



Draft National Environmental Standard (Matters of National Environmental Significance) 2025

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About the Invasive Species Council

The Invasive Species Council was formed in 2002 to advocate for stronger laws, policies and programs to keep Australian biodiversity safe from weeds, feral animals, exotic pathogens and other invaders. It is a not-for-profit charitable organisation, funded predominantly by donations from supporters and philanthropic organisations.

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Introduction

Some of Australia's most precious places are imperilled by inaction on threatening processes. For example, the corals reefs of the Great Barrier Reef Marine Park are threatened by nutrient-rich run-off, the sensitive alpine vegetation of the Tasmanian Wilderness World Heritage Area is threatened by invasive deer, the rich cultural and ecological values of Uluru-Kata Tjuta National Park are under siege by fire-promoting buffel grass, and the watersheds of the Kosciuszko National Park are being trashed, trampled and polluted by feral horses.

As these examples demonstrate, the greatest dangers to Matters of National Environmental Significance (MNES) are often not from specific, new developments, but from the **systematic failure to manage existing, pervasive threats**.

The draft National Environmental Standard on Matters of National Environmental Significance (MNES Standard) represents a critical, yet currently missed, opportunity to address the systematic failures driving the destruction of Australia's most precious natural and cultural heritage. National environmental standards offer a crucial opportunity to set clear management expectations, including for the management of key threats like invasive species, for spatially defined MNES like World Heritage properties, National Heritage places, and Ramsar wetlands, in line with Australia's international obligations. They also offer a chance to provide missing guidance on threat management within other spatially defined areas such as bioregional plans.

By failing to seize these opportunities, the draft MNES Standard fundamentally undermines its core object: the 'protection, conservation and, where necessary, recovery of MNES'. In this submission, we outline the essential changes required to strengthen the MNES Standard and ensure it effectively addresses key threats like invasive species, specifically by:

- setting management expectations for spatially defined MNES and MNES within bioregional plan areas, including implementation of relevant threat abatement plans
- expanding the scope of the MNES Standard to apply to all relevant decisions, plans and policies, not just to controlled actions
- strengthening the drafting of MNES Standard to better align with Samuel Review recommendations.

We make the following recommendations to ensure the MNES Standard tackles the invasives threat:

Recommendation 1: In the MNES Standard provide management expectations for spatially defined MNES and for MNES within bioregional plan areas, triggers and responses for when those expectations are not met.

Recommendation 2: Apply the MNES Standard to all actions, decisions, plans and policies that relate to MNES.

Recommendation 3: Strengthen and clarify the MNES Standard, including by:

- (a) removing or replacing discretionary language like 'should' with 'must'
- (b) strengthening the principles to align with the Samuel Review draft MNES Standard, including requiring the active avoidance of cumulative impacts and exacerbation of key threatening processes, science-based decision-making, and monitoring of outcomes against baselines
- (c) clarifying terms that are undefined or used inconsistently.

1. Set management expectations in MNES Standard

Some of Australia's most precious places – World Heritage, National Heritage and Ramsar wetlands sites – face sustained threats, particularly from invasive species. Despite notable successes like rodent eradication on Lord Howe and Macquarie islands and current programs to control yellow crazy ants in the Wet Tropics of Queensland, experts say most threats to Australia's natural heritage lack active management and would benefit from greater risk assessment and risk mitigation planning.¹

Other than high-level management principles for World Heritage and National Heritage set out in the EPBC Regulations, there are few legal requirements for the proactive management needed to protect and conserve the values of spatially defined MNES, and the Australian government has limited or no capacity to intervene if their management is inadequate to prevent, contain or abate serious threats. The devastating impacts of invasive feral horses in the Kosciuszku National Park – part of the Australian Alps National Heritage place – exemplifies the need for more statutory guidance on management expectations for nationally significant places.

Case Study: The failure to manage feral horses in the Kosciuszku National Park

The recent history of feral horses in Kosciuszku National Park demonstrates the limitations of the Australian Government's ability to exercise their responsibilities under the EPBC Act for protection of MNES – in this case a National Heritage place with numerous EPBC-listed threatened species and ecological communities, migratory species, a Ramsar wetland and Indigenous cultural values.

