

Environment Law Reform Taskforce  
Department of Climate Change, Energy, Environment and Water  
John Gorton Building, King Edward Terrace  
Parkes ACT 2600  
Via online portal  
Cc: [minister.watt@dcceew.gov.au](mailto:minister.watt@dcceew.gov.au)

9 June 2026

Dear Environment Law Reform Taskforce,

### **RE: Submission on the second exposure draft Standard for Environmental Offsets**

The Australian Land Conservation Alliance (ALCA) welcomes the opportunity to provide a submission to the Commonwealth Government on the second exposure draft National Environmental Standard for Environmental Offsets ('Offsets Standard').

ALCA represents organisations that work to conserve, manage, and restore nature on privately managed land. The conservation efforts of our 22 member organisations have influenced over 9.3% of Australia with more than 4,000 landholders; we have over 70,000 supporters and our combined annual turnover exceeds \$400 million.

Together, ALCA and our members address some of the most pressing conservation issues across the country, by restoring endangered ecosystems, building the protected area estate, tackling invasive species, expanding private conservation finance and funding, and using nature-based solutions to mitigate climate change. Collectively, ALCA's members have extensive experience in delivering and managing offsets, and we draw upon this experience in our submission.

## **Key recommendations**

ALCA notes some welcome improvements in the Offset Standard from the last draft. However, there remain key issues that are critical to the integrity of the Standard that have yet to be resolved. Specifically, ALCA's key recommendations are that the Government must:

- 1. Ensure direct and indirect offsets are not merely 'intended to' protect, conserve or restore a protected matter – intentions do not matter, expected outcomes do** [see Recommendation 4 below]
- 2. Remove the legal fiction that direct offsets can be 'self-sustaining'. The all-pervasive impacts of climate change, invasive species and landscape fragmentation mean that active management is required across all Australian landscapes** [also see Recommendation 8 below]
- 3. Require offsets for long-term and permanent damage to have long-term protection (at least 99 years) or permanent protection** [also see Recommendation 10 below]
- 4. Direct offset activities must use legal protections where they are available and appropriate – not merely 'should' use** [also see Recommendation 12 below].

## Detailed legislative amendments to the Standard

**PLEASE ALSO REFER TO ‘TRACK-CHANGED’ AMENDMENTS TO THE DRAFT STANDARD, AS ENCLOSED WITH THIS SUBMISSION.**

### Definitions [section 4]:

- Both ‘direct offsets’ and ‘indirect offsets’ are defined in a dramatically low-integrity manner, namely, that mere ‘intention’ to protect, conserve or restore a protected matter is sufficient rather than the actual outcome. This would result in intolerably low integrity for Australia’s national approach to offsetting and should be deleted. It would also contradict Australia’s obligations under the Convention on Biological Diversity’s Kunming-Montreal Global Biodiversity Framework<sup>1</sup>. ALCA unequivocally does not support offsetting based on mere ‘intentions’ – it must be based on reasonably expected outcomes, ideally with a high level of confidence [amendments in **bold**]:

*direct offset* means a mechanism that is **intended reasonably expected** to directly protect, conserve or restores a protected matter and may include the securing and actively managing of land or managing a pest species.

*indirect offset* means a mechanism that is **intended reasonably expected** to indirectly protect, conserve or restore a protected matter and may include scientific research and education on existing, new or emerging threats to the protected matter (or a financial contribution towards such research or education).

### Objective [section 5]:

- The Objective is currently not aligned with the Outcomes [section 6], specifically, it omits any reference to ‘protection’ which does, appropriately, feature in the Outcomes [section 6]. This can be addressed by including a ‘protection’ reference, as follows (amendments in **bold**):

This standard... ..to deliver the required net gain in a way that contributes to the **protection**, restoration, recovery and enhancement of that protected matter.

