

13 June 2024



Department of Climate Change, Energy, the Environment and Water  
Environment Protection Division  
GPO Box 3090  
Canberra ACT 2601

Sent via email: [environment.protection@dcceew.gov.au](mailto:environment.protection@dcceew.gov.au)

Dear Sir/Madam,

## **ONSHORE WIND FARM GUIDANCE: BEST PRACTICE APPROACHES WHEN SEEKING APPROVAL UNDER AUSTRALIA'S NATIONAL ENVIRONMENT LAW**

The Chamber of Minerals and Energy of Western Australia (CME) is the peak representative body for the resources sector in Western Australia. CME is funded by member companies responsible for 41 per cent of Australia's corporate income tax receipts by value in 2021-22.<sup>1</sup>

CME and its members support the Paris Agreement goals of limiting global warming to well below 2 degrees Celsius, and preferably to 1.5 degrees Celsius, by reducing greenhouse gas (GHG) emissions to net zero as soon as possible and no later than 2050.<sup>2</sup> Recognising the important role of low emission electricity in cross-sectoral decarbonisation, CME welcomes the opportunity to provide a written submission in response to the consultation conducted by the Department of Climate Change, Energy, the Environment and Water (DCCEEW) on "Onshore Wind Farm Guidance: Best practice approaches when seeking approval under Australia's national environment law" (draft Guidance).

Onshore wind farm development is considered a key enabler of the WA resource sector's net zero transition. Wind farm project assessment under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) will be critical for delivery of our sector's net zero ambitions.

This submission is structured to first provide an overview of the WA electricity network and the role of onshore wind in contributing to the net zero transition, and then provide overarching comments on the draft Guidance. Specific comments and suggestions are included in *Appendix 1 – CME Detailed Comments on DCCEEW's Onshore Wind Farm Guidance Under Australia's National Environment Law*.

### **WA Electricity Network Overview**

WA's electricity network is unique, in that it is not connected to the national network. WA has two separate transmission networks: the South West Interconnected System (SWIS), which services the south-west corner of the State; and the North West Interconnected System (NWIS) located in the Pilbara region which comprises a number of interconnected networks with different industrial owners. The two networks are supplemented throughout the rest of the State by distributed energy resources (DER) such as microgrids and standalone power systems. The lack of a single interconnected system is primarily due to WA's large size and very low population density.

Notwithstanding the isolation of WA's networks, demand forecasts for the SWIS, which services the majority of WA's population, are directly linked to Australia's net zero ambitions and the achievement of Australia's legislated climate targets.<sup>3</sup> SWIS demand is forecast to increase by 150% by 2033, and triple by 2042,<sup>4</sup> with demand driven by increased industrial loads for new and emerging industries (including hydrogen and critical minerals), electrification of existing loads to support decarbonisation, and electric vehicle uptake.<sup>5</sup> Further, it is anticipated that capacity will be constrained in the near term as state-owned coal-fired power stations retire by 2030.<sup>6</sup>

---

<sup>1</sup> Australia-wide operations of companies with direct, equity joint venture or subsidiary interests in WA-based member projects. Commonwealth of Australia, [2021-22 Report of Entity Tax Information](#), Australian Taxation Office, 9 November 2023.

<sup>2</sup> CME website, [Climate Policy](#) [cmewa.com.au](http://cmewa.com.au).

<sup>3</sup> [Climate Change Act 2022 \(Cth\)](#)

<sup>4</sup> Government of WA, May 2023, SWIS [Demand](#) Assessment 2023 to 2042: A future ready grid, Energy Policy WA.

<sup>5</sup> *Ibid.*

<sup>6</sup> Government of WA, June 2022, [State-owned coal power stations to be retired by 2030](#), media release Hon. Mark McGowan and Hon. Bill Johnston.

According to the 2023 SWIS Demand Assessment, meeting this increased demand would require almost 10 times the current amount of generation and storage capacity and the installation of four thousand kilometres of new transmission infrastructure to connect new low emission generation with demand.

Onshore wind farm development will be an important component of the transition, as wind resources supplement renewable generation in periods when solar is unavailable. Indeed, we observe that many renewables projects involve a combination of solar, wind and battery technology to improve system availability due to the intermittency of renewables generation.

