

National Environmental Standard for Data and Information

July 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



Table of Contents

About Us	2
NFF Member Organisations	2
Executive Summary	4
Relationship Between the Headline Objective, Outcomes, and Principles	5
Proportionality and Application.....	6
Principle 1: Representative Data and Information	7
1. Scientifically Robust and Fit-For-Purpose Data and Information	7
“Adequate” Metadata and Supporting Transparency and Interoperability	8
Principles 4 and 5: Data Sharing and Privacy	9
1. Principle 4: Reusable Data and Information.....	9
2. Principle 5: Ethnical Data and Information	10
Closing Remarks.....	11
Attachments List.....	11

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) regarding the draft *National Environmental Standard for Data and Information* (Standard).

NFF notes that the consultation process underpinning *National Environmental Law* reform has deviated substantially from what would ordinarily be expected for reforms of this scale and consequence. No comprehensive *Regulatory Impact Assessment* has been undertaken to understand or quantify the impact of the reforms on agriculture. This is particularly concerning given the legislation includes an embedded non-regression principle (which is novel), while subordinate instruments relating to Tranche 2 are now being substantially brought forward with unclear timelines ahead of the initial November time horizon.

This accelerated process is occurring despite core regulatory functions not yet being finalised or actually consulted on in a formal public setting. In the absence of a consolidated reform package (including all five Standards together), it is challenging for agriculture to assess the implications of the proposed framework including how the Standards will interact with each other. We continue to seek release of the full suite of regulations and supporting materials so that stakeholders can properly assess the cumulative impact of these reforms. At present, there is no visibility of how issues of overlap and inconsistency across Standards will be resolved.

With respect to this public consultation, NFF recognises and supports the need to ensure that decisions made under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) are informed by credible, defensible, relevant, and interoperable data and information. NFF also supports efforts to provide clearer upfront guidance and to improve the quality, accessibility, and use of environmental data and information.

Broadly, we are comfortable with the content of the Standard, including the single headline Objective that decisions made under the EPBC Act “are based on appropriate data and information and to extend the availability of credible data and information assets for use in such decisions”. However, we continue to hold strong concerns regarding the Principles-led approach to implementation, including inconsistencies in the language used to describe how Principles are to be applied in-practice and in a manner that is actually consistent with the Objective and Outcomes of the Standard, and the broader EPBC Act. We are also concerned about how proportionality will operate, and whether the intention for requirements to be scaled and applied proportionately is sufficiently reflected in the draft Legislative Instrument.

NFF also considers that the Standard provide stronger recognition and protection of data sovereignty, ownership, and custodianship, particularly where data and information supplied for a specific regulatory purpose may be shared with *Environment Information Australia* (EIA) or used for purposes beyond that for which it was originally provided. While the Outcomes recognise the need for data and information to be ethically managed, it is our view that this is not sufficiently reflected in the underlying Principles that will guide implementation of the Standard.

These protections need to be expressed with greater clarity and specificity (in Principle 5), including in relation to consent, access, disclosure, re-use, confidentiality, custodianship, and the respective rights and responsibilities of data owners, providers, and the Commonwealth. Principle 5 should also clearly link these requirements to relevant obligations and rights under the *Privacy Act 1988* where applicable, so that those collecting, managing, providing, or accessing information understand the legal requirements that apply, and affected persons are aware of the rights and protections available to them. The latter could perhaps be achieved through a Note, or by amending the Policy Position Paper itself.

Further, best-practice ethical and governance safeguards must apply equitably across all categories of held data and information, not only First Nations data and information. Equivalent application must apply and this needs to be recognised and corrected within the underlying Notes in Section 12 of the draft Legislative Instrument.

Relationship Between the Headline Objective, Outcomes, and Principles

NFF has repeatedly raised significant concerns during consultation on the development of Standards regarding the relationship and interaction between the Objectives, Outcomes, and Principles that underpin their implementation. These concerns are reflected in our submissions to the draft *National Environmental Standards for Matters of National Environmental Significance* (MNES) and *Environmental Offsets*. Our technical concerns remain relevant as the consultation materials presented here do not address the issues identified by NFF. Our submissions to those processes are attached at **Attachment 1** and **Attachment 2** respectively and should be read in conjunction with this section.

To reiterate, we note the following inconsistencies and seek clarification on how they will be addressed. These issues remain unresolved despite the opportunity to consider stakeholder feedback during the development and release of subsequent Standards:

- *The Policy Position Paper uses different formulations to describe the relationship between the Objective, Outcomes, and Principles. In some places, satisfaction of the Principles appears sufficient to satisfy the Outcomes and Objective. Elsewhere, the Principles are described as achieving the Outcomes but only promoting the Objective;*
- *Subsection 7(3) provides that a decision-maker “may be satisfied” that a decision is consistent with the Standard where the relevant data and information are consistent with the Principles. Read together with the Policy Position Paper, it remains unclear whether the Principles are procedural considerations or constitute the substantive test for demonstrating consistency and adherence to the Standard; and*
- *Terminology such as “applied”, “satisfied”, “achieve”, “promote”, and “consistent with” are not equivalent. Applying a Principle suggests that it must be considered or used, while satisfying a Principle suggests that a substantive requirement has been met. Similarly, achieving an Outcome is different from merely promoting an Objective.*

Taken together, the drafting makes it unclear whether proponents and decision-makers must demonstrate that the Principles have merely been applied or substantively satisfied, whether satisfaction of the Principles is sufficient to establish consistency with the Standard, whether the Objective must be independently achieved, and whether a decision-maker may nevertheless reach a different conclusion after the Principles have been met.

These are important questions given that Standards as a whole are subject to statutory review requirements and the non-regression principle. Any uncertainty may have significant implications not only for the initial application of the Standard but also for how its intent is interpreted and thus maintained over time.

Proportionality and Application

The Policy Position Paper states that the Standard is intended to operate in a scalable and proportionate manner and that supporting technical guidance will explain how its requirements are to scale and apply proportionately. While NFF supports this approach, proportionality is not sufficiently reflected in the draft Legislative Instrument itself. The five Principles are expressed as substantive requirements, but the Instrument does not contain an overarching requirement that they be applied proportionately. Instead, much of the intended flexibility is expressed through terminology such as “*appropriate*”, “*adequate*”, “*relevant*”, and “*where relevant*”. While these terms permit some contextual judgement, they do not establish a clear or consistent test for determining how the characteristics of a proposal should influence the nature and extent of the data and information that is required.

This creates a risk that proportionality will remain a policy and implementation objective expressed principally through the Policy Position Paper (notably Pages 3 and 5) and future technical guidance, rather than a clear feature of the Standard itself. It may also result in inconsistent expectations between proponents and assessment officers, particularly where terms like “*appropriate*” and “*adequate*” are interpreted on a case-by-case basis without clear criteria and/or explanatory material being made available upfront.

The Policy Position Paper also anticipates that implementation will be supported by a register of trusted environmental data and information assets. Such measures may generate important downstream benefits, but their development will take time, and the Paper does not identify when this (alongside technical guidance) will become operational. We need to see clear implementation timeframes here so that the Standard operates predictably and proportionately from the outset.

