



**29 May 2026**

National Environmental Standards for Matters of National Environmental Significance (MNES) Submission - Australia's State and Territory Conservation Councils Joint Submission

Thank you for the opportunity to make a submission on the exposure draft of the National Environmental Standards for Matters of National Environmental Significance (MNES Standards).

This submission has been prepared jointly on behalf of Australia's State and Territory Conservation Councils; Environment Centre NT, Conservation Council of WA, Conservation Council ACT Region, Nature Conservation Council of NSW, Environment Tasmania, Conservation Council SA, Environment Victoria, and Queensland Conservation Council.

The State and Territory Conservation Councils of Australia are independent, not-for-profit peak conservation bodies that collectively represent hundreds of grassroots environmental organisations and groups, and have approximately 750,000 individual supporters across Australia. For decades, our organisations have stood at the forefront of nature and climate protection across every state and Territory in Australia, standing alongside Traditional Owners in their ongoing care for Country and the communities whose interests we represent. Pooling decades of on the ground expertise, we are working together on shared interests and are resolute in our call for EPBC reforms that deliver real outcomes for nature.

**Introduction**

Australia's State and Territory Conservation Council's [welcomed many of the changes made](#) in the 2025 reforms to the *Environmental Protection Conservation and Biodiversity Act 1999* (EPBC Act reforms), while expressing concern over pathways that could hand approval powers relating to matters of national environmental significance to state and territory governments. We also expressed concern over the possibility that these reforms will not be supported by the strong and enforceable standards for matters of national environmental significance needed to make them effective at protecting nature.

This reform to our national environmental laws was urgently needed, as across Australia we are facing the devastating impacts of clearing the last remaining habitat for threatened species. Deforestation and habitat destruction not only drives the extinction crisis and accelerates the effects of climate change, but it threatens our ecotourism industry that contributes hundreds of thousands of jobs and billions of dollars to our GDP.

The EPBC Act reforms passed in 2025 promised the development of clear, measurable and outcomes-based National Environmental Standards that protect nature. As it is written, this exposure draft of MNES Standards fails to deliver its promise of real environmental outcomes and protection for nature, and risks undermining the progress made by the 2025 EPBC Act reforms.

### **Removal of Application of the Outcomes and Objectives**

The exposure draft of the MNES Standard includes a new subsection which provides that activities can satisfy the whole Standard if they meet only the Principles of the Standard, which is a severely weakened version of the test in the original draft released in November 2025.

Strong and enforceable Objectives and Outcomes were recommended in the 2020 Independent Review of Australia's environmental laws (the Samuel Review) to create outcome-driven goals that strengthen environmental standards. This new subsection provides that the Outcomes and Objectives can be ignored so long as the Principles are met.

The four Principles in the draft exposure MNES Standard are broadly worded intentions that do not clearly require any protections for nature. They are largely process-based and unenforceable, meaning scrutiny and accountability will be severely diminished. Most of the protections provided by the Principles are already required in the EPBC Act

reforms, and therefore do not add any additional layers of protection. There are currently no requirements for processes to deliver the objectives or provide a better outcome for the environment.

For the EPBC Act reforms to be effective, they must provide transparency on decision-making and set enforceable pathways for approval processes for projects that threaten matters of national environmental significance. The Samuel Review included the recommendation that clear and legally binding goals be set for protecting nature. By setting the threshold for approval at vague Principles that are not backed up by enforceable pathways to achieve them, the MNES Standard will fail at achieving this recommendation and the key purpose of the EPBC Act reforms.

For these reasons, it is critical that subsections 7(2) and 7(4) are removed from the draft MNES Standard.

If these subsections were to remain, at the very minimum the language in the Principles must be strengthened to enhance compliance and achieve consistent practice and outcomes for protected matters, regardless of the jurisdiction carrying out the decision-making process. For example:

- Principle 1 'Actions appropriately apply the mitigation hierarchy' - should be 'Actions **must** apply the mitigation hierarchy.'
- Principle 2 'Actions appropriately consider adverse impacts to protected matters,' should be '**Assessments must** consider adverse impacts to protected matters.'
- Principle 3 'Actions with residual significant impacts to protected matters are compensated,' should be 'Actions with residual significant impacts to protected matters **must be** compensated'
- Principle 4 'Appropriate evidence, Indigenous engagement, effective consultation,' should be '**Decisions must be supported by** evidence, Indigenous engagement, **effective** consultation, **monitoring and reporting.**'

It is also of serious concern that proponents and decision-makers only need to 'have regard to' the mitigation hierarchy, not *apply* it. This reiterates that compliance with a process, irrespective of outcome, will be sufficient. A clear requirement to apply the mitigation hierarchy, consistent with clearly stated outcomes, is crucial to give substance and enforceability to the Standard, and ensure it is effective.

