



# Emissions Reduction Fund Safeguard Mechanism

**Submission of the  
Western Australian Local  
Government Association**

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## 1.0 About us

### 1.1 General

The Western Australian Local Government Association (**WALGA**) is the united voice of Local Government in Western Australia. WALGA is an independent, membership-based organisation representing and supporting the work and interests of 139 Local Governments in Western Australia.

WALGA provides an essential voice for approximately 1300 Elected Members and approximately 14,500 Local Government employees as well as over 2.2 million constituents of Local Governments in Western Australia. WALGA also provides professional advice and offers services that provide financial benefits to the Local Governments and the communities they serve.

### 1.2 Climate Change and Local Government

Local Governments have a keen interest in climate change issues, and have been actively engaging in a wide range of climate change mitigation and adaptation actions for a number of years.<sup>1</sup>

Local Governments have been key delivery agents of Federal Government climate change policies, including the Community Energy efficiency Program (CEEP), the Local Government Energy Efficiency Program (LGEEP), and more recently, the Emissions Reduction Fund (ERF). Although the threshold for the ERF has proved prohibitive for many Western Australian Local Governments, WALGA is currently undertaking a scoping study with a view to taking on an aggregator role under the ERF, which would allow councils 'pool' emissions reductions projects in order to take advantage of the funds available under the ERF.

In WALGA's 2013 Environmental Issues survey, the Western Australian Local Government sector outlined climate change adaptation as the most concerning environmental issue for the sector, with climate change mitigation rating as the second most concerning environmental issue.

The Local Government Climate Change Declaration was developed by WALGA and is a voluntary opportunity for Local Governments to demonstrate their political commitment to locally appropriate climate change adaptation and mitigation action. There are currently 38 Western Australian Local Government signatories, representing 65% of the Western Australian population.

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<sup>1</sup> See for example WALGA's Local Government Climate Change Project Map: <http://www.walgaclimatechange.com.au/clickable-map.htm>.

## 2.0 Our comments

WALGA thanks the Department of the Environment for the opportunity to comment on the Emissions Reduction Fund Safeguard Mechanism (the **safeguard mechanism**) exposure drafts and explanatory statements. We have focused our comments on the draft National Greenhouse and Energy Reporting (Safeguard Mechanism) Rule 2015 (**NGER Rule**) which establishes the safeguard mechanism and sets out the substantive conditions and requirements imposed upon the entities responsible for complying with the facility baseline (the **responsible emitters**).

Local Government officers working in fields of sustainability, environment and climate change were consulted in the process of producing this submission. Due to the timeframe of the consultation period, the comments contained in this letter have not been considered or endorsed by WALGA's State Council. Please be advised that this is an interim submission, and that the WALGA reserves the right to modify or withdraw the comments as directed by State Council.

### 2.1 Safeguard mechanism as part of the NGER scheme

We support the inclusion of the safeguard mechanism within the NGER legislation, and the administration of the safeguard mechanism by the Clean Energy Regulator. The NGER legislation includes key concepts such as the facility definition and methods for determining the entity with operational control over the facility which have been in operation for the past eight years. Both the Regulator and responsible emitters will be familiar with the legislation and its requirements from the commencement of the safeguard mechanism.

### 2.2 Broad provision for increasing facility baselines

WALGA broadly supports the policy intention of the safeguard mechanism, to ensure that emissions reductions achieved through mitigation action are not undermined by increasing emissions in other areas. However, we are concerned that the particular design of the safeguard mechanism will not effectively guard against this.

As mentioned (above at 1.2), Western Australian Local Governments are committed to climate change action, and have been engaged in a wide range of adaptation and mitigation measures for a number of years. Local Governments acknowledge the importance of taking effective mitigation action now, and preparing for the changes brought on by climate change now and in the future.

WALGA is concerned that the baseline exceptions and flexibilities in the proposed safeguard mechanism would effectively allow significant emissions increases by responsible emitters, undermining emissions reductions achieved throughout Australia (including by Local Governments), and undermining Australia's emissions reduction target.