NFF therefore recommends that proportionality be expressly defined within the draft Legislative Instrument and carried consistently through each of the five Principles. We need to see a requirement that underlying data and information requirements are applied having regard to the:

- *Nature, scale, complexity, and potential impacts of a proposal; the availability and quality of existing information;*
- *The cost and practicality of obtaining further information; and*
- *Whether that additional information would materially improve the evidentiary basis for the decision at-hand.*

This is particularly important for agriculture because a localised, small-scale proposal with limited and well-understood impacts (i.e., an activity undertaken periodically as part of an established agricultural practice) should not face the same information requirements as a major greenfield development for example. **Further surveys or analysis should not be required where they are unlikely to materially reduce uncertainty or add meaningful value to the decision-making process, or where the cost and practicality of obtaining additional information would be disproportionate to the potential risks posed by the proposal.**

Principle 1: Representative Data and Information

Scientifically Robust and Fit-For-Purpose Data and Information

NFF supports the intent of Principle 1 and the requirement that data and information used to inform a decision under the EPBC Act “adequately and accurately reflect and describe the relevant protected matters and environmental conditions”. As stated in our submission to the *Environment Protection Reform Consultation: Subordinate Legislation* (Tranche 2), NFF supports the use of high-quality data and information to inform decision-making, provided that it is accurate, fit-for-purpose, and appropriately governed. The requirement in Subsection 8(2)(a)(i) that information be collected using a scientifically robust methodology must nevertheless be applied proportionately, having regard to the nature of the proposal and its likely environmental risks.

Commonwealth guidance (which is likely to be treated as an authoritative source under Principle 1) can prescribe extensive survey methodologies. The Survey Guidelines for *Australia’s Threatened Birds*¹ for example, state that biological surveys should generally be undertaken in specified circumstances and in accordance with rigorous criteria, including at particular times of the day or year and during suitable seasonal and weather conditions. The Guidelines also recognise that surveys over multiple years may be required where a single year of data is insufficient.

The recently released *Draft EPBC Act Information for the Red Goshawk* illustrates how these broader expectations may translate into species-specific requirements in a practical sense (i.e., an assessment context). The draft document recommends baseline surveys over 24 to 30 months, covering at least two breeding seasons, together with repeat visits, extensive spatial coverage, habitat assessment, and multiple survey approaches (referring regularly to the above guidelines).

The Policy Position Paper itself uses a threatened-species survey conducted during breeding or migratory seasons and over two or more years as an example of the scientific rigour required under Principle 1. It then states that the Principle will support faster decision-making by helping proponents provide decision-ready information. While clearer upfront expectations may reduce requests for further information after an assessment commences, this does not account for the potentially significant time and cost required to

¹ Department of the Environment, Water, Heritage, and the Arts, 2010: [Survey Guidelines for Australia’s Threatened Birds: Guidelines for Detecting Birds Listed as Threatened Under the Environment Protection and Biodiversity Conservation Act 1999](#)

meet those expectations before a proposal can actually be referred or assessed. As a result, an assessment may proceed more quickly once commenced without necessarily producing a faster overall decision-making process, particularly where the relevant evidentiary threshold requires several seasons or years of preliminary survey work.

Such methodologies may be appropriate where a proposal presents a significant environmental risk (i.e., where a Critically Endangered species is affected). They should not, however, automatically become the default benchmark for every action. For a low-risk agricultural proposal undertaken on a cyclical basis with limited and well-understood impacts, requiring extensive survey work before referral will impose unacceptable costs and delays that are disproportionate to the likely impacts.

This issue is particularly relevant where formally non-mandatory Commonwealth guidance is treated as an authoritative source under Principle 1, and where only one methodology is presented. While strict adherence may not be required, proponents may still be expected to explain and justify any departure from that methodology, as is the case with the *Draft EPBC Act Information for the Red Goshawk* which recommends doing so.

This may signal that adopting an alternative approach could affect how the adequacy of the information is assessed, thereby placing the onus on the proponent to justify any deviation. The result is that formally non-mandatory guidance may operate as a de-facto minimum standard, encouraging proponents and their advisers to adopt methodologies that may be unnecessarily demanding or disproportionate in order to reduce assessment risk, even where a less intensive approach is available and credible.

This risk is compounded where farmers are required to engage a suitably qualified ecologist or consultant to undertake survey work and prepare supporting material. In that context, there is a real risk that consultants may interpret the Standard and associated guidance as requiring the most detailed methodology, even where a less intensive approach would be fit-for-purpose. This may occur for several reasons, including to reduce the risk of requests for further information, avoid delays during assessment, or manage consultant liability. It may also create incentives for consultant overreach, with proponents being advised to undertake more extensive and costly work than is otherwise necessary to support a decision or demonstrate consistency with the Standard.

“Adequate” Metadata and Supporting Transparency and Interoperability

The draft Legislative Instrument appropriately recognises that the adequacy of metadata is context-dependent, although this explanation is contained only in a Note which carries a different legal weighting. The Standard needs to make clear that missing or incomplete metadata does not automatically render otherwise relevant and reliable information unusable. Similarly, minor deficiencies in file formatting, version control, and/or other related metadata (particularly where the relevant information is unavailable or can no longer be reasonably recovered), should not prevent adherence to the requirements of the Standard or unnecessarily delay decision-making. It is our view that, while the term “adequate” is a useful starting point, it does not (without further qualification) provide sufficient assurance that these requirements will be applied flexibly and proportionately.

The same consideration applies to Principle 3 and its requirements concerning formatting, structure, and units of measurement to support comparison. Again, while we support interoperability and the consistent presentation of data and information, these requirements should be applied proportionately and with sufficient flexibility where strict compliance would not materially improve comparability or the quality of the decision. This may include minor deficiencies such as missing or irrecoverable version-control information.

Transparency should also be distinguished from unrestricted public disclosure. Information may be sufficiently transparent and accessible to the decision-maker while remaining confidential or subject to restrictions on public release due to privacy considerations and commercial sensitivities. We understand that the privacy element is addressed later in Principle 4 and Principle 5 (although further clarification and strengthening is required, as discussed below).

Principles 4 and 5: Data Sharing and Privacy

Principle 4: Reusable Data and Information

NFF supports the intent of Principles 4 and 5, including the appropriate re-use of data and information with minimal additional effort and ensuring the protection of sovereign data rights, ownership, and privacy. In relation to Principle 4, the reference to consent arrangements and other conditions governing access, retention, re-use, or disposal in Subsection 11(2)(a)(ii) should apply “*where applicable*” rather than “*where relevant*” to avoid such arrangements potentially being treated as a discretionary consideration. Where an applicable consent, licensing, security control, restriction on re-use, and/or obligation around retention and disposal are in-place, it should be identified and disclosed so that the conditions governing the information are understood and implemented.

The Standard also needs to clarify whether informed consent obtained for the original regulatory purpose extends to subsequent re-use of data and information. Where consent is required, data providers need to be informed in plain-English of the proposed uses and consequences of agreeing to or declining consent and given an opportunity to respond and/or opt-out. This includes clarification on what access will look like and for whom to ensure perverse outcomes for farmers are avoided, noting that de-identification may not always be an adequate solution. Any conditions or processes associated with providing, limiting, or declining consent must be simple and straightforward and must not require legal or other third-party advice at additional cost. A decision to decline upfront must also not prejudice the assessment at-hand.

Additionally, further clarification is required regarding what the requirement for data to be re-usable with minimal additional effort is intended to require of providers and most notably farmers. There must not be an inherent expectation that information supplied for a particular regulatory purpose is automatically conditioned or otherwise prepared for unrestricted future re-use.

Principle 5: Ethnical Data and Information

NFF understands that neither this Standard nor the subordinate legislation developed through Tranche 2 creates a general mechanism to compel farmers to provide data beyond existing statutory requirements, and we seek to ensure this remains the case. Where information is provided for an EPBC Act assessment or other regulatory purpose, its collection and use should take proper account of data sovereignty and custodianship. While we recognise that sharing data may support improved environmental mapping and decision-support tools, any subsequent use must be appropriately governed and retain the context in which the information was originally collected.