### Principles [section 7(4)(a)]:

- It is unclear whether the current framing for section 7(4)(a) allows for compensation via *a combination of* an offset activity and a payment of a restoration contribution charge – ALCA recommends that a combination of both s7(4)(a)(i) and (ii) be allowed.

If the current legislative framing does not allow for a combination of (i) and (ii), this could be addressed as follows (amendments in **bold**):

- (4) A decision-maker may be satisfied that:
  - (a) a decision to approve the taking of an action or class of actions, taking into account any conditions to be attached to the approval, is consistent with this standard if the damage that will or may be caused by any residual significant impacts of the action or class of actions on an affected protected matter will be compensated by:

<sup>1</sup> <https://www.cbd.int/article/cop15-final-text-kunming-montreal-gbf-221222>

- (i) an offset activity that is consistent with the principles in sections 8, 9, 10, 11, 12, 13, 14 and 15 of this standard; or
- (ii) the payment of a restoration contribution charge; or
- (iii) a combination of (i) and (ii); or**

**Principles 1 through 6 – independent experts [s8(4)(a), s(9)(4)(a), s9(10)(a), s10(4)(a), s11(4)(a), s12(6)(a), s13(4)(a)]:**

8. All suitably qualified experts that are relied upon in Principles 1 through 6 should also be independent. To uphold integrity, it is important to avoid relying upon experts who have conflicts of interest or perceived conflicts of interest.

Subject to advice from the Office of Parliamentary Counsel, the ordinary meaning of the word ‘independent’ – without further definition – should be sufficient to avoid such conflicts of interest.

**Principle 2 – Security [section 9]:**

9. With the all-pervasive impacts of climate change, invasive species and landscape fragmentation reinforcing that active management is required across all Australian landscapes, outcomes from direct offsets will never be self-sustaining, but will rather require ongoing management to mitigate threats and build resilience.

A legal avenue that allows this fiction would only serve, in practice, to encourage perverse outcomes. If ‘self-sustaining’ outcomes are to be retained in the legislation, they should be limited to only indirect (i.e. not on-ground) offset activities.

10. For policy alignment, the default ‘short-term or temporary’ maintenance period [s5(a)(i)] should align with the default permanence periods available in both the Government’s carbon and Nature Repair markets, namely, 25 years.

11. By definition, long-term or permanent damage can only be offset by long-term or permanent protection – noting that ‘self-sustaining’ outcomes are purely a legal fiction of convenience – a de jure solution, not a de facto solution (see Recommendation 8 above). As it currently stands, the proposed Standard is not fit-for-purpose to offset long-term or permanent damage.

Under the nationally-agreed National Reserve System, the standard for ‘long-term’ is at least 99 years. Further, a bioregional plan should not be used as a workaround to avoid this de facto requirement. These issues can be addressed via the following amendments (amendments in **bold**):

9 Principle 2—Security

...

(5) For the purposes of subsection (2)(b), the applicable maintenance period is the period after the offset activity has been delivered during which the required net gain must be maintained, and specifically:

...

(b) where the damage to the affected protected matter is long term or permanent – ~~the earlier of: at least 99 years.~~

~~(i) — the period of the approval or bioregional plan (as relevant); or~~

~~(ii) — until the outcome of the offset activity becomes self-sustaining.~~

~~Note: A bioregional plan remains in force until it is revoked.~~

- (6) The outcome of an offset activity becomes self-sustaining at the point at which maintenance is no longer needed to maintain that outcome.

Note: Self-sustaining outcomes will not be achieved for all offset activities, and where this is the case, continuation of maintenance activities will be required for ~~the duration of the approval~~ **at least 99 years**.

12. Direct offset activities must utilise legal protections where they are available and appropriate – not merely ‘should’.

