



Friends of Grasslands

supporting native grassy ecosystems

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Environment and Communications Legislation Committee

Re. Environment Protection Reform Bill 2025 and six related bills

Friends of Grasslands (**FOG**) is a community group dedicated to the conservation of grassy ecosystems in south-eastern Australia - natural temperate grasslands and grassy woodlands. FOG advocates, educates and advises on matters to do with the conservation of these ecosystems, and carries out surveys and on-ground work. FOG is based in Canberra and its members include professional scientists, landowners, land managers and interested members of the public.

Natural temperate grasslands and grassy woodlands are among the most threatened ecological communities in Australia. They, and many constituent species, are Matters of National Environmental Significance under the *Environment Protection and Biodiversity Conservation Act 1999 (Act)*. The acid test of environmental protection legislation is whether it enables the conservation of natural grassland biota, since conservation of these ecosystems requires prevention of clearing (including conversion to exotic pastures), active weed control, and periodic reduction in grass biomass by fire, sustainable pulse grazing, or in limited cases, slashing. Grass biomass needs to be maintained in a 'goldilocks' state of not too much and not too little so that there is adequate foraging habitat for grasslands animals and there are gaps between grass tussocks where a diversity of forb (wildflower) species grow. It is hard to regulate for conservation of these grassy ecosystems.

FOG notes the fact the reform package has passed the Parliament. We seek to table our views on the Bills regardless. The Attachment notes features of the Bills that we supported, and our recommendations.

We understand the Committee is now turning its attention to the making of National Environmental Standards (**NES**). Noting we will submit detailed comment to the Department on the two draft NES out for comment until 30 January 2026, we include some concerns here about one of these NES, the Draft Offset Standard.

1. development and use of an offset calculator

The Department's Draft Offset Policy Paper (**Draft Offsets Policy**) suggests to us that the offset calculator developed and used to date by the Department in implementing the 2012 *EPBC Act Environmental Offsets Policy (2012 Offsets Policy)* will continue. In our view, this is a problem.

The Department's Offset Assessment Guide describes the terms included in the Department's calculator, such as *time horizons, risk of loss, changes in habitat or vegetation quality over time, and confidence in input data*. There was no discussion of the implementation of this Guide in the Samuel Review, yet it is critical to and looks set to continue to be central to EPBC Act offset decision-making. FOG recommends a review of its use by the Department and industry¹, including the Guide's approach to habitat quality scoring and its manipulation by consultants through scoring and weighting of inputs in ways that will continue to prejudice net gain outcomes.

2. an offset should compensate for an impact 'for the full duration of the impact'

The amended Act provides for approval holders who proceed with approved actions that cause residual significant impacts to choose whether to deliver offsets themselves or register to pay into the Restoration Contributions Fund.

¹ The Policy states *The Offsets assessment guide is a tool that has been developed for expert users in the department to assess the suitability of offset proposals. The guide is also available to proponents to assist with planning and estimating future offset requirements.*

FOG understands approval holders making payments to acquit their offset obligations won't have to satisfy two principles, the 'like for like' and 'timeliness' principles, the latter being that the compensation should happen before or at the same time as the impact. Compared to the 2012 Offsets Policy, the compromise to 'like for like' is a threat to protected matters.

FOG holds serious concerns with draft Principle 2 concerning 'security'. Both the 2012 Offsets Policy and the Draft Offsets Policy state the intention that offsets compensate for an impact 'for the duration of the impact' (2012 Offsets Policy, p. 8; Draft Offsets Policy, p. 13).

Draft Principle 2 in the Draft Offset Standard includes (with all underlining added):

9 Principle 2—Security

- (1) Offset activities should be securely protected.
- (2) An offset activity is **securely protected** where there are, or will be, suitable mechanisms in place to ensure that the offset activity will be delivered and, if relevant, maintained for the duration of the impact.

'Securely protect' is about the formal (legal) protection of an offset site. It is most unclear what securely protecting an offset *activity* means. In FOG's view, 'activities' are about offset management, not protection. Conflating the two discrete sets of processes will not work.

