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WENTWORTH GROUP SUBMISSION TO THE SENATE ENVIRONMENT AND COMMUNICATIONS REFERENCE COMMITTEE INQUIRY - AUSTRALIA'S EXTINCTION CRISIS

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The Wentworth Group of Concerned Scientists is an independent group of scientists, economists and professionals, working to secure the long-term health of Australia's land, water and biodiversity. We focus on solutions-based, science-driven policy reforms.

We appreciate the opportunity to contribute to the Senate Environment and Communications References Committee inquiry into Australia's extinction crisis.

Background

Australia is a world leader in mammal extinctions¹ and ranks second in the world for biodiversity loss.² The number of threatened species is continuing to rise while the state of the environment continues to decline,² with at least 19 Australian ecosystems showing signs of collapse.³

The first ever independent and comprehensive State of the Environment Report for Australia, published in 1996, showed that Australia had "some very serious environmental problems" that needed to be dealt with immediately.⁴ Successive state of the environment reports have continued to identify degradation to the environment and note the need for government action, with the State of the Environment 2021 report (SoE 2021), stating that unless we substantially improve our current management approach, we can expect further species extinctions and ongoing deterioration in ecosystem conditions.² This is of particular concern for the >2000 species and ecological communities which have received threatened listing status as they are already vulnerable and on a pathway to extinction. It is our national responsibility to protect and recover these species and ecological communities.

Australia's main national environmental legislation, the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and associated regulations, provide the framework for the protection of the environment, conservation of biological diversity and promotion of ecologically sustainable

¹ Ritchie, E. (2022). 'Gut-wrenching and infuriating': why Australia is the world leader in mammal extinctions, and what to do about it. *The Conversation*. (19 October 2022). <https://theconversation.com/gut-wrenching-and-infuriating-why-australia-is-the-world-leader-in-mammal-extinctions-and-what-to-do-about-it-192173>

² RN Breakfast. (25 March 2024). Australia leads world in mammal extinction and biodiversity loss [Radio broadcast]. ABC Listen. <https://www.abc.net.au/listen/programs/radionational-breakfast/australia-leads-world-in-mammal-extinction-and-biodiversity-loss/103625768>

³ Bergstrom, D. M., Wienecke, B., Van Den Hoff, J., Hughes, L., Lindenmayer, D. B., Ainsworth, T. D., Baker, C. M., Bland, L. M., Bowman, D. M. J. S., Brooks, S. T., Canadell, J. G., Constable, A. J., Dafforn, K. A., Depledge, M. H., Dickson, C. R., Duke, N. C., Helmstedt, K. J., Holz, A., Johnson, C. R., . . . Shaw, J. (2021). Combating ecosystem collapse from the tropics to the Antarctic. *Global Change Biology*, 27(9), 1692–1703. <https://doi.org/10.1111/gcb.15539>

⁴ State of the Environment Advisory Council. (1996). Australia State of the Environment 1996. (An independent report presented to the Commonwealth Minister for the Environment by the State of the Environment Advisory Council). Collingwood, Australia.

development, with respect to Matters of National Environmental Significance (MNES). Yet the EPBC Act is failing in its duty to protect and conserve biodiversity.^{5,6}

Numerous reviews and inquiries highlight the critical need for a comprehensive and robust overhaul of national environmental laws. The Independent Review of the EPBC Act (Samuel Review)¹ found that the Act does not allow for the effective protection of MNES and is not equipped to address current or future environmental pressures. The review identified key gaps in the EPBC Act, including failure to consider and address cumulative impacts to MNES, failure to fully value Indigenous knowledge and perspectives in decision-making, excessive legislative complexity contributing to inconsistent decision-making, and ineffective compliance and enforcement.⁵

The Wentworth Group has contributed advice and expertise over many years to independent reviews and parliamentary inquiries outlining how reforms to the EPBC Act are an opportunity to reverse the trajectory of biodiversity loss while improving certainty for business.⁷ We are continuing to provide evidence-based advice to Government now through our involvement in consultation on proposed reforms to the EPBC Act.

Key test of successful EPBC Act reforms

If the Government is to deliver on its national and international commitments and achieve the targets under the Kunming-Montreal Global Biodiversity Framework, the new national environmental laws must satisfy the following tests:

1. Will the proposed new national environmental laws help prevent further extinctions?
2. Will they contribute to Government's nature positive goals?
3. Is the proposed new legislative package an improvement on the EPBC Act?
4. Will reforms maintain AND improve the status of MNES?