The protection of matters of national environmental significance are, by definition, matters in the national public interest which the Government has a clear role to steward. It is, therefore, clearly in the Government’s interest to seek to maximise the legal security for protecting Australia’s environmental offsets, rather than leave it as an optional extra. However, the current ‘should’ construction in s9(8) does exactly this. This can be addressed by the following amendments (amendments in **bold**):

- (8) For offset activities that are direct offsets, mechanisms that provide legal protections ~~should~~ **must** be used when available and appropriate.

13. Public protected areas should be included as an example of a legal protection.

It is unclear why public protected areas have not been included, as they are an obvious example of legal protection for biodiversity. Section 9(8), Note 2, should be amended as follows (amendments in **bold**):

Note 2: Examples of mechanisms that provide legal protections (where appropriate) include: covenants on land where the offset activity will occur, purchasing land, the use of State or Territory-based offset schemes, the use of statutory-based nature repair markets, **new public protected areas**, Indigenous Protected Areas, indigenous land use agreements and native title determinations.

14. Whilst statutory-based nature repair markets *could* be a mechanism of legal protection, they are not sufficient, in and of themselves, to provide meaningful legal protection **on title**. Instead, they only provide a potential avenue that *could* require on-title legal protection – such as the requirement for a conservation covenant, or other protected area. ALCA has not objected to their inclusion in Note 2 (as directly above), as that note includes the caveat of ‘where appropriate’, and ‘the use of the Nature Repair scheme rather relying directly on any ‘protection’ provisions within the *Nature Repair Act* itself.

However, as per a recent Law Society Journal article, ‘*Will the Nature Repair Market deliver long term protection on private land?*’:

*“...a [Nature Repair Market] biodiversity certificate is a tradeable instrument and constitutes personal property held by the person who is recorded in the Biodiversity Market Register, managed by the Clean Energy Regulator (‘CER’) (s72).*

*A key challenge for long-term conservation outcomes is that legal liability stays with the original signatory to the biodiversity certificate (i.e. the project proponent), even if they no longer own or have access to the land. However, the biodiversity certificate remains intrinsically connected to the original project and the land itself.*

*This gives rise to unresolved legal questions regarding the effectiveness of the existing legal processes when private land subject to an ongoing Nature Repair Market project, and associated biodiversity certificate, is transferred to a new owner.*

...

*As part of emerging policy settings for the use of biodiversity certificates to deliver offsets, additional security requirements – particularly those capable of registration against a property's title – may be necessary. Supporting property law mechanisms can ensure that rights and obligations associated with ongoing Nature Repair Market projects are transferred contemporaneously with the transfer of privately held land subject to such projects. Such measures could therefore ensure that these arrangements satisfy the relevant definition of 'long-term'.<sup>2</sup>*

In short, **there are key legal questions that need to be resolved before the statutory scheme itself (i.e. a biodiversity certificate) could be the source of an effective mechanism for legal protection** – ALCA recommends that these be resolved prior to the promulgation of any Nature Repair Market methodology determination that allows environmental offsets.

#### **Principle 3 – Direct and tangible [section 10]:**

15. It is unclear whether the current framing for section 10(2)(a) allows for benefits to be both quantitative and qualitative.

If the current legislative framing does not allow for a combination of both, this could be addressed as follows (amendments in **bold**):

- (a) provides a benefit to the affected protected matter that is quantifiable or qualitative, **or both**; and

#### **Principle 7 – Relevant area [section 14]:**

16. The default approach to offset activities should be that they are at least located within the same bioregion as the affected protected matter, rather than 'the same area', which is currently undefined. Note, this approach does not preclude the operation of s14(2)(b), which allows for alternative considerations where this is not reasonably practicable; it also provides the additional flexibility that will help drive the policy intent that proponents be more willing and likely to deliver on-ground offsets, rather than the Government accrue money in an offsets fund which they will likely be a struggle to spend effectively.

