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Nature Conservation Saves for Tomorrow

Date: 29 May 2026

Minister Murray Watt

Minister for the Environment and Water

Department of Climate Change, Energy, the Environment and Water

Submitted via online survey:

<https://consult.dcceew.gov.au/national-environmental-standard-for-matters-of-national-environmental-significance-mnes>

Comments on the revised draft Matters of National Significance Standards Policy Position Paper and Exposure Draft

Dear Minister Watt,

The Blue Mountains Conservation Society (the Society) is a community-based volunteer organisation with over 900 members. Our mission is to help protect, conserve and advocate for the natural environment of the Greater Blue Mountains. In fulfilling its mission the Society advocates for the protection of the Greater Blue Mountains World Heritage Area and adjoining natural, protected areas.

The Society's members are deeply dedicated to the protection of Australia's biodiversity, and expect the Federal government to implement the strongest laws that will be effective in ensuring no further loss of our natural places, plants and animals.

The Society's comments on the National Environment Standards for Matters of National Environmental Significance (MNES) are attached on the following pages.

The submission includes comments on both the National Environmental Standards (MNES) Exposure Draft and the Updated Draft Policy Position Paper NES for MNES. The Society has focused on the sections which are more likely to impact our areas of concern, while recognising that UNESCO considers developments or projects outside the World Heritage

Area need to be assessed to determine if an action will adversely impact the Outstanding Universal Value of the GBMWA.¹

Why these standards matter

Australia's landscapes, wildlife, flora and fauna are unique having evolved under millions of years of isolation.

The Policy Position Paper states on page 1:

“The Samuel Review (Review) recommended the development of National Environmental Standards (Standards) that would form the centrepiece of national environmental law reforms.”

The objectives of the standard are to ensure that the decisions under the Act provide for protection and conservation, management, restoration and recovery of protected matters, and to enhance diversity, abundance, resilience and integrity of protected matters across their geographic range.

The Australian Biodiversity Council's Concerns Report 2024-2025² shows that 96 per cent of Australians believe that more action is needed to protect the natural environment, with 3 in 4 Australians supporting stronger laws to protect the environment. That same report states that the majority of Australians do not think the Australian government is doing a good job protecting the environment, with 30 per cent rating the performance of the current Australian government as “terrible or poor”.

These MNES Standards present a much-needed opportunity for Australia to become a leader in conservation of the natural world, which the Federal Government must not squander.

Thank you for the opportunity to comment on these important issues.

Yours sincerely,



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¹ <https://whc.unesco.org/en/guidance-toolkit-impact-assessments/>

² https://biodiversitycouncil.org.au/admin/uploads/2025_Biodiversity_Council_Community_Concerns_Report_ee239c6469.pdf

Comments on National Environmental Standards (Matters of National Environmental Significance) 2026 Exposure Draft

Despite some pleasing progress on the intended outcomes of the Standards to protect, conserve, restore and recover protected matters, this revised draft MNES Standard does little to strengthen our national environmental laws and thus is not supported by the Society. The updated draft MNES Standard is weaker than the first draft released in 2025 and will not achieve its aims of protecting nature.

Key Concerns

Outcomes and objectives need further review

A key recommendation from the Samuel Review intended to set clear goals for protecting nature includes “objectives and outcomes”. The government promised to deliver these but concerningly, the Standard fails to include any enforceable pathway to achieve them.

5 Objectives (page 2)

Narrowing of scope of objectives - Redrafting of objectives

For Item 1 (Listed threatened species), Item 2 (Listed threatened ecological communities) and Item 3 (Listed migratory species) the redrafting of “objectives” has significantly narrowed their scope to capture only “habitat that is irreplaceable and necessary for the species to remain viable in the wild”.

There are several problems with this change.

Scientists agree that there is insufficient research and data about Australian species to be sure exactly what habitat is “irreplaceable and necessary for species to remain viable in the wild.” Limiting what is protected to our current understanding will lead to important habitats being lost. Maintaining only “irreplaceable” habitat will also lead to losing vegetated corridors that connect populations and maintain genetic diversity. There will be a loss of feeding and nesting grounds that species may use from time to time, especially after natural disasters such as flooding or bushfires. This limiting of habitat will also not accommodate changes in species ranges as they move in response to a changing climate.

Recommendation:

- Remove the words “where the habitat is irreplaceable and necessary for species to remain viable in the wild” so that **all** habitat of a threatened species or ecological community, or migratory species, is protected, conserved and restored. This will then be consistent with the outcome to be achieved by the Standard³.

³ The outcome to be achieved in the Standard is the “protection, conservation and, where appropriate, management, restoration and recovery of protected matters”

6 Outcomes

On page 4 is the following statement:

“The following outcomes of the Standard are intended to promote the objectives in section 5:

- (a) provide for the protection, conservation, and, where appropriate, restoration and recovery of protected matters;
- (b) contribute to the promotion and enhancement of the diversity, abundance, resilience, and integrity of protected matters across their entire geographic area; and
- (c) facilitate ecologically sustainable development.”

