

# Submission – National Environmental Standards for Matters of National Environmental Significance (MNES) and Environmental Offsets

30 January 2026

## Overview

RIAA thanks the Department of Climate Change, Energy, the Environment and water (DCCEEW) for the opportunity to respond to the Draft Matters of National Environmental Significance (MNES) Standard Policy Paper and legislative instrument – and Draft Environmental Offsets Standard Policy Paper and legislative instrument ([consultation documents](#)).

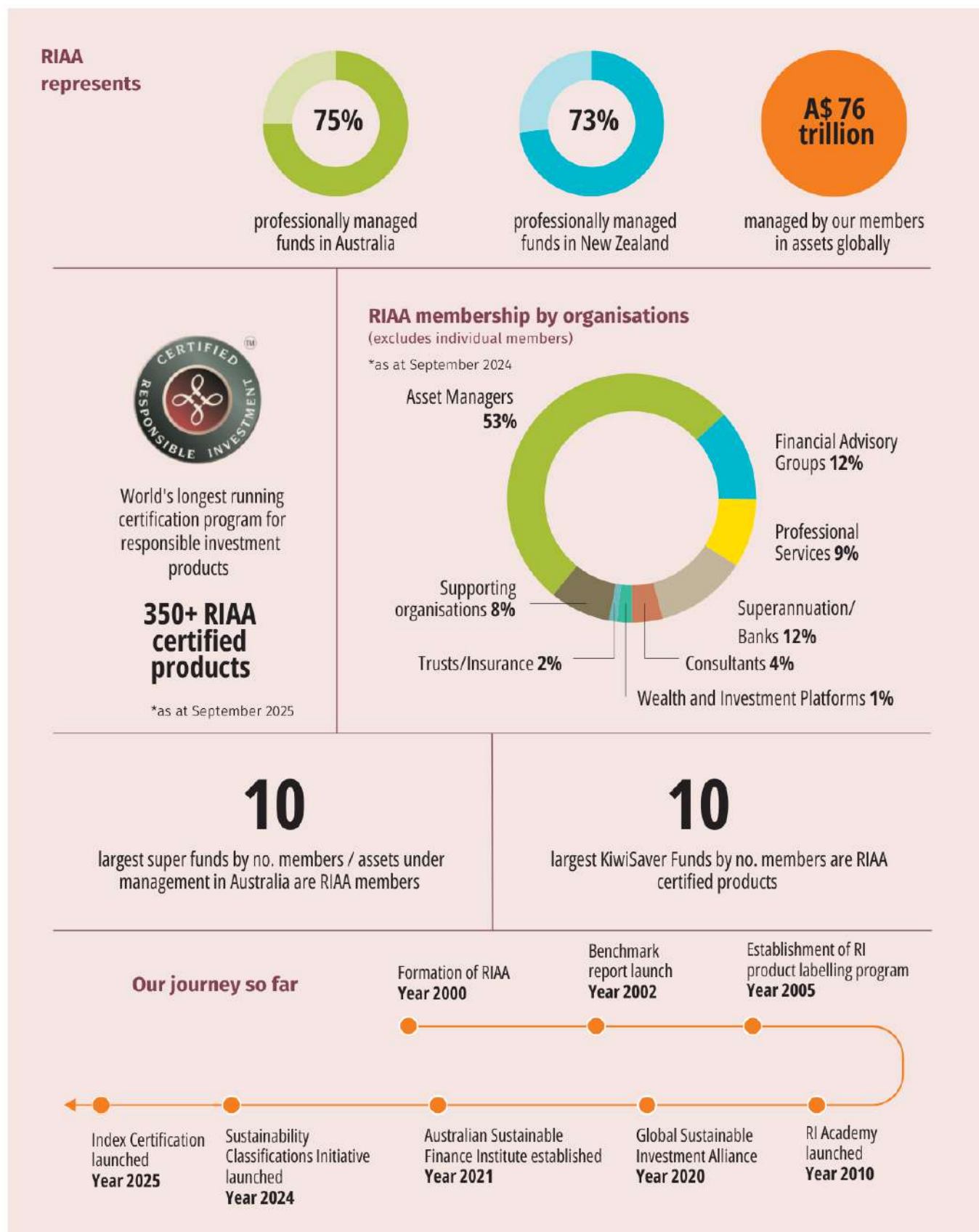
RIAA thanks those RIAA members, in particular members of RIAA's Nature Working Group and External Reference Group, who contributed to the development of this submission. RIAA's Nature Working Group is an initiative to support RIAA members in their stewardship responsibilities to protect nature and biodiversity in their business operations and their portfolio of companies. The Nature Working Group has a three-fold purpose:

