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Our ref: [KB:P&E]

Dr James Popple
Chief Executive Officer
Law Council of Australia
Level 1, MODE3
24 Lonsdale Street
Braddon ACT 2612

By email: [REDACTED]

[REDACTED] Popple

Revised Draft National Environmental Standards for Matters of National Environmental Significance

Thank you for the opportunity to provide feedback for inclusion in the Law Council's submission in respect of the exposure draft of the National Environmental Standard (Matters of National Environmental Significance) 2026 and updated draft policy position.

The following feedback has been received from members of our Planning and Environment Law Committee.

The drafting of clause 7 of the MNES Standard has the potential effect that only the principles will need to be complied with, and not the outcomes or objectives. Statutory construction suggests this is **not** authorised under section 514YD(4) of the EPBC Act. This provision provides a national environmental standard may prescribe, "parameters within, or principles by which, an outcome or objective is to be achieved", however, there is no requirement to achieve the outcomes or objectives in meeting the principles under the new draft MNES Standard. In this sense, clause 7 may be construed as *ultra vires*.

Further, the principles, without the outcomes and objectives, in the MNES Standard contain requirements that are substantially similar to the legislative reforms to the EPBC Act or expected to come through other Standards. Therefore, the operation of this standard, on the current drafting, would add little by way of additional requirements to render it meaningful.

It is recommended the drafting of clause 7 of the MNES Standard is amended to comply with the requirements of section 514YD(4) of the EPBC Act.

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If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via policy@qls.com.au or by phone on [REDACTED] [REDACTED]

Yours faithfully



Peter Jolly
President