

Submission Guide: Key Concerns with the Updated Draft Offsets Standard

An updated draft of the National Environmental Standard for Environmental Offsets (**Draft Offsets Standard**) has been released for public comment.

See the [consultation page here](#) for more information and to read the updated documents, being the:

- [Draft Offsets Standard](#), and
- [Policy Position paper](#).

Submissions are due by 11.59pm, Tuesday, 9 June 2026.

This briefing note outlines key concerns with the Updated Draft Offsets Standard, and with the new federal offsets framework more broadly, as follows:

1. The Draft Offsets Standard requires that offset activities deliver “the required net gain” – but there is still uncertainty about what this means.
2. Principles in the Draft Offsets Standard have been weakened.
3. Allowing proponents to make restoration contributions payments, with no strict limitations, undermines the integrity of the entire framework.
4. The Draft Offsets Standard contains problematic provisions that make the Objects and Outcomes irrelevant.
5. The offsets framework lacks an overarching architecture, with elements being developed in a piecemeal fashion and key information still missing – bringing into question how the framework will operate in practice.

Key Concerns

1. The Draft Offsets Standard requires that offset activities deliver “the required net gain” – but there is still uncertainty about what this means

In summary:

- Delivering “required net gain” is now the test of whether the Offset Standard has been met.
 - The updated Objective of the Draft Offsets Standard is, generally, to ensure that offsets activities deliver the “required net gain”.
 - Similarly, the Outcomes of the Standard include that offset activities provide a measurable improvement that is equal to or greater than “the required net gain” for the protected matter.
- “Required net gain” means the net gain for the protected matter within the meaning of section 527K of the Act.

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

It is still unclear what “net gain” actually means. There has been no proposal for regulations to prescribe net gain. The Updated Draft Policy Position Paper: National Environmental Standard for Environmental Offsets (**Policy Paper**) provides that:

“Policy documentation will provide guidance for application of the net gain test to protected matters, and outline the evidence required for the Minister to be satisfied compensation would achieve a net gain. The policy will be supported by an updated Offsets Calculator and a new Restoration Contributions Calculator.”

In the absence of this policy documentation, stakeholders are being asked to comment on Outcomes and Objectives without all the relevant information. We are unable to assess whether the Offsets Standard, and the offsets framework more broadly, requires something that will actually deliver genuine, on-ground improvements and environmental outcomes.

At a minimum, the Regulations should prescribe that net gain is to be determined in accordance with the government’s net gain policy and offsets calculator. In the absence of this, there is a regulatory gap and nothing in law clearly defining net gain, despite this being a key element of the reformed EPBC Act.

2. Principles in the Drafted Offsets Standard have been weakened.

The Draft Offsets Standard sets out eight principles that set out parameters for offset activities, across key issues, such as feasibility, security, additionality and like-for-like.

We are concerned that, compared to the previous draft, these principles have been watered down. Further, key recommendations by environmental stakeholders to strengthen the principles have not been implemented.

In particular, we note:

- **Key requirements for considering the feasibility of an offset have been removed**, including:
 - requirements that an offset activity should be capable of being commenced at the time the relevant decision is made under the Act; and
 - requirements that where a proposed offset activity is not likely to achieve required outcomes, the offset activity should not be pursued and alternative methods of addressing residual significant impacts should be explored.

These requirements should be reinstated.

- **The time period required for securing and maintaining an offset has been reduced** (and is not in perpetuity as necessary to compensate for impacts that are permanent). The Offsets Standard should be amended to reinstate a maintenance period of 25 years for temporary impacts; and requiring security in perpetuity for impacts that are permanent.
- **There is still no limit on the use of indirect offsets.** The use of indirect offsets should be limited, by requiring that direct offsets must account of 90% of offset activities, consistent with the current EPBC Act environmental offsetting policy.

- **Specific information about the types of activities that cannot be considered additional have been removed.** The Offsets Standard should reinstate information about the types of activities that cannot be considered additional.
- **Like-for-like requirements can be varied.** An offsets activity does not need to deliver a like-for-like outcome if it delivers a ‘greater conservation benefit’ for the protected matter and is a priority in a conservation planning document. The definition of conservation planning document has been expanded to include Ministerial rulings (which are not required to have an ecological basis). Variations to like-for-like requirements should be strictly limited, including by reverting back to original drafting.
- **The evidentiary requirements for establishing a high degree of certainty/confidence have been watered down.** More stringent evidentiary requirements for establishing a high degree of certainty/confidence should be reinstated.