1. Support Working Group members to identify and address nature-related investment risks and opportunities including impacts and dependencies;
2. Support Working Group members to consider nature in the stewardship of their assets; and
3. Find and share the most impactful local and international research and regulatory developments on nature for responsible investors.

The above purpose is fulfilled with the understanding of the connectedness of this work with Indigenous People and Local Communities, Human Rights and Climate Change.

## About RIAA

The Responsible Investment Association Australasia champions responsible investing and a sustainable financial system in Australia and Aotearoa New Zealand. It is dedicated to ensuring capital is aligned with achieving a healthy society, environment and economy.



## Introduction

Investors are increasingly understanding the significance, urgency and materiality of nature risk to their portfolio companies. RIAA's 2023 Australian Responsible Investment Benchmark Report found that natural capital is emerging as an increasingly popular positive screening theme for Australian investors, with 46% of survey respondents screening for biodiversity preservation and conservation, while climate change-related issues continue to be a priority. Investors are increasingly engaging with investee companies on nature-related issues, with 54% of investors engaging with companies on biodiversity/nature conservation and 38% on natural capital issues. This indicates that investors would welcome a regulatory environment that better protects companies and the economy against nature risk.

As nature conservation gains prominence among commercial stakeholders, it will simultaneously present both risks and opportunities for investors. Given the significant dependence that companies, industries and economies have on the services nature provides, the degradation of nature will prompt structural shifts in economies, compelling governments to heighten measures for managing increasingly scarce resources. These developments will have ripple effects across investment portfolios, influencing access to resources and associated costs, that can ultimately impact economic development. There is a growing trend towards nature-friendly business models among both corporate and retail consumers, a trend likely to intensify in the face of climate change, given the importance of healthy and thriving ecosystems to mitigating climate change. It creates an opportunity for investments in restoration, conservation, and sustainable solutions to enhance natural areas and increase biodiversity.

RIAA congratulates the Australian Government on the passing of environmental law reforms in late 2025. These reforms are a significant positive step forward and should lead to positive outcomes for businesses, investors, the environment and Australia's economy, provided implementation achieves the objective of halting and reversing nature loss.

Crucial to the reformed laws achieving their intended purpose will be getting the associated regulations and standards right. These standards must be science-based, measurable, enforceable and aligned with planetary boundaries. The Responsible Investment Association Australasia (RIAA) welcomes this opportunity to provide feedback on National Environmental Standards for Matters of National Environmental Significance (MNES) and Environmental Offsets.

The MNES and Environmental Offsets standards will have a significant impact on investments that interface directly with Australia's natural environment.

## RIAA Comments on National Environmental Standards for Matters of National Environmental Significance (MNES) and Environmental Offsets

The strain facing Australia's environment, with pressure from climate change, habitat loss, invasive species and extractive industries require strong laws and associated standards.

RIAA agrees the standards should support overall Environmental law reform in delivering:

1. Stronger environmental protection and restoration
2. More efficient and robust project assessments
3. Greater accountability and transparency in environmental decision making.