It is imperative that policy settings being developed across government are considerate of broader government objectives, with policy settings designed to work together to facilitate efficient delivery of common goals. We are concerned that the draft Guidance will be a significant barrier to development of onshore wind projects, leading to delays at a time that we urgently need to facilitate more timely environmental assessments of projects linked to decarbonisation of our energy networks, which is required to meet 2030 climate targets. *CME recommends that the Environment Protection and Climate Division's within DCCEEW collaborate to ensure policy settings are meeting dual climate and nature related objectives. As currently drafted, we are concerned that the policy settings released by different Divisions of DCCEEW are working against each other. There is opportunity to optimise policy settings to meet dual requirements by working collaboratively.*

## Overarching Comments

### **1. Resource sector decarbonisation is dependent on efficient, risk based and timely environmental assessments of low emission electricity generation and transmission projects.**

Electrification of industrial processes and switching from a liquid or gaseous fuel to electricity powered from renewable sources will be the primary decarbonisation pathway for the resource sector in WA in the near term. Urgent investment and development of low emission generation capacity, including onshore wind farm developments, is essential to meet growing demand for low emission electricity throughout WA.

Whilst CME is supportive of the need to protect Australia's environment and ecosystem services throughout the net zero transition, policy settings related to wind farm project assessment under the EPBC Act must be designed to facilitate timely, efficient and risk-based approach to decision making. The draft Guidance appears to propose a prescriptive approach, rather than risk-based approach.

Noting the draft Guidance includes 'examples' of avoidance and mitigation options (sections 1.8 – 1.9), without further clarification there is a risk that these examples will be applied as requirements during assessments and applied to all projects irrespective of relevance or the suitability of alternate measures. It is important that the draft Guidance clearly states that these are not requirements, but examples that may be considered. Language throughout the document should be broadened to provide this clarity.

*CME recommends that the draft Guidance be amended to ensure that it incorporates risk-based, rather than prescriptive assessment processes. Risk-based approaches are favoured by members as they are more likely to result in regulatory outcomes that are considerate of local project context and assess projects on their merits: allowing decision making to balance social, cultural, economic and environmental values as required by the EPBC Act.*

### **2. Proposed Survey Requirements are prescriptive and onerous and likely to lead to delays to referrals of projects that are urgently needed to meet net zero targets**

The draft Guidance considers best practice survey requirements provide at least 24 months of site utilisation surveys, with surveys to be undertaken for each relevant season over at least two years. Industry notes this could significantly delay the development, implementation and viability of onshore wind farm projects in WA.

In addition to impeding onshore wind farm project development, industry notes that the prescriptive 24-month surveying requirements outlined in the draft Guidance, are not necessarily appropriate nor feasible for low density populations of individual MNES species present in WA.

Examples of some specific requirements listed throughout the document that may not be feasible or practical to follow in all circumstances include:

- Obtaining flight height, movement and flight paths and population numbers (section 1.16) for some species and locations will be particularly challenging and may not be possible to obtain and confirm.

- Adoption of the Before-After, Control Impact (BACI) approach (section 1.17 and 1.22) is not possible for some threatened fauna in some bioregions in WA due to low population densities and highly seasonal movements of the species.
- The requirement to utilise ecologists with at least 3 years' experience designing and implementing surveys for the species in question (section 1.19), is not practical as there are a limited number of consultant ecologists in WA that would meet this criterion.
- The requirement to provide scientific evidence if collision risk modelling (CRM) is not required for a particular species is very prescriptive. Members note that for some bat species, CRM hasn't been used in the past due to it not being feasible to measure the frequency of the flights. Where a qualified ecologist advises that CRM is not relevant for certain species for practical reasons, this should be sufficient.

Wording throughout the draft Guidance should be adjusted to reflect practical constraints.

CME notes that solar, wind and battery system projects are often interlinked with interdependent approvals and project development processes. Industry has highlighted that in response to the onshore wind farm surveying requirements outlined in the draft Guidance, proponents will likely seek to split their project approvals to avoid delays to components of a broader renewable initiative. CME notes that this would increase the number of approval submissions and potentially impact assessment timeframes.

CME further contends that approvals delays or barriers, specific to a single project component such as the onshore wind farm component, may render an entire renewables project (i.e a solar and wind farm, with onsite battery capacity) untenable for proponents.

*CME recommends the draft Guidance is amended to broaden language to require proponents to establish a baseline through ecological assessment, without prescribing the duration or approach, since this will be dependent on local context, the individual MNES and advice from ecological professionals.*

### **3. Development and Implementation of Guidance must consider how it applies to a Western Australian Context**

Noting the single, international study referenced in the draft Guidance, CME contends that several of the requirements and examples referenced in the draft Guidance are either not applicable or impractical to apply in a Western Australian context. For example, the dawn and dusk curtailment protocol outlined in the draft Guidance are not linked to behaviour of WA Pilbara bat species. Likewise, a number of WA MNES species present in low densities and are widely distributed, or don't have migratory routes, limiting the applicability of avoidance and mitigation measures referenced in the draft Guidance.