As stated in our Tranche 2 submission:

For example, an ecological survey may record a threatened species that was briefly present many years prior due to drought or an unusual movement event without the species occupying the property on an ongoing basis or the property otherwise being identified as critical habitat. If that record is later absorbed into Government mapping (i.e., through disclosure during an assessment process or through information-sharing arrangements associated with how the evidence was derived) without an appropriate confidence rating or risk stratification, it may incorrectly characterise the land as habitat. The end product is a worse and more uncertain operating environment for farmers seeking to understand their obligations under Federal law. If poorly contextualised data is integrated into broader mapping and/or decision-support tools, it risks embedding those mischaracterisations into future Self-Assessment and referral processes for agriculture which will increase compliance uncertainty and place further pressure on what is already a sub-optimal (at-best) system.

This risk is compounded where Self-Assessment settings are unclear and risk-adverse as it relates to what constitutes routine and low-risk farm practice which remains the case. In the absence of clarity, landholders are being pushed toward referring business-as-usual agricultural activities simply to manage legal uncertainty, even where approval should not be required. This would result in the Commonwealth receiving more farm-level ecological, spatial, and operational data and information than would otherwise have been the case.

That data may then feed back into Commonwealth systems in a way that compounds the original uncertainty. In this sense, poor Self-Assessment settings are also a data-governance risk. This is particularly concerning where a landholder provides information in good-faith to satisfy Commonwealth referral or approval requirements, only for that information to later inform overly broad or risk-averse mapping and decision-support tools in a way that increases future regulatory uncertainty. Routine agricultural activity should not be pushed toward referrals because of a failure to provide clear and fit-for-purpose guidance. If the Commonwealth intends to regulate environmental matters through mapping and data-driven decision-support tools which is the case, the onus must remain on it to ensure such tools are accurate and reliable, and stratified by risk in accordance with areas of known and critical habitat.

NFF supports the recognition in Principle 5 that rights and privacy must be protected. The requirement to “*minimise harm*” needs to be strengthened to require harm to be avoided wherever reasonably practicable. Where harm cannot be avoided, it should be appropriately mitigated and managed to an acceptable level of risk. Against this background, Principle 5 must provide stronger recognition of data sovereignty, ownership, custodianship, and adherence to best-practice ethical data management principles across all categories of held data and information (not just First Nations). This is particularly important in relation to secondary use and ongoing disclosure. Appropriate safeguards may include informed consent and data-sharing arrangements that clearly identify the original and proposed purposes of use, applicable restrictions and authorisations, and other responsibilities of the relevant custodian (including retention and disposal requirements etc.).

This should be clarified within the Notes under Subsection 12(2)(a)(ii). While the current Note provides examples of ethical data principles with reference to First Nations data and information, ethical data management must be framed more broadly. The Note must make clear that relevant ethical data principles apply to other held data and information, including that at the farm-level where issues of consent, ownership, custodianship, sensitivity, secondary use, disclosure, and/or potential harm arise.

Closing Remarks

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

Attachments List

1. ***NFF Submission (May 2026): National Environmental Standard for Matters of National Environmental Significance.***
2. ***NFF Submission (June 2026): National Environmental Standard for Environmental Offsets.***



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National Environmental Standard for Matters of National Environmental Significance

May 2026



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Table of Contents

About Us	2
NFF Member Organisations	2
Executive Summary	4
Principles-Led Approach and Relationship Between Overarching Objectives, Outcomes, and Principles	6
Matter Specific Objectives	7
1. Wetlands of International Importance (Ramsar Wetlands).....	7
2. World Heritage Places	8
3. National Heritage Places	8
4. Protection of Water Resources From Unconventional Gas and Coal Mining	
Development	8
Principle 1: Actions Appropriately Apply the Mitigation Hierarchy.....	9
1. Step 1: Avoidance	9
2. Step 2: Mitigation Below Significance.....	9
3. Step 3: Achieving Repair	9
4. Step 4: Environmental Offset	10
Principle 3: Actions With Residual Significant Impacts to Affected Protected Matters Are Compensated.....	10
Principle 4: Appropriate Evidence, Indigenous Engagement, and Consultation	11
1. Removing Duplication	11
2. ‘Actions Being Supported By Evidence’	11
Closing Remarks.....	13
Attachments List.....	13

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) on the continued development of the *National Environmental Standard for Matters of National Environmental Significance* (MNES). This marks the second formal consultation round on the proposed Standard. Our prior submission to the February 2026 process is attached at **Attachment 1** and is to be read in conjunction with this document. This submission builds upon and updates our prior position in consideration of the revisions and new materials received.

While the NFF supports the development of *National Environmental Standards* (Standards) as a core element of National Environmental Law reform, we do not support the MNES Standard as presently drafted. Properly designed, framed, and implemented, Standards have the potential to improve environmental outcomes and establish clear decision-making parameters for assessment and approval processes that impact regulated sectors including agriculture. However, this is ultimately dependent on them providing clarity in expectations for proponents and the matters decision-makers (and therefore subsequent reviews of Standards) are required to assess against.

The proposed MNES Standard cannot be considered in isolation. The practical effect of the Standard for agriculture will depend on how it interacts with the amended *Environment Protection and Biodiversity Conservation* (EPBC) Act 1999, future Standards, regulations, guidance material, compliance settings, bilateral arrangements, and the *National Environmental Protection Agency* (NEPA). Where these elements are unclear or poorly implemented, agricultural producers will face increased uncertainty about how low-risk and business-as-usual land management activities are treated. This is significant because producers regularly undertake continuous and seasonal land management decisions across large areas of the landscape. These decisions often occur in environments where threatened species habitat, ecological communities, native vegetation, and to a lesser extent water resources and heritage values are either present or inferred at a broad scale but without the accuracy needed to support definitive compliance decisions. The result is a shift in the administrative, financial, evidentiary, and legal burden onto producers who themselves have limited capability to determine whether an activity requires referral or Commonwealth approval.

At a high-level, NFF does not support the MNES Standard that has been presented. The draft Standard does not provide a clear, practical, or viable pathway for agriculture to assess our obligations or determine whether routine farming activities have a Significant Impact on a MNES. It is therefore unfit-for-purpose and cannot be progressed in its current form.

The regulatory burden that has now been placed upon farmers post-legislative reform is significant and is creating major concern and distress. The lack of clarifying guidance to exempt or mitigate what is clearly low-risk and routine agricultural activities from assessment, and/or commitment (or understanding for that matter) toward the urgent updating of outdated guidance materials for agriculture (i.e., 2013 *Significant Impact Guidelines* for MNES) despite provisions in the Budget to support compliance and extension, has meant reforms have increased uncertainty and worsened what was already a challenging task for farmers seeking to understand their obligations under Federal law.

In addition to the above, NFF notes that the consultation process to-date has deviated substantially from what would ordinarily be expected for reforms of this scale and consequence. No comprehensive Impact Assessment has been undertaken to understand or quantify the impact of reforms to agriculture. This is particularly concerning given legislation includes an embedded non-regression principle (which is novel), while subordinate instruments relating to Tranche 2 are now being substantially brought forward with unclear timelines ahead of the initial November time horizon.

This accelerated process is occurring despite core regulatory functions not yet being finalised or actually consulted on in a formal public setting. This includes NEPA which is still in the process of recruiting a Chief Executive let alone being fully established. It also includes the multitude of proposed Standards which all remain in draft format and have been released in a staggered manner, making it extremely difficult to understand the full regulatory, operational, and economic implications of the proposed framework let alone identify unintended consequences or address the many areas of duplication and overlapping requirements. Several Standards have not yet been released for public comment or scrutiny while others appear to have been delayed indefinitely (with unclear timeframes for consultation and establishment despite a hard preference for a 1 July start).