The Standards outline a number of positive improvements to existing legal frameworks, regulations, standards, guidance and practices, and offers the following comment:

- RIAA agrees that project proponents must act in accordance with a mitigation hierarchy to avoid, mitigate, repair and compensate for nature loss. RIAA welcomes the inclusion in the MNES Standard of the requirement for proponents to consider the mitigation hierarchy to limit, as far as possible, adverse impacts on protected matters; and to ensure decision-makers can objectively assess an activity's negative impact.

- RIAA supports the inclusion of compensation as a very last resort - compensation not be able to be used to make an unacceptable negative impact acceptable – that is, where an unacceptable negative impact is determined, it should not be approved, irrespective of compensation.
- RIAA further agrees that decision-makers should only consider offsets where residual significant impact on a protected matter are not unacceptable. All residual significant impacts should be fully compensated through the use of offsets, and a net gain must be achieved.
- RIAA supports the strengthening of existing provisions and agrees that offsets must deliver benefits to affected protected matter by directly contribute to its overall conservation outcome, and deliver benefits that would not have occurred without the offset.

The Standards relating to the MNES and Offsets will help to provide clearer rules and more transparent decision-making for businesses, and will support greater environmental protection; however, the standards could be improved to provide better certainty to investors and protection for the environment, and to ensure private sector operators have a positive, rather than negative, impact on the environment.

### **Support business operations to reverse, not just slow or halt, nature decline**

Humans are currently destroying nature at a faster rate than it can replenish itself. Standards must ensure science-based limits are set in relation to the private sectors' interface with nature. This will help safeguard Australia's environment and hence protect investments as well as Australia's economic prosperity.

RIAA recommends including science-aligned, outcomes-based rules in the standards that ensures projects halt nature decline and contribute to net improvement of biodiversity and nature outcomes in the design and delivery of projects. For example, clarification of a higher standard for 'self-sustaining' outcomes than the expected outcome not requiring intervention or assistance – it is unclear what 'expected outcome' means in this context, and clarifying the degree of certainty required will be important to ensure intended outcomes are achieved.

RIAA also recommends the development of additional science-based guidance relating to the circumstances in which activities must be avoided, as well as what sufficient mitigation looks like. Additional information will provide clarity and limit uncertainty for investors and proponents.

In order to deliver outcomes from offsets, RIAA recommends the inclusion in the Environmental Offsets standard of a requirement that offsets result in a net gain for the impacted area and/or species, and that the outcome should be quantifiable (not just direct and tangible). This will support the ability of investors and others to understand whether the offset has achieved its objective.

### **Reduce ambiguity and opportunities for subjective assessment**

To support useability, investor certainty and environmental outcomes, the Standards must set out objective criteria rather than rely on, for example, ministerial discretion. The standards must focus on outcomes for halting and reversing nature-loss, with time-bound, specific, measurable actions and outcomes which enforcement agencies can use to ensure adherence to commitments, and appropriate penalties in commitments are not adhered to.

The standards as they are currently drafted threaten to rely on subjective assessments by non-experts and inconsistent application, with an unacceptable degree of subjectivity. This is due to the inclusion of vague language. For example: terms such as "may", "where necessary" and "best available information", "have regard to" and "not inconsistent with".

The lack of clarity risks resulting in making the assessment process less efficient and effective, which was one of the objectives of the reforms to environmental laws.

RIAA recommends that the language contained in the standards be tightened to ensure clarity for entities, proponents, decision-makers and civil society.

RIAA further recommends additional clarity around how and to which decisions the MNES standard applies.

### **Ensure future Environmental Offset settings address deficits of previous regimes**

RIAA cautions that environmental offsets can lead to activities that cause nature destruction and foster practices that cause environmental harm, such as habitat destruction or ecosystem degradation.

Investors need businesses that they invest in to meet all regulatory obligations. They require certainty that environmental improvement is achieved (or that the risk of not achieving the improvements sits within their risk appetite). They want to ensure that any improvement is accurately and transparently communicated. They are also increasingly attuned to the current greenwashing environment, and will want to ensure investments – including those that may use offsets – are not overstating the environmental benefits or understating harm, to the environment. Investors do not want their assets to be accused of greenwashing.

