

Environment protection reform consultation: Tranche 3

Submission by the
Invasive Species Council

October 2026

Document details

Invasive Species Council. Submission in response to the Environment protection reform consultation: Tranche 3. 2026.

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

The Samuel Review identified landscape-scale management as essential to reversing Australia's biodiversity decline, recognising that the project-by-project approach of the EPBC Act failed to address cumulative threats.¹ It envisaged regional plans to actively manage threatening processes and deliver enduring restoration at scale,² while calling for immediate reform of the offsets regime to ensure genuine, long-term ecological outcomes.³

The Invasive Species Council welcomes Consultation Papers 2 and 3 of the *Environment Protection Reforms* package, which address key elements of this vision by establishing frameworks for bioregional plans and the Restoration Contributions Holder.

Well-designed bioregional plans can be an effective basis for managing invasive threats at a landscape scale, while a robust restoration contributions regime can direct pooled funds toward strategic, long-term threat management that proponent-delivered offsets rarely achieve.

Realising this potential, however, will require the proposed regulations to go further than currently drafted in a number of respects:

- Bioregional guidance plans should have regard to the Matters of National Environmental Significance (MNES) and Environmental Offsets standards, and limit the proposed transitional exemption for bioregional guidance plans already in development to the Community Engagement Standard only, so that the Data and Information Standard still applies at the time such plans are made.
- Bioregional plans should identify and address key threatening processes and relevant threat abatement plans, especially for restoration actions and monitoring.
- Bioregional plan reviews should assess whether conservation objectives are being achieved by reference to the actual condition of protected matters, not only whether the plan is operating as intended procedurally.
- The Restoration Contributions Holder should act consistently with all relevant principles of the Environmental Offsets Standard.
- Maintenance periods for restoration actions should reflect the ongoing nature of threatening process management, with no durability exit where the action depends on continuing invasive species control, and with charges priced accordingly.

We outline our recommendations to address these issues below.

¹ Samuel, Graeme, Independent Review of the EPBC Act - Final Report, 2020, Department of Agriculture, Water and the Environment, Canberra, pp 17-18 (Samuel Review).

² Ibid, from p 132.

³ Ibid, p 138 and recommendation 27.

Recommendations

Recommendation 1: Require decisions to make bioregional guidance plans to have regard to the MNES and Offsets standards, to the extent that those standards are relevant to the content and purpose of the plan.

Recommendation 2: Amend the transitional arrangements for bioregional guidance plans developed and consulted on before 1 December 2026 so that the minister must still be satisfied that such plans are consistent with the Data and Information Standard.

Recommendation 3: Prescribe that bioregional plans must:

- (a) identify key threatening processes (including invasive species) and applicable threat abatement plans
- (b) assess individual and cumulative impacts of threatening processes and priority actions on protected matters
- (c) require restoration actions and monitoring to address key threats with measurable targets and timeframes.

Recommendation 4: Prescribe that bioregional plan reviews must also assess whether:

- (a) conservation objectives are being met using measurable condition indicators for protected matters, including threatened species, ecological communities, Ramsar wetlands, and heritage values
- (b) restoration outcomes will fully compensate for habitat and value losses from development zone actions
- (c) plan amendments are needed to address identified gaps – such as zone changes, restoration rules, threat management, or monitoring – and set timeframes for completing them.

Recommendation 5: Require the Restoration Contributions Holder to act consistently with all principles of the Environmental Offsets Standard, with the sole exception of Principle 8 where the timing of restoration actions makes prior commencement impracticable.

Recommendation 6: Require restoration actions for permanent impacts to be maintained in perpetuity, with no durability exit where actions depend on ongoing threat management like invasive species control, and price restoration contributions charges accordingly.

Paper 2: Bioregional planning

National Environmental Standards

While the Invasive Species Council supports requiring decisions on bioregional plans to align with all current National Environmental Standards, we are concerned about the proposed framework for bioregional guidance plans.

The consultation paper explains that only the Community Engagement and Data and Information standards will apply to bioregional guidance plans, because these plans do not authorise actions or establish offset requirements. We understand this rationale, but it illustrates a significant limitation of the current standards: because the MNES and Offsets standards only apply to decisions that authorise actions or establish offsets, they cannot formally apply to guidance instruments that will nevertheless shape how development and conservation are approached across entire regions. At a minimum, we recommend that the regulations prescribe that decisions to make bioregional guidance plans must *have regard to* the MNES and Offsets standards, to the extent that those standards are relevant to the content and purpose of the plan. This would not require full consistency – recognising that not all principles will be applicable – but would ensure that the standards are not entirely irrelevant to what are, in practice, important instruments for guiding MNES management at landscape scale.

