Tuesday, 7 July 2026

Ms Jennifer Kay
Head of Division,
Environmental Law Reform Taskforce
Department of Climate Change, Energy, the Environment and Water
Ngunnawal Country, John Gorton Building, King Edward Terrace
Parkes ACT 2600

Dear Ms Kay

Re: CEC submission regarding draft National Environmental Standard (Community Engagement) 2026 and National Environmental Standard (Data and Information) 2026

The Clean Energy Council (***CEC***) welcomes the opportunity to provide a submission to the Department of Climate Change, Energy, the Environment and Water (***DCCEEW***) on the exposure draft of the National Environmental Standard (Community Engagement) 2026 (***CE Standard***) and the National Environmental Standard (Data and Information) 2026 (***Data Standard***).

The CEC is the peak body for the clean energy industry in Australia. The CEC supports the intention of the CE Standard and Data Standard to implement the recommendations from the Samuel review to 'improve community participation in decision-making processes, including through incorporation in the National Environmental Standards, and the transparency of both the information used and the reasons for decisions'.[1]

Effective engagement with communities, landholders and Traditional Owners is fundamental to the successful development and operation of renewable energy projects and the delivery of durable environmental outcomes. Data sharing and data constraints are also increasingly significant issues for the renewable energy sector. The CEC welcomes efforts to improve streamlining and facilitate data sharing, provided appropriate protection and constraints are included.

A summary of our comments on the CE Standard and Data Standard is set out below, and our recommended mark-up to the CE Standard is included at **Annexure A** and to the Data Standard at **Annexure B**.

[1] Samuel Review, page 81.

Phone: +61 3 9929 4100
Fax: +61 3 9929 4101
info@cleanenergycouncil.org.au

Level 20, 180 Lonsdale Street, Melbourne, VIC 3000, Australia

cleanenergycouncil.org.au

ABN: 84 127 102 443

CE Standard

1. Confining the CE Standard to Commonwealth MNES engagement

The CE Standard's remit is confined to consultation in relation to decisions under the *Environment Protection and Biodiversity Conservation Act 1999* (***EPBC Act***), however, the drafting of the CE Standard refers more broadly to engagement on the 'proposal' and 'affected persons'. Interpreted broadly, this creates a real risk of overlap between the CE Standard and existing State planning frameworks, under which renewable energy projects already undertake extensive consultation through Community Engagement Plans, Social Impact Assessments, consultation reports, EES/EIS documentation and ongoing stakeholder engagement. We recommend the CE Standard be expressly confined to engagement for the purposes of the EPBC Act, and that consultation undertaken to satisfy State planning requirements be capable of satisfying the CE Standard (to the extent applicable, including via bilateral processes).

2. Replacing subjective terminology with measurable requirements

Where possible, we have recommended replacing subjective terms with more measurable and assessable requirements. Terms such as 'careful', 'considerate', 'ethical', 'accountable', 'responsive' and 'transparent' may be interpreted differently by proponents, regulators and courts, creating uncertainty and increasing the risk of dispute or judicial review. The mark up at Annexure A suggests replacing many of these terms with language that focuses on demonstrable outcomes, such as requiring information to be 'documented', engagement to be 'planned' (rather than 'carefully planned'), or processes to be undertaken in accordance with specific, measurable requirements.

3. Genuine consideration of feedback and the iterative nature of renewable energy projects

Our recommended amendments seek to avoid creating unrealistic expectations regarding outcomes, while maintaining meaningful community engagement obligations. The CE Standard should set the expectation that proponents must demonstrate that feedback has been genuinely considered, rather than being expected to adopt all stakeholder feedback. To this end, we also recommend that the CE Standard recognise the iterative nature of renewable energy development. Projects evolve considerably between referral, scoping and environmental assessment, and the CE Standard should avoid creating an expectation that technical investigations and project design are fully resolved at the referral stage or requiring investigations to be brought forward unnecessarily.

CLEAN ENERGY COUNCIL

4. Improving certainty in decision making

Our recommended changes seek to improve regulatory certainty by replacing provisions that state a decision maker 'may be satisfied', with wording that a decision maker is 'taken to be satisfied' where specified criteria are met. Given these are mandatory standards, proponents should have certainty that compliance with the prescribed requirements will satisfy the CE Standard. In addition, we have made a few amendments to ambiguous sections. For example, references to engagement with broad categories such as 'interested parties' have been narrowed to persons or groups affected by the proposal.

5. Avoid duplication in relation to the First Nations Engagement Standard

Genuine engagement with First Nations people is critical. Noting that we have not seen the First Nations Standard there is potential risk of duplication between the CE Standard and the First Nations Standard. We understand that significant engagement in relation to the draft First Nations Standard has occurred and there is a risk of duplication or inconsistency once the First Nations Standard is finalised. In consultation with feedback on these standards received from First Nations bodies, we recommend considering removing references to First Nations engagement from the CE Standard (as these matters will be dealt with under the First Nations Standard).