As noted by the University of Melbourne in its interim submission to the Senate Standing Committees on Environment and Communications in response to Inquiry into the Environment Protection Reform Bill 2025 and six related bills:

Drawing on lessons from across regimes (e.g. offsets for biodiversity, water quality, water quantity, and greenhouse gas emissions), research has identified 10 key design issues that offset regimes should address to avoid some of the critical problems and issues that often plague them: clarity about “no-go” offset situations, preconditions for using offsets (e.g. strict application of the mitigation hierarchy) and rules about priority of access to available offsets; equivalence (e.g. ‘like for like’ offsets); additionality; data and uncertainty; ownership and transfer rules; monitoring and reporting; adaptation; co-benefits and adverse impacts on third parties; synergies between multiple offset regimes; and ensuring that diverse regulatory approaches are used (see “Offsets: problems and possibilities in environmental policy”, Nelson, R. 2025. Offsets: problems and possibilities in environmental policy. Melbourne Centre for Law and the Environment, University of Melbourne, Carlton. 1-9.).

RIAA recommends the Government carefully consider the above lessons learned in designing the Environmental Offsets standard and any associated guidance.

### **Ensure robust standards regulation and oversight, with legal enforceability**

The Environmental standard setting agency must have robust governance, transparency and accountability, and build in regular review of the agency’s governance and decision-making to ensure it aligns with the purpose of environmental laws.

In order to support enforceability and certainty, the Standards could provide further information and detail, rather than relying on subsequent guidance for this. Inclusion of clarity in the Standard rather than guidance will support certainty for investors that the Standards will not be subject to frequent change, and hence support certainty in investment decision-making as it relates to this complex area. Furthermore, Environmental Offsets must be enforceable and must be required to, and be seen to, provide outcomes on an ongoing basis.

RIAA recommends including further detail within the MNES and Environmental Offsets standards, rather than relying on guidance.

RIAA recommends that Environmental Offsets agreements include enforceable and monitored legal requirements to deliver outcomes in perpetuity, with associated requirements in the Environmental Offsets standard itself. In doing so, the standard must include provisions for ongoing monitoring and evaluation of the effectiveness of offsets.



## **Ensure Environmental Offsets are not used to allow for negative impacts on critically endangered species**

Australia is home to many critically endangered species, such as the northern hairy-nosed wombat, the western ground parrot and the greater bilby. Any impact on the habitats of these animals could be detrimental to their survival. Offsets should not justify negative impacts on species that are under critical threat.

RIAA recommends that the Environmental Offsets standard prohibits the use of offsets where a project or activity may negatively impact species that are already considered critically endangered.

## **Ensure Restoration Contributions are used effectively**

The use of Environmental Offsets and a 'Restoration Contribution Fund' within the system risk poor biodiversity outcomes, which in turn may lead to those contributing being accused of greenwashing. RIAA supports the inclusion of clarifying language that Environmental Offsets are required to be delivered before the negative foreshadowed impacts are set to occur, such that payments are made prior to project activities.

RIAA recommends that restoration contributions include transparent, measurable, high-quality and science-based outcomes for nature (ie. science-based 'like for like').

## **Incorporate First Nations knowledge**

The targets listed under the Global Biodiversity Framework, to which Australia is a signatory, explicitly call for recognition and respect of Indigenous peoples and local communities, including over their traditional territories.

Indigenous Peoples have long been successful stewards of the world's biodiversity, and their knowledge, innovations and practices ensure the sustainable use of biological resources. In this regard, RIAA repeats the call immediately integrate the principles of United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP) into legislation, policies, and operational procedures.