It means there exists serious doubt about whether offset sites, the places where offset activities will take place, will be protected from future development. If so, for how long will 'the gains' be protected? In FOG's view, it is positive but of limited benefit to repair and protect an offset site for no more than a short period. Adopting the policy position that an offset should compensate for an impact 'for the duration of the impact', the offset for any serious irreversible impact begs a *permanent* legal protection solution such as addition to a state-owned conservation reserve or an *in perpetuity* conservation covenant on title. In the case of grassy ecosystems, it also requires a commitment to actively manage weeds and biomass on an ongoing basis.

3. what data will be published about offsets


The Draft Offset Standard makes no provision for the publication of *any* data about offsets. An absence of evidence of attainment of net gain would be a serious transparency and accountability problem. This problem will be exacerbated if disparate state and territory databases are taken as presenting sufficient information.

In our view, a centralised Offset Register is essential to reveal:

- the basis on which any offset was assessed suitable and adequate by whoever made the decision;
- the outcome required, e.g., the form of protection to be relied upon for the offset site, and the extent of condition improvement to be delivered;
- how the outcome is to be delivered - in the case of grassy ecosystems, this might be via weed control and/or biomass management;
- which government entity is to oversee, monitor and report on that delivery.

FOG will include in its submission to the Department a list of the data we want to see in an Offsets Register. In the meantime, FOG would welcome an opportunity to indicate to the Committee in detail all the information we would like to see in an Offsets Register.

Yours sincerely,


Matt Whitting
Vice President
Friends of Grasslands Inc

5 December 2025

Attachment

FOG considers that the reform package included some good features that we supported:

- the establishment of an independent authority (NEPA) to manage compliance and enforcement, and to make assessment and approval decisions under delegated authority.
- the inclusion in the statute of the avoid-mitigate-offset hierarchy.
- recognising as a last resort that some decisions should be made by the Minister (Government) in the national interest.
- the making of granular National Environmental Standards (we urge that they be included in the Act not in regulation).
- the establishment of an information authority (EIA) to improve data collection, analysis, and publication.
- quick decision making on proposals provided:
 - proposals with ‘unacceptable impacts’ are rejected
 - the assessments of proposals are comprehensive, making clear in a precautionary manner the impacts and the likely effectiveness (or otherwise) of proposed mitigations
 - overall ‘net gains’ are achieved.

FOG also held some concerns, some of which have been allayed. We were going to recommend:

- strengthening provisions that continue to permit the clearance of grassy ecosystems. Nine of eleven listed threatened ecological communities found in southeast Australia are ‘critically endangered’; the other two are ‘endangered’. To this end, we strongly support the submission of The Hon Robert Hill AC and Atticus Fleming AM (Submission 23). The continued existence of these grassy ecosystems is highly dependent on active, ongoing conservation management.
- significantly narrowing the ‘continuation of use exemption’ found in s 43B – *we recognise this has occurred, and we are pleased.*
- *not* adding new layers of conservation planning documents that could conflict with and undermine recovery plans or conservation advices, i.e., protection statements should not be allowed to override recovery plans, conservation advices and threat abatement plans.
- limiting decision-making discretion with clear and *objective* science-based tests.
- improving the proposed definition of ‘unacceptable impacts’, i.e., as drafted, the specific definitions are vague and discretionary.
- improving the ‘net gain’ test, i.e., as drafted, the test is undefined, highly discretionary and open to manipulation.
- *not* giving decision-makers power to make rulings on how the law is interpreted – this should be a matter for the courts.
- *not* devolving the Minister’s powers of approval in Part 9 to state and territory governments, either by executing approval bilateral agreements or by accrediting regulatory programs – it is not credible to suggest the NEPA will be in a position to maintain a good working knowledge of the effect of state and territory policies and guidelines *as they change.*
- the existing reconsideration request provisions are retained.
- restricting use of the restoration contributions charge to cases where like for like offsets are demonstrably available, i.e., like for like compensation is a fundamental principle that must not be compromised.
- *not* amending s 76A of the *Nature Repair Act 2023*, i.e., biodiversity certificates should not be used to acquit offset obligations.