This could be addressed as follows (amendments in **bold**):

- (2) An offset activity will be located in an area that is relevant to the affected protected matter if:
  - (a) the offset activity is located in the same **area bioregion** in which the residual significant impact on the affected protected matter has or will occur; or
  - (b) where it is not reasonably practicable for subsection (2)(a) to be satisfied:

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<sup>2</sup> Sarah Brugler, Benjamin J. Richardson & James Fitzsimons, 'Will the Nature Repair Market deliver long term protection on private land?', *Law Society Journal*, 5 June 2026; <https://lsj.com.au/articles/will-the-nature-repair-market-deliver-long-term-protection-on-private-land/>

- (i) the offset activity is located in an area that is ecologically or culturally relevant to the protected matter; and
- (ii) the locating the offset activity in the area is likely to result in an equivalent or greater conservation outcome for the affected protected matter.

~~Note: For the purposes of paragraph 14(2)(a), the reference to the 'same area' is not limited to the site of the impact, but may also include nearby or surrounding sites.~~

**Principle 8 – Offset commenced prior to impact [section 15]:**

- 17. Bioregional plans should not be allowed to become an avenue that allows avoiding the need for an offset to commence prior to impact. On this basis, section 15(4) should be deleted.

ALCA and its member organisations look forward to continuing to engage with DCCEEW to finalise the development of the Standard.

**Australian Land Conservation Alliance**

## About the Australian Land Conservation Alliance

The Australian Land Conservation Alliance is the peak national body representing organisations that work to conserve, manage, and restore nature on privately managed land. We represent our members and supporters to grow the impact, capacity, and influence of private land conservation to achieve a healthy and resilient Australia.

Our twenty-two member organisations are:

- Arid Recovery
- Australian Wildlife Conservancy
- Biodiversity Conservation Trust NSW
- Biodiversity Legacy
- Bush Heritage Australia
- GreenCollar
- Greening Australia
- Landcare Australia
- Nari Nari Tribal Council
- National Landcare Network
- Nature Foundation
- North Australian Indigenous Land and Sea Management Alliance
- NRM Regions Australia
- Odonata
- Queensland Trust for Nature
- Rainforest Rescue
- South Endeavour Trust
- Tasmanian Land Conservancy
- The Nature Conservancy Australia
- Trust for Nature (Victoria)
- Wildlife Bank Trust
- World Wildlife Fund - Australia

ALCA member land conservation efforts have influenced over 9.3% of Australia with more than 4,000 landholders. We have over 70,000 supporters and our combined annual turnover exceeds \$400 million. Together ALCA and its members address some of the most pressing conservation issues across the country, including restoring endangered ecosystems, building the protected area estate, tackling invasive species, expanding private conservation finance, and funding and using nature-based solutions to tackle climate change.

Through their active land management, ALCA member organisations are deeply embedded in rural communities and economies, providing jobs, securing significant regional investment, and safeguarding remaining native habitat, with its many positive spillover effects for community, wellbeing, and food security. We seek to demonstrate the role and value of private land conservation as a cornerstone of the Australian economy.

Some ALCA members are statutory entities; the views expressed in this submission do not necessarily represent the views of the Government administering those statutory entities.

# EXPOSURE DRAFT



EXPOSURE DRAFT

## National Environmental Standard (Environmental Offsets) 2026

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I, Murray Watt, Minister for the Environment and Water, make the following Instrument.

Dated

Murray Watt **DRAFT ONLY—NOT FOR SIGNATURE**

Minister for the Environment and Water

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*National Environmental Standard (Environmental Offsets) 2026*

**EXPOSURE DRAFT**

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## 1 Name

This instrument is the *National Environmental Standard (Environmental Offsets) 2026*.

## 2 Commencement

- (1) Each provision of this standard specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
Insert appropriate text	Insert appropriate text.	Insert appropriate text

Note: This table relates only to the provisions of this standard as originally made. It will not be amended to deal with any later amendments of this standard.

- (2) Any information in column 3 of the table is not part of this standard. Information may be inserted in this column, or information in it may be edited, in any published version of this standard.