We also have a concern about the proposed transitional arrangements. The consultation paper proposes that where a bioregional guidance plan has been developed and consulted on before 1 December 2026, the minister will not need to be satisfied that it is consistent with the National Environmental Standards – including both the Community Engagement and Data and Information standards. The exemption from the Community Engagement Standard for plans already consulted on is understandable: it would be impractical to require repeated consultation. However, the exemption from the Data and Information Standard is harder to justify. Unlike community engagement, the quality and currency of data and information used in a plan can be assessed at the time the plan is made, regardless of when consultation occurred. A bioregional guidance plan made in 2027 on the basis of outdated or inadequate data would not meet the Data and Information Standard, and there is no obvious reason why its transitional status should exempt it from that requirement. We recommend the transitional arrangements be amended to limit the exemption to the Community Engagement Standard only.

Recommendation 1: Require decisions to make bioregional guidance plans to have regard to the MNES and Offsets standards, to the extent that those standards are relevant to the content and purpose of the plan.

Recommendation 2: Amend the transitional arrangements for bioregional guidance plans developed and consulted on before 1 December 2026 so that the minister must still be satisfied that such plans are consistent with the Data and Information Standard.

Mandatory inclusions in bioregional plans

The consultation paper proposes that bioregional plans must include, among other things, the location and relevant habitat of all MNES within the plan area, conditions requiring bioregional

restoration actions to specify residual significant impacts and intended outcomes for protected matters, and a monitoring plan. The Invasive Species Council supports these inclusions but considers them insufficient without a corresponding requirement to identify and address key threatening processes affecting MNES within the plan area.

Bioregional plans will operate at landscape scale and over extended timeframes. The primary threats to MNES values within most plan areas will not be the discrete actions authorised under the plan, but the chronic, pervasive threatening processes – invasive species, altered fire regimes, habitat fragmentation – that affect protected matters continuously and cumulatively. A bioregional plan that maps MNES but does not identify the processes threatening those matters or require those processes to be addressed in restoration actions and monitoring, will underestimate what is needed to achieve conservation outcomes at landscape scale.

The EPBC Act already recognises the relevance of threat abatement plans to bioregional planning: section 177AQ(1)(b) requires the minister to be satisfied that a bioregional plan is not inconsistent with any threat abatement plan the minister considers relevant. However, this is a weak safeguard if the bioregional plan itself is not required to identify which threatening processes and threat abatement plans are relevant, how they affect MNES and their habitat within the plan area, and how they will be factored into restoration actions and monitoring. The proposed mandatory inclusions do not address any of these matters.

Recommendation 3: Prescribe that bioregional plans must:

- (a) identify applicable key threatening processes (including invasive species) and threat abatement plans
- (b) assess individual and cumulative impacts of threatening processes and priority actions on protected matters
- (c) require restoration actions and monitoring to address key threats with measurable targets and timeframes.

Review of bioregional plans

The Invasive Species Council supports the proposed bioregional plan review requirements, including the obligation to evaluate the effectiveness of monitoring objectives, consider whether the assumed development level remains appropriate, and examine whether the plan reflects up-to-date information on protected matters. But the proposed review criteria fall short of what is needed to make the 5-yearly review a meaningful accountability mechanism for conservation outcomes.

The proposed review criteria focus primarily on whether the bioregional plan is operating as intended procedurally – whether development levels are appropriate, whether guidance remains current, whether rulings are reflected. They do not require the review to assess whether the conservation objectives of the plan are being achieved, and whether the condition of protected matters within the plan area has been maintained or improved over the preceding period. Without this, a plan could pass a 5-year review without anyone having assessed whether threatened species populations have declined, whether the ecological character of a Ramsar wetland has deteriorated, or whether the cumulative impact of priority actions has exceeded what the plan's restoration actions can adequately compensate for.

The proposed criteria also do not require any assessment of whether restoration actions have delivered and maintained outcomes commensurate with the habitat and values lost to priority actions in development zones.

Finally, the proposed criteria do not require the review to recommend plan amendments where deficiencies are identified. A review that identifies problems but carries no obligation to act on them is of limited value.