Consequently, application of the draft Guidance would severely limit or prevent the planning and development of onshore wind farm projects in WA, or impose requirements that do not deliver the intended environmental outcome.

*Given the urgency of the net zero transition, alternate approaches may need to be considered during assessments of onshore wind farms in WA, to deliver robust assessments in a timely manner. CME recommends that future development of Guidance be conducted collaboratively, utilising relevant expertise across Australia.*

### **4. Timing for Release of Draft Guidance Creates Uncertainty Given the Government's commitment to the Nature Positive Reform**

We note the timing of the release of the draft Guidance has coincided with the Government's introduction of three 'Nature Positive' bills to Parliament, which will alter Commonwealth environmental assessment processes and settings.

CME is concerned that the draft Guidance has been developed and released at a point of significant environmental law reform. We also note that the prescriptive approach of the draft Guidance is not aligned with the 'objective based' approach of the Nature Positive Plan.<sup>7</sup>

With implementation of the Nature Positive reform, CME understands the draft Guidance will likely require further amendment and revision in the near future, creating significant uncertainty for project proponents.

---

<sup>7</sup> Australian Government, [Nature Positive Plan: better for the environment, better for business](#), Department of Climate Change, Energy, the Environment and Water, December 2022.

A constantly evolving policy and legislative framework does not facilitate industry confidence, nor does it support onshore wind farm project development. Revised policy settings and the prospect of imminent change have a direct bearing on industry's ability to attract funding and commit to renewable energy projects in the near-term.

*The release of draft Guidance in the absence of supporting policy settings and guidance and that pre-empt the Nature Positive reforms, will not enable efficient approvals for onshore wind farm development and will stall project development that is essential to securing decarbonisation in WA.*

## Conclusion

CME is committed to working with DCCEEW to support the introduction of workable and effective policy that achieve the intended benefits for the environment. We believe the environmental and economic viability of the WA's resources and renewables sector will be best served by workable policy and guidelines that are focused on delivery of strategic environmental objectives, rather than the prescriptive approach proposed in the draft Guidance.

*CME strongly believes that a risk-based approach to environmental approvals and flexible assessment processes will facilitate growth in WA's onshore renewable sector, ensuring that dual objectives of decarbonisation and habitat protection can be met.*

CME would welcome the opportunity to discuss the concerns outlined above and facilitate engagement with relevant industry stakeholders, with a view to ensuring that there is common understanding of science, environmental objectives and implementation requirements. For further information, please contact Anita Logiudice, Manager Resource Development and Sustainability on 0448 468 632 or a.logiudice@cmewa.com.

Yours sincerely



**Rebecca Tomkinson**  
**Chief Executive Officer**

CC:

Maya Stuart-Fox, Minister Plibersek's Office  
Peter Nicholas, Minister Bowen's Office

Appendix 1 – CME Detailed Comments on DCCEE’s Onshore Wind Farm Guidance Under Australia’s National Environment Law

Page No.	Aspect	CME Comment
Throughout	Use of "where possible"	CME notes the term " <i>where possible</i> " is highly subjective and recommends that " <i>where practicable</i> " is used in its place, given it is a more applicable term.
7 & 15	Pre-referral meeting	<p>Industry notes capacity constraints within the Department have an impact on assessment timeframes. CME acknowledges the importance of pre-referral meetings, but strongly believes that additional regulator resources are required to support project assessment ambitions, and consequently Australia’s decarbonisation objectives, outlined in the draft Guidance.</p> <p>We note that the <a href="#">pre-referral meeting</a> information on the DCCEE website indicates that the pre-referral meeting is likely to take 30 minutes. Given the scope of the pre-referral meeting, we consider a 30-minute meeting insufficient.</p>
9	Figure 1: Information milestones	Clarification needed in Figure 1 to ensure that data required for “Referral’ and ‘Assessment’ columns, are data and modelling that are specific to an MNES.

