



1 July 2024

NSW Environment Protection Authority (EPA)
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Glencore Submission: Draft NSW EPA Guide for Large Emitters

Glencore welcomes the opportunity to provide feedback on the EPA's Draft Guide for Large Emitters (Draft Guide). Glencore recognises the EPA's role in supporting industry and the community to meet the Commonwealth and NSW targets to reduce net greenhouse gas emissions.

Glencore supports the Australian Government's climate change targets consistent with the Paris Agreement and Australia's nationally determined contribution (NDC) to reduce national net emissions to 43% below 2005 levels by 2030 and achieve net zero emissions by 2050.

The Australian Government recently reformed the Safeguard Mechanism (commencing 1 July 2023) to reduce emissions at Australia's largest industrial facilities. The Reforms were underpinned by extensive and iterative rounds of transparent consultation with stakeholders, and consequentially the design of the scheme demonstrates the informed considerations of the Australian Government.

Glencore also notes the NSW net emission reduction targets legislated in the Climate Change (Net Zero Future) Act 2023, including by at least 50% by 2030, by at least 70% by 2035, and to zero by 2050. While we acknowledge the climate ambitions of the NSW government, our preference is to have a single national approach to emission reduction targets to avoid duplication, increased costs, and potential negative interference with the national carbon market.

Glencore believes that NSW government climate change policy should be non-duplicative, informed, pragmatic, and focused on outcomes. The policy should provide greater certainty for business investment in NSW whilst supporting investment in least-cost emissions reduction across Australia.

Glencore has made strong global climate change commitments including an ambition to be a net zero total emissions company by 2050, with a strategy that recognises that the transition to a low emissions future is not linear or uniform across geographies, sectors, and time. It therefore supports reforms which are designed to achieve least-cost emissions reductions whilst also recognising the uncertainty and constraints on the availability, timing, and cost of emission reduction technologies.

Glencore supports ongoing consultation by the NSW government to ensure that climate policy design considers existing Commonwealth climate policy, reporting requirements and emissions accountability to prevent unnecessary duplication. Our company is committed to working cooperatively with the EPA on the development of its climate policies.

Glencore also supports the detailed submission provided by the NSW Minerals Council.

Sincerely

A handwritten signature in blue ink that reads "C. McCarthy". The signature is written in a cursive, flowing style.

Cass McCarthy
Corporate Affairs - Australia
Glencore

Glencore in Australia and NSW

Glencore is one of Australia's most diversified mining companies and has been investing in Australia for more than 25 years. We operate 22 mines and are the largest producer of coal, cobalt, zinc and lead and second-largest producer of copper, nickel and silver in Australia. We responsibly source the commodities that advance everyday life. The natural resources that Glencore produces in Australia are found in everything from mobile phones to airplanes, from solar panels and wind turbines to medical devices and kitchen appliances.

Our business makes an important socio-economic contribution to Australia in the city and the regions, whether its employing apprentices, tradespeople, engineers, and environmental scientists through to supporting local businesses and community groups.

In 2023, Glencore contributed \$23.5 billion to the Australian economy and had 17,460 direct employees and contractors. This contribution included \$12.9 billion spent on goods and services from 6,998 suppliers, \$8.2 billion taxes and royalties paid to governments and \$2.4 billion in wages and salaries¹.

Glencore understands that climate change is a global challenge and a shared responsibility. As one of the world's largest diversified resource companies, Glencore is playing a role in supporting the transition to a low carbon future. We aim to be a net zero total emissions company by 2050. Our global emissions reduction targets applies to Scope 1, 2 and 3 emissions, and Glencore's pathway comprises:

- 15% reduction in total emissions by 2026;
- 25% reduction in total emissions by 2030;
- 50% reduction in total emissions by 2035; and
- an ambition to achieve net zero total emission by 2050, with a supportive policy environment.

Glencore has also committed to oversee the responsible decline of its global thermal coal operations.