The effectiveness of the 5-yearly review will also depend on the quality of the monitoring data available to it. As we recommend above in relation to mandatory inclusions for bioregional plans, monitoring plans should be required to specify measurable targets and timeframes for the management of key threatening processes, including invasive species. Without that baseline, a review will have no consistent or comparable data against which to assess whether threatening process management across a bioregional area has been effective or whether they are impacting the outcomes of restoration actions.

Recommendation 4: Prescribe that bioregional plan reviews must also assess whether:

- (a) conservation objectives are being met using measurable condition indicators for protected matters, including threatened species, ecological communities, Ramsar wetlands, and heritage values
- (b) restoration outcomes will fully compensate for habitat and value losses from development zone actions
- (c) plan amendments are needed to address identified gaps – such as zone changes, restoration rules, threat management, or monitoring – and set timeframes for completing them.

Paper 3: Restoration contributions

Matters that will guide the Restorations Contributions Holder

The consultation paper proposes that the Restoration Contributions Holder be required only to 'have regard to' the Environmental Offsets Standard, rather than to act consistently with it.⁴ The basis for this approach appears to be that not all principles can apply in the Holder's context, with Principle 8, which requires offset activities to commence prior to impact, cited as an example.

The Invasive Species Council does not accept that this is an adequate justification for the lower standard proposed. The inapplicability of one principle in a specific context is a reason to exempt the Holder from that principle, not a reason to reduce the Holder's obligations across the standard as a whole. The remaining principles – including feasibility, security, measurable improvements and additionality – are plainly capable of applying to Holder-delivered restoration actions and should be mandatory, not discretionary.

As we outlined in our submission on the draft Environmental Offsets Standard, applying a lower standard to Holder-delivered actions than to proponent-delivered offsets creates a perverse incentive for developers to pay the restoration contribution charge rather than exhaust all other options, and risks replicating the failures of comparable state schemes.

⁴ See also, Exposure Draft, Environment Protection and Biodiversity Conservation Amendment (2026 Measures No. 2) Regulations 2026, proposed regulations 12D.03, 12D.04(3), 12D.12(a), 12D.13(a)

Recommendation 5: Require the Restoration Contributions Holder to act consistently with all principles of the Environmental Offsets Standard, with the sole exception of Principle 8 where the timing of restoration actions makes prior commencement impracticable.

Maintenance of restoration actions

The Invasive Species Council has serious concerns about the proposed maintenance period for restoration actions.

The Samuel Review recommended that offset sites must clearly demonstrate management of activities that ensure attainment and maintenance of the required improvement for the duration that the protected matter is affected by the impact – for permanent impacts, this implies an equivalently enduring obligation.⁵ The proposed regulations share with the Environmental Offsets Standard a failure to meet this bar: both frameworks permit early exit from maintenance obligations through a durability determination, and neither adequately addresses restoration actions that depend on ongoing management of threatening processes. While the proposed 25-year minimum for maintenance of restoration actions is a higher floor than the Environmental Offsets Standard provides for proponent-delivered offsets, both regimes allow the durability exit to cut short what should be an ongoing obligation.

The department asserts, without references, that evidence supports 25 years as a minimum maintenance period for restoration actions. Yet, for restoration actions requiring invasive species management, durability of recovery without ongoing management is, in most cases, ecologically unachievable on mainland Australia. Research has found that threatened mammal populations at sites where invasive predators, like foxes and cats, are controlled increased by an average of 680% over 2000–2017, while those exposed to introduced predators declined by 80% over the same period.⁶ A restoration action funding feral cat control does not become durable at 25 years, or at any defined point – it becomes a ghost offset the moment effective control ceases. The regulations should make explicit that where a restoration action is required for a permanent impact and depends on ongoing management of a threatening process, the maintenance obligation continues for the life of the impact without a durability exit. Restoration contribution charges must be priced to reflect the full cost of this ongoing obligation.

Recommendation 6: Require restoration actions for permanent impacts to be maintained in perpetuity, with no durability exit where actions depend on ongoing threat management like invasive species control, and price restoration contributions charges accordingly.

⁵ Samuel Review, p 140.

⁶ Woinarski JCZ et al, 'Investigating the causes of an extinction catastrophe: controlling introduced predators remains essential for conserving Australia's mammals', *BioScience*, 2026, 76(3):294–307.
doi.org/10.1093/biosci/biaf204