If anyone proposed to release horses into Kosciuszku, this would presumably count as a controlled action and require assessment under the EPBC Act, due to the demonstrated impacts of feral horses on MNES. The Threatened Species Scientific Committee found that feral horses in the national park threaten at least 12 EPBC-listed threatened species and that for some, 'feral horses may be the crucial factor that causes final extinction'.² They also severely damage the endangered 'alpine sphagnum bogs and associated fens' ecological community. For example, trampling and loss of sphagnum moss leaves the alpine soils and peat 'susceptible to desiccation, incision, soil erosion and channel formation'.³

But because the damage caused in this case was due to a failure by the NSW Government to implement management consistent with maintaining National Heritage values and protecting other MNES values – negligence rather than an action as defined under the EPBC Act – the Australian Government decided they were powerless to directly intervene.⁴

The Samuel Review found that National Heritage listings lack practical application and that 'ongoing expectations and obligations of property owners and site managers are often unclear and

¹ McConnell et al, 2021, [Australia state of the environment 2021: heritage, independent report to the Australian Government Minister for the Environment](#) [PDF 22.61MB], Commonwealth of Australia, Canberra, DOI: 10.26194/7w85-3w50 at p 49.

² Senate Standing Committee on Environment and Communications, 2023, [The impacts of feral horses in the Australian Alps. Report by the Senate Standing Committees on Environment and Communications. Chapter 3: Impacts of feral horses on the Australian Alps](#), Parliament of Australia.

³ Ibid.

⁴ Senate Standing Committee on Environment and Communications, 2023, [The impacts of feral horses in the Australian Alps. Report by the Senate Standing Committees on Environment and Communications. Chapter 6: Commonwealth Responsibility](#), Parliament of Australia.

ill-defined'.⁵ A Senate inquiry into recommended that the government 'establish agreed mechanisms to resolve disputes between jurisdictions to ensure that National Heritage values are being protected'.⁶

Furthermore, the EPBC Act provides no guidance on how new bioregional plans will set expectations and provide for the proactive management and restoration of MNES, including from threatening processes like invasive species. (While a National Environmental Standard for Regional Planning was previously mooted, no standard for bioregional planning appears to be presently contemplated.) The absence of this statutory guidance jeopardises the capacity of bioregional plans to facilitate the landscape-scale management of threats and cumulative impacts, as envisioned by the Samuel Review.

To address these issues, the MNES Standard should:

- provide clear expectations for the management of spatially defined MNES, consistent with national and international obligations, and for the management of MNES within bioregional plan areas
- require proactive management to protect listed values, to identify and manage key threats to those values and to implement relevant threat abatement plans
- specify processes to be triggered when management expectations are not met.

Recommendation 1: In the MNES Standard provide management expectations for spatially defined MNES and for MNES within bioregional plan areas, triggers and responses for when those expectations are not met.

2. Expand the scope of the MNES Standard to all relevant decisions, plans and policies, not just to controlled actions

It appears the Standard has been drafted under the flawed premise that 'controlled actions' are the primary threat to MNES. While certain controlled actions undoubtedly pose an existential risk, a far greater risk is the systematic failure to manage existing processes. For example, **the damage from feral horses in Kosciuszko National Park is not a controlled action issue – it is a consequence of policy and management failures.** This systemic failure to plan for the management of the full suite of pervasive threats, including invasive species, is the greater danger.

By failing to apply to all relevant decisions, plans, and policies as recommended in the Samuel Review,⁷ **the draft MNES Standard guarantees an incomplete and inconsistent approach to MNES conservation and protection.** This narrow scope effectively legalises inaction on the most critical,

⁵ Samuel, Graeme, [Independent Review of the EPBC Act - Final Report](#) [PDF 5.8MB], 2020, Department of Agriculture, Water and the Environment, Canberra, p 44.

⁶ Senate Standing Committee on Environment and Communications, 2023, [The impacts of feral horses in the Australian Alps. Report by the Senate Standing Committees on Environment and Communications. Chapter 7: Committee View and Recommendations](#), Parliament of Australia.

