



**Biodiversity
Council**

Submission to draft National Other Effective area-based Conservation Measures (OECMs) Framework.

23 April 2024

About The Biodiversity Council

The Biodiversity Council brings together leading experts including Indigenous knowledge holders to promote evidence-based solutions to Australia's biodiversity crisis. The Council was founded by 11 universities with the support of Australian philanthropists.

Introduction

The Biodiversity Council welcomes the opportunity to provide feedback on the Department of Climate Change, Energy, the Environment and Water's draft national other effective area-based conservation measures framework ('the Framework').

The Biodiversity Council notes that many points made in our 2023 submission regarding the proposed principles for the recognition of other effective area-based conservation measures are still relevant.

Our understanding

The Aichi Target 11 of 17% of land and 10% of marine environments to be conserved were deemed inadequate to avoid extinctions (Dinerstein et al. 2019). This led the world to lift ambitions for protection and conservation to 30% of land and marine areas by 2030 as part of the Kunming-Montreal Global Biodiversity Framework.

The Convention on Biological Diversity defines an 'other effective area-based conservation measure' (OECM) as:

"A geographically defined area other than a Protected Area, which is governed and managed in ways that achieve positive and sustained long-term outcomes for the in-situ conservation of biodiversity, with associated ecosystem functions and services and where applicable, cultural, spiritual, socio-economic, and other locally relevant values".

Australia has taken an expansive approach by actively incorporating private and Indigenous lands in addition to public land into the protected area network for the past 30 years (Fitzsimons et al. 2024). In other countries, these areas may be classified as OECMs, but in Australia they are already counted as Protected Areas.

Fitzsimons et al. (2024) examined various land use categories and conservation mechanisms to determine the likelihood of these categories/mechanisms meeting the OECM definition, with a particular focus on longevity of the mechanism to sustain biodiversity. They identified that the number of categories/mechanisms that would meet the OECM definition is relatively small.

Key concerns

1. The Framework does not reflect the limited scope for OECMs in Australia to contribute to the 30 by 30 target

The Framework seems designed to be vague and discretionary such that the 30 by 30 target can be achieved through accounting methods, rather than truly increasing protection and improving management of biodiversity in Australia.

The analysis undertaken by Fitzsimons *et al.* (2024) demonstrates that in Australia, OECMs as conceived by the international community, are likely to make a much smaller contribution to achieving the target of protecting 30% of land by 2030 than in other jurisdictions.

The Biodiversity Council supports the diversity of approaches taken by private landholders to improve environmental outcomes across Australia, whether that be Landcare, Land for Wildlife, property management plans or regenerative agricultural practices. These should be supported, but not by watering down international commitments for protected areas.

OECMs must sit within the context of the National Roadmap for 30 by 30, given that a lack of progress in increasing the area of Protected Areas is likely to require more effort to increase OECMs, and vice versa.

Recommendation 1: The Biodiversity Council recommends that the Framework not be finalised until the Roadmap has been finalised.

Recommendation 2: The Biodiversity Council recommends that the Roadmap provide an up-to-date analysis of Australia's progress towards meeting the national targets for a comprehensive, adequate and representative National Reserve System (NRMCC 2009), using national datasets. For instance, intersecting Interim Biogeographic Regionalisation for Australia Version 7 (IBRA) with the major vegetation classes in the National Vegetation Information System (NVIS) to determine representativeness by bioregion.

Recommendation 3: The Biodiversity Council recommends that the Roadmap provide a strategy for addressing the gaps identified in the analysis in Recommendation 2.

Recommendation 4: The Biodiversity Council recommends that the Roadmap clearly outline the contribution that OECMs are expected to make to the 30 by 30 target, with clear milestones for checking progress.

Recommendation 5: The Biodiversity Council recommends that the Roadmap have a clear strategy for the government to increase the number and scale of Protected Areas, as the main mechanism to reach 30x30.

It is critical for the Australian government to establish a new dedicated \$5 billion fund for the purchase of land of high biodiversity importance to create new public, privately owned or Indigenous Protected Areas, as recommended by The Nature Conservancy, WWF-Australia, Pew Charitable Trusts and the Australian Land Conservation Alliance in their Pathways to 30x30 report (Fitzsimons et al. 2023), if it wants to achieve the target and be the international leader in biodiversity conservation that it claims to be.