At this stage, NFF is particularly concerned that the proposed Principle-led approach to implementation is creating significant uncertainty about how consistency with the Standard is to be demonstrated and benchmarked in-practice. The current drafting raises serious questions about whether adherence to the Principles is intended to operate as the practical test for achieving the Objectives and Outcomes, and whether this may structurally dilute or subvert the role of the Objectives and Outcomes themselves. This is a new and significant problem because the legislative framework requires decisions to be consistent with the Standard as a whole, not part-thereof. It must not be dismissed on the basis of complexity as it goes directly to the practicality and future workability of the Standard. While keeping in mind the non-regression principle in legislation, it is important that we get the settings here correct and balanced. Our thinking and comments with respect to the proposed Principle-led approach are detailed in the proceeding sections below.

Should the Commonwealth proceed with finalising the MNES Standard through the current process, significant amendments are required to make it workable and fit-for-purpose for agriculture. This includes in summary:

- Better integrating *Ecologically Sustainable Development* (ESD) including through a dedicated Principle so that the Principles-led approach to implementation actually reflects and gives practical effect to the Objectives and Outcomes of the Standard, let alone requirements under the Objects of the EPBC Act (Section 3A);
- Duplication against future Standards are removed and deferred to those separate dedicated processes (in relation to *Environmental Offsets, Data and Information, Community Consultation, and First Nations Engagement*);
- Refine legislative drafting to ensure matter-specific Objectives do not introduce broader obligations than those already required under existing international agreements and frameworks;

- Use clearer and more consistent drafting as it relates to the multiple differently framed Significant Impact concepts so that proponents can better understand their Self-Assessment and referral obligations; and
- A commitment to exempt routine and continuing-use agricultural activities from the assessment process and urgently prioritise development in real partnership with industry of clear, useful, and fit-for-purpose guidance for farmers including:
 - Plain English definitions;
 - Clearly outline what is and is not an acceptable practice (i.e., examples that are grounded in the reality of production systems and reflective of what is a legitimate practice);
 - Improved guidance documentation;
 - Better mapping; and
 - Increased resourcing to support extension and communication.

Principles-Led Approach and Relationship Between Overarching Objectives, Outcomes, and Principles

NFF does not strictly oppose the use of alignment with Principles as an implementation mechanism. However, if Principles are intended to fulfil the role of demonstrating consistency with a Standard, the drafting must be consistent and clearly distinguish the role of the Principles from the Objectives and Outcomes. The Principles also need to be explicit and clearly representative of each Objective and Outcome they are intended to implement. As currently drafted, the four Principles are primarily directed toward environmental assessment mechanics including the *Mitigation Hierarchy*, consideration of impacts, environmental offsets, and evidence. They do not clearly or adequately explain how Outcome 3, which provides that decisions facilitate ESD, are to be achieved.

As stated in the Policy Paper:

- **Consistency with the MNES Standard will be achieved when the proponent, strategic partner or a Commonwealth Minister or a State/Territory Government, demonstrates that they have satisfied the four Principles, and therefore the Outcomes and Objective of the MNES Standard.**
- *In addition, the MNES Standard will:*
 - *Support primary legislation as a statutory instrument – to **set legally enforceable Outcomes, achieved through the Principles**, but also retain the flexibility to respond to new approaches to conservation or emerging threats.*

The Policy Paper also states that:

- **Principles are requirements that need to be applied to achieve the Outcomes and effectively promote the Objective of the Standard and, as a result, the Objects of the EPBC Act.**

As shown above, the Policy Paper uses different formulations to describe the relationship between the Objectives, Outcomes, and Principles. In some instances, satisfaction of the Principles appears to be treated as sufficient to satisfy the Outcomes and Objectives whereas elsewhere, the Principles are described as requirements that achieve the

Outcomes but only “effectively promote” the Objective. Additionally, Section 7(2) of the draft Legislative Instrument provides that an action will achieve the Outcomes and Objectives of the Standard **where it is consistent with the Principles**. Read together with the Policy Paper, this creates uncertainty about whether the Principles are procedural requirements or the substantive test that is to be met.

This distinction matters as “satisfied”, “achieve”, “applied”, “promote”, and “consistent” are not equivalent concepts. Applying a Principle suggests a procedural or informative requirement to consider or use it, whereas satisfying a Principle suggests a substantive (normative) requirement that the Principle has been met. Similarly, achieving an Outcome is different from merely promoting an Objective.

If the Principles are considered sufficient to achieve the Outcomes but only promote the Objective, it is unclear whether the Objective must itself be achieved. It is also unclear from the current drafting whether proponents and assessment officers are required to demonstrate that the Principles have simply been applied or that they have been substantively satisfied. For instance, the use of terminology such as “may” in 7(4) creates discretion for a decision-maker to arrive at a conflicting view. It should be amended to read as “a decision-maker will be taken to be satisfied...”. Together, this creates uncertainty about how consistency with the Standard is to be demonstrated, particularly as the legislative framework requires decisions to be consistent with the Standard as a whole and not part-thereof. NFF prefers a minimal and cautious approach to allow a just and smooth transition.

Specifically:

- *The Minister must not approve the taking of an action unless the Minister is satisfied that, taking into account any conditions to be attached to the approval, **the approval of the taking of the action is consistent with any National Environmental Standards** prescribed by the regulations for the purposes of this subsection.*

We also note that many of the Objectives and Outcomes are framed at a broad system or landscape scale that individual proponents and controlled actions cannot reasonably adhere to. This creates risk in the context of future Reviews and the non-regression requirement. If the Standard is reviewed against broad Objectives and Outcomes that are far removed from what individual actions and the Principles can practically achieve, there is a real risk that the Standard will be assessed as not achieving its intended purpose and thus be tightened to the detriment of business and development.

Matter Specific Objectives

Wetlands of International Importance (Ramsar Wetlands)

The proposed Objective for *Wetlands of International Importance* extends beyond Australia’s obligations under the *Ramsar Convention on Wetlands* as it introduces a requirement to restore the ecological character of a declared wetland where it is in decline. The Convention requirement is to halt the worldwide loss of wetlands and ensure the conservation and “wise use” of remaining ecosystems through local actions and international cooperation. The framing of the Objective needs to be adjusted to ensure consistency with Australia’s international obligations. The current framing will place an

unreasonable burden on actions beyond that what is reasonably expected and is not supported.

World Heritage Places

The proposed Objective for *World Heritage Places* provides that the *World Heritage values* of a declared *World Heritage* property are “*protected, conserved and (where appropriate) restored in a manner consistent with Australia’s obligations under the World Heritage Convention*”.

While we support alignment with obligations under the Convention, the Objective must be clarified to ensure that the reference to restoration is appropriately conditioned and not interpreted as a broad requirement. Under Article 5 of the *World Heritage Convention*, State Parties are required to endeavour, “*in so far as possible*” and “*as appropriate*”, to take measures for the protection, conservation, presentation, and rehabilitation (not restoration) of heritage. The Objective must therefore be reframed to make clear that rehabilitation (not restore) is not a default requirement but a context-specific response to be considered only where it is practical and appropriate, consistent with the terminology and requirements outlined under the Convention.

National Heritage Places

As stated in our prior submission, NFF recognises the importance of protecting *National Heritage Places* and their associated values. However, the current Standard includes drafting that imposes a behavioural 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 the other categories.

As the foundational Standard, the MNES Standard sets the broader architecture for decision-making with relevant detail addressed through subsequent Standards. It is our view that such Indigenous engagement requirements be removed entirely (including under Principle 4) and deferred to the development of the relevant Standard to be developed (subject to public consultation) for purposes of clarity and detail.