6. Clear guidance on evidentiary requirements

The CE Standard should provide clearer guidance on the documentation expected to demonstrate compliance, such as stakeholder maps, engagement plans, issues registers and consultation outcomes reports. Specifying these evidentiary expectations would give proponents a clear benchmark for good practice and reduce the subjective compliance risk created by open-ended documentation requirements.

The CE Standard should also clarify how stakeholder feedback is expected to influence project design. In our view, proponents should be required to demonstrate that feedback has been genuinely considered and responded to, rather than being expected (or perceived as being expected) to adopt all stakeholder feedback. This distinction is important to avoid creating an unworkable standard that effectively grants stakeholders a veto over project design.

Data Standard

1. Clarification of Roles, Responsibilities and Timing Under Principles 4 and 5

Further clarification is required regarding the concepts of data being ‘collected’, ‘managed’ and ‘provided’ under Principles 4 and 5. It is unclear whether these obligations relate only to the collection and management of data before it is submitted as part of an application, or whether they also extend to the subsequent management, handling and reuse of that data by government and other users.

This issue is particularly relevant to Principle 4, in relation to the reuse of information. While certain requirements appropriately attach to the person providing the information (such as obligations relating to the format of data provided), it is unclear whether obligations relating to the ongoing management and reuse of data are intended to apply to proponents, government agencies or future users of the data. It is not appropriate for certain management obligations to attach to proponents who do not have control over how the data is used as part of a project assessment.

Similarly, Principle 5 refers to the ethical collection, management and provision of data. These concepts could apply to both: the process by which data is initially collected, and to the subsequent use, disclosure and reuse of that data. The intended scope of these obligations should be clarified.

We recommend that the standards clearly distinguish between obligations applying to the collector, provider, manager and subsequent user of data. Obligations imposed on proponents should be limited to matters within their control at the time information is submitted. Obligations relating to the ongoing management, storage, disclosure and reuse of data should instead be directed to the relevant government agencies and other users of the data.

Further clarity is also required regarding the point at which the standards apply, when compliance is assessed, and the parties to whom the obligations are intended to apply, including proponents, government agencies, third-party data providers, stakeholders and Traditional Owners.

2. Clarifications and consistency with the policy paper

The concept of ‘representative’ data and information may create uncertainty regarding the standard expected of proponents. Consistent with the policy intent and supporting materials, we have recommended updating the title of Principle 1 to refer to ‘scientifically rigorous and relevant data and information’. Further clarification is also required to recognise constraints such as remote-area survey constraints, including seasonality, access, safety and narrow survey windows so that requirements are workable for large, remote and staged projects.

3. Consistency Between Alternative Pathways for Compliance

Each principle in the Data Standard has a clause which outlines when that principle will be satisfied. There is then a separate catch all along the lines of 'If paragraph (a) is not satisfied' then other evidence may be accepted. Consistent with the drafting in the CE Standard, the 'catch all' provision should not be contingent on confirming that paragraph (a) is not satisfied.

Such formulations may have the unintended consequence of requiring proponents to demonstrate that paragraph (a) cannot be satisfied before relying on paragraph (b), which may be difficult, unnecessary and administratively burdensome. Instead, the standards should be capable of being satisfied through either paragraph (a) or paragraph (b). The same issue arises in relation to the equivalent provisions for bioregional plans.

4. Greater Clarity Regarding Transparent Data

The concept of 'transparent data' is not clearly defined and may lead to uncertainty regarding compliance expectations. Our recommended amendments focus on the key outcomes sought by the Data Standard, being the provision of appropriate metadata and information regarding provenance. Additional guidance has been included regarding the circumstances in which metadata may be considered insufficient, including where it relates to draft, superseded or incomplete information, is confidential, commercially sensitive or legally privileged, contains personal or sensitive information, is inaccurate or misleading, or is otherwise unsuitable for disclosure or assessment purposes.

5. Clarifying Requirements Relating to Ethical Data

The concept of 'ethical data' is inherently broad and may be difficult to apply consistently. The amendments seek to clarify the practical requirements that underpin ethical data management, including requirements relating to data governance, privacy, confidentiality, consent, security, attribution, cultural sensitivities and appropriate reuse.

Our amendments also seek to provide greater certainty regarding circumstances in which an Indigenous Cultural and Intellectual Property agreement is required. Rather than addressing these agreements in a note, the relevant requirements should be incorporated directly into the operative provisions of the standard. In addition, we note that the reference to 'all reasonable efforts' is not clearly defined, which could result in challenges regarding what evidence is required (resulting in additional time, cost and complexity). Finally, we are concerned about the potential for third parties to reuse data provided by other stakeholders, which may influence decisions in a way that is not aligned with our data or context.

The CEC welcomes further engagement with DCCEEW in relation to the EPBC reforms. If you have any queries or would like to discuss this submission in more detail please contact me on erutherfurd@cleanenergycouncil.org.au.