RIAA recommends that the National Environment Standards to be developed for First Nations engagement and participation in decision-making align with the principles as outlined in UNDRIP, particularly reflecting a national definition of 'Free Prior and Informed Consent' (FPIC). First Nations People have the right to give or withhold their free, prior, and informed consent before any project or activity that may affect their lands, territories, or resources is undertaken. FPIC ensures that indigenous communities have the opportunity to participate in decision-making processes that affect them and to negotiate fair and equitable agreements with states and other stakeholders. While RIAA commends the Government's commitment to enhancing the voice of First Nations within our environmental protection framework, we advocate for a strategy where First Nations are empowered to co-design and spearhead conservation initiatives, including those covered by these MNES and Environmental Offsets standards.

RIAA urges the Government to expand the capacity of First Nations communities and bolster their empowerment. RIAA further recommends the government to codify the Dhawura Ngilan Business and Investor guides into codes, practices and regulations.

In line with this, RIAA recommends reference to engagement and participation from First Nations peoples in all stages of MNES and Environmental Offsets standards development and implementation.

## **Ensure the MNES scope is clarified and fit for purpose**

Native forests encompass 98% of Australia's total forest area and much of it remains susceptible to legal logging. Additionally, ten (10) RFA regions cover 18% of Australia's forests (94% of which are native forest) are used for commercial forestry. Protecting and restoring native forests is essential for conserving biodiversity due to their unique ecological characteristics and the diverse array of species

they support. Therefore, we believe in its vital role in preventing further extinction of native plants and animals. It is essential that the reforms assess potential impacts on these intact and healthy native forest ecosystems against their intrinsic value to the nation. Since the EPBC Act came into force in 2000 until 2017, over 7.7 million hectares of potential habitat and communities were cleared. Of this clearing, over 93% of this clearing went unscrutinised as it was not referred to the Federal Government for assessment under the EPBC Act.

RIAA recommends considering the scope of the MNES framework and the recognition of relevant domains that have a substantial impact on Nationally Threatened Species and Ecological Communities, such as high biodiversity value, native forests, and, in certain instances, old-growth forests.

## Summary of recommendations

RIAA recommends the following:

- include science-aligned, outcomes-based rules in the standards that ensures projects halt nature decline and contribute to net improvement of biodiversity and nature outcomes in the design and delivery of projects;
- develop additional science-based guidance relating to the circumstances in which activities must be avoided, as well as what sufficient mitigation looks like;
- include in the Environmental Offsets standard a requirement that offsets result in a net gain for the impacted area and/or species, and that the outcome should be quantifiable (not just direct and tangible);
- tighten language contained in the standards to ensure clarity for entities, proponents, decision-makers and civil society;
- provide additional clarity around how and to which decisions the MNES standard applies;
- carefully consider lessons learned from previous and existing offsets regimes in designing the Environmental Offsets standard and any associated guidance;
- include further detail within the MNES and Environmental Offsets standards, rather than relying on guidance;
- include in offsets agreements enforceable and monitored legal requirements to deliver outcomes in perpetuity, with associated requirements in the Environmental Offsets standard itself, including provisions for ongoing monitoring and evaluation of the effectiveness of offsets;
- prohibit the use of offsets where a project or activity may negatively impact species that are already considered critically endangered;
- include in restoration contributions requirements transparent, measurable, high-quality and science-based outcomes for nature (ie. science-based 'like for like');
- develop National Environment Standards for First Nations engagement and participation in decision-making, aligning with the principles as outlined in UN Declaration of the Rights of Indigenous Peoples, particularly reflecting a national definition of 'Free Prior and Informed Consent' (FPIC);
- codify the Dhawura Ngilan Business and Investor guides into codes, practices and regulations.
- reference engagement and participation from First Nations peoples in all stages of MNES and Environmental Offsets standards development and implementation; and
- consider the scope of the MNES framework and the recognition of relevant domains that have a substantial impact on Nationally Threatened Species and Ecological Communities, such as high biodiversity value, native forests, and, in certain instances, old-growth forests.