### **Climate Change and Cumulative Impact Considerations**

It is of extreme concern that the draft exposure MNES Standard still does not contain any consideration of climate change impacts.

Climate change is one of the most fundamental threats to matters of national environmental significance. Changing temperatures, extreme weather events and rising sea levels are rapidly destroying habitat for our threatened and endangered species and permanently altering the places we love. Deforestation and forest degradation means less carbon dioxide is being absorbed by plants, and is instead causing havoc in the atmosphere through the greenhouse effect.

[Each threatened species in Australia faces four different threats on average](#), for example extreme heat, longer fire seasons, decrease in cool-season rainfall and intense storms. How these different threats and pressures interact and compound the risk on threatened species must be considered under the MNES Standard.

It is absolutely fundamental that the MNES Standards include considerations of climate change and how it impacts the natural environment. This must be part of an integrated management system that accounts for how cumulative impacts are increasing pressure on threatened species, and avoid a 'death by a thousand cuts' for climate and nature from considering projects in isolation.

While Principle 2 embeds an assessment of the effects of past, present and future threats and the interaction of stressors, it is concerning that it confines the consideration of individually minor but collectively significant actions to strategic assessment and bioregional plans. The effect of individually minor but collectively significant actions is always crucial to assessing the impact of an action in its proper context, and should be clearly required during all impact assessments.

### **Weakened Habitat and Threatened Species Protection**

The exposure draft of the MNES Standard redrafts the wording of Objectives - Items 1 - 3 so that they now only capture habitat that is 'irreplaceable and necessary' for species to remain viable in the wild. This is a much narrower scope than the original draft and provides significantly less protection for habitat of threatened and migratory species. These objectives are also inconsistent with, and far narrower, than all other objectives in the table - which each require the protection and conservation of *the protected matter*, not a limited part of it. That discrepancy is unjustifiable and at odds with the purpose of the EPBC Act and the government's reform agenda.

Land clearing is a major driving force of extinction and biodiversity loss in Australia, with [57,000 hectares of threatened species habitat approved for clearing](#) by the federal government in 2025 alone. This is in addition to the runaway land clearing we have seen approved by state and territory governments. [New South Wales' latest land clearing data](#) shows we are destroying over 66,000 hectares of Australian bush per year, with a 40% jump during NSW Labor's first year in government in 2023. Across northern Australia, broadscale deforestation of tropical savanna woodlands is rarely referred for assessment under state, Territory or federal laws. In the NT, the Pastoral Land Board can approve up to 5,000 ha of deforestation at a time without environmental assessment. [Research shows on average deforestation on this scale affects the mapped distribution of 12 threatened species](#) for any clearing event.

It is not sufficient to only save habitat that is irreplaceable and necessary for species survival. Habitat removal displaces native species, decreases the health of the landscape and opens it up to erosion. This weak framework will not stop runaway land clearing at the federal level, or set a standard to reduce land clearing at the state and territory government levels either. Stopping the extinction crisis that is wiping out our native species requires a proactive, ambitious and urgent response, while these Objectives only offer the bare minimum.

We submit that the Objectives be redrafted so that all habitats of listed threatened species, ecological communities and migratory species are protected.

The objectives are also completely silent as to the protection of individuals and populations of threatened and migratory species - instead only seeking to conserve a subset of their *habitat*. This absence leaves a vacuum that fails to guide proponents and decision makers to minimise impacts on, and seek to conserve, the species themselves. That is a glaring omission that could see actions that wipe out entire populations of threatened species deemed compliant with the objectives of the Standard.