Glencore holds a number of planning approvals and thirteen EPLs in NSW. Glencore (and related entities) are also progressing a number of development applications which would be subject to the climate change assessment requirements of the finalised EPA Guide for Large Emitters. Glencore's feedback on the Draft Guide is based on our understanding that the scope of the Draft Guide (and the foreshadowed future EPL conditioning policy guidelines) applies to project assessments and is not intended to be applied retrospectively to existing EPLs.

¹ Glencore, Glencore Australia – Our Contribution (June 2024), available at <https://www.glencore.com.au/who-we-are/our-contribution>

Executive Summary

Glencore in principle supports a Draft Guide for emissions estimation, documentation, disclosure, and general principles of the mitigation hierarchy. However, in its current form, we do not believe the Draft Guide is suitable for informing project assessments. We would like to draw attention to several key issues which need to be considered by the EPA in forming efficient, practicable and effective GHG policy that is consistent with the Federal Government climate policy framework and goals.

Our principal position is that facilities that are covered by the Safeguard Mechanism should not be subject to additional state-based emissions reduction requirements for reasons including:

- The Safeguard Mechanism provides important consistency across each state and territory in terms of how high-emitting facilities are regulated and managed;
- The existing approach supports and encourages innovation and low-cost abatement to achieve emission reduction targets; and
- Through the Safeguard Mechanism and associated NGERs regime, the Federal Government – as the government ultimately responsible for implementing Australia’s emission reduction targets under the Paris Agreement – receives emissions data to manage Australia’s national GHG inventory and track progress against the emissions reduction targets in Australia’s Nationally Determined Contribution (NDC).

We believe that the emissions reduction contribution of Safeguard facilities will provide a key contribution to the NSW NZF Act’s net emissions reduction targets. We also believe that if projects at Safeguard facilities choose to volunteer additional emissions reductions contribution to reflect consideration of NSW targets, that such voluntary contributions should also utilise the Safeguard Mechanism architecture to provide consistency.

The key issues that need further consideration in the Draft EPA Guide, before it can be used to inform project assessments, are:

1. **Duplicative climate policy for Safeguard facilities** – for Safeguard facilities, the target setting requirements proposed by the Draft Guide create unnecessary duplication and contradict the EPA’s stated position in its Climate Change Action Plan 2023–26², “We will ensure any emission limits or other licence requirements complement (and do not duplicate) NSW Government actions already taking place under the NSW Net Zero Plan, and any actions being taken by the Commonwealth Government (e.g. under the Safeguard Mechanism). Licensees will not be required to report the same information twice. We will also consider how to future-proof our approach, so that it recognises and allows for any future changes to Commonwealth policies or initiatives.”
2. **Limitations and restrictions on offset use** – the Draft Guide’s stated preference for NSW offsets, and further stated inability to recognise non-NSW offsets (as per EPA’s recent advice on the HVO Continuation Project³), is not consistent with the national

² NSW EPA, EPA Climate Change Action Plan 2023–26 (Jan 2023), available at <https://www.epa.nsw.gov.au/-/media/epa/corporate-site/resources/climate-change/23p4265-climate-change-action-plan-2023-26.pdf>

³ NSW EPA, EPA Comments on Response to Submissions for HVO North and South Open Cut Coal Continuation Projects (May 2024), available at

emissions reduction effort. It may also drive potential ACCU market distortion and may result in significant compliance costs or unreasonable exposure to non-compliance risks.

3. **Inconsistency with ecologically sustainable development objectives** – in relation to the mitigation hierarchy, the failure to give weight to technical and commercial factors is inconsistent with the principles of ecologically sustainable development and the importance of effective integration of social, economic and environmental considerations in decision-making processes.
4. **Best practice benchmarks** – requirements to implement “best practice design, technology and abatement measures” do not contemplate the basis of establishing these benchmarks, nor economic factors and what is technologically feasible, particularly for projects in hard-to-abate sectors such as the coal mining sector.
5. **Independent expert review** – the availability of experts with the relevant expertise is uncertain and greater guidance is needed to set out the relevant qualifications and expertise required to mitigate commercial consequences for proponents.
6. **Threshold definition for large emitters** – the threshold for defining large emitters is inconsistent with the threshold under the Safeguard Mechanism and could introduce inconsistency.
7. **Provision of commercially sensitive information** – unless appropriate confidentiality and disclosure of information protections are put in place (and these are not contemplated in the EPA Guide for Large Emitters), commercially sensitive information may be published.

