

Protected and Conserved Areas Policy Section
Department of Climate Change, Energy, the Environment & Water
Canberra ACT, 2601
Online submission; cc: NRS.environment@dcceew.gov.au

28 April 2023

Dear Protected and Conserved Areas Policy Section,

RE: Submission on draft principles to guide recognition of other effective area-based conservation measures in Australia

The Australian Land Conservation Alliance (ALCA) welcomes the opportunity to provide a submission to the Government's consultation on draft principles to guide recognition of other effective area-based conservation measures (OECMs) in Australia.

Please note that ALCA is happy for this submission to be published in full.

About the Australian Land Conservation Alliance

The Australian Land Conservation Alliance is the peak national body representing organisations that work to conserve, manage, and restore nature on privately managed land. We represent our members and supporters to grow the impact, capacity, and influence of private land conservation to achieve a healthy and resilient Australia. Our fifteen members are:

- Australian Wildlife Conservancy
- Biodiversity Conservation Trust NSW
- Bush Heritage Australia
- EcoGipps
- GreenCollar
- Greening Australia
- Landcare Australia
- Nature Foundation
- Odonata
- Queensland Trust for Nature
- South Endeavour Trust
- Tasmanian Land Conservancy
- The Nature Conservancy Australia
- Trust for Nature (Victoria)
- World Wildlife Fund – Australia

ALCA member land conservation efforts have influenced over 3 million square kilometres with more than 4,000 landholders. We have over 70,000 supporters and our combined annual turnover exceeds \$280 million. Together ALCA and its members address some of the most pressing conservation issues across the country, including restoring endangered ecosystems, building the protected area estate, tackling invasive species, expanding private conservation finance, and funding and using nature-based solutions to tackle climate change.

Through their active land management, ALCA member organisations are deeply embedded in rural communities and economies, providing jobs, securing significant regional investment, and safeguarding remaining native habitat, with its many positive spill-over effects for community, wellbeing, and food security. We seek to demonstrate the role and value of private land conservation as a cornerstone of the Australian economy.

Some ALCA members are statutory entities; the views expressed in this submission do not necessarily represent the views of the Government administering those statutory entities.

Summary

ALCA strongly supports a role for robust OECMs in Australia and supports the Government in proceeding with its work in defining and implementing OECMs.

The review and development of OECMs is being undertaken globally and Australia should continue to understand and learn from the experiences of other countries. For example, while the standards may vary and lessons are being learned, one approach taken by Canada (the Canadian Parks Council) includes the development of a Decision Support Tool to assess sites for suitability for different protected areas, including OECMs.

Australia's National Reserve System already includes developed high quality, secure pathways for achieving a 30 by 30 target that includes public, private and indigenous protected areas, with opportunities for scaling to achieve the 30 by 30 target. Subsequently, two of the recommendations made below are worth summarising. Firstly, the Government should commit to a minimum requirement for existing protected areas in delivering its 30 by 30 targets, recommending this should be at least 29% of Australia's land by 2030.

The second point is for further consideration of how 'sustained long-term' is defined. Currently, the proposal is to hinge this upon landholder intention.

OECMs should follow the land rather than the landholder – OECMs, are, by definition, area-based and not landholder based.

Under this understanding prioritising the legal (or administrative) area-based instruments or mechanisms that register or track OECMs should be prioritised over landholder intent.

An area-based approach also reduces the risk of individual or organisational intention changing. For example, private individuals who may have no means to enforce an outcome in the long-term *regardless of their intention*, whether due to death, a change in their legal capacity, or a change in their financial capacity.

This approach also helps on a practical level, noting that the administration required to track landholder intention is a lot more vexed and volatile than tracking a register of legal instruments, or land title registry.

Lastly, within the context of the protected areas, long-term is defined as in-perpetuity or at least 99 years¹. ALCA's view is that there should be no distinction – or separation – between the definition for 'long-term' for OECMs versus protected areas.

