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Melbourne Biodiversity Institute Submission to Draft MNES Standard Policy Paper

We thank the Department for the opportunity to provide feedback on the draft standards for Matters of Environmental Significance (MNES). The feedback in this document represents the collected insights of the scholars listed on page 2. We have focused our submission on matters related to anticipated outcomes.



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Feedback on Outcomes

There is insufficient emphasis on environmental rather than procedural outcomes. The MNES Standards specify processes for mitigation hierarchies, requirements to use appropriate data evidence, and to consult with First Nations and stakeholders. But there are no clear requirements to be met, no criteria to support decision-making, and no thresholds of what are considered to be acceptable impacts. They are procedural standards that are unlikely to favourably impact ecological conditions on the ground. These processes also fail to address cumulative impacts, meaning that these standards will still permit long-term ecological decline due to decision-making processes occurring in silos.

There is insufficient inclusion of climate change considerations in the proposed MNES Standards. To be effective, environmental protection measures must take into account the impact of climate change, which according to the government's own National Climate Risk Assessment is already having impacts which are 'significant, widespread and cascading across all systems' ([Australian Climate Service 2025, p.176](#)). Climate change was conspicuously excluded from the broader EPBC reforms which provide the framework for the Standards (University of Melbourne 2025) and the Standards contain no reference to climate change. Australia's emissions reduction target of 62-70% below 2005 levels by 2035, the mandatory climate-related disclosures scheme ([AASB 2024](#)), and case law where scope 3 emissions are considered relevant to courts' assessments of fossil fuel-related projects (e.g. [Gloucester Resources](#), [Youth Verdict](#)), signify a higher standard for assessing climate impacts that governments must meet. This trend is echoed in notable cases in other jurisdictions (e.g. [R\(Finch\) v Surrey County Council \(UK Supreme Court\)](#), [Greenpeace Nordic and Others v. Norway \(European Court of Human Rights\)](#)). Further, the International Court of Justice's Advisory Opinion on climate change makes clear that countries have a duty to undertake climate mitigation, including by regulating private actors ([paras 272-273](#)), and that climate adaptation is an international obligation which requires Australia to take preventive, proactive measures to implement adaptive action ([Nishimura 2025, Ch 2](#); [ICJ Advisory Opinion, paras 209- 10, 255-59](#)). As well as reducing the effectiveness of the proposed Standards, failure to appropriately integrate climate considerations is out of step with Australian law and policy, and Australia's international obligations ([McClelland et al 2025](#); [Young 2025](#); [Peel 2023](#); [Peel 2024](#)).



References

- McClelland, R., J. Peel, R. Nelson, M. Young. 2025. *What are the implications of the ICJ Climate Advisory Opinion for EIA in Australia?* Policy Brief, Laureate Program on Global Corporate Accountability, University of Melbourne (15 September 2025).
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- Peel, J. 2023. *Legal opinion – gaps in the Environment Protection and Biodiversity Conservation Act and other federal laws for protection of the climate: Report for the Climate Council*.
- Peel, J. 2024. *Why Australia's environmental law does not protect the climate*. MCF Discussion Paper, University of Melbourne (March 2024).
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