These key issues are discussed in further detail below.

1. Duplicative climate policy for Safeguard facilities

Projects that are subject to the Safeguard Mechanism should be excluded from further emissions reduction targets at State level.

The Safeguard Mechanism Reforms are designed to incentivise low emissions intensive production across each sector and were developed through extensive and iterative consultation.

The Reforms are underpinned by declining net emission intensity limits as well as measures that acknowledge the technological and economic challenges of decarbonisation e.g. use of Australian Carbon Credit Units (ACCU) and Safeguard Mechanism Credits (SMCs), the provision of a cost containment measure to manage carbon price risk, the provision of multi-year monitoring periods and assistance to trade-exposed production.

The wholistic design of the Safeguard Mechanism aims to achieve Australia's climate change commitments whilst minimising the risk of industries declining and resulting carbon leakage.

The Draft Guide states that, *“proponents are required to set an overarching long-term Scope 1 GHG emission goal for the project’s residual emissions that represents a meaningful contribution to the emissions reduction objectives of the State. Interim Scope 1 emission goals that establish a trajectory to achieving the overarching Scope 1 goal, must also be specified for the project. Interim goals are to be specified at 5-yearly or shorter-term intervals. Scope 1 goals must be specified in absolute terms, e.g. tonnes CO₂-e for a given year, with emission intensity goals specified where appropriate.”*

We observe that goal-setting to achieve the above proposal at Safeguard facilities will likely result in inconsistencies with the Safeguard Mechanism as follows:

- Any goals based on gross emissions instead of net emissions contradict the Safeguard Mechanism which is based on net emissions;
- Any goals in absolute terms contradict the Safeguard Mechanism which is production-adjusted;
- Any goals based on project-specific emission intensity contradict the Safeguard Mechanism which considers site-specific as well as industry average emission intensity; and
- Any goals based on emission intensity targets based on product tonnes, have potential for inconsistency with the Safeguard Mechanism which is based on ROM tonnes.

The Draft Guide also states that, *“A meaningful contribution’ refers to the expectation that the project’s Scope 1 emissions would reduce at a comparable rate to the relevant industry-sector emissions trajectory, or if this does not exist, to the overall NSW net zero emissions trajectory”*. This statement implies that all projects would need to reduce emissions equally or comparably to their sector or to NSW State. This expectation does not serve to incentivise low emission intensity production, as the Safeguard Mechanism does.

Given the above significant potential for inconsistencies and contradictions with Safeguard, our principal view is that Safeguard facilities need to be excluded from making additional targets, and instead projects at such facilities need to forecast their gross and net emissions for the NSW government to consider in its emissions forecasts.

The Queensland Government has recently shown consideration of the Safeguard Mechanism in the design of its GHG Guideline⁴ which states, *“This guideline is intended to operate alongside Commonwealth laws and not duplicate requirements under the Safeguard Mechanism. This guideline does not impact Commonwealth obligations or benefits. This includes the ability to earn Safeguard Mechanism credit units (SMCs)”*. The Queensland GHG Guide also states, *“For projects captured by the Commonwealth*

⁴ Queensland Government, Guideline – Greenhouse Gas Emissions (May 2024), available at https://www.desi.qld.gov.au/policies?a=272936:policy_registry/era-gl-greenhouse-gas-emissions.pdf

Safeguard Mechanism, the emission reduction targets may be determined by the Safeguard Mechanism.”

We encourage the EPA to show similar consideration and alignment with the Federal Safeguard Mechanism.

In relation to Scope 2 emissions, the Draft Guide states, “Proponents are also required to specify goals for Scope 2 emissions”. The requirement to provide Scope 2 emissions goals is inconsistent with the federal regulatory schemes. This requirement may expose proponents to heightened regulatory risk on the basis that a facility’s ability to achieve its Scope 2 emissions goal is vulnerable to external factors (particularly factors outside of the proponent’s control related to energy sector emissions factors).