Page No.	Aspect	CME Comment
12	1.8 Avoidance	<p>Industry has noted concern regarding the Avoidance examples provided in the draft Guidance, and their impact should they be applied. While they may be included simply to demonstrate potential avoidance measures, industry is concerned that the examples included in the draft Guidance will be considered universally applicable as a pre-requisite to onshore windfarm projects. For example:</p> <ul style="list-style-type: none"> <li>• Terms such as "areas of regular movement" are not defined and ultimately subjective.</li> <li>• Limiting construction to certain times of the year will extend project timelines and erodes economic viability of renewables projects.</li> <li>• In WA, MNES species can present in low densities, widely distributed and change behaviour according to weather and other highly variable environmental factors. Generic considerations, such as buffer zones and 'turbine-free' corridors will not provide any environmental outcomes in some circumstances, but will limit development.</li> <li>• Curtailment at dawn or dusk is not linked to the behaviour of certain WA MNES.</li> </ul> <p>CME recommends that language in the draft Guidance is amended to make it explicitly clear that the Avoidance examples are abstract examples, that may have no relevance or applicability in certain contexts and should not be considered requirements.</p>
13	1.9 Mitigation	<p>Industry has noted concern regarding the Mitigation action examples provided in the draft Guidance, and their impact should they be applied. While they may be included simply to demonstrate potential mitigation action, industry is concerned that the examples included in the draft Guidance will be considered universally applicable as a pre-requisite to onshore windfarm projects. For example:</p> <ul style="list-style-type: none"> <li>• Not all MNES have migratory routes and patterns, making turbine placement that avoids known movement routes impossible.</li> <li>• While curtailment protocols may be necessary, requiring proponents turn off wind turbines during times of low wind speed or when birds / bats are more likely to fly, may not be practical and is likely to have an impact on the viability of wind farm projects.</li> <li>• Transport of large components to site by air (dirigible) is not practical nor possible in many parts of WA where wind farm projects would be considered.</li> <li>• Tower design requirements to minimise their attraction as perches should be a proponent consideration, not a requirement.</li> </ul>

Page No.	Aspect	CME Comment
		CME recommends that language in the draft Guidance is amended to make it explicitly clear that the Mitigation examples are abstract examples, that may have no relevance or applicability in certain contexts and should not be considered requirements.
13	1.9 Mitigation	<p><i>Avoidance of the use of lights that attract insects and insect-eaters such as bats and some smaller birds.</i></p> <p>CME notes that hazard lighting on wind turbines is a Civil Aviation Safety Authority requirement. The draft Guidance should clarify that lighting superfluous to legal and safety requirements should be avoided.</p> <p>In preparing future Guidance under Environmental Law, consideration should be given to protection of human health and safety, since it is standard practice for safety and health requirements to be prioritised.</p>
18	1.16 Establish a baseline through ecological assessment	<p>CME notes that some of the ecological data listed as data that should be collected, such as '<i>flight heights</i>', '<i>movement and flight paths</i>' and '<i>population numbers</i>', can be difficult or impossible to collect.</p> <p>CME recommends that draft Guidance language should be adjusted so that only where "reasonably practicable", the ecological data listed in the draft Guidance is collected.</p>

Page No.	Aspect	CME Comment
19	1.17 Habitat and site utilisation assessments	<p>The requirement for “<i>ongoing Before-After, Control Impact (BACI) framework for management plan(s)</i>” is not possible for some threatened fauna in Western Australia due to low population densities, highly seasonal movements of the species and environmental context.</p> <p>Industry notes that developing an understanding of population changes that are the result of natural variation or human induced impact has proved near impossible to delineate, when populations in an area are in low numbers. See example of 1-15 individuals reported for Ghost Bats in WA's Hamersley Range (<i>BatCall WA 2021, A review of ghost bat ecology, threats and survey requirements</i>)</p>
20	1.19 Preparation of your BBMP	<p><i>Bird and Bat Management Plan (BBMP)</i></p> <p>The requirement that a BBMP must be prepared by “<i>a suitably qualified ecologist with at least three years of work experience designing and implementing surveys for the species in question and in considering the threats posed to these species by wind farms</i>” is not practical in Western Australia.</p> <p>CME notes that in Western Australia there are a limited number of consultant ecologists that would meet this criteria for specific MNES species, presenting a significant challenge for proponents and severely limiting the development of WA onshore wind farm projects.</p>
23	1.23 Impact risk assessment	<p><i>If a CRM is not required to be undertaken for a particular species, then scientific evidence supporting its omission needs to be presented.</i></p> <p>Industry considers this requirement too prescriptive noting examples where ecologists have advised that certain species are not relevant to undertake CRM. Further, CRM has previously not been used for bats due to it not being feasible as a way to readily measure the frequency of the flights of most bat species.</p>
29	Glossary	<p>A number of terms in the glossary do not appear in the draft Guidance.</p> <ul style="list-style-type: none"> <li>• Direct effect</li> <li>• Indirect effect</li> <li>• Smart curtailment</li> <li>• Blanket curtailment</li> </ul>