

Protected and Conserved Areas Policy Section
Department of Climate Change, Energy, Environment and Water
Parkes ACT 2600
Online submission; cc: NRS.environment@dcceew.gov.au

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17 April 2024

Dear Protected and Conservation Areas Policy Section,

RE: Draft National Other Effective area-based Conservation Measures Framework

The Australian Land Conservation Alliance (ALCA) welcomes the opportunity to provide a submission to the Australian Government's consultation on its draft National Other Effective area-based Conservation Measures (OECMs) Framework.

The Australian Land Conservation Alliance (ALCA) 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.

The land conservation efforts of ALCA's seventeen member organisations 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 \$325 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.

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

Key recommendations

Avoiding the political trap of 25-year OECMs

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

However, ALCA is concerned that the key issues we identified in our April 2023 submission¹ to the public consultation on *draft principles to guide recognition of OECMs in Australia* have not yet been addressed.

There is a long and established history in Australia of long-term protection being the delivery of in-perpetuity protection, or at minimum, 99 years of protection². The Australian public implicitly understands this arrangement – national parks and conservation parks are permanent in the minds of the public, or at the very least, as permanent as humanly possible.

¹ p2, https://alca.org.au/wp-content/uploads/2023/05/20230428-ALCA-submission-OECMs-principles_web.pdf

² p43, <https://www.dcceew.gov.au/sites/default/files/documents/nrsstrat.pdf>

ALCA is particularly concerned that OECMs – especially if they proceed with the proposed 25-year termed arrangements (more on that below) – will be used as a tool of political convenience for Federal, State and Territory governments to deliver shorter-term protection outcomes, whilst still claiming that they are protecting nature for the ‘long-term’.

To be clear, ALCA strongly supports a wide range of time periods for conservation arrangements and are not opposed to the use of 25-year termed agreements for conservation.

This has been evidenced in ALCA’s solid support for the Government’s Nature Repair Market, which is envisaged to deliver, amongst other timeframes, 25-year biodiversity certificates. Indeed, there is a critically important role for shorter than 99-year / in-perpetuity agreements, and indeed, for some forms of conservation to be appealing alongside other land uses, shorter term arrangements are deeply necessary. But they should not count as OECMs where OECMs are to contribute to Australia’s 30 by 30 target.

Existing national standards for protected areas, combined with international expectations of OECMs being genuinely long-term, make it wholly inappropriate for Australia to adopt a watered-down timeframe. This contrasts with jurisdictions that do not possess legal mechanisms for genuine long-term protection of nature as Australia does – in these jurisdictions, a 25-year (at-minimum) arrangement accompanied by an intent to develop and deploy a long-term legal mechanism might well be appropriate.

The IUCN guidelines on *Recognising and reporting other effective area-based conservation measures*³, the seminal international document on the detail of OECMs, has no reference to the suitability of 25 years. Further, IUCN guidelines on privately protected areas (which in Australia can already contribute to our 30 by 30 target) outlines that ‘long-term’ for privately protected areas must also have an intent to conserve ‘in perpetuity’⁴.

Adopting this unequal timeframe for OECMs (as compared to protected areas) will exacerbate the perverse outcome of protected areas being crowded out as the preferred mechanism for the conservation of nature, and leading to lower-requirement, less-enduring, and less-secure conservation outcomes. Whilst recognising the government has proposed a Protected Area Consideration as a Framework principle, we note that the principle outlines no clear or measurable mechanism for gauging “[a] site’s suitability for Protected Area designation... be considered first”⁵, and pointedly deploys the word ‘should’ rather than ‘must’.

ALCA further notes the recent public commentary by academic Dr James Fitzsimons, a global and national protected areas specialist, that also echoes many of the above concerns⁶.