The magnitude and materiality of Scope 2 emissions will vary from project to project. Due to the indirect nature of Scope 2 emissions and the reliance on the grid’s emission factor, which is projected to rapidly green, Scope 2 emissions will decrease with the grid’s decarbonisation.

Given their indirect nature and lack of proponent control of the grid’s emission factors, Scope 2 goals should be encouraged but not mandatory, particularly for Safeguard facilities for whom Scope 1 emissions are the material emission source. We also note that there are two methods of Scope 2 emissions accounting, the location and the market-based approach, and only the market-based approach allows recognition of renewable energy certificates or PPAs.

The Draft Guide should clearly state the basis of Scope 2 emissions accounting (location or market based), and which assumptions regarding decarbonisation of the electricity grid should be used by proponents in their assessments.

In relation to Scope 3 emissions, we support the Draft Guide’s proposal that Scope 3 emissions goals are encouraged but not required.

2. Limitations and restrictions on offset use

Offset use should be consistent with the Safeguard Mechanism

The Draft Guide states that, “carbon offset strategies should be identified, and that carbon offsets must only be used for residual emissions that cannot be avoided or reduced”. It also states that, “offsets that conserve, preserve, protect, enhance and manage the NSW environment are to be prioritised”.

It is unclear what the required contents of an offset strategy would be, the level of qualitative and/or quantitative information expected, and the extent to which this would form an obligation for the proponent. We believe it is not practicable to provide a quantified offset strategy as other options in the mitigation hierarchy may be implemented (avoid, reduce, substitute) instead, depending on their relative economics.

Whilst the Draft Guide does not prescribe the use of NSW offsets, we also note statements made in EPA’s Advice to the NSW Department of Planning, Housing and

Infrastructures (DPHI) in relation to the HVO Continuation Project⁵ which are more explicit with respect to the carbon accounting treatment of offsets, “The EPA prefers proponents to reduce their reliance on carbon offsets generated outside of NSW as, under current frameworks, offsets generated outside of NSW cannot be counted in the NSW emissions inventory”.

We observe that the Draft Guide’s stated preference for NSW offsets contrasts against approaches taken by other states and territories, notably Victoria’s Climate Change Act 2017⁶ and ACT’s Climate Change and Greenhouse Gas Reduction Act 2010⁷, both acknowledge an ability to use offsets from outside the jurisdiction.

We believe any policies that encourage ring-fencing or geographical constraint on carbon offset surrender to be inconsistent with the Safeguard Mechanism and present a high risk of distorting and undermining the national carbon offset market.

We are also concerned about EPA’s statements that ACCUs procured from outside NSW cannot be counted in NSW. Given the emissions reduction impact that the Safeguard Mechanism will generate across large emitters in NSW, we encourage the EPA to consider how the net emissions positions of all large emitters in NSW could be utilised as contributing towards NSW net emissions reduction targets.

3. Inconsistency with ecologically sustainable development objectives

The deployment of the mitigation hierarchy should consider what is reasonable and feasible

The Draft Guide expects proponents to apply the mitigation hierarchy, “to first avoid then reduce emissions as much as possible, including through measures to substitute lower-emission energy sources and materials for higher-emission ones, before finally offsetting residual emissions to meet emission goals”.

The Draft Guide’s failure to give weight to technical and commercial factors is inconsistent with the principles of ecologically sustainable development and the importance of effectively integration of social, economic and environmental considerations in decision-making processes.

We believe it is critical for the Draft Guide to acknowledge that proponents would progressively and iteratively consider decisions to avoid, reduce, substitute, or offset emissions pending the availability of practicable technologies for emissions reduction and depending on the relative economics of the mitigation hierarchy.