Further, existing policy for 'long-term' area-based conservation has been clearly defined as at least 99 years. If a different time period for 'long-term' were to be adopted, it would have the perverse outcome of making it disingenuous for Australia to count OECMs towards national targets – which in turn would be contrary to the stated intention within the consultation paper².

¹ See: p43, Australia's Strategy for the National Reserve System 2009–2030, DCCEEW; <https://www.dcceew.gov.au/sites/default/files/documents/nrsstrat.pdf>

² See: p3, consultation paper: "For Australia to meet a national target, and make a strong contribution to a global 30 by 30 target, identification, recognition, recording and reporting of OECMs will be required."

Recommendations

Regarding the recognition of an OECM in Australia (as per the box at the bottom of page 3):

1. That the 'voluntary' criteria to be interpreted as not requiring subsequent landholders upon whose land an OECM has been registered to actively renew an OECM upon securing ownership.

Principle: Consent

2. That the head principle regarding consent be retained within the OECMs national framework but reframed as "consent to assess eligibility" (or "consent to assess") so as to not confuse the principle with the intention for voluntary recognition of OECMs (as per the box at the bottom of page 3 in the consultation paper³).

Principle: Biodiversity values

3. That the description in the head principle be rewritten as follows, so as to directly reflect the definition by the United Nations Convention on Biological Diversity:

"OECMs must have **important** biodiversity values, documented in detail at the time of the site assessment. These values are to be **maintained governed and managed in the in ways that achieve positive and sustained long-term outcomes for the in situ conservation of biodiversity.**"

4. That the "Restoration sites" principle should be amended by adding the following dot points:
 - **"Where possible, a site under ecological restoration should be undertaken to an appropriate and recognised standard⁴ to achieve recognition as an OECM."**
 - **"Restoration actions may not address all the causes of biodiversity loss, for example, feral pests, so it may be appropriate to consider all major causes of biodiversity loss on the way to recognition as an OECM."**
 - **"Once a site is restored, the threats to that site may change and consideration needs to be given to long-term management arrangements following restoration."**

If these dot points are not ultimately included in the principle proper, they should at least be included in the explanatory detail accompanying the principle.

Principle: Protected area consideration

5. ALCA urges strong support for this principle to be retained, and with the following additions:

"A site's suitability for protected area designation should be considered first. Suitability for OECM recognition should **only** be considered in circumstances

³ See: https://storage.googleapis.com/files-au-climate/climate-au/prj254b838e20ec4ca9dfe0a/public_assets/OECMs%20-%20Principles%20consultation%20paper.pdf

⁴ For example, the *National standards for the practice of ecological restoration in Australia*, Society for Ecological Restoration Australasia (SERA), 2017; see: <https://www.seraustralasia.com/standards/National%20Restoration%20Standards%202nd%20Edition.pdf>

where **there is evidence that** formal protected area designation is not appropriate, achievable or desirable.”

The importance of including the evidentiary provision is to ensure that a casual approach to this principle – i.e. statements to effect that an OECM is more appropriate for an area or in certain circumstances without any meaningful proof or explanation – cannot be adopted. It will be particularly important to strictly adhere to this evidentiary requirement when dealing with States and Territories.

Principle: Land tenure

6. That the second dot point in the principle should be slightly amended for clarity (i.e. clarity that the forward slash is actually meant to mean ‘and’ rather than ‘or’ or ‘and/or’):
 - “To be recognised on leasehold land, conservation must be compatible with lease conditions **and** legislation.”

Principle: Governance

7. That the principle be slightly amended for clarity, reversing organisations and private individuals so as not to inadvertently imply that an organisation must be a private – i.e. commercial – organisation:

“The following governance types will be recognised: governments; **organisations or private individuals**; First Nations people; and shared or jointly managed areas.”

If this proposed amendment is considered problematic, ALCA encourages the Government to consider how organisations that have been constituted under statute and thus may not be considered private organisations – but are not government-run organisations – should be encompassed, for example, State-based National Trust organisations, noting that it may be that this can be simply addressed in the final explanatory detail accompanying the principle.