In WALGA's view, the range of circumstances in which responsible emitters can increase their emissions baseline is too broad. The provisions for increasing a facility's baseline

essentially allow the heaviest emitters in Australia to continue to increase emissions on a 'business-as-usual' basis. We do recognise that the purpose of the safeguard mechanism is to act as a safety net, rather than as an incentive for heavy emitters to reduce emissions. However, the very broad range of areas where a facility may increase its emissions baseline would not appear to provide a sufficient level of safety net; that is, we are concerned that by allowing increased emissions from these large facilities in this range of circumstances, those emissions increases could undermine the emissions reductions achieved under the ERF (and potentially also undermine emissions reductions achieved under other programs and voluntarily).

In particular, the draft NGER Rule provides that:

- where a significant expansion of an existing facility occurs, the responsible emitter can apply to the Regulator to have the facility baseline increased (s 24 NGER Rules);
- where a facility grows incrementally over time, the responsible emitter can apply to the Regulator to have the baseline increased, provided the baseline exceedance is accompanied by an emissions intensity improvement (s 46(1) NGER Rules);
- the responsible emitter can apply to the Regulator to have the baseline increased in the following circumstances:
  - the operation of the facility is associated with the extraction of a natural resource or reserve;
  - the properties of the resources or reserve have a different effect on the emissions performance of a facility;
  - the facility has limited ability to control for such emissions; and
  - facility emissions have exceeded or are expected to exceed their baseline and the natural resource properties are the primary reason for this (s 25 NGER Rules);and
- where a facility's historical emissions (which established the baseline) are shown not representative of future emissions, the responsible emitter can apply to the Regulator to have the baseline increased in line with forecast emissions (s 26 NGER Rules).

The wide range of circumstances for seeking an increased baseline means that, in effect, only very modest constraints would be placed upon the CO<sub>2</sub>-e emission levels of Australia's most emission heavy industries. We acknowledge that with respect to facilities growing incrementally over time, a responsible emitter would be required to establish emissions intensity improvement, but note that the facilities would still be increasing their CO<sub>2</sub>-e emissions. The allowance for an increase in a baseline associated with extraction of minerals and fossil fuels will allow these facilities to move into extraction of lower grade (higher emission) ores and fuels, leading to increased CO<sub>2</sub>-e emissions.

WALGA does not have concerns with appropriately narrow provision for the increase of a facility's baseline. In particular, the proposed exemption declarations which can be made

where an emission increase was the direct result of exceptional circumstances relating to natural disaster or criminal activity by another party, appear a sensible inclusion.

### 2.3 Recommendation

WALGA recommends that the provisions allowing baselines to be increased (ss24-26 and 46(1) of the NGER Rules), be removed from the NGER Rules.

### 3.0 Conclusion

In order for the safeguard mechanism to operate consistently with its stated purpose, that is “to ensure that emissions reductions paid for through the ... Emissions Reduction Fund are not displaced by significant emissions above business as usual levels elsewhere in the economy”<sup>2</sup> WALGA is of the view that the wide range of provisions allowing baselines to be increased should be removed from the draft NGER Rules.

As key contributors to climate change mitigation, WALGA’s members have a keen interest in seeing effective mitigation policy at a Federal level. If these provisions remain in the NGER Rules, WALGA is concerned that emissions reductions achieved by Local Government through the ERF, other government programs and voluntarily will be undermined, and possibly dwarfed, by emissions increases of Australia’s heaviest emitters.

WALGA thanks the Department of the Environment once again for the opportunity to provide comment. We are happy to provide additional comment or discuss further should this be of assistance.

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<sup>2</sup> Australian Government (Department of the Environment), *Factsheet on safeguard mechanism*, 2015 (<http://www.environment.gov.au/climate-change/emissions-reduction-fund/publications/factsheet-erf-safeguard-mechanism>). Accessed 17 September 2015.