⁵ NSW EPA, EPA Comments on Response to Submissions for HVO North and South Open Cut Coal Continuation Projects (May 2024), available at <https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-11826681%2120240523T223654.578%20GMT>

⁶ Victorian Government, 2024, Climate Change Act 2017 (Part 2 Division 1), available at <https://content.legislation.vic.gov.au/sites/default/files/2024-06/17-5aa010-authorized.pdf>

⁷ ACT Government, 2024, Climate Change and Greenhouse Gas Reduction Act 2010 (Part 2 Section 6), available at <https://www.legislation.act.gov.au/a/2010-41>

Hence the EPA's expectations on how proponents apply the mitigation hierarchy should be outcomes-focused on net emissions and not prescriptive on the means of achieving this.

4. Best Practice Benchmarks

Identification of best practice needs to consider range of natural and techno-economic variability in the mining sector

The Draft Guide refers to the requirement to implement best practice design, technology and abatement measures. In this context, the EPA defines best practice as "the most effective combination of processes and technologies, including how an installation or activity is designed, built, maintained, operated and decommissioned, to avoid and minimise environmental impacts from GHG emissions". In considering what is best practice, there is a reference to local conditions and current circumstances but no economic considerations.

Best practice may also consist of qualitative practices and not quantitative benchmarks e.g. in the mining sector, best practice for open cut coal mining would consist of haulage planning to minimise diesel consumption. However, it is not practical to quantitatively define the best practice outcome due to natural geological variability in the sector.

The Draft Guide states the requirement for a GHG Mitigation Plan, which must include:

- (a) a comparison of the project's emissions and emissions intensity per unit production benchmarked against other comparable projects, best practice, and industry sector standards/milestones where they exist; or
- (b) where best practice is not proposed to be adopted, a robust, verifiable justification.

The referable best practice benchmarks are not specified in the EPA Guide for Large Emitters, which creates uncertainty for industry. We note that there is reference to the Safeguard Mechanism international best practice benchmarks, but these benchmarks would:

- (a) relate to emissions intensities for specific production variables, and these have not yet been set for all production variables; and
- (b) are subject to the decline rate within the Safeguard Mechanism which impacts the new facility's consequent liability but does not expressly require the facility to identify and use best practice international technology.

Additionally, the context of the Safeguard Mechanism's international best practice benchmarks needs to be understood before it is utilised for comparisons in a project assessment:

- (a) The Safeguard Mechanism's best practice emission intensities are defined as the production weighted emission intensity of the "top" (or lower) emission intensity of 10% of production. The purpose of the best practice emission intensity is to incentivise low emission intensity production at new facilities, not to form a comparison benchmark for GHG performance assessments.

- (b) To ensure certainty and consistency for responsible emitters and avoid causing unreasonable compliance costs, best practice benchmarks under the EPA Guide for Large Emitters should be set so far as is practicable in alignment with the Safeguard Mechanism benchmarks (particularly in the context of providing a comparison basis and not expressly requiring a facility to use the particular 'best practice' technology).

5. Independent Expert Review

The EPA Guide for Large Emitters provides that projects with Scope 1 and 2 emissions exceeding 100,000 tonnes per year at any time over the operational life of the project must have their mitigation assessments verified by an independent expert review.

This includes an assessment whether suitable offsets are likely to be available at the time of the proposed acquisition and cancellation of such offsets.

We believe that greater detail is required regarding the "appropriate qualifications and experience to undertake the review having regard to the nature and complexity of the review" to guide industry in identifying appropriately skilled experts.

The same applies to the necessary qualifications for reviewing and verifying mitigation assessments, which incorporate a much broader scale of factors for assessment than a standard NGERS report.

In practice, given the breadth of the expert review covers two distinct areas (mitigation assessment and offset market assessment), it is possible that that this requirement will effectively require many proponents to engage two separate experts and incur additional, unreasonable costs (particularly if there are limited experts available).

6. Threshold Definition for large emitters

The definition of "large emissions" should be consistent with the Safeguard facility threshold

The Draft Guide proposes a project to have large emissions if "the project is likely to emit 25,000 tonnes or more of Scope 1 and 2 emissions (CO₂e) in any financial year during the operational life of the project (based on planned operational throughput and as designed)".

This threshold definition for 'large emitters' sets a low bar for applications and is inconsistent with the 100,000 t CO₂e Scope 1 emissions threshold for the Safeguard Mechanism.