2. 25-years is not 'long-term'

The Framework states that where a landholder is not able to commit to in-perpetuity conservation, a minimum period for Conserved Areas is 25 years. There is clear guidance for definitions of 'long-term' for protected areas that should also apply to OECMs (Fitzsimons et al. 2024). Australia's Strategy for the National Reserve System 2009–2030 defined "long-term management" as "ideally this should be in perpetuity but, if this is not possible, then the minimum should be at least 99 years" for areas to be included in the National Reserve System (NRMCC 2009).

Recommendation 6: The Biodiversity Council recommends that the definition of long-term management in Australia’s Strategy for the National Reserve System 2009–2030 be used.

3. The Framework would recognise areas that are not protected

The OECM Framework notes that “there is no requirement for legal protection”, but somehow will be sustained long-term by there being:

- a clear long-term intention (minimum 25 years) for the continuation of management arrangements that deliver in-situ biodiversity conservation outcomes
- a commitment to a minimum timeframe for management arrangements that deliver in-situ biodiversity conservation outcomes, determined at the time of site assessment
- no intention to sell or develop the site in a manner incompatible with biodiversity conservation
- no land use zoning on the site that is incompatible with biodiversity conservation.

This is inadequate and does not indicate a pathway to long-term maintenance of biodiversity, and thus fundamentally undermines the concept of OECMs as ‘effective conservation measures’.

The Biodiversity Council supports the Australian Land and Conservation Alliance recommendation to ‘crystallise long-term intention’ through a legal mechanism.

Recommendation 7: The Biodiversity Council recommends that the legal mechanisms considered suitable for protecting Conserved Areas be clearly outlined. In addition, the Framework should state the key provisions that must be included in any mechanism used for a Conserved Area. For instance, requirements to:

- manage the land in a manner compatible with biodiversity conservation, including management of potential off-site impacts from uses occurring elsewhere on the property.
- notify the Australian and relevant State or Territory governments when the land is being sold.
- notify the Australian and relevant State or Territory governments for proposed changes in land-use or intensification of use (as defined by the *Environment Protection and Biodiversity Conservation Act 1999*).

4. The opportunities for First Peoples are unclear

It is unclear what the opportunities are for First Peoples under the Framework. The Framework states that: “A site can be either a formally designated Protected Area or recognised as a Conserved Area – it cannot be both”. Does this mean that a Traditional Owner Group would be prevented from reclassifying a Conserved Area as an Indigenous Protected Area (IPA)? Given this land would already count towards the 30 by 30 target, would this mean that the government would refuse to fund management of the IPA?

Recommendation 8: As per our 2023 submission, the Biodiversity Council recommends that site level assessment tools should provide greater opportunities for First Peoples to contribute to site assessments, including making resources available to facilitate this contribution.

Recommendation 9: The Biodiversity Council recommends that the Framework clearly outline the pathways for Indigenous owned or managed land to contribute towards the target and any consequences that arise from choosing a particular path. The Framework should make it clear that if Traditional Owners do agree to declare a OECM over Indigenous owned or managed land, the government should commit to ensuring these areas are adequately funded to meet the biodiversity objectives.

5. The determination of what will be recognised as a ‘Conserved Area’ is vague and discretionary

The OECM Framework is not clear on who or how it will be determined whether the current land-use is compatible with conservation, with a few ‘case studies’ to suggest what may and may not be suitable.

Recommendation 10: The Biodiversity Council recommends that the OECM Framework includes clear guidelines articulating what land classification and management arrangements are eligible to be recognised as an OECM and who is responsible for making those decisions. This should include at least two of the following:

- a set of yes/no eligibility questions,
- a clear decision tree, and/or
- a matrix of the majority of land classifications and management arrangements and whether they will be recognised, will not be recognised, or required more detailed assessment.

This will provide greater certainty to the Australian public that the OECMs being recognised are legitimate. It is also likely to increase certainty for business and private landholders about whether the land they manage is likely to be eligible, and therefore worth their time to undertake the assessment process.

6. There is insufficient detail about site management to ensure long term biodiversity outcomes

The Framework does not provide sufficient detail about how sites will be managed to achieve “positive and sustained long-term outcomes for the ... conservation of biodiversity”. Ensuring Conserved Areas are managed to achieve these outcomes is one of the largest challenges for the Framework. While the Framework requires “adaptive management” including in response to climate change, the Framework lacks detail about how this will occur on the ground.

