



Environment Institute
of Australia and
New Zealand Inc.

POLICY SUBMISSION

National Environmental Standard for Matters of National Environmental Significance

January 2026

1. About EIANZ

The Environment Institute of Australia and New Zealand (EIANZ) is the not-for-profit, multidisciplinary association of environmental practitioners across Australia and New Zealand. Our members include scientists, ecologists, planners, engineers, lawyers, economists and policy specialists, many with direct experience designing, assessing, approving, delivering, monitoring and enforcing environmental offsets under the EPBC Act.

This submission reflects practitioner experience and draws on consultation across EIANZ specialist groups, including biodiversity offsets, heritage, ecology and impact assessment.

2. Executive Summary

EIANZ supports the intent of the National Environmental Standards to improve outcomes for Matters of National Environmental Significance (MNES). However, as currently drafted, the MNES Standard (Standards) lacks sufficient clarity, ecological precision and internal consistency to reliably deliver the protective and restorative outcomes envisaged by the EPBC Act reforms.

Key risks identified in this submission include:

- reliance on broad and discretionary language that undermines consistency of decision-making;
- insufficient definition of unacceptable impacts and decision refusal thresholds;

- inadequate treatment of cumulative impacts, climate change risk and time lags;
- lack of outcome-focused recovery, monitoring and compliance requirements; and
- insufficient clarity regarding how Indigenous knowledge and professional standards are to be integrated into assessment and decision-making processes.

Without further refinement, these weaknesses risk perpetuating known failure modes of the existing EPBC Act framework, including incremental biodiversity loss and reliance on compensatory measures where impacts should not be approved. EIANZ provides targeted, practitioner-informed recommendations to strengthen the Standard and improve its capacity to protect, conserve and restore MNES.

3. Context and Key Issues

From a practitioner perspective, the draft MNES Standard raises several issues that, if left unresolved, are likely to undermine clarity, consistency and ecological effectiveness in assessment and decision-making. Several aspects of the draft Standard lacks sufficient clarity, internal consistency and ecological rigour, creating uncertainty in interpretation and application that undermine its ability to genuinely protect, conserve and restore MNES.

Given the stated intent that the Standards facilitate and fast-track applications, there is a strong need for greater specificity to avoid misinterpretation and inconsistent outcomes. The Standards are difficult to navigate and are not readily accessible to practitioners who do not routinely work within the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) framework. In their current form, the Standards appear to require a high level of specialist knowledge to be interpreted and applied effectively, which limits their practical utility and accessibility.

While the Standards may provide additional clarification of existing practices, it is unclear how they will materially address the Independent Review of the EPBC Act's central finding that Australia's environment continues to decline and that existing regulatory settings have not been effective in arresting that decline. The language used throughout the Standard is often broad and open to interpretation, allowing for a significant degree of discretion in application. Greater precision and prescriptiveness would improve consistency of decision-making and reduce uncertainty for proponents, regulators and practitioners. The retention of broad discretion appears inconsistent with the stated objective of providing clear, nationally consistent environmental outcomes.

The repeated reference to Ecologically Sustainable Development (ESD) also warrants further consideration. It is unclear whether ESD is sufficiently defined within the EPBC Act to support its use in the Standards as a meaningful and operative concept, or whether its inclusion risks perpetuating ambiguity rather than providing substantive guidance.

Finally, the Standards appear to be framed primarily through an ecological lens, with other values - such as cultural heritage, implicitly expected to align with that perspective. Adopting a more integrated and balanced approach that explicitly sets out how ecological, cultural, and social values are to be considered together would enhance the robustness and credibility of the Standards. In particular, refinement is required in the framing of Ecologically Sustainable Development (ESD), the structure of aims and outcomes, the treatment of compensatory measures, and the clarity of definitions.

4. Role of Ecologically Sustainable Development (ESD)

EIANZ agrees that considering impacts as part of, and framed by, ecologically sustainable development alone cannot protect and enhance protected matters.

ESD is a decision-making framework, not a protection mechanism. However, in the Commonwealth context, ESD is not a broad aspirational concept - it incorporates established statutory principles, including the **precautionary principle** and **intergenerational equity**. Explicit recognition of these principles within the National Environmental Standard would strengthen decision-making by ensuring biodiversity protection is framed within a long-term stewardship obligation, not solely short-term impact assessment. While ESD principles are essential, they cannot independently prevent biodiversity loss or deliver measurable ecological improvement. Protection and enhancement of MNES require a broader, integrated framework that includes:

- **Avoidance and impact minimisation as primary requirements**
- **Clear thresholds for unacceptable impacts**
- **Explicit recovery and restoration objectives**
- **Enforceable compliance and monitoring mechanisms**

The intent of the standard appears to include recovering lost habitat and improving environmental condition (from past actions and future actions); however, this is not clearly articulated. This intent should be stated explicitly to avoid ambiguity.