By contrast, under Western Australia's Environmental Factor Guideline on Greenhouse Gas Emissions, the threshold is significantly higher, and the WA EPA will only consider the greenhouse gas emissions of proposals, or changes to existing proposals or

implementation conditions that are reasonably likely to exceed 100,000 tonnes of Scope 1 emissions, or 100,000 tonnes of Scope 2 emissions⁸.

The above accentuates the broader risks of inconsistency between state and federal requirements in respect of GHG emission regulation and may lead to perverse outcomes. For example, the EPA Guide for Large Emitters will place new obligations on smaller facilities that may not have existing capabilities or sufficient resources to respond to their new obligations.

Additionally, by requiring projects which have total Scope 1 + 2 of 25, 000 t CO₂e to set emission reduction targets, the NSW EPA is potentially introducing additional sources of carbon offset demand, as this low threshold is inconsistent with the 100, 000 t CO₂e Scope 1 threshold in the Safeguard Mechanism.

7. Provision of commercially sensitive information

As is required under the EP&A Act and underlying regulations, development application documents are made publicly available. Therefore, unless appropriate confidentiality and disclosure of information protections are put in place (and these are not contemplated in the EPA Guide for Large Emitters), commercially sensitive information may be published and cause commercial detriment for proponents.

With the above in mind, we consider that the EPA must implement the necessary regulatory and policy framework to allow proponents to designate and redact commercially sensitive information before such information is published.

Notably:

- (a) the level of information required to be provided as part of GHG assessment and mitigation plans is significant and will likely contain a range of commercially sensitive documentation and information;
- (b) particularly relevant to high-emitting projects subject to the Safeguard Mechanism, proponents would also be required to provide information regarding their Safeguard Mechanism baseline and proposed measures for compliance. As part of this, proponents may be required to disclose information relating to their trade-exposed baseline-adjusted (TEBA) eligibility and status, which is extremely problematic when:
 - i. TEBA eligibility is linked to impacts of the Safeguard Mechanism baseline decline rate on the EBITDA of a facility and other key commercial factors (including, for example, information on production variable sale prices); and
 - ii. TEBA status applies over a three-year period and may be subject to change in respect of whether it will continue to apply to a facility at the end of each period having regard to international trade competitiveness; and

⁸ Western Australia Environmental Protection Authority, Environmental Factor Guideline: Greenhouse Gas Emissions (2023), available at: [Guideline-GHG-Emissions - April 2023.pdf \(epa.wa.gov.au\)](https://epa.wa.gov.au/Guideline-GHG-Emissions-April-2023.pdf).

- (c) Sensitive information relating to offset strategies and long-term offtakes could be made public. This could have negative implications for the integrity of the ACCU market by impacting upon supply and cost.

We also question the EPA's need for a forward-looking carbon offset strategy to be provided and additionally reviewed by an independent expert reviewer, for each project. Given that such assessments are prepared at a point in time for a dynamic carbon offset market, the outcomes could be commercially sensitive, and their utility would be potentially limited.

A development approval must assume that the proponent would operate the project lawfully, including sourcing offsets in a timely manner and in accordance with integrity standards. If offsets are not available during the project's execution, then the proponent would either cease or reduce production or deploy other aspects of the mitigation hierarchy.

We believe that the EPA should be outcomes focused on net emissions and require proponents to surrender carbon offsets as per their compliance and/or voluntary commitments, and refrain from requiring information related to the proponent's commercial arrangements in securing offsets, nor require independent market assessments which would be undertaken at a point in time for a dynamic market.

8. Other matters

A range of other minor matters are discussed briefly below.

- (a) Due to missing policy elements, it's unclear how the final framework will work.

Whilst the Draft Guide relates specifically to proposals progressing through the approvals process, it also refers to several other interacting policies and plans which are under development e.g. the Licencing Conditions Policy, sector-specific targets, Climate Change Mitigation and Adaptation Plan guide. Without considering the range of policies cohesively, we are unable to provide informed feedback on the efficacy of the final framework, and this increases the potential for inconsistencies and unintended consequences.

- (b) Assessment boundary is unclear.