## 3 Authority

This standard is made under section 514YD of the *Environment Protection and Biodiversity Conservation Act 1999*.

## 4 Definitions

Note: A number of expressions used in this standard are defined in the Act, including:

- (a) action
- (b) advanced restoration action
- (c) approved conservation advice
- (d) bioregional guidance plan
- (e) bioregional plan
- (f) bioregional plan restoration contribution
- (g) bioregional restoration measure
- (h) designated environmental instrument
- (i) impact
- (j) impacted protected matter
- (k) management or authorisation framework
- (l) protection statement
- (m) recovery plan
- (n) residual significant impact
- (o) restoration contribution charge
- (p) Restoration Contributions Holder
- (q) ruling
- (r) threat abatement plan

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In this standard:

**Act** means the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

**affected protected matter** means a protected matter that will or may be damaged by a residual significant impact of an action or class of actions.

**approved State or Territory offset** means an activity required or authorised to be carried out pursuant to a law of a state or territory to compensate for damage that will or may be caused by impacts to an affected protected matter as a result of an action or class of actions.

**conservation planning document** means 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.

**direct offset** means a mechanism that is intended-reasonably expected to directly protect, conserve or restore a protected matter and may include the securing and actively managing of land or managing a pest species.

**indirect offset** means a mechanism that is intended-reasonably expected to indirectly protect, conserve or restore a protected matter and may include scientific research and education on existing, new or emerging threats to the protected matter (or a financial contribution towards such research or education).

**Like-for-like outcome** means an outcome which results in protecting, conserving or restoring the same kind of environmental feature, attribute or habitat of an affected protected matter that will or may be damaged.

**offset activity** means the doing of any thing or the taking of any measure (including a restoration action or a bioregional restoration action), other than the payment of a restoration contribution charge, to compensate for the damage that may or will be caused by a residual significant impact on a protected matter.

**required net gain** means the net gain for the protected matter within the meaning of section 527K of the Act.

**protected matter** means a matter protected by a provision of Part 3 of the Act.

Note: The matters protected by a provision of Part 3 of the Act are set out in section 34 of the Act.

**suitably qualified expert** means a person who has appropriate professional qualifications, knowledge, training, skills or experience relevant to the subject matter of the offset activity.

Note: An example of a suitably qualified person could be an indigenous traditional owner in relation to offset activities relating to indigenous heritage.

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## 5 Objective

This standard provides a framework to ensure that offset activities (where permitted) adequately compensate for the residual significant impacts of an action or class of actions on an affected protected matter to deliver the required net gain in a way that contributes to the protection, restoration, recovery and enhancement of that protected matter.

## 6 Outcomes

The following outcomes of this standard are intended to promote the objective in section 5:

- (a) offset activities compensate for the damage that will or may be caused by residual significant impacts of actions or classes of actions on affected protected matters and support recovery or conservation;
- (b) offset activities provide a measurable improvement to the affected protected matter (compared to the baseline for that protected matter at the time of the relevant decision) that is equal to or greater than the required net gain for the protected matter; and
- (c) offset activities provide a high level of certainty that affected protected matters will be protected and enhanced.

## 7 Principles

- (1) For subsection 514YD(4) of the Act, the principles by which the outcomes and objectives in section 5 and section 6 of this standard are to be achieved are the principles in sections 8, 9, 10, 11, 12, 13, 14 and 15 of this standard.
- (2) An offset activity intended to compensate for the damage that will or may be caused by a residual significant impact of an action or class of actions on an affected protected matter will achieve the objective and outcomes in section 5 and 6 of this standard where that offset activity is consistent with the principles in sections 8, 9, 10, 11, 12, 13, 14 and 15 of this standard.
- (3) The principles in sections 8, 9, 10, 11, 12, 13, 14 and 15 of this standard only apply in relation to an offset activity that is intended to compensate for the damage that will or may be caused by a residual significant impact of an action or class of actions on an affected protected matter where the affected protected matter is a matter protected by a provision of Part 3 that is a controlling provision for the action or an action in the class of actions.
- (4) A decision-maker may be satisfied that:
  - (a) a decision to approve the taking of an action or class of actions, taking into account any conditions to be attached to the approval, is consistent with this standard if the damage that will or may be caused by any residual significant impacts of the action or class of actions on an affected protected matter will be compensated by:
    - (i) an offset activity that is consistent with the principles in sections 8, 9, 10, 11, 12, 13, 14 and 15 of this standard; or
    - (ii) the payment of a restoration contribution charge; or

