

Climate Change Review
NSW Environment Protection Authority (EPA)
climatechange.review@epa.nsw.gov.au
30 June 2024

RE: Comments on [Draft Climate Change Assessment Requirements and Guide](#)

Dear Climate Change Review Team

Australian Energy Producers appreciates this opportunity to make a short submission on the draft Climate Change Assessment Requirements (CCAR) and Guide for Large Emitters (Guide). It is important that the Guide serves to support a more efficient and effective environmental impact assessment of greenhouse gases (GHGs) and project level approvals process in NSW. It will also inevitably serve as a complementary analogue for other similar sub-national guidelines under consideration.

We recognise the NSW Government's support for natural gas as a vital component of the state's economic prosperity, energy security, and reliability, as well as its transition to net zero emissions. The NSW Government is committed to reducing greenhouse gas (GHG) emissions and transitioning to low-carbon electrification, and it acknowledges the essential role of natural gas in ensuring energy security and supporting economic stability during this transition. The state's [Natural Gas Supply Emergency Sub Plan](#) highlights the reliance of the NSW economy and community on natural gas for chemical processing, electricity generation, food processing, heating, and cooking.

Australia's oil and gas sector is fully committed to contributing its fair share to the transition to net zero emissions by 2050 in an orderly and predictable manner. We support the release of this Guide to inform project proponents on how to fully comply with existing regulatory obligations regarding climate change, the environment, health, and safety, ensuring future developments are sustainable and disclosed with full transparency and accountability. It provides a solid framework for managing and reporting Scope 1 and 2 emissions, reducing uncertainties in project planning, and increasing the efficiency of NSW policy implementation.

Lifecycle assessments (LCA) are valuable for evaluating impacts and supporting decision-making, but methodological limitations must be carefully considered by the EPA and other administering authorities (AA). These limitations include data scarcity, legal constraints, scope-creep, capacity and competency issues, and inconsistencies in scenario analysis and interpretation.

The Guide includes both mandated and voluntary elements, which could be better clarified by providing detailed mappings of overlapping legislative and regulatory requirements and characterising the extent of complementarity of each to avoid duplication and reduce compliance costs. The following serve as examples.

The Guide mandates "all relevant guiding principles in section 8 of the Climate Change (Net Zero Future) Act 2023 to be addressed" when conducting assessments but leaves open for interpretation how they are to be addressed, introducing ambiguity for proponents and providing authorities with significant discretion to accept or deny responses.

Securing development consent (approval?) relies on comprehensive assessments and mitigation plans, yet there is limited guidance on how these should be structured to satisfy EPA expectations (i.e., boundaries, identifying and prioritising emission sources, estimating emissions, and mitigation measures).

The Guide makes voluntary the adoption of best practices; but states the EPA will consider whether measures are best practice in design, technology, and abatement measures. And if the EPA deems them not to be best practice, then proponents will need to justify alternative measures. The principle of best practices is not a straightforward engineering or operational endeavour, and more detailed guidance is required on how the EPA will consistently apply this principle to different projects and in its decisions. The EPA should also communicate its expectations on what is meant by 'continuous improvements based on new methodologies'.

The Guide states projects are expected to contribute 'meaningfully' to NSW emissions reduction targets, but this should not be assumed by the EPA to mean they are required to deliver emissions reductions at the same rate as the NSW net zero emissions trajectory. This could impose disproportionate costs on projects according to their marginal abatement costs and capacities.

The EPA should reconsider its treatment of offsets, where they can only be used for emissions that cannot be avoided or reduced, preferring NSW generated offsets over those from other locations. The atmospheric benefit is the same regardless of whether emissions are avoided, mitigated, or offset, and where offsets are generated, including internationally. Constraining the use of offsets for compliance purposes is likely to increase compliance costs without providing additional emissions benefits. Also, the Guide in requiring emissions estimates to exclude offsets for determining the large emitter threshold is inconsistent with including offsets in the mitigation hierarchy, and potentially undermines the marginal abatement costs and associated compliance options at the project level. What matters is net zero emissions as expressed in the long-term climate goal of the Paris Agreement.

The Guide could benefit by explicitly recognising emissions reductions associated with the switching to lower-emission energy sources both within NSW, nationally and internationally. Regardless of whether used domestically or exported, natural gas can be substituted for higher-emissions inputs resulting in material emissions reductions. It can utilise technologies to drive lower emissions by producing low-carbon outputs including in both industrial processes as well as blue hydrogen with carbon capture and storage (CCS).

New projects can more easily adopt best practices in design, technology, and emissions management to avoid and reduce emissions compared to existing projects. Defining best practices is complex and must allow for demonstration and refinement on a like-for-like basis. Any assumption that new projects will be technologically ready to operate at the highest emissions performance from the start despite prevailing best practice analogue facilities could be unrealistic given the location and complexities of technology development, access to commercial technological solutions and/or intellectual property, and incentives for commercial deployment.

It is important the Guide does not serve to limit the adoption of best practice measures in the emissions management of project activities. The Guide's abatement hierarchy, including avoid, reduce, substitute, and offset, prioritises point-source mitigation before offsets. Noting the hierarchy is not legislated in the *Climate Change (Net Zero Future) Act 2023*, additional options could be considered for inclusion such as 'utilisation' to further facilitate cost-effective abatement outcomes.

The hierarchy's explicit preference for emissions avoidance and reductions over offsetting will likely increase projects costs. The benefits to the atmosphere in terms of stabilising GHG concentrations is indifferent between these options. The Guide should not be overly prescriptive in how emissions outcomes are achieved; a strict adherence to a mitigation hierarchy could reduce compliance flexibility of proponents to manage emissions the best way they see fit, and could perversely negatively impact on project feasibility, financing, adoption of best practices, as well as economic outcomes for NSW.

Alignment with national measures is welcome, but practical implementation at the project level is crucial. Ensuring complementarity between compliance oversight and decision-making across different legislations and regulations is important for effective emissions management. For example, the Guide's reliance on independent expert reviews could be streamlined across all the different legislative and regulatory platforms affected to help reduce compliance costs and avoid approval delays.

NSW entities are subject to a broad range of policy and regulatory compliance obligations, many of which could be considered additional and different to other sub-national requirements. There is always potential for greater coordination, higher complementarity and closer harmonisation of the Federation's regulatory settings, information requirements, and cooperation across all three levels of government. The responses of large NSW emitters continue to be driven at the margin by constraints imposed on them under the Safeguard Mechanism, and their need to acquire and acquit for excess emissions beyond grandfathered baseline emissions, and the price cap on Australian Carbon Credits Units (ACCUs) at \$75tCO₂-e. This is something that the Guideline should consider to ensure the efficiency of compliance obligations and to avoid duplication and unintended outcomes. This could be co-supported for example by exempting Safeguard Mechanism facilities in NSW from some of the requirements in the Guide, including for example its proposed treatment of scope 3 emissions.

Yours sincerely,



Mark Bonner
Director, Climate and Energy Policy
Australian Energy Producers