ALCA reiterates the role of termed conservation agreements as a critical tool in Australia’s conservation toolkit – and mechanisms to support, enable and invest in such termed agreements should indeed be contemplated, for example, through the Nature Repair Market as appropriate. However, where OECMs are contemplated to retain 25-year terms, they should not be included as a pathway within Australia’s 30 by 30 Roadmap (i.e. *Delivering the*

³ <https://portals.iucn.org/library/sites/library/files/documents/PATRS-003-En.pdf>

⁴ <https://portals.iucn.org/library/sites/library/files/documents/PATRS-001.pdf>; and <https://portals.iucn.org/library/sites/library/files/documents/PAG-029-En.pdf>

⁵ Principle 7, *draft National OECMs Framework*

⁶ <https://theconversation.com/why-an-intention-to-protect-an-area-for-only-25-years-should-not-count-for-australias-target-of-protecting-30-of-land-227558>

30 by 30 land target: Australia's National Roadmap). We encourage the government to release this Roadmap as soon as possible. The National OECM Framework should not be finalised until stakeholders have the opportunity to provide feedback on the Roadmap.

Recommendation 1: OECMs should supplement and not substantively replace protected areas in meeting Australia's 30 by 30 commitment. Protected areas should account for at least 29% of Australia's land by 2030.

Recommendation 2: That the National OECMs Framework not be finalised until any public consultation on Australia's National Roadmap for 30 by 30 has closed for public comment (such that those comments can be contemplated and incorporated when making any final changes to the National OECMs Framework).

Recommendation 3: At minimum, the Australian Government should explicitly state in Australia's forthcoming National Roadmap for 30 by 30 that protected areas are the preferred mechanism for delivering that roadmap.

Recommendation 4: The Australian Government should not adopt a 25-year term for OECMs, as it would:

- a. perversely and actively undermine the genuinely long-term protection afforded to protected areas under our National Reserve System;
- b. send a perverse signal (including to the commercial sector) that the government thinks 25 years is 'sufficient' to contribute to 30 by 30 protection targets, helping to establish shorter-term arrangements as the norm rather than long-term protection, undermining the moral and financial premium that would otherwise continue to accrue to long-term protection (including via the Nature Repair Market); and
- c. at a time where Australia is seeking to demonstrate its credentials as one of two megadiverse, advanced economy nations, put Australia's international reputation at risk by not keeping with international standards, thus reducing the opportunity to attract high-integrity investment in Australian nature.

Crystallising 'long-term intention' into something real

As raised in its earlier submission, ALCA's second key concern with the proposed National OECM Framework relates to the interpretation of 'long-term intention'.

It is not controversial to state that intentions can change – and from the long-term observations of ALCA's members of the private landholders with which they routinely partner, – regularly do, whether simply due to a change of mind, "...*due to death, a change in their legal capacity, or a change in their financial capacity.*"⁷

Recommendation 5: 'Long-term intention' must be legally crystallised – albeit not necessarily irreversibly – for it to have any substantive meaning. A clear legal mechanism is a high-integrity approach. The current draft, which contemplates 'the best evidence of

⁷ p2, https://alca.org.au/wp-content/uploads/2023/05/20230428-ALCA-submission-OECMs-principles_web.pdf

what may be in the mind of a landholder in 25 years' time, is simply not adequate or sufficient. A legal mechanism for registering OECMs also has the great benefit of being able to much more effectively track when intentions change, because the intention clearly changes at the point at which a landholder seeks to reverse or alter that legal mechanism.

In practice, such legal crystallisation could include, for example:

- a. a restrictive covenant on title, but with less restrictions than a conservation covenant;
- b. some other legal or equitable interest on title; or
- c. a contractual agreement between the appropriate Government authority and the landholder, or authorised under Government legislation (e.g., a biodiversity certificate sold under the Nature Repair Market).

Detailed recommendations

OECM principles

ALCA recommends that the Principles be revised as follows, as reproduced from the draft Framework (**amendments in bold**):

Principle 3 – Biodiversity Values

Conserved Areas must have biodiversity values for which a site is important, documented in detail at the time of the site assessment. Maintaining values **is must be** a long-term objective.

Principle 6 – Restoration Sites

A site that is severely degraded, damaged, or destroyed, and not yet under ecologically effective restoration, is not appropriate for Conserved Area recognition.

A site under ecological restoration may be recognised as a Conserved Area, once **it is** delivering demonstrable biodiversity outcomes. Restoration actions must include actions that address the cause of the original degradation **and** biodiversity loss.

Principle 7 – Protected Area Consideration

A site's suitability for Protected Area designation **should must** be considered first. Conserved Area recognition should be considered in circumstances where formal Protected Area designation is not appropriate, supported, achievable or desirable. However, Conserved Area status may be appropriate while Protected Area designation is being sought.

