

Submission on the Exposure Draft of the National Environmental Standard for Matters of National Environmental Significance

May 2026

About WALGA

The Western Australian Local Government Association (WALGA) is an independent, member based, not for profit organisation representing and supporting the WA Local Government sector. Our membership includes all 139 Local Governments in the State.

WALGA uses its influence, support and expertise to deliver better outcomes for WA Local Governments and their communities. We advocate to all levels of Government on behalf of our Members, and provide expert advice, services and support to Local Governments.

WALGA's vision is for agile and inclusive Local Governments enhancing community wellbeing and enabling economic prosperity.

Acknowledgement of Country

WALGA acknowledges the continuing connection of Aboriginal people to Country, culture and community. We embrace the vast Aboriginal cultural diversity throughout Western Australia, including Boorloo (Perth), on the land of the Whadjuk Nyoongar People, where WALGA is located and we acknowledge and pay respect to Elders past and present.

Introduction

WALGA welcomes the opportunity to provide feedback on the exposure draft of the National Environmental Standard for Matters of National Environmental Significance (MNES Standard). In providing this submission WALGA notes that the short timeframe provided for consultation did not allow comprehensive engagement with Western Australian Local Governments. WALGA requests that longer consultation periods be provided in future.

Local Government plays a significant role in natural resource management and land development, as a land manager and regulatory authority. Local Governments are responsible for land use planning, delivery of infrastructure projects including road construction, and management of parks, reserves and road reserves. Local Governments may intersect with the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and Matters of National Environmental Significance (MNES), through their role as project proponents and input on project proposals led by third parties. Local Government undertakes essential public works, often within tight timeframes, limited budgets and in constrained environments. Local Government can also be impacted by decisions related to assessments of MNES on developments or subdivisions.

Feedback on the exposure draft of the MNES Standard

WALGA broadly supports the MNES Standard as a statutory instrument to ensure national environmental laws effectively protect the environment, are streamlined and provide greater certainty for proponents.

Ensure outcomes are measurable

The outcomes in the MNES Standard use ambiguous language such as 'provide for protection', 'contribute to diversity' and 'facilitate ecologically sustainable development'. These non-specific terms make it difficult to measure the outcomes of Ministerial decisions and establish whether they are delivering environmental gains. It is recommended that the language is strengthened and supported by measurable indicators, benchmarks or key performance indicators. The larger scale impact of these measures could be assessed through incorporation of MNES in the Australian Government State of the Environment Report.

WALGA recommends outcomes are revised to ensure they are measurable and the effectiveness of the MNES Standard can be assessed over time and be publicly reported on.

Support streamlined and effective environmental regulation

The current regulatory system for MNES is a costly and time-consuming process for Western Australian Local Governments due to duplication or inconsistency between State and Australian

Government legislative requirements. Protracted assessment timeframes and delays in decision making on referred actions can have significant impacts on the financial viability and delivery timeframes of essential public benefit infrastructure projects, including for road maintenance and public safety. Delays and uncertainty also impact Local Government's ability to attract and retain grant funding and create frustration amongst stakeholders, including community members.

The Local Government sector represents a significant share of all native vegetation clearing permit applications at a state level. Most of these applications are for relatively small areas of clearing. Assessment of Local Government projects under the EPBC Act must ensure a streamlined approach and an expedited process, particularly for emergencies and non-discretionary works relating to public safety.

WALGA supports the Australian Government's announcement on 29 April 2026 to progress an assessment bilateral agreement with the Western Australian Government. The MNES Standard must provide clear objectives and measurable outcomes to ensure defined parameters for accredited State-led assessments and implementation of outcomes-focused conditions for approved projects. A key objective for the bilateral agreement should be to measurably reduce duplication, assessment timeframes and, where possible, costs for proponents.

WALGA recommends that strong safeguards are in place through the MNES Standard (together with the other standards) to ensure efficient and effective bilateral agreements.

Strengthen provisions in the Mitigation Hierarchy

The EPBC Act's focus on assessing individual actions does not adequately consider the cumulative impact of losses of protected matters across a broader region. While reference to consideration of individually minor, but collectively significant, actions is made in Principle 2 of the MNES Standard, this should occur at the early planning stages. Consideration of cumulative impacts is relevant to all individual actions referred for assessment under the EPBC Act, not just landscape scale assessments. This has been raised by Local Government in relation to the cumulative impact of development on the breeding, and foraging habitat for Carnaby's, Baudin's and Forest Red-tailed black cockatoos.

'Step 1 – Avoidance' should include the note; 'avoidance requires consideration of the action within a landscape-scale context, with reference to a local biodiversity strategy or where available an overarching bioregional plan or the strategic assessment pathway. Using this approach, proposals can identify areas suitable for development and areas of high ecological value where development should be restricted. Measures may include relocation or modifications to the proposed area in order to avoid significant impacts, or use of alternative designs or engineering solutions'.

WALGA also recommends that the nature of the required offset, such as an offset activity or restoration contribution charge, is removed from the MNES Standard and covered in the Environmental Offsets Standard. Best practice is that direct offsets such as securing habitat at risk of loss and improving condition are sought in preference to a restoration contribution charge, with the order of preference established through an offset hierarchy.

WALGA recommends the MNES Standard require that avoidance, in a landscape-scale context, is considered and documented at the strategic environmental and project design stage.

WALGA recommends that cumulative impacts be considered in relation to individual actions referred for assessment.

Provide quality, transparent evidence

'Principle 4 – Appropriate Evidence' should include the requirement for evidence that documents the decision-making process and any iterative changes to planning and design to avoid, mitigate the impact or conserve protected matters. WALGA also recommends that Principle 4 include the need for contemporary data, particularly if there has been a change in environmental condition for a MNES (for example, as the result of a bush fire). Reference should also be made to the EPBC Act's principles of ecologically sustainable development, where lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

WALGA recommends the MNES Standard specify the evidence required to demonstrate how the mitigation hierarchy (avoid, mitigate and rehabilitate) been addressed in project design.

WALGA recommends that the MNES Standard include a requirement for contemporary data, particularly if there has been a change in environmental conditions.

Other matters

Climate change is a key issue for Local Governments that has implications across almost all aspects of their operations and responsibilities. WALGA recommends that the term climate change is included in a Principle 2, Note 1, to ensure consideration in assessment decisions.

Conclusion

The new National Environmental Standards represent an improvement to the legislative framework that provides for the protection of Australia's environment and conservation of biodiversity. WALGA recommends that components of the MNES Standard are further defined or include specific criteria to support clear and effective regulation of proposed impacts to MNES. Outcomes should be measurable and avoidance should be addressed at the outset of project conception. A strong MNES Standard will result in better outcomes for the environment whilst meeting Australia's development needs.