Kind regards,

Elise Rutherfurd

General Manager, Environment and Planning

Annexure A – Recommended amendments to the CE Standard

Black text = original exposure draft
Green text = recommended additions
~~Red strikethrough~~ = recommended deletions
[Grey] = comments

1 Name

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

2 Commencement

(1) Each provision of this instrument 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 instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

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

3 Authority

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

4 Definitions

Note: A number of expressions used in this instrument are defined in the Act including:
(a) action
(b) bioregional guidance plan
(c) bioregional plan
(d) impact
(e) management and authorisation framework
(f) NOPSEMA management and authorisation framework

In this instrument:

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

affected persons means persons that are materially affected or potentially materially affected by a proposal ~~because of their geographical proximity to the site of the proposal~~.

engagement means a planned consultation in which a person seeks input or feedback from affected persons ~~the~~ ~~public~~ to inform a proposal.

proposal means a proposed action or class of actions, to the extent the action or class of actions relates to protect matters under the Act, and requires approval under the Act. *[Note: it is important that this standard is limited to decision made under the Act, given the contents of the Standard focus on 'proposal' and 'affected persons' we recommend that the definition of proposal clearly be limited to the extent to which the proposal relates to a decision under 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.

5 Objective

The objective of this standard is to ensure decisions made under the Act relating to the protection and management of protected matters are supported by ~~meaningful~~ engagement ~~and co-operation~~ between, where appropriate, government, the community, and landholders ~~and Indigenous persons~~. ~~and to assist in the cooperative implementation of Australia's international obligations.~~ *[Note: CEC is concerned regarding unclear requirements in relation to terms such as 'meaningful', which can result in ambiguity and subsequent litigation risks. We also consider that co-operation may not be appropriate or warranted in certain cases so should not form part of the objective. Co-operation suggests joint problem solving which again may not be appropriate in all cases, including in relation to technical matters. To avoid inconsistency with the First Nations Standard we recommend (provided consultation with First Nation's persons aligns with this recommendation) removing 'Indigenous persons' – noting that significant consultation has occurred on that standard and there is a risk of inconsistency.]*

Phone: +61 3 9929 4100
Fax: +61 3 9929 4101
info@cleanenergycouncil.org.au

Level 20, 180 Lonsdale Street, Melbourne, VIC 3000, Australia

cleanenergycouncil.org.au

ABN: 84 127 102 443

6 Outcomes

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

(a) input from the public is sought in relation to decisions under the Act to facilitate improved outcomes for protected matters and support ecologically sustainable development.

(b) the processes for, findings of and responses to engagement are transparent and ~~recognised~~ considered in decisions made under the Act.

(c) community engagement processes undertaken to satisfy approval requirements separate to those required under the Act, are recognised for the purposes of satisfying this Standard (to the extent those processes are relevant and applicable to decisions made under the Act). *[Note: we recommend including express acknowledgement that state and territory processes will be recognised]*

~~(c) inclusive and respectful engagement builds confidence, trust and accountability in decisions made under the Act.~~ *[Note: the CEC supports this as an outcome, however given this is a mandatory and enforceable standard, outcomes need to be clear and measurable. For example, not all engagement builds confidence and trust. Accordingly, we recommend removing from the standard. We note that principles regarding inclusive and respectful engagement are dealt with in other best practice guidelines (which may be a more appropriate location).]*

7 Principles

(1) For subsection 514YD(4) of the Act, the principles by which the outcomes and objectives in sections 5 and 6 of this standard are to be achieved are the principles in sections 8, 9, 10 and 11 of this standard.

(2) A decision-maker may be satisfied that a decision to approve the taking of an action, taking account any conditions to be attached to the approval, is consistent with this standard if:

(a) there has been engagement undertaken on the proposed action; and

(b) that engagement is consistent with the principles in this standard.

(3) A decision-maker ~~may~~ will be taken to be satisfied that a decision to approve the taking of an action or class of actions in accordance with an endorsed policy, plan or program, taking account any conditions to be attached to the approval, is consistent with this standard if:

(a) there has been engagement undertaken on the proposed action or class of actions to be taken in accordance with the endorsed policy, plan or program; and

(b) that engagement is consistent with the principles in this standard.

(4) A decision-maker ~~may~~ will be taken to be satisfied that 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 the standard if this framework requires:

(a) engagement to be undertaken on any action or class of actions proposed to be approved under the management or authorisation framework; and

(b) that engagement to either:

(i) be consistent with the principles in this standard; or

(ii) meet requirements that are equivalent in effect to the principles in this standard.

(5) A decision-maker ~~may~~ will be taken to be satisfied that a NOPSEMA management or authorisation framework is not inconsistent with this standard if the framework requires:

(a) engagement to be undertaken on any action proposed to be approved under the NOPSEMA management or authorisation framework; and

(b) that engagement to either:

(i) be not inconsistent with the principles in this standard; or

(ii) meet requirements that are equivalent in effect to the principles in this standard.