New laws must pass these tests to ensure that we are equipped to protect and conserve important species populations and remaining intact, high-quality habitat and ecosystems, recover and improve the status of threatened and degraded protected matters, and turn around the trajectory of environmental decline.

Wentworth Group's preliminary review of the proposed Nature Positive reforms and associated draft legislation

The Wentworth Group has undertaken a review of the proposed reforms to the EPBC Act (including the proposed Nature Positive Act, Environment Protection Australia Act and Environment Information Australia Act) based on material shared by the Department of Climate Change, Energy, the Environment and Water (DCCEEW) to date. This is a preliminary review given the restricted consultation process (see below) and as we have yet to see the full proposed reform package including the National Environmental Standard for Indigenous Engagement and participation.

For our assessment, we compiled a table (attached) that classifies the components of the reforms that we have reviewed to date into the following categories:

⁵ Samuel, G 2020, *Independent Review of the EPBC Act – Final Report*, Department of Agriculture, Water and the Environment, Canberra, October. CC BY 4.0.

⁶ Australia State of the Environment 2021, Department of Climate Change, Energy, the Environment and Water, Canberra, viewed 2 April 2024, < <https://soe.dcceew.gov.au/#0>>.

⁷ See Wentworth Group submissions to the [Inquiry into the Environment Protection and Biodiversity Conservation Amendment \(Bilateral Agreement Implementation\) Bill 2014](#), [Independent Review of the Environment Protection and Biodiversity Conservation Act 1999](#) and [Senate Inquiry into the Environmental Protection and Biodiversity Conservation Amendment \(Streamlining Environmental Approvals\) Bill 2020](#)

- **Positive elements:** highlights the measures needed to ensure these elements genuinely deliver positive outcomes (and represent an improvement on the EPBC Act) and the other elements of the package that could undermine these positive elements.
- **Negative elements:** highlights why these elements may result in worse outcomes than under the EPBC Act and what is needed to fix them.
- **Missing pieces:** outlines key gaps in the EPBC Act that have not been captured in the proposed reforms, why they matter and how they can be addressed.

Consultation on proposed new national environmental legislation

Members of the Wentworth Group have attended four invitation-only sessions held to date (October 2023, December 2023, February 2024, March 2024). This has consisted of restricted access to draft hard copy documents, and a closed, budget-style, lock-up approach to stakeholder consultation. We have provided staged feedback to DCCEEW, but little or no response has been provided as to whether this feedback has been considered or recommendations adopted. The restricted consultation approach has hampered the ability of the Wentworth Group, and all consultation participants, to provide independent advice to this inquiry, and greatly undermines the overall integrity, fairness and public trust in the reform process.

Summary of preliminary review findings

From the information available to us, the reform proposes many positive elements, yet these are undermined by major loopholes and the potential for excessive discretion in decision making. This could result in the Act failing to meet its objectives and reduce certainty for business.

Without significant improvements to the reform package as currently proposed, there is a risk that the new legislation will represent a step backwards from the EPBC Act for Australia's biodiversity. If this were to occur, the new legislation could not only fail to deliver on the Government's nature positive ambition, it will almost certainly further exacerbate Australia's extinction crisis.

While we have identified a number of serious concerns with the proposed reform package, we assert that these issues can and should be fixed if Government is to deliver the comprehensive and robust overhaul of national environmental laws that Australia so desperately needs.

New legislation ultimately needs to meet the 'maintain and improve' test to establish a nature positive trajectory for our matters of national environmental significance and prevent further extinctions. The outcome of our assessment, presented below, outlines how the new legislation can be a) designed to improve the way impacts currently captured under the EPBC Act are dealt with, b) ensure that the myriad other impacts on MNES are also assessed and addressed, c) supported by adequate resourcing for compliance and enforcement, and d) complimented by sufficient funding to enable proactive recovery efforts.

Positive elements:

The Wentworth Group welcomes several positive elements in the proposed reform package, and recommends they be carefully constructed to guarantee their intended outcomes. This includes (1) legally binding National Environmental Standards, (2) clearly defined unacceptable impacts to MNES, (3) recovery strategies for all threatened species and ecological communities, (4) the establishment of an independent environment protection agency (Environment Protection Australia), (5) modernised and strengthened compliance and enforcement powers, and (6) specific provisions governing data collection and use, including the declaration of national environmental information assets.