Additionally, the standards should also include a focus on niche rather than habitat. A focus on niche might better enable consideration of the suite of resources and functions necessary for species and communities to exist. For example, a focus on niche might show that climate change may push fire regimes into realms that greatly increase species extinction risk and result in major changes in community structure.

5. Structure: Aims, Outcomes, and Principles

The document would benefit from clearer structural separation between aims, outcomes, and principles, as these currently overlap and dilute accountability.

Recommendations:

- **Aims** should clearly articulate the overarching purpose of the standard (e.g. protection, repair, and net improvement of MNES).
- **Outcomes** should be specific, measurable ecological results (e.g. net gain, recovery of habitat extent or condition).
- **Principles** should guide decision making (e.g. the precautionary principle, intergenerational equity, and the mitigation hierarchy).

Clear separation between **Aims**, **Outcomes** and **Principles** would improve transparency and enable regulators and proponents to demonstrate compliance against defined benchmarks.

4. Compensatory Measures and Offsets

The draft Standards correctly state that compensatory measures, including offsets, cannot be used to render an unacceptable impact acceptable. However, this principle is weakened by the lack of a clear definition of what constitutes an “unacceptable impact.” Without explicit thresholds or criteria, there is a risk that offsets continue to be relied upon to justify impacts that should not be approved at all. This has been a persistent weakness of past frameworks. In the absence of clearly defined thresholds, there remains a risk that compensatory measures continue to be relied upon in circumstances where impacts should be rejected rather than offset.

Recommendations:

- Define “unacceptable impact” clearly and ecologically, including impacts that result in irreversible loss, fragmentation beyond recovery, or decline of MNES below viable thresholds.
- Explicitly reinforce that offsets are a last resort, only applicable after avoidance and minimisation have been demonstrably exhausted.

5. Temporary vs Long-Term Impacts

The Standard refers to “temporary impacts” without explicitly defining what is meant by temporary. Many projects operate for 30–50 years, which when considered from ecological and evolutionary perspectives, span multiple generations for populations of many species. These durations are also orders of magnitude shorter than the natural timescales over which species evolve or go extinct. Consistency with timeframes used in related legislative frameworks should also be considered, for example, area-based

projects under the **Australian Carbon Credit Unit Scheme** have a permanence obligation of either 25 or 100 years, informed by the timeframes over which biogeochemical cycles operate.

Labelling project impacts as “temporary” risk understating their significance. For many MNES, impacts over this timeframe are functionally permanent (e.g. resulting in local extinction), particularly where recovery is uncertain or dependent on active intervention.

Recommendations:

- Define “temporary impact” with reference to the relevant evolutionary and ecological recovery timeframes, not project lifespans.
- Require proponents to demonstrate that recovery will occur within a defined, ecologically meaningful period without reliance on uncertain future actions.

6. Definitions and Terminology

Several critical terms are used inconsistently or without definition, including:

- Unacceptable impact
- Adverse impact
- Significant impact

The lack of definitions creates uncertainty for regulators, proponents, and practitioners, and increases the risk of inconsistent decision-making.

Recommendations:

- Include clear, scientifically grounded definitions for all key impact terms.
- Include a quantitative, risk-based approach to impact assessment that reduces reliance on ambiguous qualitative descriptors.
- Ensure alignment with existing ecological science and, where relevant, international best practice.

7. Cumulative Impacts Are Insufficiently Addressed

The draft standard largely focuses on project-level impacts and does not adequately address cumulative impacts across landscapes and regions. Incremental loss remains one of the most significant drivers of MNES decline.

Recommendations:

- Require cumulative impact assessment at appropriate spatial and temporal scales.
- Clarify how existing approved but unimplemented actions are to be considered.

- Include clear responsibility for determining cumulative impact thresholds.
- Clarify responsibility for determining cumulative impact thresholds, including the respective roles of proponents, regulators, and any applicable regional or strategic planning instruments.

8. Climate Change Should Be Explicitly Integrated

Climate change is not adequately embedded within the assessment framework, despite being a key threat multiplier for MNES.

Recommendations:

- Require assessments to consider climate-related risks to MNES, including altered fire regimes, drought, flooding, sea-level rise, and shifting species distributions.
- Ensure that recovery, restoration, and offset proposals are demonstrably climate-resilient over relevant ecological timeframes.