The above aspirations are to be commended. However, to fulfil these aspirations, more value has to be placed on preserving the natural environment in the Standards and by the Government’s actions when considering approvals for projects.

This statement above notes a required outcome for the Standards; however, the Standards themselves do not require “outcomes” for projects that are to be implemented to provide for protection and conservation. Instead of a focus on “outcomes” for nature, there is a focus in this draft of the Standards on process. Process alone will not guarantee good outcomes for nature. This is a major omission.

Ecologically sustainable development

Point (c) above states an outcome is to “facilitate ecologically sustainable development.”

Gerry Bates in discussing ecologically sustainable development ESD in his paper on Environmental Law argues that ESD “is not a factor to be balanced against other considerations; ESD *is* the balance between development and environment imperatives.”⁴

When the Federal Government speaks of “getting the balance right” there has in the past been a strong tendency to shift the balance **towards** development and speak of ensuring economic certainty, and away from environmental sustainability. Ecosystems, species and biodiversity invariably lose out. Hence we find ourselves in an ecological crisis with increasing habitat being cleared and the number of threatened species rising.

“Traditional cost–benefit analysis will find it difficult to value the ecosystem services of a forest or the value of clean water which can make it difficult to compare such values to aspects of a project that have monetary values, such as jobs.”⁵

This tilt towards prioritising development ignores the fact that all life, including human life, depends upon a healthy planet and rich biodiversity, which is fast disappearing across the world including Australia. Australians want their government to protect biodiversity for future generations and the current Federal Government needs to show it is up to this task.

Recommendations:

- The Standards need to be rewritten to include a focus on Outcomes for nature, and not simply a focus on processes.

⁴ Gerry Bates, *Environmental Law in Australia* (5th ed, LexisNexis, 2002), para [5.19]-[5.20] quoted in: <https://www.edo.org.au/wp-content/uploads/2022/02/220214-What-is-ESD.pdf>

⁵ <https://www.edo.org.au/wp-content/uploads/2022/02/220214-What-is-ESD.pdf>

- ESD needs to shift from a focus on economic development at the expense of nature, to a valuing of nature as its primary focus.
- Strengthen protections for threatened and migratory species, ecological communities and their habitat.
- Remove the qualifying words “habitat that is irreplaceable and necessary for the species to remain viable in the wild” and replace it with “all habitat of a threatened species or ecological community, or migratory species is protected, conserved and restored”.
- Ensure objectives are outcomes-based, clear, enforceable and specific, as recommended by the Samuel Review.

7 Principles (page 4 on MNES)

The Standard says that the objectives and outcomes will be met if a proposal follows the set of Principles which are listed on page 6 of the document.

These Principles are:

- Principle 1—Actions appropriately apply the mitigation hierarchy
- Principle 2—Actions appropriately consider adverse impacts to protected matters
- Principle 3—Actions with residual significant impacts to protected matters are compensated
- Principle 4—Appropriate evidence, Indigenous engagement and consultation

We have commented on the Principles below:

- The Principles don’t assist the decision-maker to know whether an impact to a protected matter should be allowed, nor do they advise on how stringent the proponent and decision-maker need to be in avoiding and mitigating impacts. It will be easier to allow the development to go ahead on the basis of offsets.
- The Principles are all process-focused considerations, rather than the outcomes-focused provisions that the Samuel Review recommended as being essential to ensure better environmental outcomes.
- These Principles are vaguely worded and don’t clearly connect back to the goals. This means that detailed outcomes and objectives set out in the Standard can be ignored if these principles are met.
- The test for determining whether an action is approved is only based on whether the action **considers** each of the above Principles, and not whether an action will **achieve** the outcomes or objectives.

Recommendations:

- Reword section 7(2) to require proponents to apply the Principles in a way that is consistent with the outcomes, and that promotes and supports the objectives.
- Research, monitoring, evaluation and reporting of the decision outcomes for MNES is required to know if the Standard is being met and if the outcomes are being achieved.

Bilateral Assessment and approval agreements

- Bilateral assessment and approval agreements will be made to accredit states and territory to assess proposals. Again, this will mean that state and territory governments will only need to meet the four Principles above and will not require them to ensure that outcomes and objectives are achieved.
- It is likely that most state and territory frameworks will not need to significantly amend their frameworks to meet this Standard, and in fact some frameworks may be at risk of being weakened.
- The Standard will apply to assessment of individual activities, classes of actions, assessment of bilateral assessment and approval agreements, and any new NOPSEMA accreditation. These changes set a low bar for states, territories and NOPSEMA.

Recommendation:

The recommendations listed above for improving the Principles, will have a flow-on impact on bilateral agreements.

Cumulative impacts

There is no mention of recognising, measuring and avoiding cumulative impacts of additional developments, or extensions of developments, on MNES. If each project is considered in isolation, then the risk of extensive habitat loss and extinction increases. There is a real risk that this will happen unless the Standards consider and mitigate this risk.