These now need to be implemented in a robust manner, and appropriately resourced to ensure the protection of MNES:

1. National Environmental Standards should set clear, measurable and enforceable outcomes for all matters protected under the Act. Key requirements in standards (such as the requirement for decisions to deliver a net positive outcome or address cumulative impacts) should be reflected explicitly in all relevant decision-making requirements throughout the Act.
2. Unacceptable impacts should be defined in a practical and workable manner that will facilitate the refusal of impacts on irreplaceable MNES habitat, populations or values. Ministerial call-in powers (i.e., the Minister's power to 'call-in' an approval decision from the CEO of the EPA) should not enable the approval of unacceptable impacts to MNES, except in clearly defined exceptional circumstances.
3. Recovery strategies should be required to include information on the protection and recovery needs of threatened species and ecological communities, both now and in the future under a changing climate. The CEO of Environment Protection Australia should be required to act consistently with identified protection and recovery needs when making decisions.
4. Environment Protection Australia should be genuinely independent, preferably with a CEO appointed by a skills-based governance board (not on the recommendation of the Minister as currently proposed). It should not be undermined by unfettered Ministerial call-in powers that allow a Minister to take responsibility for decision making at any time during an assessment process and for any reason, without being subject to the same decision-making standards as the CEO of the EPA.
5. Draft legislation for compliance and enforcement represents an improvement on current regulatory powers under the EPBC Act. To be effective this must be supported by adequate resourcing to deploy the strengthened powers.
6. Draft legislation for Environmental Information Australia is a welcome step forward and could be further enhanced by the inclusion of mandatory data sharing provisions.

Negative elements:

The Wentworth Group has significant concerns about several other elements of the proposed reforms, which, if left unaddressed, threaten to undermine the entire reform package and would represent a rolling-back of current protections under the EPBC Act.

Payments for destruction

Environmental offsets under the current EPBC Act are intended to compensate for unavoidable impacts to MNES by offsetting losses at one location with "like-for-like" gains (i.e., equivalent benefits to the same protected entity that suffers the loss) at a secondary location. However, in practice, environmental offsets are increasingly well recognised as being poorly implemented and governed⁸ with the potential to contribute to further environmental decline.⁹

The Government recognised the need to significantly improve the use of environmental offsets in their Nature Positive Plan.¹⁰ However, materials shared to date do not reflect this commitment. The draft national environment standard for restoration actions and restoration contributions does not capture

⁸ ANAO 2020, *Auditor-General Report No.47 2019–20 Referrals, Assessments and Approvals of Controlled Actions under the Environment Protection and Biodiversity Conservation Act 1999*, Australian National Audit Office, Canberra, June. CC BY 3.0.

⁹ Samuel, G 2020, *Independent Review of the EPBC Act – Final Report*, Department of Agriculture, Water and the Environment, Canberra, October. CC BY 4.0.

¹⁰ DCCEE 2022, *Nature Positive Plan: better for the environment, better for business*, Department of Climate Change, Energy, the Environment and Water, Canberra, December. CC BY 4.0.

the full suite of requirements currently applicable under the Environmental Offsets Policy 2012. Of greater concern, the draft legislation proposes the introduction of a freely available 'restoration contribution' pathway, whereby a proponent could choose to avoid delivering an offset and instead opt to buy their way out of any responsibility for the impacts they cause. By making a payment to a public trust, a proponent could acquit their obligation to compensate for any significant impacts to MNES associated with their development/activity. Furthermore, the trust would not be bound to expend the funds on the same species/entities that were impacted. The use of similar payment models in NSW and Qld has resulted in an accumulation of unfunded compensation requirements where the 'trust' has been unable to find or secure like-for-like offsets.

Unless impacts to all individual protected matters are prohibited, avoided, or minimised, and residual impacts are compensated for in full, we will by definition continue to see further decline in MNES, and accelerating extinctions of species. If the Government chooses to progress their proposed payment pathway, payments should only be allowed when impacts can be compensated for with a like-for-like offset, and when such offsets are not available, the action generating the impact should not be approved; otherwise, continued declines of MNES will be built into the system.

Extensive ministerial call-in powers

We are concerned about the proposal for extensive ministerial call-in powers that would allow the Minister to call-in any action at almost any time during the assessment period. This would significantly undermine the independence of the EPA, erode the public confidence in environmental decision making that the EPA is seeking to build, and compromise the ability of the EPA to address the considerable implementation problems under current legislation. While we acknowledge there may be circumstances in which the Minister may want discretionary decision-making powers, any introduction of ministerial call-in powers to the new legislation should be restricted, fully transparent and subject to a meticulous regulatory framework.