(6) A decision-maker ~~may~~ will be taken to be satisfied that making or varying a bioregional plan is consistent with this standard if:

(a) there has been engagement undertaken on the proposed priority actions to be taken under the bioregional plan; and

(b) that engagement is consistent with the principles in this standard.

(7) A decision-maker ~~may~~ will be taken to be satisfied that making or varying a bioregional guidance plan is consistent with the standard if:

(a) there has been engagement undertaken on the proposed bioregional guidance plan; and

(b) that engagement is consistent with the principles in this standard.

8 Principle 1—Engagement is ~~carefully~~ planned, ~~considerate,~~ clear and adaptable

(1) Engagement on a proposal must be planned with regard to:

(a) how the public can be made aware of the purpose of the engagement;

(b) the level of information available on the proposal; and

(c) the extent to which input from the public may inform the proposal, if any.

~~(c) the level of influence the public can have on the proposal.~~

(2) Engagement on a proposal must include an invitation to comment on the proposal that is published in a publicly accessible location and allows a reasonable period to comment on the proposal.

(3) The person undertaking the engagement must monitor the effectiveness of engagement and adapt engagement activities, as needed.

(4) Engagement on a proposal will be taken to be consistent with (1), (2) and (3) if either:

(a) the engagement meets all of the following:

(i) the engagement is the subject of an engagement plan that includes information on:

(A) the background of the project;

(B) the purpose of the engagement;

~~(C) any data and research relevant to the proposal;~~ *[Note: data and research may be significant and overwhelming. This requirement is too broad. We recommend that information should be kept narrow and focus on key project information and an overview of the background information]*

(D) the extent to which input from the public may inform the proposal, if any ~~the level of influence the public can have on the outcome~~;

(E) how the engagement is proposed to be undertaken, including timelines for engagement;

(F) any steps taken to improve the inclusivity and accessibility of the engagement ~~how the engagement is inclusive and accessible~~;

(G) how the outcome of the engagement will be reported;

(ii) the engagement plan is available ~~published~~ in a location that is publicly accessible, unless it is inappropriate to do so;

(iii) the engagement includes an invitation for the public to comment on the proposal that is open for a period of ~~that is reasonable for the proposal and is~~ no less than 10 business days;

(iv) the person undertaking the engagement regularly assesses progress and outcomes of the engagement against the engagement plan; and

(v) the person undertaking the engagement documents any feedback received on the engagement process and, where appropriate, what steps have been taken to adapt the engagement in response to this feedback; or

(b) the person undertaking the engagement has provided other evidence that demonstrates the engagement meets (1), (2) and (3).

Note 1: For (8)((2) and (4)(a)(ii), an example of a location that is publicly accessible is a publicly available website (including, but not limited to, the Department's website). Other examples may include newspapers, posters, websites, and social media.

~~Note 2: For (4)(a)(iii), in deciding what period is reasonable for the proposal, consideration should be given to the volume and complexity of the information available on the proposal.~~

9 Principle 2—Engagement is documented and supports public input ~~transparent, accountable and responsive~~

(1) Engagement on a proposal should ~~must~~ allow the public to understand the proposal and a reasonable opportunity to provide informed and relevant input.

(2) The person undertaking the engagement ~~must be transparent about~~ should document where and how input from the public has influenced the planning and design of the proposal, while upholding privacy considerations.

(3) Engagement on a proposal should support a two-way dialogue with the affected persons.

(4) Engagement on a proposal will be taken to be consistent with (1), (2) and (3) if either:

(a) the engagement meets all of the following:

(i) the person undertaking the engagement ensures that ~~accurate, objective and comprehensive~~ information about the proposal is included in the invitation for public comment, including information about:

(A) the location and scope of the proposal;

(B) a description of the activities proposed;

(C) any proposed timelines and key milestones,~~ including the proposed duration of the proposal~~; *[Note: it may be difficult to give clear idea of key milestones, recommend limiting this obligation to general timeline for the proposal]*

(D) the potential impacts of the proposal on protected matters;

(E) relevant stakeholder groups, including any affected persons identified;

(ii) unless the person undertaking the engagement reasonably believes it is inappropriate to do so, that person:

(A) discloses the information sources underpinning decisions relevant to the proposal, including methodologies and assumptions, to the public; and

(B) shares relevant environmental performance and compliance outcomes, and monitoring results, with affected persons;

(iii) the person undertaking the engagement provides to the decision- maker a summary of input received from the public about the proposal, including information on what (if any) input is being used to inform any adjustments to the planning and design of the proposal; and

(iv) the person undertaking the engagement:

(A) provides affected persons with appropriate ways to contact the person about a proposal and the engagement process;

(B) responds promptly to any queries received from affected persons about the proposal and the engagement process;

(C) where appropriate, offers follow-up conversations to discuss concerns relevant to a proposal; or

Note : For (4)(a)(iv)(A), an example of an appropriate way to contact the person about a proposal and the engagement process is through an email inbox facility that can be monitored and used to respond to affected persons.

