision-makers and agricultural proponents operating under National Environmental Law.

Please do not hesitate to contact Warwick Ragg, General Manager, Natural Resource Management, via e-mail: WRagg@nff.org.au at the first instance to progress this discussion.



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