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(iii) a combination of (i) and (ii); or

- (b) a management or authorisation framework, or an approval of an action or class of actions in accordance with a management or authorisation framework, is consistent with this standard if the framework requires the damage that will or may be caused by any residual significant impacts of the action or class of actions on an affected protected matter to be compensated by an offset activity that is consistent with the principles in sections 8, 9, 10, 11, 12, 13, 14 and 15 of this standard;
- (c) a specified manner of assessment is consistent with this standard if the manner of assessment requires an assessment of whether the damage that will or may be caused by any residual significant impacts of the action or class of actions on an affected protected matter will be compensated by an offset activity that is consistent with the principles in sections 8, 9, 10, 11, 12, 13, 14 and 15 of this standard;
- (d) the making or varying of a bioregional plan is consistent with this standard if the damage that may or will be caused by any residual significant impacts of priority actions to be taken under the bioregional plan on an impacted protected matter will be compensated by a bioregional restoration measure that meets either of the following:
  - (i) the bioregional restoration measure is:
    - (A) a bioregional restoration action that is required under the bioregional plan to be delivered by a person other than the Restoration Contributions Holder; and
    - (B) consistent with the principles in sections 8, 9, 10, 11, 12, 13, 14 or 15 of this standard; or
  - (ii) the bioregional restoration measure is a bioregional plan restoration contribution; or
  - (ii) the bioregional restoration measure is a bioregional plan restoration action that is required, under the bioregional plan, to be delivered by the Restoration Contributions Holder.

Note: A bioregional restoration measure may be a bioregional restoration action or a bioregional plan restoration contribution (see sections 528 and 177AH of the Act).

## 8 Principle 1—Feasibility

- (1) An offset activity must be feasible.
- (2) An offset activity will be feasible if there is a high level of confidence that the offset activity:
  - (a) will contribute to the recovery or enhancement of the affected protected matter; and
  - (b) will, on its own or in combination with other offset activities or the payment of a restoration contribution charge, result in the required net gain for the affected protected matter; and
  - (c) will achieve the intended outcome in a reasonable and ecologically or culturally relevant timeframe, having regard to the damage to the protected matter from the residual significant impact.

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- (3) The required high level of confidence referred to in subsection (2) must be based on appropriate evidence.
- (4) Appropriate evidence may include:
  - (a) evidence from a suitably qualified independent expert; or
  - (b) existing peer reviewed science; or
  - (c) other evidence that demonstrates the matters in subsection (2).

## 9 Principle 2—Security

- (1) An offset activity must be securely protected.
  - (2) An offset activity will be securely protected if there is an appropriate protection mechanism in place that provides a high level of confidence that:
    - (a) the required net gain will be delivered; and
    - (b) where the offset activity is a direct offset, the offset activity will be maintained for the applicable maintenance period.
  - (3) For the purposes of subsection (2)(b), the high level of confidence must be based on appropriate evidence.
  - (4) Appropriate evidence may include:
    - (a) evidence from a suitably qualified independent expert; or
    - (b) existing peer reviewed science; or
    - (c) other evidence that demonstrates the matters in subsection 9(2).
  - (5) For the purposes of subsection (2)(b), the *applicable maintenance period* is the period after the offset activity has been delivered during which the required net gain must be maintained, and specifically:
    - (a) where the damage to the affected protected matter is short term or temporary – the earlier of:
      - (i) ~~250~~ years; or
      - (ii) until the outcome of the offset activity becomes self-sustaining; or
    - (b) where the damage to the affected protected matter is long term or permanent – at least 99 years. the earlier of:
      - ~~(i) the period of the approval or bioregional plan (as relevant); or~~
      - ~~(ii) until the outcome of the offset activity becomes self-sustaining.~~