(b) the person undertaking the engagement has provided other evidence that demonstrates the engagement meets (1), (2) and (3).

10 Principle 3—Engagement ~~is ethical and protects~~ provides for privacy

[Note: this section relates to privacy and does not set any standards in relation to ethics – the title should reflect this. We also note that there is inconsistency with wording in the policy paper which refers to engagement that is trustworthy, to avoid any inconsistency we recommend limiting this section to 'provides for privacy']

(1) Engagement on a proposal must be undertaken in a way that ~~ensures~~ provides for the privacy of persons providing input is protected.

(2) Engagement on a proposal will be consistent with (1) if either:

(a) the engagement meets both of the following:

(i) the person undertaking the engagement ensures the invitation to comment on a proposal includes the following information:

(A) the type of data and information that is being collected, including whether it includes personal information;

(B) the reasons why the particular data or information is being collected;

(C) how data and information will be collected, recorded, stored, used and disclosed;

(D) that the provision of data or information is voluntary and the participant has the right to withdraw at any time without providing a reason and without any consequences for the participant;

(E) how and when the information will be destroyed; and

(ii) when collecting, recording, storing, using or disclosing data or information provided during the engagement, the person undertaking the engagement will deal with the data or information in accordance with relevant state, territory and federal privacy laws, as applicable. *[Note: to avoid inconsistencies we recommend deleting the below and instead noting that proponents will handle data and information in accordance with relevant laws – consider inserting a definition of 'privacy legislation']*

~~(A) obtains informed consent from the participant;~~

~~(B) de-identifies and summarises any input that was acquired during the engagement before such data and information is published;~~

~~(C) only uses any contact details provided by a participant for the purposes agreed to during the engagement process;~~

~~(D) stores data and information provided during the engagement securely including, where appropriate, with password protection;~~

~~(E) avoids unnecessarily duplicating data and information provided during the engagement; or~~

(b) the person undertaking the engagement has provided other evidence that demonstrates the engagement meets (1).

Phone: +61 3 9929 4100
Fax: +61 3 9929 4101
info@cleanenergycouncil.org.au

Level 20, 180 Lonsdale Street, Melbourne, VIC 3000, Australia

cleanenergycouncil.org.au

ABN: 84 127 102 443

11 Principle 4—Engagement is accessible and supports inclusivity

(1) The person undertaking the engagement on a proposal must use reasonable endeavours to provide that the engagement is ~~be~~ undertaken in a way that ensures it is accessible to the public, including people from culturally and linguistically diverse backgrounds, and allows such persons to understand the proposal and its potential impacts on protected matters.

(2) The person undertaking the engagement on a proposal must use reasonable endeavours to provide that the engagement is ~~be~~ undertaken in a way that allows all interested persons to provide comment on the proposal.

~~(3) Engagement on a proposal must involve active attempts to overcome barriers to participation in the engagement.~~

(4) Engagement on a proposal will be consistent with (1) and (2) ~~and (3)~~ if either:

(a) the engagement meets both of the following:

(i) the person undertaking the engagement ensures the information relating to the proposal that is provided to a person as part of the engagement, including in the invitation to comment on the proposal, meets the following:

(A) information is provided in reasonably clear, user-friendly formats (for example, simple and appropriately sized fonts, and logical structure);

(B) the information is provided using plain English, where appropriate;

(C) the information is provided using non-technical and jargon- free language, where appropriate;

(D) translated versions of the information are provided, where appropriate; and

(ii) the person undertaking the engagement:

(A) uses an online engagement method and includes this method in the invitation to comment on the proposal;

(B) clearly identifies, where reasonably practicable, the different stakeholders and types of community leaders that may be ~~interested in~~ affected by the proposal;

(C) ensures that any relevant under-represented groups and affected persons are included in the engagement;

(D) where in-person venues are used as part of the engagement – selects in-person venues that are physically and logistically accessible;

(E) uses alternative communication methods in areas with low internet connectivity (for example, posters, newspapers, and mailbox drop); or

(b) the person undertaking the engagement has provided other evidence that demonstrates the engagement meets (1) and (2) ~~and (3)~~.

Annexure B – Recommended amendments to the Data Standard

Black text = original exposure draft
Green text = recommended additions
~~Red strikethrough~~ = recommended deletions
[Grey] = comments

1 Name

This instrument is the *National Environmental Standard (Data and Information) 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) impact

(c) NOPSEMA management or authorisation framework
(d) management or authorisation framework
(e) bioregional plan
(f) bioregional guidance plan

In this standard:

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

CARE principles means the data governance principles of collective benefit, authority to control, responsibility and ethics that are available at https://www.gida-global.org/careprinciples

FAIR principles means the data governance principles of findable, accessible, interoperable, reusable that are available at https://www.go-fair.org/fair-principles/

metadata means data or information that describes and adds meaning to other data to support its interpretation.