Principles: Site management

8. That the principles be strengthened as follows to ensure effective site management and outcomes for biodiversity are achieved:
 - “Management objectives and activities must ~~not be incompatible with~~ **achieve positive and sustained long-term** biodiversity conservation; and
 - Sites with a primary or secondary conservation objective should have a site management plan or arrangement that includes (at a minimum), a section on biodiversity conservation that **identifies the biodiversity values at the site**, outlines the conservation objectives for the site, adaptive management actions, and relevant jurisdictional land management requirements. **The management plan and its implementation should demonstrate biodiversity is being maintained or improved.**”

Principle: Sustained long-term

9. It is unclear why, at the principle level, there needs to be categorical – and potentially artificial – distinctions created for OECMs; for this reason, ALCA recommends that the introductory sentence should be simplified to:

“For a site to be recognised as an OECM ~~with a primary or secondary biodiversity conservation management objective, and ancillary OECMs where applicable, at a minimum~~, there must be:”

10. **OECMs should follow the land rather than the landholder** – OECMs, are, by definition, area-based and not landholder based – thus the intention of the landholder is either not relevant, or, at the very least, should be a subsidiary consideration to the legal instruments or mechanisms ultimately adopted to register or track OECMs.

This area-based approach also sidesteps the issue of individual or organisational intention not only being hard to gauge, but inherently changeable. This is especially the case with private individuals who may have no realistic means to enforce an outcome in the long-term *regardless of their intention*, whether due to death, a change in their legal capacity, or a change in their financial capacity, just as examples.

This approach also helps on a practical level, noting that the administration required to track landholder intention is a lot more vexed and volatile than tracking a register of legal instruments, or land title registry.

11. Within the context of the protected areas, long-term is defined as in-perpetuity or at least 99 years⁵. There should be no distinction – or separation – between the definition for ‘long-term’ for OECMs versus protected areas.

Existing policy for ‘long-term’ area-based conservation has been clearly defined as least 99 years. If a different time period for ‘long term’ were to be adopted, it would have the perverse outcome of being contrary to the stated intention within the consultation paper⁶: for Australia to count OECMs towards national targets.

12. The definition for ‘long-term’ should be explicitly stated within the principles.

13. That the dot points thus be amended as follows:

- “a clear long-term **intention objective** for the continuation of management arrangements that deliver in-situ biodiversity conservation outcomes **in the long-term (99 years or more)**
- a commitment to a minimum timeframe for management arrangements that deliver in-situ biodiversity conservation outcomes, determined at the time of site assessment
- **a legal or other effective instrument, or registration upon title**
- no land use zoning on the site that is incompatible with biodiversity conservation.”

General recommendations:

14. The Government should proceed with defining and implementing OECMs. ALCA strongly supports a role for robust OECMs in Australia.
15. ALCA is concerned about the potential for using OECMs as a less secure, lower-quality pathway to achieving 30 by 30, while existing protected area mechanisms exist. To guard against this outcome, the Government should adopt a minimum requirement for protected areas in delivering its 30 by 30 targets. ALCA recommends that, at minimum, 29% of Australia’s land be protected using protected areas (including the categories as discussed above under the ‘Principle: Protected area consideration’).

⁵ See above n1.

⁶ See above n2.

16. An intention of the Nature Repair Market appears to be the possible facilitation of OECCMs on private land. Noting the 100-year option for the permanence duration (i.e. certificate duration) of a biodiversity certificate under the current *Nature Repair Market Bill 2023*, as well as the scope to register a biodiversity certificate on title indicated in the Bill, ALCA encourages this possibility but urges the Government to proceed with both caution and prudence, robustly adhering to the necessary quality requirements for OECCMs.
17. As the Government proceeds with implementation, it should actively consider the opportunities to add value to landholders who register OECCMs. For example, an OECCM (or protected area status) could be an eligibility requirement for certain grants or funding, which in turn would encourage the registration of an OECCM.

Thank you again for the opportunity to contribute to the Government's consultation on draft principles to guide recognition of OECCMs in Australia.

ALCA and its members look forward to ongoing engagement with the Government to ensure a robust framework of principles for OECCMs.

Australian Land Conservation Alliance