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5 June 2026

Commonwealth Department of Climate Change, Energy, the Environment and Water
Via EPRconsultation@dcceew.gov.au

Draft Submission on National Environmental Standards (Environmental Offsets)

Local Government NSW (LGNSW) is the peak body for local government in NSW, representing NSW general purpose councils and related entities. LGNSW facilitates the development of an effective community-based system of local government in the State.

LGNSW welcomes the opportunity to comment on the revised National Environmental Standard for Environmental Offsets (Offsets Standard).

NSW councils participate in the NSW Biodiversity Offsets Scheme, through the *Biodiversity Conservation Regulation 2017*. It provides a state-based framework to avoid, minimise and offset impacts of development and native vegetation clearing on biodiversity, through assessing applications for development or clearing, conditioning and monitoring offset obligations or establishing Biodiversity Stewardship Agreements on eligible land. The consideration and recognition of complementary biodiversity protection arrangements at all scales will support efforts to reverse environmental decline and enable the restoration and repair of our nation's biodiversity.

This is a draft submission and is subject to review and approval of the LGNSW Board. Any changes will be advised at the earliest opportunity.

Background

The introduction of National Environmental Standards to guide decision-making and implementation of the *Environment Protection and Biodiversity Conservation (EPBC) Act 1999* was recommended by the Samuel Review¹ and passed by the Australian Parliament in the *Environment Protection Reform Act 2025* on 28 November 2025.

This second exposure draft of the Offsets Standard outlines what must be done to compensate for unavoidable damage to the environment. It mandates that developers first avoid and mitigate harm, and then fully offset any residual significant impacts on protected matters, e.g. threatened species. This can be achieved through on-ground activities, purchasing biodiversity credits through the national Nature Repair Market, or payment through the Restoration Contributions Holder to deliver tangible, long-term net environmental gains.

¹ Professor Graeme Samuel AC (2020) [Independent Review of the EPBC Act – Final Report](#)

Response

LGNSW commends changes to the Standard to strengthen and specify time-bound and evidence-based requirements to ensure the net gain objectives of the EPBC Act reforms. This includes defining appropriate evidence (Principle 1 - Feasibility (4)), applicable maintenance periods (Principle 2 Security (5)) including maintenance periods of 20 years or until the outcome of the offset activity becomes self-sustaining, which must be demonstrated with verifiable monitoring, and mandatory pre-impact commencement (Principle 8 - Offset commenced prior to impact).

We note the multiple provisions referencing pathways and plans are in development, including bioregional plans and bioregional restoration measures. As Bioregional Plans are not yet in place, they will not be able to be used to determine a useful applicable maintenance period where the damage to a protected matter is permanent.

We note that definitions for significant residual impacts are included in the reformed EPBC Act, but there is no guidance on what is meant by the term "significant". If not clarified in this standard, then we recommend it be incorporated in an upcoming environmental standard, such as the Data and Information standard.

It is disappointing that climate change has been removed as an explicit consideration in the revised exposure draft. If "appropriate evidence" does not consider future climate projections, offsets could meet current condition targets but fail under future climate changes. These changes are well researched and documented in notable Commonwealth Government publications, such as the National Climate Risk Assessment.² Consideration of future climate scenarios will be especially important when determining when an activity becomes self-sustaining. It is recommended that climate change considerations are included in this or another appropriate National Environmental Standard, for example the forthcoming Data and Information standard, to ensure offsets are adapted and resilient to projected future climate change.

We support the additionality principle (Principle 5) which enables the recognition of offset activities under NSW law. We anticipate a forthcoming revision of the Bilateral agreement between the Commonwealth and NSW will serve to minimise duplication in environmental assessment and referral processes. It is very important that this takes place, to ensure an offsets framework that is fit for purpose and avoids issues of both under- and over-regulation.

LGNSW also notes that NSW's Independent Pricing and Regulatory Tribunal (IPART) has published draft analysis of the NSW scheme³, which may provide valuable insights for transitioning and integrating existing biodiversity credit market mechanisms with the nascent Nature Repair Market.

LGNSW's previous submission recommended that the Standard use Interim Biogeographic Regionalisation for Australia (IBRA) subregions as a basis for identifying the 'relevant area' (Principle 7) and when identifying relevant 'conservation planning

² Australian Climate Service (2025) [Assessing Australia's climate risks - DCCEE](#)

³ NSW Independent Pricing and Regulatory Tribunal (2026) [Draft-Annual-Report-2024-25-Monitoring-the-NSW-Biodiversity-Credits-Market](#).



documents'. The latter term is referenced in Principles 3, 6 and 7, and defined as *any of a recovery plan, a threat abatement plan, a protection statement, an approved conservation advice, a designated environmental instrument, a bioregional guidance plan, a bioregional plan, or a ruling.*

We recommend that the Standard at least clarifies that "conservation planning document" extends to (NSW) Local Environmental Plans or other local instruments such as council-approved Ecological Restoration Plans.

LGNSW looks forward to the opportunity to provide input to guidance on arrangements impacting local consideration, administration and implementation of the offset standard, and future standards, to ensure the integration and streamlining of measurable actions and outcomes.

Thank you again for the opportunity to comment. If you would like further information on LGNSW's position, please contact Suzanne Dunford, Senior Policy Officer Environment on 02 9242 4053 or Suzanne.Dunford@lgnsw.org.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D. Thomas', with a stylized flourish at the end.

Damian Thomas
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