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

provenance means the information about the history of data, including lineage, the inputs, entities, and activities by which it was produced.

5 Objective

The objective of this standard is to ensure that decisions made under the Act are informed by the best available ~~based on appropriate~~ data and information and to ~~extend~~ facilitate the improved availability of ~~credible~~ data and information assets for use in such decisions.

6 Outcomes

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

(a) data and information used in decisions made under the Act are documented ~~transparently described and representative~~. *[Note: unclear what representative means here, representative of who? Suggest deleting for clarity]*

(b) data and information used in decisions made under the Act are presented in a format that supports comparison and reusing data and information ~~comparable and reusable~~.

(c) data and information used in decisions made under the Act are ~~ethically~~ collected, managed and used in accordance with relevant consents, permissions and laws.

7 Principles

(1) For subsection 514YD(4) of the Act, the principles by which the outcomes and objectives in sections 5 and 6 of this standard are to be achieved are the principles in sections 8, 9, 10, 11 and 12 of this standard.

(2) Principles 1 and 2 are intended to promote the outcome in paragraph 6(a). Principles 3 and 4 are intended to promote the outcome in paragraph 6(b). Principle 5 is intended to promote the outcome in paragraph 6(c).

(3) A decision-maker may be satisfied that:

(a) a decision to approve the taking of an action, taking into account any conditions to be attached to the approval, is consistent with the standard if the data and information provided in, or in relation to, the referral or assessment of the action, is consistent with the principles set out in this standard;

(b) a decision to approve the taking of an action or class of actions in accordance with an endorsed policy, plan or program, taking into account any conditions to be attached to the approval, is consistent with the standard if the data or information provided in, or in relation to:

(i) the report on the impacts to which the assessment relates; and

(ii) the endorsed policy, plan or program,

is consistent with the principles set out in this standard;

(c) a management or authorisation framework is consistent with the standard if the framework requires the data and information provided in relation to the referral (however described) and assessment of the action or class of actions to either:

(i) be consistent with the principles; or

(ii) meet requirements that are equivalent in effect to the principles in this standard;

(d) a NOPSEMA management or authorisation framework is not inconsistent with the standard if the framework requires the data and information provided in relation to the referral (however described) and assessment of the action or class of actions to either:

(i) be not inconsistent with the principles; or

(ii) meet requirements that are equivalent in effect to the principles in this standard;

(e) making or varying a bioregional plan or a bioregional guidance plan is consistent with the standard if the data and information on which the plan is based are consistent with the principles.

8 Principle 1– ~~Representative~~ Scientifically rigorous and relevant data and information

(1) Data and information used in, or for the purposes of, making a decision under the Act is scientifically rigorous and relevant to the protected matters ~~adequately and accurately reflect and describe the relevant protected matters and environmental conditions~~. *[Note:*

the contents of principle 1 relate to the scientific rigour, it is unclear what representative means in this context]

(2) Subsection (1) will be satisfied if either:

(a) The data and information meets all of the following:

(i) the data and information was collected or obtained using ~~by~~ a method that is scientifically defensible ~~robust and accounts for environmental conditions~~; and

(ii) the data and information was created, modelled or analysed using ~~appropriate~~ defensible scientific or technical processes ~~to ensure it accurately represents the conditions and context in relation to the protected matter, required for the decision~~; and

(iii) the data and information includes, or is accompanied by, appropriate explanations or mitigation strategies to manage data and information uncertainties and/or gaps (if any); and

(iv) the data or information are from or based on the most authoritative sources available (for example published datasets), or where no authoritative source for particular data or information ~~are~~ is available or accessible, an explanation is provided as to why the selected data or information are accurate and representative; or

Note : For 2(a)(iii), an appropriate explanation for a gap in data may include limitations as a result of remote or difficult to access survey locations. In such areas, further field surveys may be impractical, unsafe or unlikely to materially reduce uncertainty within project timeframes. Alternative lines of evidence, including modelling, desktop assessment, existing survey data and expert analysis, can be used to supplement gaps where appropriate.

(b) The person providing the data and information has provided other evidence that demonstrates the data and information are scientifically rigorous and relevant to the protected matter.

(3) Subsection (1) will be satisfied, in relation to a decision under the Act in relation to a bioregional plan or a bioregional guidance plan, if there is other evidence available that demonstrates the data and information are scientifically rigorous and relevant to the protected matter.

[Note: For consistency with the community engagement standard, the test in paragraph (b) should not be contingent on paragraph (a) not being satisfied. Such a formulation may have the unintended consequence of requiring proponents to demonstrate that paragraph (a) has not been satisfied before relying on paragraph (b), which may be difficult, unnecessary and administratively burdensome. Consistent with the community engagement standard, the requirement should be capable of being satisfied by either paragraph (a) or paragraph (b). The same issue arises in relation to the equivalent test for bioregional plans.]