Recommendation:

- The MNES Standards must include consideration of cumulative impact on MNES in assessments and not approve proposals that increase the risk of loss of biodiversity resulting from cumulative impacts.

Climate change

The impact of climate change on MNES is not considered.

There is no mention of climate change nor is there a requirement to consider the impact on MNES under different climate scenarios,

Recommendation:

- Impacts of climate change on MNES should be explicitly required under different climate scenarios and the effectiveness of avoidance and mitigation measures should be determined.

Positive changes in revised MNES

Objectives - Item 9

The Society recognises that there are some positive changes in the revised draft MNES Standards (the Standards) and welcomes the positive change in the revision that seeks to ensure protection of water resources⁶ (Objectives - Item 9): **“Protection of water**

⁶ Page 3 Item 9 Exposure Draft National Environmental Standards (Matters of Environmental Significance) 2026

resources from unconventional gas development and large coal mining development.”

The previous draft is limited to sites of regional and national significance, whereas the latest draft ensures that water resources are protected and conserved for sites of local, regional and national significance. The objective has been further expanded to protect and conserve “provisioning, regulating, cultural and supporting services provided by the water resource”.

Stronger language

The Society also welcomes a strengthening of the language largely used across the Exposure Draft, where in most cases the legally weaker “not consistent with” has been replaced by a requirement for decisions to be “consistent with”.

Comments on UPDATED DRAFT Policy Position Paper: National Environmental Standard for Matters of National Environmental Significance

Note: In this section of our submission, we have avoided duplication of comments that are contained in the NES 2026 Exposure Draft.

Use of Term National Interest

Attachment A: Legislative settings for the MNES Standard

Page 25

Under the heading: **Approval only if consistent with the MNES Standard**, there is a statement that, in relation to the need to be consistent with any National Environmental Standard, “The only exception is in the rare circumstance of the action being in the national interest.”

There is no definition given about the meaning of the term “in the national interest” nor any examples of its likely use. If this is to be an exceptional circumstance, then it should be beyond simply an economic imperative. Australians need to be certain that this will not simply be made at the whim of the Minister, as a result of industry lobbying, and with no consistency between different ministers or governments.

Recommendation:

- Clarify the circumstances under which the “national interest” might override the NES and in these “rare circumstances” how the protected matter will be protected.
- Ensure that the reasons for the “national interest” determination is made available for public scrutiny to ensure government accountability in its decision-making.

Appendix B

Reviews of legislation

The Society welcomes the instigation of regular reviews of the legislation and of the EPA Act, the monitoring and review of accredited frameworks, as detailed in Attachment B.

The **National Environmental Standard** is required to be reviewed within 18 months of commencement, and every 5 years after that. This is the maximum amount of time that should be allowed between reviews. The “no regression” principle is important as successive reviews of Environmental laws have not yet led to the required protections. It remains to be seen if the current changes to legislation leads to improved outcomes for nature.

Recommendation:

In addition to the review being published on the Department’s website, the Department should seek comments from the public about the findings of the review.

Monitoring and review of accredited frameworks

Under the heading “**Monitoring and review of accredited frameworks**” on page 27 Appendix B, the final dot point states that action that may be taken by the Minister including “taking steps to vary, suspend or cancel the accreditation” if an accredited management or authorisation framework has been changed.

Recommendation:

Given that the accreditation framework is a bilateral agreement with a State or Territory, there needs to be a statement of a replacement action taken by the Federal Government to ensure that environmental programs and their potential impacts are properly assessed. **Will the Federal Gov be doing these assessments?**

Environment Information Australia Act 2025 (EIA Act)

Page 28

The reforms proposed under this section are welcomed by the Society. One of the most serious impediments to understanding of Australia’s biodiversity is a lack of knowledge and research, and the accessibility of such knowledge.

When assessments are required only to use data from sites such as Bionet and other published Gov sites (as they currently are), a large amount of other data is missed. Such data is recorded on sites such as Atlas of Living Australia, iNaturalist, Birdlife Australia and other citizen science sites.

Recommendation:

It is crucial that the extensive data which is included on other sites as mentioned above, are used to provide a more complete picture of our current biodiversity and that a national nature data agency (NNDA) be established to integrate data from these sources.

Application of Standards to project specific monitoring and compliance

Page 28

Reporting on the environmental outcomes of a project should be ongoing during the life of a project with a rigorous scientific report produced. These reports should be available to the public.

Page 28 Dot point 2 states:

“Conditions attached to an approval **may require** ongoing monitoring, evaluation and reporting activities, which **should be** designed and undertaken with consideration of the Standards.” (emphasis added)

The use of “may” and “should be” gives unacceptable leeway to the proponent to NOT do what is required to ensure that their project is not having an unacceptable impact. The Society cannot see a situation where ongoing monitoring, evaluation and reporting can be overlooked, nor a situation where such activities should not consider the Standards.

Recommendation:

This language needs to be replaced by ‘must require’ and ‘must be designed’.