⁷ Samuel Review, p 208.

systemic threats to MNES values, thereby jeopardising the achievement of the draft Standard's stated objectives and outcomes.

To address these problems, we strongly recommend a requirement that all relevant actions, decisions, plans, and policies relating to MNES be consistent with the whole Standard. **Crucially, this comprehensive application must be prescribed directly in the Regulations to ensure statutory certainty and prevent further administrative discretion.**

Recommendation 2: Apply the MNES Standard to all actions, decisions, plans and policies that relate to MNES.

3. Strengthen the drafting of the standard

The principles in the MNES Standard lack the robustness of those recommended by the Samuel Review, specifically regarding the critical need to:

- actively avoid cumulative impacts and exacerbating key threatening processes (including the impacts of invasive species)⁸
- use the best available information, consistent with best practice data and information management⁹
- plan for and monitor outcomes of actions, decisions, plans and policies, including cumulative impacts and baselines.¹⁰

The weak and discretionary language used in the draft MNES Standard fundamentally undermines the protection it provides to MNES. For example, the principles frequently employ terms like 'should' instead of 'must' and include qualifications such as 'if possible' or 'should generally' – all of which provide the administrative discretion that the Samuel Review cautioned against, and which, in practice, **will facilitate continued inaction on systemic, pervasive threats**. This permissive language provides the legal loopholes that perpetuate the policy and management failures this submission highlights.

The MNES Standard is further hampered by the use of weak, undefined and inconsistent terms:

- The principles do not define a level to which 'significant impacts on protected matters' should be mitigated (e.g. 'as far as reasonably practicable'), and what may be an acceptable 'residual significant impact' that is capable of compensation.

⁸ Principle 2 does require 'regard to be had to the context in which the impact might occur' when 'considering the nature, extent or severity on a protected matter', but it does not explicitly require detrimental cumulative impacts and contributions of actions towards key threatening processes to be addressed by proponents in accordance with the mitigation hierarchy outlined in principle 1. This is to be contrasted with the Samuel Review draft MNES Standard which requires proponents to 'use all reasonable efforts to prevent actions contributing to detrimental cumulative impacts or exacerbation of key threatening processes'.

⁹ The Samuel Review recommended 'actions, decisions, plans and policies' to be 'based on the best available information. Data and information should be stored and shared consistent with best practice data and information management.'

¹⁰ The Samuel Review required that plans be prepared to, inter alia, 'address impacts for the relevant MNES, and be designed to understand and track all cumulative impacts at the relevant scale (e.g. national, state-wide, regional plan areas or project site).'

- The objectives require World Heritage property and National Heritage place values to be ‘rehabilitated’ where necessary, but mandate that the ecological character of Ramsar wetlands be ‘restored’ where necessary. The principles then introduce another term, ‘repair’, for unavoidable or unmitigated impacts, while the outcomes refer to ‘restoration of protected matters.’ Although the draft Policy Position attempts to clarify that ‘[r]estore relates to repairing, rehabilitating or reinstating damage, degraded or lost conditions’, it provides no detail on how these terms functionally differ.
- Moreover, the requirement in both the Policy Position and the Standard that any repairs must ‘involve on-site works’ is a critical and inappropriate limitation that precludes effective management of offsite threats—the very threats that can drive ongoing declines to MNES. Addressing critical issues like invasive species, erosion control, and the treatment of contaminated run-off often requires essential offsite intervention to protect MNES values, an action inappropriately constrained by the current drafting.

Rectifying these matters will substantially strengthen the Standard and reduce the possibility of litigation and ensure the principles provide the mandatory legal basis required for proactive conservation.

Recommendation 3: Strengthen and clarify the MNES Standard, including by:

- (a) removing or replacing discretionary language like ‘should’ with ‘must’
- (b) strengthening the principles to align with the Samuel Review draft MNES Standard, including requiring the active avoidance of cumulative impacts and exacerbation of key threatening processes, science-based decision-making, and monitoring of outcomes against baselines
- (c) clarifying terms that are undefined or used inconsistently.