~~(b) If paragraph (a) is not satisfied: For a decision under the Act in relation to a bioregional plan or a bioregional guidance plan – there is other evidence available that demonstrates the data and information are representative and suitable for use; or~~

~~(ii) for all other decisions - the person providing the data and information has provided other evidence that demonstrates the data and information are representative and suitable for use.~~

9 Principle 2– ~~Transparent~~ Provision of metadata and provenance of data and information

(1) Data and information used in, or for the purposes of, making a decision under the Act are ~~reliable and sufficiently described~~ provided in a format to enable informed use for making decisions under the Act.

(2) Subsection (1) will be satisfied if, either:

(a) The data and information meets both of the following:

(i) the data and information include, or are accompanied by, ~~adequate~~ sufficient metadata to support decision making under the Act; and

Note 1: What is ~~adequate~~ sufficient metadata for data and information will depend on the particular context and may include providing, for example, matters such as an identifier, title, description, point of contact, the creator, author or source, the custodian, the rights holder, ~~any relevant licence, any access and use constraints, any sensitive data and information types,~~ an uncertainty statement, temporal extent, spatial extent, update frequency, date created or accessed.

Note 2: Metadata may be considered insufficient if it relates to draft, superseded or incomplete information; is confidential, commercially sensitive or legally privileged; contains personal or sensitive information; is inaccurate or misleading; or is otherwise unsuitable for disclosure or assessment purposes.

(ii) the data and information include, or are accompanied by, ~~appropriate~~ sufficient contextual information to support decision making under the Act, including in relation to:

(A) whether any quality assurance and quality control processes were applied to the data and information and if so, what those processes were and a description of the resulting quality of the data and information;

~~(B) a description of any technical or scientific methods that were applied to the data and information or used in its creation and an explanation of any deviations from these methods;~~ *[Note this is duplicative of principle 1]*

(C) the provenance of the data or information; or

~~(D) version and change control; or~~ *[Note: it is not appropriate to require draft versions]*

(b) The person providing the data and information has provided other evidence that demonstrates the data and information are provided in a format to enable informed use.

(3) Subsection (1) will be satisfied, in relation to a decision under the Act in relation to a bioregional plan or a bioregional guidance plan, if there is other evidence available that demonstrates the data and information are provided in a format to enable informed use.

~~(b) If paragraph (a) is not satisfied:~~

~~(i) for a bioregional plan or a bioregional guidance plan - there is other evidence available that demonstrates the data and information are reliable, transparent and traceable; or~~

~~(ii) for all other decisions - the person providing the data and information has provided other evidence that demonstrates the data and information is reliable, transparent and traceable.~~

10 Principle 3– Comparable data and information

(1) Data and information used in, or for the purposes of, making a decision under the Act are internally consistent in the practices, formats, structures and measurements applied to enable ease of comparison.

(2) Subsection (1) will be satisfied if, either:

(a) The data and information meets all of the following:

(i) the data and information are structured in a way that is appropriate for the proposal; and

Note: What is appropriate for the proposal will depend on the context and may include using formats, schemas, data models and naming conventions. It may also include presenting the data and information in machine readable electronic format.

(ii) the data and information are structured and presented using standardised measurement systems and established reference systems that are appropriate for the proposal and are used consistently, where such systems exist and are accepted by a majority of the scientific community; and

(iii) data and information use appropriate and consistent taxonomic and ecological classifications, where such classifications exist and accepted by a majority of the scientific community; or

(b) The person providing the data and information has provided other evidence that demonstrates the data and information are provided in a manner to enable ease of comparison.

(3) Subsection (1) will be satisfied, in relation to a decision under the Act in relation to a bioregional plan or a bioregional guidance plan, if there is other evidence available that demonstrates the data and information are provided in a manner to enable ease of comparison.

~~(b) If paragraph (a) is not satisfied:~~

~~(i) for a bioregional plan or a bioregional guidance plan - there is other evidence available that demonstrates the data and information are internally consistent in the practices, formats, structures and measurements applied; or~~

~~(ii) for all other decisions - the person providing the data and information has provided other evidence that demonstrates the data and information are internally consistent in the practices, formats, structures and measurements applied.~~

Phone: +61 3 9929 4100
Fax: +61 3 9929 4101
info@cleanenergycouncil.org.au

Level 20, 180 Lonsdale Street, Melbourne, VIC 3000, Australia

cleanenergycouncil.org.au

ABN: 84 127 102 443

11 Principle 4 – Reusable data and information

[Note: the policy paper states that the standard should provide for how data is managed including protections in relation to consents / permissions and compliance this should be further reflected in the standard. We suggest splitting out the obligations under principle 4 according to whether the person is providing, collecting or managing data.]

