



ALGA

Australian Local
Government Association

Draft National Environmental Standards: Matters of National Environmental Significance and Environmental Offsets

Submission to the Department of Climate Change,
Energy, Environment and Water

30 January 2026



Introduction

The Australian Local Government Association (ALGA) is the voice of local government in Australia, representing 537 councils across the nation. ALGA was established in 1947 and throughout its history has been actively involved in issues of national significance affecting local government and local communities.

In structure, ALGA is a federation of state and territory local government associations. This submission should be read in conjunction with any separate submissions received from state and territory associations as well as individual councils.

ALGA is an observer to Environment Ministers Meeting. It advocates for the roles, resourcing, and capacity needs of local governments in respect to national environmental protection and restoration matters. These include, for example, matters prescribed under the *Environment Protection Biodiversity Conservation Act 1999* (EPBC Act), threatened species protection, threatening processes such as weeds, pests, and biosecurity, and water.

Local government and national environmental values

Based in their community and by acting on the ground, local governments are ideally positioned to provide practical, application-based perspectives on how we can achieve national environmental outcomes. Councils often undertake, for example:

- Surveillance and response to biosecurity emergencies
- Protecting ecosystems from threatening processes such as pests and weeds
- Encouraging residents to engage in their own environmental behaviours through education programs, supporting volunteer groups through bush care and waterway care programs
- Maintaining parklands, reserves, protected areas, and crown lands in many jurisdictions
- Setting out and defending restrictions in land use planning to protect important ecosystems and heritage
- Using nature-based solutions for climate change adaptation and protecting local environmental values as the climate warms, and
- Being the backbone of Australia's waste management system by investing, and engaging in investment, community education and implementation of practices to improve resource recovery and mitigate pollution.

Local governments interface with the EPBC Act in several major ways:

1. **Mediator and champion of local environmental, social, economic and cultural values**, such as through Community Strategic Planning, operational plans, and functions such as community engagement, land use planning, and economic development.
2. **Land, water and ecosystem steward** that invests heavily in environmental protection through environmental services, community engagement and education, innovation and piloting of new approaches to conservation, advocacy, climate adaptation, and waste and circular economy.

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3. **Project proponent, approver and key stakeholder to be consulted** in respect to referring and/or navigating assessments and approvals under national environmental law.

Environmental Protection and Biodiversity Conservation (EPBC) Act reforms

Local governments want to see national environmental laws perform effectively in protecting our environment, while also being more streamlined and efficient to use. ALGA believes that recent reforms to the EPBC Act represent a significant improvement to the national environmental protection system in line with the limitations to the legislation identified via the statutory review process.

During implementation of a new system, local government consultation is essential to ensure that a new system does not disempower local government planning, functions, and finances. Local government is also keen to reduce duplication between state and territory and national regulation. It is critical that local governments are properly supported to implement any changes effectively, both for councils and for better environmental outcomes.

As stated in [ALGA's submission](#) on Implementation of Australia's Strategy for Nature, environmental services is one of the most common areas where cost shifting occurs. The Commonwealth, states, and territories must be alert to this risk as these reforms are implemented.

Further, there is concern about the degree of ministerial influence over areas which are susceptible to politicisation, such as defining 'national interest' and ultimate power over approvals. These risk inconsistency in decisions, erode public trust in the environmental protection system, and continuing environmental decline.

It is essential that councils remain closely engaged in the development and operationalisation of the National Environmental Standards to ensure they reflect local biodiversity values, align with local land-use planning, and avoid cost-shifting.

Draft National Environmental Standards

Matters of National Environmental Significance

ALGA broadly supports the proposed National Environmental Standard for Matters of National Environmental Significance (MNES). While the overarching direction of the MNES Standard is positive, several elements require further refinement to ensure they function effectively in practice and do not inadvertently increase costs or administrative burdens for local governments.

The proposed structure which articulates Objectives (why), Outcomes (what), and Principles (how) is a sensible and transparent framework. However, the draft Outcomes require further definition so they can be meaningfully measured, assessed, and monitored over time.

The proposed **national interest exemption** settings also require stronger safeguards and clearer definition. Given that actions with otherwise "unacceptable impacts" can be permitted under national-interest grounds, it is important that a defined process for invoking the exemption – which extends beyond the Environment Minister's discretion – is set out. The scope of these provisions must be tightly framed to avoid inconsistent use and the risk of undermining environmental protections or local government planning powers.



A **clearly defined impact mitigation hierarchy is critical** and ALGA welcomes the effort to articulate more robust guardrails around when offsets may be considered. However, the current language requiring only “consideration” of the mitigation hierarchy is too weak and does not accurately reflect the way operation of the standard would *require* implementation of the hierarchy. ALGA agrees that proponents should be required to demonstrate how they have applied each step of the hierarchy before progressing to the next.

This expectation must be underpinned by detailed guidance and sector-specific policy settings that outline what constitutes a “reasonable” mitigation effort. While ALGA understands that definitions and prescriptiveness is not always practical, for classes of actions with well-established thresholds, these thresholds should be explicitly defined wherever possible to ensure consistency and reduce uncertainty.