Protection of Water Resources From Unconventional Gas and Coal Mining Development

NFF notes the proposed Objective provides that the function and integrity of water resources are protected and conserved, including “*provisioning, regulating, cultural, and supporting services provided by the water resource*”. We understand that similar concepts have previously appeared in Commonwealth guidance relating to the Water Trigger (specifically *Significant Impact Guidelines 1.3*).

We note that this Standard is intended to operate as a statutory instrument and form part of the benchmark against which decisions are assessed. Concepts that may have previously operated as guidance should not be elevated into an Objective-level requirement without clear explanation of their intended legal and practical effect (even if they are presented as suggestions (i.e., “*such as the...*” on Page 11)).

We therefore seek clarification on whether the reference to “*provisioning, regulating, cultural, and supporting services*” is intended to reflect existing guidance or alter the practical application of the Water Trigger under the Standard. If the latter is correct, the Department must very clearly explain how these services are to be identified and weighed in decision-making. This is particularly important in relation to “*cultural services*” which may be capable of broad interpretation.

Principle 1: Actions Appropriately Apply the Mitigation Hierarchy

The *Mitigation Hierarchy* must be practical in an agricultural setting. The Government needs to road-test its application with the sector to ensure the Standard does not inadvertently capture ordinary farm practices or impose disproportionate assessment expectations.

Step 1: Avoidance

NFF notes that the requirement to avoid impacts “*to the extent possible*” risks establishing an impractically high threshold, as almost all impacts are theoretically avoidable if an activity does not proceed. NFF considers that the more appropriate construction is “*to the extent reasonably practicable*” as this better reflects proportionality and feasibility of implementation. Other steps of the *Mitigation Hierarchy* must also include similar clarifying language.

Step 2: Mitigation Below Significance

We also hold concern that the draft Standard requires proponents to mitigate residual Significant Impacts below the level of Significance wherever possible. Applied strictly, this would create an impractical expectation that proponents continue pursuing mitigation measures irrespective of feasibility, proportionality, cost, or the additional environmental benefit likely to be achieved. This would be inconsistent with the principles of ESD which are reflected in the Objects of the EPBC Act and as an Outcome in the draft Standard.

The assessment and approval framework must remain focussed on whether the impacts of an action can be appropriately avoided, mitigated, repaired, or offset having regard to the nature and scale of the action. It must not impose an open-ended expectation that every residual Significant Impact be reduced below the threshold of Significance where this is not reasonably practicable or proportionate to the scale of the impact. NFF considers that the relevant test be whether further mitigation is reasonably practicable and capable of delivering a meaningful environmental benefit under the *Mitigation Hierarchy*.

Step 3: Achieving Repair

It is our view that the circumstances in which repair is recognised as a generally viable option within the draft Legislative Instrument are overly narrow.

Specifically:

- (5) *Repair will generally be a viable option only where:*
- a) *repair can be done in a timely manner; and*
 - b) *repair activities are feasible and sustainable in the long term for the protected matter.*

**We also note inconsistencies between the draft Legislative Instrument and Policy Paper, with the latter identifying broader circumstances where repair may be viable.*

A constrained approach to repair may have the unintended consequence of increasing reliance on environmental offsets including in circumstances where repair measures are practical and available. It is our view that the Standard adopt a broader and more flexible set of circumstances. This is particularly important given the practical challenges associated with delivering environmental offsets. Experience from existing biodiversity offset frameworks including in *New South Wales (Biodiversity Conservation Trust)*, for example, demonstrates the difficulty of finding and securing suitable equivalent offsets in the landscape. Where practical repair options are available, the Standard and accompanying Policy Paper must not constrain their use by way of limited guidance in a manner that increases reliance on offsets as the default response. Broadly, there seems to be little if any recognition of the challenge of utilising offsets contribution even without the extra thresholds such as like-for-like (where possible).

Step 4: Environmental Offset

NFF notes that Step 4 regarding environmental offsets duplicate obligations already established under the EPBC Act.

As stated by the Department on its 2023 (last updated) Direct and Indirect Offsets webpage:

- *Environmental offsets compensate for residual Significant Impacts from actions, such as developments, that cause harm to protected matters (including nationally significant plants, animals, ecological communities and places). They make up for Significant Impacts that cannot be avoided or mitigated.*

This reference within Principle 1 should therefore be limited to a high-level reference linking back to the Act specifically.

Principle 3: Actions With Residual Significant Impacts to Affected Protected Matters Are Compensated

The contents of Principle 3 unnecessarily duplicate against Step 4 of *Mitigation Hierarchy* outlined in Principle 1 and matters intended to be addressed through the dedicated Standard for Environmental Offsets currently open for consultation. The inclusion of detailed requirements relating to offsets here in the MNES Standard risks undermining the integrity of that process while adding unnecessary legal risk and uncertainty. We therefore recommend that Principle 3 be removed in its entirety.

Principle 4: Appropriate Evidence, Indigenous Engagement, and Consultation

Removing Duplication

NFF supports the intent of Principle 4 that actions are supported by appropriate evidence. Robust evidence is essential for transparency and facilitating consistent decision-making under the EPBC Act. However (and as noted above), NFF remains concerned that Principle 4 duplicates and may pre-empt future consultation processes relating to the development of other Standards. This is because the Principle contains requirements relating to evidence, consultation, and Indigenous engagement even though dedicated Standards will be developed to address such matters. The MNES Standard must not prescribe detailed expectations for matters intended to be addressed through those dedicated avenues. This includes requirements relating to the adequacy and manner in which consultation and engagement are required to be conducted and how Indigenous ‘interests’ are to be accounted, including whether engagement is “*effective*” or “*genuine*” as referenced in the Policy Paper. Again, such matters must be addressed through those dedicated Standards where they can be properly tested with stakeholders in respect of the consultation process. It would be inappropriate for the MNES Standard to pre-empt those processes and doing so will create overlapping requirements and legal uncertainty that cannot be easily resolved through amendment post-establishment, especially in consideration of the novel non-regression requirement. We therefore seek the release of all Standards together as a consolidated package so industry can understand the full regulatory, operational, and economic implications of the proposed framework.

Principle 4 must therefore be removed entirely. Absent this, this Principle (including the contents in the Policy Paper) should contain at maximum a high-level reference that actions are to be supported by evidence (data and information), community engagement, and consultation, with the actual detail and descriptive language deferred to the relevant processes.

‘Actions Being Supported By Evidence’

Appropriate Documentation

The Policy Paper identifies documents and tools such as Ramsar information sheets, *Recovery Plans*, *Conservation Advice*, *Threat Abatement Plans*, *Protection Statements*, and the *Protected Matters Search Tool* (PMST) as a form of appropriate documentation and evidence to support the undertaking of an action. While these materials may be useful starting points, it is unclear whether they are considered sufficient to inform a compliance decision. This distinction is important because either these tools are sufficient to inform a decision as to whether a Significant Impact is likely or they are not. This is particularly evident for agriculture as existing tools like the PMST have a high-risk tolerance as they identify indicative ranges of potential habitat, do not provide the clarity that is required, are often error-prone, and cannot be relied upon to support a definitive compliance decision.

Our submission to the 2024 *Nature Positive Senate Inquiry (Attachment 2)* identified several examples of incorrect mapping and identification of threatened species and ecological communities derived from the PMST. On a separate yet not unrelated point, we note that incorrect mapping of native vegetation on public and private land is also a common issue.