9. Recovery and Restoration Must Be Outcome-Focused

The standard refers to repair and improvement but lacks enforceable mechanisms to ensure successful ecological outcomes, rather than simply implementation of actions.

Recommendations:

- Require measurable, time-bound performance criteria for restoration and recovery actions.
- Mandate adaptive management where monitoring demonstrates that outcomes are not being achieved.
- Clarify long-term responsibility and funding for ongoing management.

10. Monitoring, Reporting and Compliance Need Stronger Direction

The draft standard provides limited guidance on monitoring and compliance, which has historically undermined environmental outcomes.

Recommendations:

- Specify minimum monitoring standards, including duration aligned with evolutionary and ecological recovery timeframes.
- Require independent verification of monitoring data for high-risk or high-impact projects.
- Ensure transparent public reporting of outcomes, not just actions.

11. Time Lags and Risk in Offsets are not Adequately Addressed

Where offsets are permitted, the draft standard does not sufficiently address time lags uncertainty and, the complexity of nonlinear dynamics that are inherent to ecosystems which disproportionately affect MNES.

Recommendations:

- Adopt conservative assumptions that explicitly account for the complex nonlinear dynamics of ecosystems, uncertainty, and likelihood of failure to compensate for impacts on protected matters.
- Prefer offsets that are secured, established, and functioning prior to impact occurring.
- Limit the use of restoration offsets where success cannot be reasonably assured.
- Outline a system of discounting according to uncertainty - risk of success/failure of offset to compensation for impacts

12. Treatment of Legacy Impacts and Degraded Baselines

The standard does not clearly articulate how degraded landscapes and legacy impacts should be treated, which may inadvertently normalise poor environmental baselines.

Recommendations:

- Avoid using degraded current condition as a justification for further impact.
- Require assessments to consider historical extent and condition of MNES, where data is available.
- Provide more clarity around how baselines will be set, (e.g. will they be required to explicitly be measured project by project pre-commencement, or will they be extrapolated for what may be very limited real data? What assumptions will be permissible?)
- Align decision-making with recovery objectives rather than baseline acceptance.

13. Decision-Making Transparency and Consistency

There is insufficient guidance on how discretion will be exercised by decision-makers, particularly where ecological evidence indicates high risk.

Recommendations:

- Require decisions to clearly document how ecological evidence and uncertainty have been considered.

- Explicitly apply the precautionary principle where data gaps or uncertainty exist.
- Promote consistency by providing decision-support tools or ecological thresholds where feasible.

14. Indigenous Knowledge and Cultural Values

It has long been acknowledged within the environmental industry that participation of Indigenous knowledge holders and integration of Indigenous knowledges and values are essential to the cultural and environmental success of a project. Consultation with Indigenous communities has been incorporated into most State environmental processes for decades. However, acknowledging numerous exceptions, such consultation is commonly focussed on discrete archaeological, cultural and contemporary sites and places, rather than necessarily broader consideration of the environment or cultural landscape.

The application of traditional environmental knowledge, cultural landscape analysis and cultural flows is now more commonplace in large-scale assessment. We are therefore extremely supportive of the inclusion and strengthening of these components of Indigenous knowledge in the reforms.

Currently, however, there is a lack of detail on how knowledge holders should be identified, how they would participate, and/or the role Indigenous knowledge would play in the assessment or decision-making processes. Further details of these features are essential to ensure their suitable integration into future assessment process.

Recommendations:

- Ensure clear processes are established to identify relevant Indigenous Traditional Owners and/or knowledge holders. While it is expected that this would strongly rely on Aboriginal parties identified under the Native Title Act 1993, other approaches are likely to be needed for some areas where native title has yet to be determined and/or is extinguished.
- Establish process and direction, as well as strengthen requirements for early, ongoing and meaningful engagement with Indigenous Traditional Owners. These processes should allow flexibility for the Indigenous Traditional Owners to determine how they wish to be consulted and provide inputs to a project, as well as suitable management and control of Indigenous cultural and intellectual property.
- Recognise Indigenous knowledge as a legitimate and valuable source of environmental information and provide direction on integration into the assessment process.
- Incorporate cultural values into MNES assessment and management where these are identified and considered relevant.

15. Professional Standards and Independence

The draft standard does not sufficiently address the quality and independence of ecological assessments.

Recommendations:

- Require assessments to be undertaken by suitably qualified and experienced ecologists.
- Include provisions to manage conflicts of interest.
- Encourage peer review for complex or high-risk proposals.

Contact Details

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