Organisations focussed on enhancing private land conservation often provide significant support to landholders about site management. This is particularly important for managing climate change impacts, as ‘tried-and-true’ management approaches may lose their effectiveness (Tanner-McAllister

et al. 2017). It is unclear who will be responsible for preparing adaptive management plans, who will assess their efficacy and practicability, and how land managers will be supported to implement them.

The Framework provides an exception from the requirement to site management plans for Ancillary Conserved Areas, stating:

"Conserved Areas that are recognised as having coincidental benefits for biodiversity conservation (i.e. Ancillary Conserved Areas) do not require documented biodiversity conservation management arrangements."

This is highly problematic given that Ancillary Conserved Areas do not have biodiversity conservation as a management objective, it is simply achieved as a *by-product* of management activities (IUCN-WCPA Task Force on OECMs 2019). In the absence of documented biodiversity conservation management arrangements, there is a risk that these sites will be degraded or destroyed by contractors or land managers focussed on achieving stated management objectives.

Recommendation 11: The Biodiversity Council recommends that the Framework defines adaptive management, outlines who is expected to prepare management plans, who will undertake quality assurance on these plans, and how land managers will be supported to undertake adaptive management.

Recommendation 12: The Biodiversity Council recommends that if there is any doubt that the biodiversity values of a site can be maintained long-term, then it should not be recognised as a Conserved Area.

Recommendation 13: The Biodiversity Council recommends that the Framework remove the exception for Ancillary Conserved Areas, such that all Conserved Areas are required to document biodiversity conservation management arrangements.

7. Monitoring is inadequate to identify issues and respond effectively

Under the Framework, monitoring may only be required every 5 years. It is also unclear who is responsible for undertaking and overseeing that monitoring is occurring. This means that the government is unlikely to find out that management has changed and biodiversity values have declined until the opportunity to intervene or remedy has long passed. Australia does not have a great track record at resourcing and implementing monitoring programs (Samuel 2020; Lindenmayer et al. 2022). The Framework should outline how monitoring of OECMs will be set up for success.

The Framework states that Conserved Areas will be recorded in a national database managed by the Australian Government. It is not clear what information will be recorded on the database, who will be responsible for managing it, whether the public may request information on whether a site is registered as a Conserved Area, and under what circumstances the data will be updated.

The Australian Government has a potential incentive to ignore changes that would result in a Conserved Area no longer being recognised, in order for it to continue to count 'non-compliant' areas as contributing towards the 30 by 30 target.

Recommendation 14: The Biodiversity Council recommends that the Draft Framework outline clear triggers for reporting back to the Australian Government and the relevant State or Territory Government about changes to management regimes or decline in biodiversity values, at the point in time when the changes are occurring.

Recommendation 15: Notwithstanding Recommendation [6] and [7] regarding a long term intent secured by legal means, if biodiversity values have declined, for instance, through neglect of wilful damage, the Framework needs to clearly articulate who is responsible for ensuring that issues are rectified. If they cannot be rectified, the Framework should clearly identify who is responsible for ensuring the conserved area is removed from the database and in what timeframe this must occur. The Framework should clarify the Australian Government's responsibility for ensuring the robustness of OECMs and triggers for modifying the architecture of the scheme if common problems are identified.

Recommendation 16: The Biodiversity Council recommends that the Australian Government publish on the relevant departmental website:

- a summary of the type and area of recognised Conserved Areas for each State or Territory based on the database, and
- the total number of hectares of Conserved Areas within each State or Territory and the net increase or decrease in hectares relative to the last reporting period drawn from the database.

Recommendation 17: The Biodiversity Council recommends that the Framework states that the Australian Government will evaluate the effectiveness of the Program at 2, 5 and 10 years post introduction. At a minimum, each evaluation should include:

- a summary of the number and area of OECMs relative to the milestones set in the Roadmap [see Recommendations 4 and 16]
- an analysis of the OECMs contribution towards the national targets of a comprehensive, adequate and representative National Reserve System (NRMMC 2009) [equivalent to Recommendation 2]
- an analysis of whether OECMs are achieving positive and sustained long-term outcomes for biodiversity, and recommendations to address any shortcomings that are found.

Conclusion

The Biodiversity Council recommends that the Australian Government hold a roundtable with key external experts to refine the Framework.

References

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