

EDO Submission Guide: Key Concerns with the Exposure draft of the National Environmental Standard (Community Engagement) 2026

An exposure draft of the National Environmental Standard for Community Engagement (**Community Engagement Standard**) has been released for public comment.

See the [consultation page here](#) for more information and to read the updated documents:

- [Draft Community Engagement Standard](#), and
- [Policy Position paper](#).

Submissions are due by **11.59pm, Tuesday 7 July 2026**.

The Community Engagement Standard is one of the key national Standards recommended by Professor Graeme Samuel AC in his independent review of the *Environment Protection and Biodiversity Conservation Act 1999*.

This guide outlines key concerns with the draft Community Engagement Standard, as follows:

1. The Community Engagement Standard should be finalised alongside the First Nations Engagement Standard.
2. Outcomes, Objectives and Definitions should be strengthened.
3. How the Community Engagement Standard applies to different subsets of the general public (e.g. “affected persons”) must be clarified and not overly restricted.
4. Provisions that displace the Objective and Outcomes should be removed, as they render the Objective and Outcomes largely irrelevant.
5. Provisions that undermine the detailed requirements in the Principles should be removed, as they mean those requirements don’t actually need to be met.
6. Application of the Community Engagement Standard should be clarified, and should be applied for both approval decisions and pathway decisions.

KEY CONCERNS

1. The Community Engagement Standard should be finalised alongside the First Nations Engagement Standard

While the Government has indicated it is developing a First Nations Engagement Standard, the scope of that Standard and how it will apply to all First Nations people is unknown. We are concerned a future First Nations Engagement Standard will only apply to recognised Traditional Owners. This would exclude that Standard from applying to First Nations persons who are not determined native title holders. If that is the case, or if a First Nations Engagement Standard fails

to eventuate at all, it would mean only the general Community Engagement Standard (if finalised) would apply. As drafted, the Community Engagement Standard is not fit for purpose when engaging with First Nations people. Given this uncertainty and risk, the Community Engagement Standard should be finalised alongside the First Nations Engagement Standard.

2. Outcomes, Objectives and Definitions should be strengthened

a. The definition of “engagement” must be strengthened and refer to “meaningful engagement” in line with the Objective of the Community Engagement Standard:

The definition section of the Community Engagement Standard only defines “engagement”. We recommend that the definition be amended to refer to meaningful engagement, which is the term used in the objective in section 5 of the Community Engagement Standard.¹ Further, the current definition is weak and vague; simply referring to “a planned consultation in which a person seeks input or feedback... to inform a proposal”. This implies the proponent is only required to undertake a box-ticking exercise. Instead, the definition should be amended, for example, to require consultation that is genuine, respectful, purposeful and proportionate engagement, whereby community views are considered, inform the final decision, and are responded to (including whether community views have been incorporated and if not, why not).

b. The outcomes should be strengthened. For example, by referring to “early and ongoing participation” rather than simply “input” from the public in 6(a).

3. How the Community Engagement Standard applies to different subsets of the general public (e.g. “affected persons”) must be clarified and not overly restricted

We support the general premise underpinning the Community Engagement Standard that engagement must be undertaken with the general public. This is because the EPBC Act protects matters of national environmental significance, therefore engagement on actions that have a significant impact on MNES must not be limited to certain people, and instead are of interest to all Australians.

However, in some instances the draft Community Engagement Standard applies different elements to different subsets of the public, and uses various terms to describe those subsets. For example affected persons, relevant stakeholders, community leaders, relevant under-represented groups and interested persons are all referred to in the Community Engagement Standard.

We acknowledge that it may be appropriate for the Community Engagement Standard to recognise a difference between how a proponent must engage with the general public versus a person more directly affected by or interested in the proposed action. However, some of the

¹ Section 5 of the Community Engagement Standard provides: “The objective of this standard is to ensure decisions made under the Act relating to the protection and management of protected matters are supported by *meaningful* engagement and co-operation between government, the community, landholders and Indigenous persons, and to assist in the cooperative implementation of Australia's international obligations” (emphasis added).

terms used in the Standard are undefined, and having separate parts of the Standard apply to different subsets of the public is confusing and may inappropriately narrow the Community Engagement Standard's application.

Where the Community Engagement Standard requires the proponent to give particular consideration to a subset of the public, it should do so consistently in a way that ensures all relevant persons are captured, and does not inappropriately exclude the general public. For example, the Community Engagement Standard should consistently use a single term such as "relevant persons", defined as including "affected persons, relevant stakeholder groups and organisations, community leaders and relevant experts".