~~Note: A bioregional plan remains in force until it is revoked.~~
  - (6) The outcome of an offset activity becomes self-sustaining at the point at which maintenance is no longer needed to maintain that outcome.

Note: Self-sustaining outcomes will not be achieved for all offset activities, and where this is the case, continuation of maintenance activities will be required for ~~the duration of the approval at least 99 years.~~
  - (7) The criteria for when the outcome of the offset activity becomes self-sustaining must be provided in a management plan.
  - (8) For offset activities that are direct offsets, mechanisms that provide legal protections ~~should~~must be used when available and appropriate.
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Note 1: An example of an offset activity that is a direct offset is the protection of land.

Note 2: Examples of mechanisms that provide legal protections (where appropriate) include: covenants on land where the offset activity will occur, purchasing land, the use of State or Territory-based offset schemes, the use of statutory-based nature repair markets, [new public protected areas](#), Indigenous Protected Areas, indigenous land use agreements and native title determinations.

- (9) For offset activities that are direct offsets, an alternative protection mechanism may be used if both of the following apply:
  - (a) a mechanism that provides legal protections is not available or appropriate; and
  - (b) there is a low risk that other activities will prevent or compromise the offset activity being delivered or maintained for the applicable maintenance period.
- (10) The matters in subsection 9(9) must be based on appropriate evidence. Appropriate evidence may include:
  - (a) evidence from a suitably qualified [independent](#) expert; or
  - (b) existing peer reviewed science; or
  - (c) other evidence that demonstrates the matters in subsection 9(9).
- (11) For offset activities that are indirect offsets – the appropriate protection mechanism may relate to security of the funding or reliable expertise for the offset activity.

Note: An example of an indirect offset includes research or specialist work.

## 10 Principle 3—Direct and tangible

- (1) An offset activity should provide a direct and tangible benefit to the affected protected matter.
- (2) An offset activity will provide a direct and tangible benefit to the affected protected matter if there is a high level of confidence that the offset activity both:
  - (a) provides a benefit to the affected protected matter that is quantifiable or qualitative, [or both](#); and
  - (a) contributes to the recovery or conservation of the affected protected matter.
- (3) The required high level of confidence referred to in subsection (2) must be based on appropriate evidence.
- (4) Appropriate evidence may include:
  - (a) evidence from a suitably qualified [independent](#) expert; or
  - (b) existing peer reviewed science; or
  - (c) other evidence that demonstrates the matters in subsection (2).
- (5) An offset activity must be a direct offset unless a relevant conservation planning document identifies an indirect offset as a higher priority measure for the affected protected matter.

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## 11 Principle 4—Measurable improvements

- (1) There must be a high level of confidence that an offset activity will deliver a measurable improvement to the affected protected matter relative to a baseline that reflects what would likely happen in the absence of the offset activity.
- (2) The relevant baseline for the affected protected matter, as referred to in subsection (1), is to be determined at the time of the decision to approve the taking of the action or class of actions, or the making of the bioregional plan (as relevant).
- (3) The required high level of confidence referred to in subsection (1) must be based on appropriate evidence.
- (4) Appropriate evidence may include:
  - (a) evidence from a suitably qualified independent expert; or
  - (b) existing peer reviewed science; or
  - (c) other evidence that demonstrates the matter in subsection (1).