(1) Data and information used in, or for the purposes of, making a decision under the Act are collected, managed and provided in a way that ~~enables~~ supports reuse ~~with minimal additional effort~~. *[Note: the policy paper focuses on ensuring that data reuse is managed in relation to consents and permissions and safeguards. This needs to be further flowed through and strengthened in the standard]*

(2) In relation to a person providing data and information, subsection (1) will be satisfied if, either:

(a) The data and information meet~~s~~ both of the following:

(i) the data and information are provided in a format that ~~enables~~ supports reuse ~~with minimal additional effort~~; and

(ii) the data and information are accompanied by ~~appropriate~~ sufficient information to ~~manage~~ support appropriate reuse, including (where relevant) information about any sensitivities, attribution, retention and disposal obligations, security controls, licensing and rights and consent arrangements; or

(b) The person providing the data and information has provided other evidence that demonstrates the data and information are provided in a way that supports reuse.

(3) In relation to a person collecting data and information, subsection (1) will be satisfied if as part of the collection process, clear information is provided to proponents about how the data and information will be reused, including how privacy, confidentiality and other sensitivities will be identified and protected.

(4) In relation to a person managing data and information, subsection (1) will be satisfied if any reuse in relation to the data and information is managed throughout the lifecycle in a manner that maintains the integrity and security of the data and information, and ensures compliance with applicable privacy, confidentiality, commercially sensitive, cultural, legal and other restrictions on reuse.

(5) Subsection (1) will be satisfied, in relation to a decision under the Act in relation to a bioregional plan or a bioregional guidance plan, if there is other evidence available that demonstrates the data and information are provided in a way that supports reuse.

~~(b) If paragraph (a) is not satisfied:~~

~~(i) for a bioregional plan or a bioregional guidance plan - there is other evidence available that demonstrates the data and information are collected, managed and provided in a way that enables reuse with minimal additional effort; or~~

~~(ii) for all other decisions - the person providing the data and information has provided other evidence that demonstrates the data and information are collected, managed and provided in a way that enables reuse with minimal additional effort.~~

12 Principle 5 – ~~Ethical~~ Protection of data and information

(1) Data and information used in, or for the purposes of, making a decision under the Act are collected, managed and used responsibly to minimise harm, protect rights and privacy, and, where possible, incorporate cultural values.

(2) In relation to a person providing data and information, subsection (1) will be satisfied if, either:

(a) The data and information meets both of the following:

(i) the person providing the data or information has made all reasonable efforts to ensure the data and information has been ~~collected, managed and~~ provided consistently with any requirements of relevant Commonwealth, State or Territory laws; and

(ii) where applicable, the person providing the data or information has, to the extent reasonably practicable, acted in a way that is consistent with the CARE principles and the FAIR principles; and

(iii) where the person is providing cultural sensitive data, and it is appropriate to do so, the person has entered into an Indigenous Cultural and Intellectual Property agreement.

~~(ii) the person providing the data or information has made all reasonable efforts to ensure the data and information has been collected, managed and provided consistently with any other relevant ethical data principles; or~~

~~Note: For example, the person providing the data has:~~

- ~~to the extent possible, acted in a way that is consistent with the CARE principles and the FAIR principles;~~
- ~~sought to identify the appropriate custodian of any culturally sensitive data and information;~~
- ~~acted in a way that is respectful of indigenous rights and cultural governance, including (where appropriate) establishing Indigenous Cultural and Intellectual Property agreements.~~

(b) The person providing the data and information has provided other evidence that demonstrates the data and information was collected, managed and provided responsibly to minimise harm, and protect rights and privacy.

(3) In relation to a person collecting data and information, subsection (1) will be satisfied if as part of the collection process, clear information is provided regarding how the data and information will be stored, used and managed, including how privacy, confidentiality and other sensitivities will be identified and protected.

Phone: +61 3 9929 4100
Fax: +61 3 9929 4101
info@cleanenergycouncil.org.au

Level 20, 180 Lonsdale Street, Melbourne, VIC 3000, Australia

cleanenergycouncil.org.au

ABN: 84 127 102 443

(4) In relation to a person managing data and information, subsection (1) will be satisfied if the data is managed throughout the lifecycle in a manner that maintains the integrity and security of the data and information, and ensures compliance with applicable privacy, confidentiality, commercial sensitivity, cultural, legal and other restrictions on reuse.

(5) Subsection (1) will be satisfied, in relation to a decision under the Act in relation to a bioregional plan or a bioregional guidance plan, if there is other evidence available that demonstrates the data and information was collected, managed and provided responsibly to minimise harm, and protect rights and privacy.

~~(b) If paragraph (a) is not satisfied:~~

~~(i) for a bioregional plan or a bioregional guidance plan - there is other evidence available that demonstrates the data and information was collected, managed and provided responsibly to minimise harm, protect rights and privacy and, where possible, incorporate cultural values; or~~

~~(ii) for all other decisions - the person providing the data and information has provided other evidence that demonstrates the data and information was collected, managed and provided responsibly to minimise harm, protect rights and privacy and, where possible, incorporate cultural values.~~