The broad outcomes and objectives do not provide sufficient prescription to guide *how* threatened and migratory species should be protected and conserved. It is crucial that the Standard gives clarity as to what kinds of impacts are to be avoided and what must be achieved by offsetting, in practice. The Standard should guide the application of the mitigation hierarchy to achieve real-world outcomes set out for threatened and migratory species. The Samuel Review recommended MNES Standard provides this clarity in simple terms (see p211-215), which should be adopted into objectives 1-3. For example for threatened species, at minimum:

1. For habitat of listed threatened species:

- (a) adverse impacts to the extent or quality of critical habitat are avoided;  
and
  - (b) there is no net reduction of habitat of a threatened species.
2. For populations of listed threatened species:
- (a) impacts likely to result in the loss of individuals or populations of highly restricted and small and declining species are avoided; and
  - (b) there is no net reduction in the population of a critically endangered or endangered species or important population of vulnerable species.
3. Key threats to listed threatened species are not exacerbated.

(and equivalent for threatened ecological communities and migratory species)

The table of 'objectives' should be re-named as 'outcomes', to correctly capture that what is specified for each protected matter in the table is actually framed as an outcome. This will assist with the correct interpretation, application and enforceability of the Standard, directed to achieving clearly stated outcomes that protect and conserve matters of national environmental significance.

### **Bilateral Agreements**

A key concern of the State and Territory Conservation Council's is the allowance in the broader EPBC Act reforms for the devolution of assessment and approval powers to state and territory governments, and how this weakened MNES Standard would impact accreditation frameworks.

This risk is elevated by the recent allocation of \$153.5 million in the Federal Budget over four years to progress bilateral agreements that would see decision-making under the EPBC Act handed to state and territory governments, as well enhanced AI usage in environmental approvals.

Bilateral agreements of this nature would allow state and territory governments to approve mining, energy and land clearing projects that impact nationally significant environmental values. This risk would extend to iconic natural places such as Kakadu and Uluru in the Northern Territory, the Murray Darling Basin, internationally recognised Ramsar wetlands, Tasmanian Wilderness heritage, and the Great Barrier Reef to name just a few.

Devolution of decision-making powers gives rise to significant potential conflicts of interest, as state and territory governments are often key backers of these projects as proponents, sponsors or beneficiaries. They are faced with high levels of industry pressure that could influence how these destructive projects are assessed and approved.

Many state governments have demonstrated that they will not protect these values to the same level of the federal government. This weakened MNES Standard sets a dangerously low bar that could lead to weakened frameworks being accredited for approval, leading to overall worse outcomes for nature. Existing state and territory frameworks would not need to be amended much to meet this standard, and some frameworks could even be weakened.

The Commonwealth is obligated under international environmental treaties to protect matters of national environmental significance. It is the responsibility of the federal government to ensure that all decisions made that impact matters of national environmental significance are made with the utmost care and consideration, which this draft MNES does not deliver.

### **Monitoring and Evaluation Requirements**

This exposure draft of the MNES Standard still fails to include requirements for monitoring and evaluation of environmental outcomes. This means there is no way for members of the public to know if the Standards are being followed and fulfilling their purpose of protecting the environment.

Provisions must be included in the MNES Standard that mandate monitoring and evaluation for projects and decisions that impact matters of national environmental significance, and that these outcomes be made publicly available.

We also recommend that the MNES Standard require that any 'experts' involved in the assessment, monitoring or evaluation process be independent so as to mitigate the risk of industries employing their own consultants. The Standards should also include a definition of 'independent' that addresses this corruption risk.

**It is our submission that these changes be made to the MNES Standard as a matter of urgency to ensure they deliver what was promised of the EPBC Act**

## **reforms and protect nature:**

1. The new text in the exposure draft of the MNES Standard that displaces the application of the Outcomes and Objectives be removed in favor of the Principles being applied, not only considered, consistently with the Outcomes and Objectives for all decisions.
2. Amend the objectives so that all habitat for threatened species, ecological communities and migratory species are protected, rather than the narrowed version in the exposure draft; address populations of threatened and migratory species; and add succinct clarity as to which impacts must be avoided (eg to the extent or quality of critical habitat) and what offsetting must achieve (eg no net loss of habitat and specified populations), adopted from the Samuel Review recommended Standard.
3. Clear considerations for climate change impact and cumulative impacts be included in the MNES Standards
4. Ongoing monitoring and evaluation requirements be included for all decisions to ensure the Outcomes and Objectives, as well as the Principles, are being achieved.
5. Ensure that bilateral agreements allowing State and Territory governments to make decisions relating to Matters of National Environmental Significance are limited and strictly monitored to ensure the Federal Government maintains its international responsibility of ensuring high levels of protection for our environment