Principle 12 – Sustained Long-Term

For a site to be recognised as a Conserved Area with a primary or secondary management objective of biodiversity conservation, at a minimum there must be:

- a **legally** clear long-term intention (minimum **25 99** years) for the continuation of management arrangements that **are delivering** 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.

For ancillary Conserved Areas, at a minimum there must be:

- a **legally** clear long-term intention (minimum **25 99** years) for the continuation of management activities that are delivering in-situ biodiversity conservation outcomes
- 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.

Further recommendations

Recommendation 6: ALCA recommends that potential mechanisms for legal crystallisation of intention are listed under principle 12.

Recommendation 7: ALCA kindly requests further information on what is being contemplated for ‘ancillary OECMs’ from the Framework, especially as they may be insufficiently compatible with international standards. We are concerned that any support for ‘quasi-OECMs’ in the Framework would undermine the integrity of OECMs more broadly.

Recommendation 8: ALCA does not support the Framework flagging an example of “a *conservation covenant cannot be registered on the property title*”⁸ as this signals a lack of ambition to those jurisdictions – the Northern Territory and the ACT – that do not currently have Federally accredited conservation covenant programs⁹.

Recommendation 9: Australia’s National Roadmap for 30 by 30 needs to contemplate what policy and legislative changes will be required to support *Australia’s Strategy for the National Reserve System* being fully implemented and scaled across all States and Territories. This includes ensuring that there is a confirmed pathway for conservation covenants on pastoral leases (specifically, Western Australia and Northern Territory).

Recommendation 10: Potential OECM sites need to be assessed on their individual merits, and not ‘batched’ by tenure type or landholder by State or Territory Governments without undertaking site-by-site assessments.

⁸ p13, <https://storage.googleapis.com/files-au-climate/climate-au/prj2d08d464a5f2aff7ed849/page/Draft%20National%20OECMs%20Framework%20-%20Public%20Consultation.pdf>

⁹ <https://www.dcceew.gov.au/environment/biodiversity/conservation/covenants/approved-programs>

Conclusion

Where appropriately considered, OECMs can play an important role in complementing existing protection mechanisms outlined in *Australia's Strategy for the National Reserve System* – and ALCA points the Government to a recent academic paper that details Australian examples of potential OECMs that could make significant long-term contributions to protecting Australia's unique biodiversity for future generations to benefit from and enjoy¹⁰.

However, the framework requires further refinement to ensure that genuinely contributes to Australia's protected area target. Shorter-period agreements with landholders – such as 25-year agreements as contemplated under section 24(3)(b) of the Nature Repair Act¹¹ – are an important tool in the conservation toolkit, and ALCA will continue to encourage and support quality, high-integrity private land conservation over any timeframe that deliver meaningful outcomes for nature.

Yet, ALCA cannot support an interpretation of OECMs that would put us deeply at odds with internationally agreed policy on OECMs, confusingly at odds with domestic policy on protected areas, and would create even greater perverse political incentives to present them as broadly equal to Australia's high-integrity protected area network – which they would not if they proceed as currently proposed.

Thank you again for the opportunity to provide feedback on the draft National OECMs Framework. We entreat the Government to join ALCA, its member organisations, and its partner organisations for a roundtable to discuss the detail of the Framework, to ensure the final Framework is fit for purpose and supports strong conservation outcomes for Australian nature.

Recommendation 11: That the Government hold a roundtable with ALCA, its member organisations, and its partner organisations for a roundtable to discuss the detail of the Framework prior to its finalisation.

Australian Land Conservation Alliance

¹⁰ Fitzsimons, J.A.; Partridge, T.; Keen, R. *Other Effective Area-Based Conservation Measures (OECMs) in Australia: Key Considerations for Assessment and Implementation*. Conservation 2024, 4, 176–200. <https://doi.org/10.3390/conservation4020013>

¹¹ <https://www.legislation.gov.au/C2023A00121/asmade/text>

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 seventeen members are:

- Arid Recovery
- Australian Wildlife Conservancy
- Biodiversity Conservation Trust NSW
- Bush Heritage Australia
- EcoGipps
- GreenCollar
- Greening Australia
- Landcare Australia
- Nature Foundation
- NRM Regions Australia
- 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 \$325 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.