A regional planning framework focussed on facilitating development over enhancing conservation

We are concerned about the implied shift away from regional planning being a tool to enable more holistic consideration of environmental impacts and conservation needs, towards a mechanism for facilitating specific classes of development. Draft legislation indicates that a key focus of regional plans will be to specify the 'priority actions' that can be taken in development zones (without the need for approval under national environmental law), the 'restricted actions' that are prohibited in conservation zones and the 'regional restoration measures' intended to protect and conserve protected matters. However, there are no minimum requirements for the type of conservation values that should be protected in conservation zones and no mechanisms to ensure that any significant impacts permitted to occur in development zones are fully compensated for with like-for-like regional restoration measures or regional restoration contributions. We have also identified an absence of safeguard mechanisms to stop permitted actions if they are found to be resulting in unacceptable impacts to MNES, and an unfettered ability for the Minister to grant exemptions to allow otherwise restricted actions to be undertaken in conservation zones.

The Government has consistently and publicly promoted regional planning as a device for better dealing with climate risk and cumulative impacts, providing an early indication of no-go zones for development and enabling environmental protection and restoration efforts to be significant scaled-up. However, it is not clear how these objectives would be achieved through the narrowed approach to regional planning described above. We recommend that a strong conservation focus be brought back into the regional planning framework, underpinned by nationally consistent, evidence-based rules for the allocation of areas into Conservation Zones and Development Zones.

Accreditation of third parties to undertake environmental approvals

The Wentworth Group has strong objections to the proposed accreditation of states and territories, and other Commonwealth agencies, to undertake approval decisions under new national environmental laws. We are further concerned by the suggestion that such accreditation powers could be granted for unlimited periods of time. It is the Commonwealth's responsibility to protect MNES, and state and territory environmental legislation is not designed to fulfill this role. Rather, several jurisdictions are responsible for implementing legislation and policy that is in direct conflict with the objects of both the EPBC Act and the proposed Nature Positive Act, such as the Queensland *Vegetation Management Act 1999*, the NSW *Land Management (Native Vegetation) Code 2018* and environmental offsets policies in both jurisdictions. Granting third parties both assessment and approval powers could also remove the incentive for these parties to conduct comprehensive environmental assessments. Furthermore, any such accreditation would undermine the creation of an independent national environment protection agency to act as a strong, independent cop on the beat. The Wentworth Group does however support the development of scientifically robust standards and accreditation processes, to allow state and territories, and other Commonwealth agencies, to undertake environmental assessments under the EPBC Act.¹¹ This could provide proponents with a significantly more streamlined environmental assessments and avoid duplication across government agencies by facilitating a single assessment process, with one set of documentation and common public participation periods.

Watered down community consultation

The proposed National Environmental Standard for Community Engagement and Consultation raises a number of serious concerns about the ability of the general public to meaningfully engage with and contribute to environmental decision making. The transfer of responsibility for undertaking community consultation from the regulator to the proponent is likely to result in considerable disparity between individual consultation events, limit the number of people engaging with the consultation process and restrict the regulator and Minister's understanding of public views on a proposed action. The requirement for a proponent to undertake early engagement with the potentially affected community would be a welcome addition if accompanied by regulator-led consultation. However, entirely proponent-led consultation will not be a suitable replacement for regulator-led consultation and would represent a weakening of the current consultation processes under the EPBC Act.

Weakening of language in legislative decision-making provisions (relative to the EPBC Act)

We have noted a weakening of the language used within key legislative tests applied to different decisions and decision-makers which in turn reduces the likelihood of the Act maintaining and improving environmental outcomes. For example, the Minister must merely 'have regard to' relevant national environmental standards and recovery strategies when making particular decisions, while the CEO of the EPA 'must be satisfied' that the decision will not be inconsistent with these matters. By way of contrast, under the EPBC Act the Minister 'must not act inconsistently with' a recovery plan when making a development approval decision. Some of these proposed changes would reduce the possibility for judicial review of important decisions, which is arguably inconsistent with the rule of law and to that extent undermines the integrity of the proposed legislative framework. We recommend that a higher bar be used and provisions that give effect to material decisions be framed in a clear and reviewable manner.