The definition of the assessment boundary is unclear, particularly in relation to proposed modifications that would impact the emission from existing operations. The Draft Guide would benefit from the inclusion of worked examples to demonstrate boundaries. Additionally, the timing of any reporting requirements would need to align with NGER year to provide consistency. We also note that project activities and emissions sources may straddle separate EPLs.

- (c) Consideration of emerging technologies in establishing emission reduction goals.

The Draft guide states that "the setting of emissions goals for the project may both inform and be informed by the assessment of mitigation measures which are commercial and technically ready for adoption or are likely to be ready during the project life".

In our view, the EPA should be cautious of encouraging proponents to quantify the abatement magnitude and timing of emerging technologies, given the subjectivity and significant uncertainties associated with these depending on their technology and commercial readiness levels.

Emissions estimates and targets should be based on existing technologies or high maturity emerging technologies, to prevent emissions estimates from being misleading. We suggest the EPA refrain from requiring quantitative assessments of low maturity emerging technologies as this could encourage greenwashing.

(d) Consideration of company-wide emissions targets and portfolio abatement commitments.

Proponents of projects typically exercise a portfolio approach to managing emissions against corporate emission reduction targets e.g. the managed decline of the coal portfolio is a key feature of Glencore's emissions reduction targets. In executing this approach, Glencore is closing down coal operations that are reaching the end of their economic lives and seeking brownfield extensions for projects that would fit within Glencore's emissions reduction targets if they were to be executed.

(e) Provision of emissions and activity data for operational and maximum throughput scenarios.

Appendix E of the Draft Guide requires emissions estimates to be provided for both the operational and maximum throughput on an annual basis. We observe that, depending on the industry, it may not be possible to provide a maximum throughput scenario on a standalone basis e.g. for the mining industry a maximum sustained throughput rate is typically not a realistic scenario as mining activities and process constraints would not allow this. Instead, we suggest the maximum throughput year(s) in the operational scenario could also be used to inform this assessment, and that a separate maximum throughput scenario would not need to be provided.

(f) The use of carbon offsets do not count towards the threshold criteria – how are renewable energy certificates proposed to be treated?

We support that the use of carbon offsets should not count towards the threshold criteria for identifying large emissions projects. However, we support that a project's net emissions (after the surrender of compliance and/or voluntary carbon offsets) should be the relevant emission that is considered during the assessment process. We query how Large Generation Certificates (LGCs) (or other renewable energy certificates (RECs)) are considered in the assessment of the threshold hold criteria. We propose that RECs should not count towards the threshold criteria for identifying large emissions projects, however a project's residual Scope 2 emissions (after the surrender of compliance and/or voluntary RECs) should be the relevant emission that is considered during the assessment process.

Conclusion

The EPA Guide for Large Emitters includes various proposals that could create inefficiencies in compliance operations and add to the regulatory burden on proponents in NSW, whilst also leading to potential increases in compliance costs.

Having regard to the ongoing Climate Change Authority review of Australia's emission reduction targets and the potential outcomes of this review⁹, any actions taken by the NSW Government should be subject to regular review to align with any changes to these instruments and avoid the duplication of federal initiatives that may drive additional compliance costs, inefficiency and uncertainty for proponents.

There are strong policy arguments as to why facilities that are covered by the Safeguard Mechanism should not be subject to additional state-based requirements. Supporting a consistent approach to GHG regulation reduces the risk of unnecessary additional costs or unintended consequences (including, for example, distortion of the ACCU market and provision of commercially sensitive information).

In its current state, we do not believe the EPA Draft Guide is fit-for-purpose to inform project assessments. We believe that feedback from the consultation process needs to be reflected in a Final Guide which should also undergo consultation before it is implemented and used to inform project assessments.

⁹ Climate Change Authority, 2024 Issues Paper: Targets, Pathways and Progress (Issues Paper, April 2024) 5, 32 available at: <https://storage.googleapis.com/files-au-climate/cca/p/prj2d3336e5a90d264a70605/page/Issues%20paper%20-%20Targets,%20Pathways%20and%20Progress.pdf>.