There may be a limited number of circumstances where it would be appropriate to further target consultation to "affected persons". However, the current definition of "affected persons" is too narrow: it would mean that only persons within "geographical proximity" (which is undefined) to the site of a proposal will be treated as an "affected person" under the Community Engagement Standard. An affected person could be someone whose interests are also affected beyond geographical proximity. For example:

- A downstream user of a river who may be impacted by a development upstream;
- Residents and services impacted by increased traffic because of the project, despite being some distance from the project site itself;
- A cultural leader or native title holder who does not reside in proximity to the project site.

To capture these people, we recommend the definition of "affected person" be amended to "means persons whose interests have been, or would be, potentially affected by the proposal, including because of their geographical proximity to the site of the proposal".

4. Provisions that displace the Objective and Outcomes should be removed, as they render the Objective and Outcomes largely irrelevant

Subsection 7(2) of the Community Engagement Standard requires that for a decision-maker to be satisfied that the taking of an action is consistent with the Standard, they only need to be satisfied that there has been "engagement" undertaken on the proposed action, and "engagement is consistent with the principles in this standard". This subsection operates to effectively displace the Outcomes and Objectives, by only requiring the decision-making to be satisfied that proponent has undertaken "engagement" (which as noted above is not well defined), and applied the process-based principles. Subsections 7(3)-(7) repeat these inadequate requirements for: approvals to undertake a class of action, accreditation of a management or authorisation framework or a NOPSEMA management or authorisation framework, or the making or varying of a bioregional plan or bioregional guidance plan. We recommend subsections 7(2) – 7(7) are removed from the Standard.

5. Provisions that undermine the detailed requirements in the Principles should be removed, as they mean those requirements don't actually need to be met

Each of the four Principles in the Community Engagement Standard includes what the draft Policy Position Paper describes as “mandatory steps” (these are generally the first three subsections of the Principle, except for Principle 3), and then what the Policy Position Paper describes as “optional steps”, which are more detailed steps intended to be followed in order to achieve the mandatory steps. For example, Principle 3, subsection (1) requires that engagement on a proposal is undertaken in a way that ensures the privacy of persons providing input is protected. Principle 3, subsection (2) then steps out how this can be done, for example by providing information about how data and information will be collected, recorded, stored, used and disclosed. A person applying the Community Engagement Standard (usually the proponent) can either undertake engagement in accordance with the “optional steps”, or in some other way and simply provide “other evidence” that demonstrates the engagement meets that Principle. That is, a proponent can avoid the detailed elements of the Community Engagement Standard and simply undertake engagement in a way they consider appropriate.

This creates uncertainty for both proponents and the public in understanding exactly what is required by the Community Engagement Standard. It also creates more discretion for decision making in determining whether the Community Engagement Standard has been met. This is at odds with the purpose of the Standards, which is to create clear and objective benchmarks and boundaries for decision making.

6. Application of the Community Engagement Standard should be clarified, and should be applied for both approval decisions and pathway decisions

On its face, it is unclear exactly how and when the Community Engagement Standard will be applied in decision making. For example, it is unclear whether the proponent will be required to act consistently with the Community Engagement Standard at the beginning of project design (i.e. pre-referral), in order for the decision-maker to be satisfied the action is consistent with the Standard, and therefore can be approved.

Notably, the Policy Position Paper states “[the Standard] will apply to approval decisions”, however we are concerned this excludes decisions regarding what pathway a project will be assessed and approved under the Act, as the reformed EPBC Act now includes additional pathways. We recommend Regulations prescribe the Community Engagement Standard to approval decisions, and decisions regarding which pathway a referred action will be assessed and approved under the EPBC Act.

In particular, it must be clarified that the Community Engagement Standard applies as a condition of eligibility for the streamlined assessment pathway. Appendix B of the Policy Position Paper states “To be assessed under the streamlined assessment pathway, a proponent will need to be able to provide evidence of engagement that meets the Principles of the [Community Engagement] Standard at the time of referral”. Given the streamlined assessment pathway allows

proponents to provide upfront information about their project to be eligible to fast-track their application at the time of referral, it follows the decision-maker would consider how the proponent applied the Community Engagement Standard pre-referral. This must be set out in Regulations, so that it is clear a condition for a proponent to be eligible for the streamlined assessment pathway is they have acted consistently with the Community Engagement Standard at the pre-referral stage.

We also note that the Community Engagement Standard is drafted for proponent-led approval applications. Similar principles should also underpin government engagement, including where consultation is required under the Act. This includes, for example, government decisions around conservation planning.