This is a reality recognised by the Department in discussions regarding the implementation of continuing-use provisions, where officials have clearly stated that the PMST is not a definitive product from a compliance risk perspective. This places the administrative and financial burden on agricultural proponents to resolve uncertainty and, in effect, disprove the likelihood of there being a Significant Impact. As a logical consequence, the PMST must therefore not be treated as a sufficient documentation piece for landholders seeking to determine their obligations under the EPBC Act (i.e., undertake an action supported by evidence) – which begs the question what if any mechanism exists for agriculture that can be relied upon with confidence. This deficiency reinforces the need for updated and agriculture-specific guidance to support application of the MNES Standard. This must include commitments to update *Significant Impact Guidelines* (which is overtly technical and out-of-date (last updated in 2013)), have clearer and improved definitions of key concepts, practical decision-support tools, and better communication of expectations including when a referral is or is not required for activities that are low-risk.

The proposal to consider updates to *Significant Impact Guidelines* on Page 20 of the Policy Paper falls short of the commitment that agriculture requires. On this point, we note that NFF been advised by Department officials that funding allocated under the 2026-27 *Federal Budget* for the establishment of NEPA, including support for compliance and enforcement functions, will be the avenue through which updated guidance may be developed. We continue to seek a formal commitment and timeline to doing so with urgency.

Balancing Competing Interests and Integrating the Principles of ESD

The Policy Paper states that evidence provides a common reference point for balancing competing interests, including environmental, social, cultural, and economic values. While we support this intent, the Standard does not clearly explain how economic and productivity impacts for instance are to be considered in-practice despite ESD being a listed Objective and Outcome. This lack of clarity is a significant concern because at-present, and in the absence of definitive guidance, the burden falls on producers to self-assess whether everyday farm practices require referral and/or approval. These processes are costly with self-assessments understood to range anywhere upward of \$160,000 in some cases. Without clear guidance and a defined mechanism for considering economic and productivity impacts, the Standard risks being unworkable for agriculture and may unnecessarily constrain food and fibre production.

As discussed earlier, the proposed Principles are overwhelmingly environmentally focused and do not adequately reflect the broader Objectives and Outcomes of the Standard including ESD. There is no mechanism for balancing environmental considerations with social, economic, and productivity impacts, or for explaining how ESD will be operationalised in decision-making. This is a significant deficiency.

Given the absence of any dedicated ESD Principle, it is unclear how the Minister can be satisfied that decisions made under the Standard will properly give effect to ESD obligations under the Act. A dedicated ESD Principle must be inserted into the Standard. Without this, the proposed Principle-led approach is (put simply) materially incomplete and does not give practical effect to the Objects of the Act.

Other Forms of Evidence

As stated in the Policy Paper:

- *Evidence is not limited to scientific evidence; the knowledge and experience of First Nations people and other stakeholders are equally important to effective assessment of impacts.*

While NFF acknowledges efforts to bring Indigenous experience into the evidence-base, it remains our consistent position that Indigenous-derived evidence is considered and treated individually on its merits in an equal manner to any other information, science, or input that is provided. It is important to recognise that not all evidence provided into a decision-making process (irrespective of the source) holds the same weighting, importance, or validity. Evidence must be scrutinised. To this effect, NFF does not support approaches that would require Indigenous knowledge systems to be granted “equal” weighting in all circumstances without regard to their relevance and evidentiary basis in the specific decision-making context.

Closing Remarks

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.

Attachments List

1. ***NFF Submission (January 2026): National Environmental Standards for Matters of National Environmental Significance (MNES) and Environmental Offsets.***
2. ***NFF Submission (July 2024): Senate Inquiry into Nature Positive (Environment Protection Australia) Bill 2024 [Provisions] and Related Bills.***



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National
Farmers
Federation

National Environmental Standard for Environmental Offsets

June 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



Table of Contents

About Us	2
NFF Member Organisations	2
Executive Summary	4
Principles-Led Approach and Relationship Between Overarching Objectives, Outcomes, and Principles	5
The Mitigation Hierarchy	6
1. Environmental Offsets	6
2. Clarifying What Constitutes ‘Repair’	7
Compatible Land-Use on Environmental Offset Sites	8
Relevant Area Principle: Offsets are delivered in an area that is relevant to the affected protected matter, and which will enhance the effectiveness of conservation efforts for the affected protected matter	9
1. Reference To The Above Sections	9
2. Our Broader View	9
3. Like-For-Like Principle	9
Security Principle: Offset activities are committed and the offsets site is protected and managed to prevent its loss and degradation	10
1. Management Approach and Avoiding Perverse Outcomes	10
2. Achieving ‘Security’ and Information Asymmetry	10
Measurable Improvements Principle: Offsets deliver a measurable improvement for the affected protected matter relative to an agreed baseline	11
State and Territory Offset Schemes	12
Closing Remarks.....	12
Attachments List.....	12

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) on the continued development of the *National Environmental Standard* (Standard) for *Environmental Offsets*. This submission builds on our prior response to the first-round consultation on the proposed *National Environmental Standards* (Standards) for *Matters of National Environmental Significance* (MNES) and *Environmental Offsets* (**Attachment 1**). It also draws upon our recently lodged submission to the second-round consultation on the proposed Standard for MNES (**Attachment 2**).

The proposed Environmental Offsets Standard is not yet sufficiently clear or practical for implementation in agricultural landscapes. There is a need to clearly define how key concepts will work in-practice so that landholders and proponents alike understand their obligations and have confidence to engage with the proposed framework. This includes understanding how concepts such as net-gain are to be satisfied in-practice and how the Principle-led approach to implementation will be undertaken in a manner that is actually consistent with the Objectives and Outcomes of the Standard and broader *Environment Protection and Biodiversity Conservation* (EPBC) Act 1999.

In the absence of a consolidated reform package, it is difficult for industry to assess the implications of the proposed framework including how Standards will interact with each other. We continue to seek release of the full suite of regulations and supporting materials so that stakeholders can properly assess the cumulative impact of the reforms. At present, there is no visibility of how issues of overlap and inconsistency across Standards will be resolved.

Significant amendments are required to make the proposed Environmental Offsets Standard workable and fit-for-purpose.

This includes in summary:

- *A commitment to publishing the full suite of proposed Standards together rather than continuing with the staggered approach to enable industry to better understand the full regulatory, operational, and economic implications of the proposed framework and identify unintended consequences or address the many areas of duplication and overlapping requirements present across them;*
- *Clarify the relationship between the Objectives, Outcomes, and Principles through consistent drafting. This includes whether satisfaction or application of the Principles is intended to be the operative test to demonstrate consistency;*
- *Amend section 7(4) of the draft Legislative Instrument so that a decision-maker will be taken to be satisfied that a decision is consistent with the Standard where the specified requirements are sufficiently clear and are understandable, applicable, and interpretable;*
- *Make clear that environmental offsets are only required for residual Significant Impacts on MNES and their critical habitat, and that referral or assessment does not automatically trigger an offset obligation;*

- *Develop practical examples of what avoidance, mitigation, and repair look like in an agricultural, marine, and fisheries context where environmental offsets are determined to need consideration post-referral;*
- *Clearly describe how compatible agricultural land-uses such as grazing, pest management, weed control, and other productive land management activities can operate on environmental offset sites where they are consistent with the intended environmental outcome;*
- *Clarify how the Environmental Offsets Register will address privacy considerations and questions around commercially sensitive data and information; and*
- *Ensure the Relevant Area Principle can be practically applied in a real-world context, understanding that cultural considerations make offsets substantially more challenging to identify and secure.*

Principles-Led Approach and Relationship Between Overarching Objectives, Outcomes, and Principles

NFF is extremely concerned that the proposed Principle-led approach to implementation that is apparently being adopted across all Standards is creating significant uncertainty about how consistency with the Standard is to be demonstrated and benchmarked in-practice. We do not support this approach unless there are significant improvements and refinements made.