3. Allowing proponents to make restoration contributions payments, with no strict limitations, undermines the integrity of the entire framework.

The Standard continues to exempt offsets provided by way of restoration contribution payment from needing to comply with the Principles of the Standard. This was an issue with the previous draft Offset Standard which has not been rectified.

The payment of a restoration contribution charge is an alternative option available to offset for residual significant impacts. The Principles only apply to “offset activities”, which by definition do not include payment of a restoration contribution charge. The Policy Paper provides that the Restoration Contributions Holder will be required to have regard to the Offsets Standard when making decisions around the expenditure of funds, but is not required to act consistently with the Standard, allowing the Holder to depart from the Principles, including the like-for-like principle.

Allowing proponents to make restoration contributions payments with no strict limitations, in lieu of genuine direct offsets, undermines the integrity of the entire framework and means that improved environmental outcomes are unlikely to be achieved.

The Offsets Standard should be amended to provide more specific parameters on the use of restoration contributions payments to meet offsets requirements, for example, by adding requirements into the Standard requiring genuine consideration of offset activity options before allowing a restoration contribution payment, and consideration of whether a suitable offset is even possible for the protected matter, prior to allowing compensation by way of payment of a restoration contribution charge. This would be in addition to and compliment stricter limits on the use of restoration contribution payments set out in a protection statement or declaration made under section 134AA of the EPBC Act.

4. The Draft Offsets Standard contains problematic provisions that make the Objects and Outcomes irrelevant.

New subclauses in the Standard provide that Outcomes and Objectives will be achieved if an offset activity meets the Principles in the Standard (see clause 7 of the draft MNES Standard).

This means the test for determining whether an offset activity will achieve the Outcomes and Objectives is simply whether the offset activity is consistent with the Principles, and not whether the offset activity achieves the Outcomes or Objectives themselves.

Similar provisions are also included in the Draft National Environmental Standard for Matters of National Environmental Significance (draft MNES Standard) – see our analysis on the draft MNES Standard [here](#).

We are concerned that, as drafted, these provisions essentially render the Objects and Outcomes irrelevant, as all that the Standard requires is that an offset activity meets the Principles. Subclauses 7(2) and (4) should be removed from the Standard to ensure the Outcomes and Objectives are not rendered ineffective.

5. The offsets framework lacks an overarching architecture, with elements being developed in a piecemeal fashion and key information missing – bringing into question how the framework will operate in practice.

The Offsets Standard is part of the broader framework for environmental offsetting being introduced by recent reforms to the *Environment Protection and Biodiversity Conservation Act 1999* (**EPBC Act**). The framework includes many new elements, including:

- New legislative provisions in the EPBC Act, including the establishment of a new Restoration Contributions Holder (new Part 12B of the EPBC Act)
- A new, stand-alone *Environment Protection and Biodiversity Conservation (Restoration Charge Imposition) Act 2025*
- The National Environmental Offsets Standard for Environmental Offsets (Offsets Standard)
- Policy guidance, including: -
 - The offsets calculator (which we understand will be updated) - -
 - Cost Recovery Implementation Statement of Offset Payments
 - Special Account and Statutory Officeholder Policy
- Protection statements (which can include information about whether payment of a restoration contribution charge should be available in relation to a residual significant impact)
- Ministerial rulings (where made to clarify the interpretation of any feature of the offsets framework)
- Biodiversity certificates issued under the *Nature Repair Act 2023* (Cth)

Overall, the offsets framework lacks an overarching architecture, with key elements being developed in a piecemeal fashion by different areas of government. It is difficult to comment on and to determine the effectiveness of the Draft Offsets Standard in isolation, while pieces of the framework are still missing.

All the pieces are needed in order to understand how the framework as a whole will operate, and in considering whether it will deliver improved environmental outcomes for biodiversity. The Offsets Standard should not be finalised in isolation. Other key elements of the framework must be

developed and consulted on to ensure consistency and alignment across the framework and to allow stakeholders to understand how the framework will operate as whole.

Details on how to make a submission

See the [consultation page here](#), including the consultation materials, being the:

- [Draft Offsets Standard](#), and
- [Policy Position paper](#).

[Take the survey](#) on the submission website, which includes the option to upload a written submission.