Missing pieces:

Absence of mechanisms to assess and address cumulative impacts

¹¹ The Wentworth Group has proposed specific enhancements to the draft reforms on this topic.

The Samuel Review identified one of the key shortcomings of the EPBC Act was the failure to account for the cumulative effects of individual actions whose impacts to MNES accumulate over time, risking “an underestimation of the broadscale cumulative impacts on a species, ecosystem or region”.¹² We welcome the inclusion of a requirement in the National Environmental Standard for MNES that relevant decisions must maintain and improve conservation including by “addressing detrimental cumulative impacts” on MNES. However, the draft Nature Positive Act itself (like the EPBC Act) lacks a clear requirement for detrimental cumulative impacts to MNES to be assessed and addressed (i.e., through mandatory cumulative impact assessment and robust application of the mitigation hierarchy). The Wentworth Group together with leading experts and practitioners has put forward a practical approach for addressing cumulative impacts in reforms of Australia’s environment law, in a way that minimises burden on developers and is within Commonwealth powers. The recommendations in our report, [Preventing ‘Death by a Thousand Cuts’](#), draw on best practice examples of environmental regulation and cumulative impact assessment internationally.

No visible intention to address historical under-regulation of key threats to biodiversity

Studies have found that the loss of threatened species habitat and threatened ecological communities in Australia is concentrated around agricultural and coastal regions¹³ and habitat loss has been identified as the most significant threat to Australia’s biodiversity.¹⁴ In fact, agricultural activity is one of the most prevalent drivers of this, affecting >1200 EPBC Act-listed species.¹⁵ Yet, of the more than 7.7 million hectares of potential threatened species and ecological community habitat cleared between 2000 and 2017, less than seven percent of total clearing was referred for assessment under the EPBC Act.¹⁶ An independent review of interactions between the agricultural sector and the EPBC Act found that of the >6000 referrals under the Act since its inception only 2.7% related to agricultural activities;¹⁷ other estimates put this figure as low as 1.3%.¹⁴

Despite the clear need for all actions that will or are likely to pose significant threats to MNES to be assessed under national environmental law, there has been no indication to date that the proposed Nature Positive Act, or the Environment Protection Australia Act, will seek to address this scope issue in assessment and approvals processes.

Climate change considerations continue to be overlooked

The impacts of climate change on MNES, and the underlying drivers of those impacts, will have a profound effect on the long-term survival of species and ecosystems, yet this driver is not properly addressed under the EPBC Act¹⁸ or within proposed new national environmental legislation. Unless we account for and address the direct impacts of climate change on MNES, the contributions of a project

¹² Samuel, G 2020, *Independent Review of the EPBC Act – Final Report*, Department of Agriculture, Water and the Environment, Canberra, October. CC BY 4.0.

¹³ National Land and Water Resources Audit. (2001). *Australian native vegetation assessment 2001*. Canberra, Australia.

¹⁴ Cresswell, I.D., Murphy, H.T. (2016). *Australia state of the environment 2016: Biodiversity* (Independent report to the Australian Government Minister for the Environment and Energy). Canberra, Australia.

¹⁵ Australia State of the Environment 2021, Department of Climate Change, Energy, the Environment and Water, Canberra, viewed 2 April 2024, < <https://soe.dccceew.gov.au/#0>>.

¹⁶ Ward, M., Simmonds, J. S., Reside, A. E., Watson, J., Rhodes, J. R., Possingham, H. P., Trezise, J., Fletcher, R., File, L., & Taylor, M. (2019). Lots of loss with little scrutiny: The attrition of habitat critical for threatened species in Australia. *Conservation Science and Practice*, 1(11). <https://doi.org/10.1111/csp2.1117>

¹⁷ Aither (2018), *Review of interactions between the EPBC Act and the agriculture sector: Final report* (Independent report to the Department of Environment and Energy). Canberra, Australia.

¹⁸ Peel, J. (2024). MCF Discussion Paper: Why Australia’s environmental law does not protect the climate. Melbourne University, Australia. https://www.unimelb.edu.au/_data/assets/pdf_file/0009/4887387/MCF-discussion-paper_EPBC-Act.pdf

to additional warming and subsequent impacts on MNES and the resilience of MNES to unfolding climate catastrophes, the environment will continue to decline.