As is the case with the MNES Standard, the current drafting raises serious questions about whether adherence to the Principles is intended to operate as the practical test for achieving the Objectives and Outcomes, and whether this may structurally dilute or subvert the role of the Objectives and Outcomes themselves. The language here appears to largely resemble a replica of that presented in the recently concluded MNES Standard consultation, and as such, the issues there have been carried forward here and remain unaddressed. This is a new and significant problem because the legislative framework requires decisions to be consistent with the Standard as a whole and not part-thereof. It must not be dismissed on the basis of complexity as it goes directly to the practicality, user friendliness, and future workability of the Standard. While keeping in mind the non-regression principle in legislation, it is important that we get the settings here correct and balanced.

NFF does not strictly oppose the use of alignment with Principles as an implementation mechanism. However, if Principles are intended to fulfil the role of demonstrating consistency with a Standard, the drafting must be consistent and clearly distinguish the role of the Principles from the Objectives and Outcomes.

As stated in the Policy Paper:

- **Consistency with the Environmental Offsets Standard will be achieved when** the proponent, strategic partner or a Commonwealth minister or a State/Territory Government, demonstrates that they have **satisfied the Principles**, and therefore achieved the Outcomes and Objective of the National Environmental Standard.

- **Principles: Are requirements to be applied** to achieve the Outcomes and effectively promote the Objective of the Standard and, as a result, the Objects of the EPBC Act.

As shown above and consistent with the issues outlined in our submission to the MNES Standard, the *Policy Paper* uses different formulations to describe the relationship between the Objectives, Outcomes, and Principles. In some instances, satisfaction of the Principles appears to be treated as sufficient to satisfy the Outcomes and Objectives whereas elsewhere, the Principles are described as requirements that achieve the Outcomes but only “effectively promote” the Objective of the Standard. Additionally, Section 7(2) of the draft Legislative Instrument provides that an offset activity intended to compensate for damaged caused **where that offset activity is consistent with the Principles**. Read together with the *Policy Paper*, this creates uncertainty about whether the Principles are procedural requirements or the substantive test that is to be met.

This distinction matters as “satisfied”, “achieve”, “applied”, “promote”, and “consistent” are not equivalent concepts. Applying a Principle suggests a procedural or informative requirement to consider or use it, whereas satisfying a Principle suggests a substantive (normative) requirement that the Principle has been met. Similarly, achieving an Outcome is different from merely promoting an Objective.

Again, as stated in our submission to the MNES Standard, if the Principles are considered sufficient to achieve the Outcomes but only promote the Objective, it is unclear whether the Objective must itself be achieved. It is also unclear from the current drafting whether proponents and assessment officers are required to demonstrate that the Principles have simply been applied or that they have been substantively satisfied. For instance, the use of terminology such as “may” in 7(4) creates discretion for a decision-maker to arrive at a conflicting view. It should be amended to read as “a decision-maker will be taken to be satisfied that a decision is consistent with the Standard where the specified requirements are sufficiently clear and are understandable, applicable, and interpretable”. Together, this creates uncertainty about how consistency with the Standard is to be demonstrated. NFF prefers a minimal and cautious approach to allow a just and smooth transition.

The Mitigation Hierarchy

Environmental Offsets

Environmental offsets must not become the default outcome to an environmental referral for a development impact (which we understand is the case). There is a concern that despite the above, the circumstances in which an environmental offset is required, and the process by which any offset obligation is then implemented (which is flexible), are not sufficiently understood by, or communicated to, producers.

In the agricultural space, the distinction between an assessment of Significant Impact referral, repair measures, and environmental offset liability is challenging to navigate, particularly in the context of the changes to continuous-use and the absence of clear, fit-for-purpose guidance with respect to Self-Assessment. This perception is heightened where preliminary advice and/or risk adverse desktop tools identify protected matters as ‘likely’ or ‘may’ occurring rather than confirming actual presence and impact. As a result, there is a very real risk that producers may assume that any potential impact on one part of a property will automatically require an environmental offset elsewhere on that

property, and as a consequence of this, open an offsets ‘black box’ where the multipliers and costs attributed are not yet transparent. This uncertainty is likely to discourage producers from engaging confidently with the framework especially where the practical consequences of referral and Self-Assessment remain poorly understood. On this point, NFF reiterates our interest to be involved in discussions around adjustments to the offsets calculator when that is examined in due course.

In addition to this, there needs to be recognition that producers are already contributing to biodiversity outcomes through activities voluntarily adopted on-farm that support productivity and food and fibre production. These include, for instance, pest management, revegetation and restoration works, pasture improvement, and other land management activities that improve habitat condition and connectivity (including those perhaps operating under the *Nature Repair Framework*). This is particularly important where an environmental offset is being considered on-farm. Unlike more extractive forms of development impact such as a mining development, agricultural landscapes are subject to ongoing and active management over a sustained period. Where a producer can demonstrate a history of management actions that have improved or restored protected matter values, that should be considered as part of the assessment context. We recognise that there may be limits to how historical improvement can be treated under the legislation, however, this should not bar its exclusion from consideration altogether.

There needs to be a clear pathway to translate and recognise these outcomes within the framework where relevant. Our comments on the Relevant Area Principle (which is related to this) are addressed further below. In a landscape context, there needs to be a balanced approach, recognising positive outcomes as a component of assessing Significant Impact, they cannot be viewed as mutually exclusive. To this degree, we seek guidance materials to accompany the development of this Standard that make clear that an environmental offset obligation is not triggered merely because a referral is submitted or because a protected matter may occur.

Clarifying What Constitutes ‘Repair’

NFF considers that the interaction between avoidance, mitigation, repair, and environmental offsets remains insufficiently clear for agriculture. This is especially the case in relation to what constitutes a generally viable option for repair. This deficiency was raised in our submission to the MNES Standard, where we noted that the circumstances in which repair is recognised as generally viable are too narrow to be useful and that there are inconsistencies between the draft Legislative Instrument and *Policy Paper* regarding its application.

A constrained approach to repair may have the unintended consequence of increasing reliance on environmental offsets, including in circumstances where practical repair measures are available. It is our view that the Department needs to adopt a broader and more flexible approach that is tailored to agricultural landscapes and provide clear guidance on how repair can be applied in-practice. The set of practices identified in the MNES materials is simply too narrow to provide meaningful guidance for producers, advisers, and/or assessment officers.

In agricultural landscapes, management measures may often be more practical and effective than environmental offsets. These are legitimate practices and should be clarified upfront. Concerns about being overly prescriptive are not legitimate in this instance and should not preclude provision of practical examples to guide those captured under the impending regulations.

Additionally, the Standard should not assume that improved environmental outcomes require exclusion of any agricultural activity or a larger/expanded patch of habitat. In many circumstances, managed agricultural use may be compatible with and/or contribute to environmental outcomes (e.g., active pest and weed management). The issue should be whether the activity supports the intended environmental outcome not whether the land is removed from production altogether. While NFF understands this is the intended approach, it is our view that this has not been adequately communicated in the current materials.

Compatible Land-Use on Environmental Offset Sites

There is also insufficient clarity on whether livestock or other agricultural, marine, and fisheries activity can continue on an environmental offset site where such uses do not compromise the required environmental outcome and requirements around measurable improvement and net-gain. This is a substantial issue for producers and is particularly relevant for those seeking to maintain a tree-to-grass ratio or manage land in a way that supports both production and biodiversity values. NFF seeks clear assurance that the framework will not operate in a manner that excludes agricultural land from food and fibre production where compatible land management can achieve the required environmental outcome.