## 12 Principle 5—Additionality

- (1) An offset activity must be likely to deliver an additional benefit to the affected protected matter that would not have otherwise occurred.
- (2) An offset activity that is required to be undertaken by another law, or would otherwise have occurred in the absence of the action being taken, does not deliver an additional benefit.
- (3) Despite subsection (2), an offset activity that is an approved State or Territory offset that applies in relation to the same action or class of actions and the same affected protected matter may meet the requirement in subsection (1).
- (4) Despite subsection (2), an offset activity that is registered as an advanced restoration action under regulations made for the purposes of section 170CAA of the Act is not precluded from delivering an additional benefit.
- (5) The likelihood of delivering an additional benefit must be based on appropriate evidence.
- (6) Appropriate evidence may include:
  - (a) evidence from a suitably qualified independent expert; or
  - (b) existing peer reviewed science; or
  - (c) other evidence that demonstrates the matters in subsection 12(1).

## 13 Principle 6—Like-for-like

- (1) An offset activity must compensate for the damage that will or may be caused by a residual significant impact of an action or class of actions on the affected protected matter by delivering a like-for-like outcome for that protected matter.
- (2) Despite subsection (1), an offset activity that does not deliver a like-for-like outcome will be permitted if the decision-maker is satisfied that both:

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- (a) the offset activity will deliver a greater conservation benefit for the affected protected matter than if a like-for-like outcome was delivered; and
  - (b) the offset activity is consistent with the priorities for restoration of the affected protected matter set out in a conservation planning document.
- (3) The matter in subsection (2)(a) must be demonstrated by appropriate evidence.
- (4) Appropriate evidence may include:
- (a) evidence from a suitably qualified independent expert; or
  - (b) existing peer reviewed science; or
  - (c) other evidence that demonstrates the matter in subsection (2)(a).

## 14 Principle 7—Relevant area

- (1) An offset activity must be located in an area that is relevant to the affected protected matter.
- (2) An offset activity will be located in an area that is relevant to the affected protected matter if:
- (a) the offset activity is located in the same area-bioregion in which the residual significant impact on the affected protected matter has or will occur; or
  - (b) where it is not reasonably practicable for subsection (2)(a) to be satisfied:
    - (i) the offset activity is located in an area that is ecologically or culturally relevant to the protected matter; and
    - (ii) the locating the offset activity in the area is likely to result in an equivalent or greater conservation outcome for the affected protected matter.

~~Note: For the purposes of paragraph 14(2)(a), the reference to the 'same area' is not limited to the site of the impact, but may also include nearby or surrounding sites.~~

- (3) The matters in subsection (2)(b) must be demonstrated by appropriate evidence.
- (4) Appropriate evidence may include:
- (a) evidence from a suitably qualified expert; or
  - (b) existing peer reviewed science; or
  - (c) other evidence that demonstrates the matters in subsection (2)(b).

## 15 Principle 8—Offset commenced prior to impact

- (1) An offset activity that is intended to compensate for the damage that will or may be caused by a residual significant impact of an action or class of actions on the affected protected matter must be secured and registered, and management of the offset activity must have commenced, before the relevant residual significant impact occurs.

Note: Where an offset activity is to be delivered in distinct stages over an extended time period, an offset may be identified for each stage of the development, and those offsets must commence prior to the impact(s) occurring in relation to the relevant stage.

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- (2) The requirement in subsection (1) must be demonstrated by appropriate evidence.
- (3) Appropriate evidence may include:
  - (a) a proposed plan and timeframe for securing, managing and registering the offset activity; or
  - (b) other evidence that demonstrates the matters in subsection (1).
- ~~(4) Despite subsection (1), where the offset activity is a bioregional restoration action that is required under the bioregional plan to be delivered by a person other than the Restoration Contributions Holder, the offset activity must be secured and delivered in accordance with any timeframes set out in the relevant bioregional plan.~~
- ~~(45)~~ For the purposes of subsection (1), an offset activity is **registered** if the offset is included in a register of offsets established by a Commonwealth, State or Territory government.