Apparent continued failure to fully value Indigenous knowledge and perspectives

The Government has yet to publicly release a draft National Environmental Standard for First Nations Engagement and Participation in Decision-making. This makes it challenging to assess the extent to which the Nature Positive Plan and associated legislation may or may not address the key shortcomings identified in the Samuel Review. However, even in the absence of such a standard, we have identified several areas of the draft legislation where Indigenous knowledge, engagement and participation could but have not been embedded. Examples of how this could be done include but are not limited to, embedding Indigenous knowledge in the list of mandatory content of a recovery strategy, requiring the establishment of identified First Nations positions within the EPA, ensuring that regional planning involves meaningful engagement with First Nations peoples based on the principle of free, prior and informed consent, and recognising the United Nations Declaration on the Rights of Indigenous People in the list of relevant international agreements.

Lack of a legislated investment plan to fund the recovery of protected matters

Efforts and ambitions to recover threatened species and ecological communities regularly suffer from chronic underspending, often leading to a failure to halt decline and commence recovery of the majority of listed matters. Even when robust recovery plans, heritage management plans and threat abatement plans are developed, there is rarely any funding to implement the actions identified in the plan or establish inter-disciplinary recovery teams. Funding programs can be ad-hoc and short-term and are not often implemented in a coordinated manner, reducing the overall effectiveness of existing investments. This issue could be addressed through the development of legislative provisions to require the Government to develop and implement a whole-of-portfolio investment plan and establish a mechanism for ongoing Government funding for protected matter recovery and threat abatement.

Wentworth Group assessment of the proposed reform package

1. Will the proposed new national environmental laws help prevent further extinctions?

The proposed new national environmental legislation, as currently presented, is not equipped to prevent, or even reduce the likelihood of, further extinctions. The proposal to allow impacts to one species (e.g., swift parrot) to be deemed as being compensated for through the funding of restoration actions designed to benefit a completely different species (e.g., koala), will very likely exacerbate Australia's extinction crisis.

2. Will they contribute to Australia's nature positive goals?

Despite its name, the proposed new legislation is very unlikely to arrest and reverse the decline of biodiversity to achieve Government's commitment to becoming nature positive. There are five key reasons for this. Firstly, while the National Environmental Standard for MNES requires that relevant decisions deliver a net positive outcome, this requirement is not enforced through key decision-making provisions in the Act and is not required to be applied at the individual species or ecological community level. Secondly, the net positive outcome can be assessed against a declining baseline so that a reduction in the rate of decline of a protected matter could qualify as net positive. Thirdly, the draft legislation provides opportunity for the Minister to approve unacceptable impacts to MNES. Finally, the introduction of restoration contributions undermines the mitigation hierarchy rather than

strengthening it and incorporating it into a nature positive toolkit.¹⁹ Ultimately this could contribute to reductions in species abundance, ecological community integrity and species and ecosystem diversity and resilience. Thus, we find it highly improbable that the proposed reforms will meet the Government's own draft definition of nature positive: an increase in the diversity, abundance, resilience and integrity (meaning the completeness, functionality and health) of species and ecosystems.

3. Is the proposed new legislative package an improvement on the EPBC Act?

We have identified elements of the proposed reforms where clear improvements are intended, however we have assessed that careful drafting and closing of potential loopholes will be required to ensure their effectiveness. We have also identified several areas in which the proposed new legislation would represent a significant regression in environmental protection when compared to the EPBC Act. As a whole, we find that the proposed Nature Positive Act and associated legislation, if identified gaps and issues are not addressed, risks delivering poorer environmental outcomes than the current EPBC Act.

4. Will reforms maintain AND improve the status of MNES?

For the reasons identified in 1-3 above, we conclude that the proposed reforms will not facilitate the achievement of a 'maintain and improve' outcome for MNES. As currently drafted, the proposed Nature Positive Act risks continuing and even exacerbating the decline of many MNES and offers little to suggest that improvements will be delivered. There may be a few winners if restoration contributions (payments) are directed away from the most threatened and at-risk species towards species for which impacts are easier to offset, but these winners are likely to be few and the losers many.

Where to from here?

Government now has the opportunity to significantly improve their proposed new national environmental laws. The Wentworth Group has provided extensive feedback on the changes needed to create a robust and effective environmental law reform package, and we welcome the opportunity to continue to do this in the future.

¹⁹ Maron, M., Quétier, F., Sarmiento, M. et al. 'Nature positive' must incorporate, not undermine, the mitigation hierarchy. *Nature, Ecology and Evolution* **8**, 14–17 (2024). <https://doi.org/10.1038/s41559-023-02199-2>