While we appreciate the specifics will be judged on a case-by-case assessment due to the manner in which net-gain has been defined, practical examples should still be provided to help producers understand and navigate this novel process. On this point, we note that some environmental planting approaches already include livestock and revegetation outcomes being managed together under specified conditions so there is precedent and recognition here. This issue also has broader farm business implications as the ability to continue producing food and fibre impacts land value and it is also tied to capability toward securing finance. This is a worthy point to raise as agriculture is very much a majority stakeholder in the landscape (encompassing approximately 50% of the land) and thus will play an important role in ensuring these reforms are achieving the outcomes that are intended.

Relevant Area Principle: *Offsets are delivered in an area that is relevant to the affected protected matter, and which will enhance the effectiveness of conservation efforts for the affected protected matter*

Reference To The Above Sections

While we understand that environmental offsets are not required to be delivered at the exact place of impact or on the same parcel of land, this flexibility does not diminish the practical issues raised above.

Our Broader View

NFF broadly supports the intent of ensuring environmental offsets are delivered in areas that are relevant to the affected protected matter as it opens up flexibility under the framework. Despite this, we hold significant concerns around the Relevant Area requirements and scoping which have been substantially broadened beyond their first conception without clear explanation. The *Policy Paper* refers to ecological and social equity considerations, and the draft Legislative Instrument includes language relating to ecologically or culturally relevant areas. This broadening will make environmental offsets more challenging to identify and secure and especially in landscapes where availability is already constrained.

This is an important point given the existing challenges associated with delivering environmental offsets. Experience from existing *Biodiversity Offset Frameworks* including in *New South Wales* demonstrates the difficulty of finding and securing suitable equivalent offsets in the landscape. Put simply, it is a proven flawed model and adding further social and/or interpretive cultural layers on-top of that risk further delays and complexity. There is also an information asymmetry issue where producers are expected to navigate complex ecological and cultural considerations without adequate guidance, support, or capability to challenge claims.

Like-For-Like Principle

As stated in our initial submission, there seems to be little if any recognition of the challenge of utilising offsets contribution even without the extra thresholds such as like-for-like (where possible). It is extremely challenging to envisage how these requirements will be achieved in-practice across all protected matters. While we accept there is a place for this, these requirements should be applied in a risk-based and proportionate manner and perhaps directed toward impacts to high-value biodiversity attributes such as impacts to Critically Endangered species and ecological communities. Keeping in mind the non-regression Principle in legislation, we need to set ourselves up for success.

Security Principle: *Offset activities are committed and the offsets site is protected and managed to prevent its loss and degradation*

Management Approach and Avoiding Perverse Outcomes

NFF supports the Principle that environmental offsets are secure and protected from loss or degradation. Security mechanisms are critically important to ensuring outcomes are safeguarded and that perverse landscape-level outcomes are avoided and mitigated to the greatest extent possible. To this point, there remains insufficient clarity as to how management obligations regarding maintenance period requirements are to be designed and what parameters they are required to include. For instance, there needs to be a clear set of *Key Performance Indicators* (KPIs) to guide attainment of required habitat scores, and to clarify what effective pest management, weed management, monitoring, and adaptive management should look like.

More broadly, the Standard appears to adopt an overly simplistic approach to environmental offsets by assuming that an offset can be identified and secured without fully considering the broader management implications of doing so. Offset activities may have consequences for other natural resources and protected matters within the same landscape. This risk is compounded where Commonwealth information systems and mapping products fail to provide clarity including in identifying overlapping values

There are several examples that may give rise to this:

Management actions designed to improve habitat condition for one protected matter may alter water availability, drainage patterns, groundcover, fire risk, pest pressure or productive land-use in ways that create unintended or perverse outcomes elsewhere in the landscape.

In such circumstances, landholders may be left uncertain as to whether a proposed management action supports the intended environmental offset outcome or creates a new compliance risk elsewhere. There is a need, therefore, to clarify how such situations and conflicts are to be addressed.

On a separate point, we also note that there is also a broader inequity issue where renewable energy proponents may receive public support or incentives to locate and secure offsets while farmers hosting or managing those offsets are not afforded equivalent support.

Achieving ‘Security’ and Information Asymmetry

NFF continues to seek the recognition that covenants and similar mechanisms are not strictly mandatory. As stated in prior submissions, legal mechanisms such as covenants can materially affect land value, succession planning, future land-use, finance arrangements, insurance, tax treatment, and business flexibility. Where covenants or similar mechanisms are proposed, landholders must be provided with clear and upfront information about the legal and practical implications.

These issues are significant where a farmer is not the original proponent but is perhaps approached by the *Restoration Contributions Holder*, or other offsetting entity, to deliver an offset on-farm. There have been examples in the carbon market where due to information asymmetry and unequal negotiating power, producers have entered private contractual arrangements without fully understanding the obligations they were assuming. Similar risks may arise in the offsets context unless clear disclosure expectations and protections are provided. Specifically, the framework must avoid circumstances where residual impact and management obligations are covertly transferred onto farmers without full disclosure and informed consent. It is not sufficient for the framework to acquit and transfer a proponent's liability onto the Holder if risk can then be transferred via private contract.

Measurable Improvements Principle: Offsets deliver a measurable improvement for the affected protected matter relative to an agreed baseline

NFF understands that the amount of net-gain will be calculated against the level of residual Significant Impact and that it will need to deliver a measurable improvement beyond that impact (baseline).

There are several issues relating to this:

1. We are concerned about landholder and approval-holder liability where environmental outcomes are affected by factors beyond their control.

Predation from adjoining land, natural hazard events, biosecurity incursions, and/or unauthorised third-party activity may affect whether an environmental offset (located on the same land tenure as the residual Significant Impact) delivers the expected and required outcome. There is a need to explain how such risks are to be addressed and when a landholder will not be held responsible for matters beyond their control.

Further, if the purpose of the Standard is to avoid Significant Impacts to MNES, then equivalent management expectations and consequence need to be applied to the public estate to avoid situations where poor management of invasive species for instance are contributing to the degradation of protected matters.

Where a *Restoration Contribution Charge* is paid, NFF understands that delivery responsibility then shifts to the *Commonwealth Restoration Contributions Holder* and that the proponent's liability is acquitted. Despite this, there remains a need to explain how net-gain will be costed through that charge (which has not been undertaken), how delivery risk will be managed by the *Commonwealth Holder*, and what safeguards will apply where restoration activities are proposed on private agricultural land. This also raises questions about who will be responsible for funding management activities on private land where a landholder chooses to host an offset.

With regards to the *Environmental Offsets Register*, it must be designed carefully to avoid unnecessary exposure of private landholder information and commercially sensitive information.

- 2. No specific percentage requirement has been chosen to be prescribed in the Standard, and we therefore understand that the requirement will defer to the primary legislation and ultimately be assessed to the satisfaction of the Minister.**

It is not realistic to expect proponents to demonstrate a “*high level of confidence*” that an environmental offset will deliver the required net-gain should they choose to undertake one when there remains no clear methodology, threshold, habitat scoring approach, calculation tool, or decision-making process for determining how to achieve it. In the absence of clarity there is significant risk around how this framework will actually operate as intended. There are also questions around how to satisfy Principle 8 as it relates to securing tenure let alone a protection mechanism to meet that requirement.

State and Territory Offset Schemes

NFF considers that existing State and Territory offset schemes should continue to be recognised as compatible with the Commonwealth framework where they deliver equivalent outcomes for the same protected matter.

Closing Remarks

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.

Attachments List

- 1. NFF Submission (January 2026): National Environmental Standards for Matters of National Environmental Significance (MNES) and Environmental Offsets.**
- 2. NFF Submission (May 2026): National Environmental Standard for Matters of National Environmental Significance.**



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