More concrete guidance and principles are required in respect to what constitutes “genuine” measures to avoid, minimise and repair biodiversity. From experience of local governments in some states and territories, this could include:

- Locating the development within existing disturbed or developed areas. This may require a configuration of the design or a reduction in the footprint of the development.
- Consulting local biodiversity strategies and plans, if in place, to identify local natural areas on public and private land of significant conservation value within a regional context that should be protected.
- Opting for increasing the height of the proposed development rather than expanding the development footprint if an increased footprint is likely to impact natural values.
- Designing and locating the development to minimise the need for substantial excavation or ground disturbance.
- Retaining dead trees with hollows or cavities (where safe) as they provide vital habitat for native fauna, including many threatened species.
- Identifying and marking off ‘no go’ areas on the site where native vegetation or other wildlife habitat will be protected during construction and after the development.
- Complying with the landscaping, open space and setback requirements that apply to a property or project.
- In bushfire prone areas, consideration of potential protection zones and vegetation clearing entitlements, and designing and locating buildings to minimise the impacts of these.
- Consideration of risk and whether the actions proposed are appropriate for the land type and ecological constraints. For example, proposing a development on land containing and surrounded by bushland areas may not be considered consistent with genuine efforts to avoid and minimise impacts.

ALGA also notes that steps in the Commonwealth’s proposed impact mitigation hierarchy differs from that set out by some state and territory governments. A key outcome of bilateral agreements should be adoption of the same language wherever possible and same standards as to how applied by the accredited state. Local governments grapple with significant administrative burden from navigating mis-aligned regulation, so if state governments do not adopt the same language, it is important that the



Commonwealth provide clear guidance explaining the shared meanings and differences to reduce confusion.

Where guidance documents require proponents to identify mitigation activities that must be delivered by local governments, or that impose costs on councils, **these activities must only be included if the relevant council has agreed and if appropriate cost recovery arrangements are in place**. This reflects ALGA's clear position that new standards and reforms must not shift unfunded responsibilities to local governments.

Furthermore, the MNES standard should require that all evidence presented in support of mitigation actions includes explicit identification of **knowledge gaps or inconclusive information**. Appropriate and suitable data should include ecological surveys. This will improve transparency and allow regulators, including the National Environmental Protection Agency (NEPA) and Environment Information Australia (EIA), to better understand residual risks and data limitations. It is noted that a Data and Information Standard will be developed, which intends to improve the integrity of data and information used to inform environmental decisions.

Environmental Offsets

ALGA welcomes a dedicated Environmental Offsets Standard, which provides clearer definitions, conditions for use, and a more structured relationship with the mitigation hierarchy under the MNES Standard. Having a transparent and consistent offsets framework will improve clarity for councils both as regulators and as proponents of projects. Consideration of offsets needs to occur in conjunction with bioregional planning to ensure they are strategic, large scale, coordinated, connected, relevant and proportionate. This planning is essential for cumulative impacts to be reasonably identified by proponents and determined by Government in the assessment process.

Greater specificity of key definitions is required. This includes, for example, 'like-for like' and 'residual significant impact' with guidance on interpreting what constitutes 'significant.' The definition of 'conservation planning documents' should be broadened to include relevant land use and conservation plans, standards or guidelines at local, regional, state and national level. ALGA is also keen to understand how the definition of 'securely protected' will align with state-based requirements for offsets and that local government changing reserves to conservation purposes will be acceptable security; noting that the offset requirements are underpinned by a legal obligation as a mechanism to ensure compliance.

On Principle 7 (relevant area), ALGA notes that the ability for offsets to be located within the same bioregion is a concern, as the **bioregional scale is too large** and many local government areas are experiencing a loss in local biodiversity at the local level due to offsetting occurring elsewhere. This is a particular issue in urban and coastal areas because there is high development pressure, and offsetting can be retired in less costly locations. This makes it difficult for councils to successfully manage the habitat and populations of threatened species, and it could result in the local extinction of species. Reducing the scale to an 'Interim Biogeographic Regionalisation for Australia' subregion could deliver more appropriate offsets.

Local government will require **tailored communication materials, practical guidance, and implementation tools** to ensure they can apply the new requirements effectively. This will be important to support local government's roles in avoiding unnecessary offset use, understanding netgain expectations, and integrating offsets into local planning and biodiversity management frameworks. We would



recommend that support for these tools be provided at the Commonwealth level to enable a consistent approach and to minimise the financial burden on local governments.

Lastly, local government also notes the risks associated with facilitating offsets through a special account and statutory office holder without appropriate methodologies and safeguards for delivering offsets that are meaningful to that which is lost. For example, in New South Wales, many proponents pay into the Biodiversity Conservation Fund (BCF) as it is a quicker and simpler process than seeking to retire credits themselves. This results in local and species-specific biodiversity losses as the BCF payments do not need to be linked to the same location or species and there is a lack of transparency around what BCF payments are being spent on. There is also a significant time lag between when the clearing and biodiversity loss occurs, and when the BCF restoration actions are made. Institutional arrangements, the offsets standard, and supporting tools must be developed with clearly aligned objectives to ensure the true conservation intent is not lost in implementation.

Thank you again for the opportunity to provide input. Please contact Eleanor Robson (Policy Director – Environment) for any further information you may require.

Sincerely,



Amy Crawford

Chief Executive Officer

Contact details

Dr. Eleanor Robson

Policy Director – Environment, Climate and Waste

eleanor.robson@alga.asn.au