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Submitted via email: climatechange.review@epa.nsw.gov.au

Submission: Climate Change Licensee Requirements, Climate Change Mitigation and Adaptation Plans and the Greenhouse Gas Mitigation Guide for NSW Coal Mines

Thank you for the opportunity to make this submission.

Lock the Gate Alliance is a network of over 120,000 farmers, Traditional Owners, conservationists and community members from across Australia, affected by and concerned about the impacts of coal and unconventional gas mining. We live and work in the communities affected by these industries and undertake research, advocacy and support to protect the environment, cultural heritage and society from damage. Many of our members are regionally-based, and are also experiencing first-hand the consequences of the global warming that has already occurred.

Summary

For the reasons outlined in this brief submission, Lock the Gate Alliance's view is that overall, these documents, and the Greenhouse Gas (GHG) Mitigation Guide in particular, are completely inadequate to urgently reduce and limit greenhouse gas emissions from coal mines in NSW. These documents effectively allow business as usual at NSW coal mines and are riddled with loopholes and delays that will not deliver the urgent change that is needed to prevent NSW breaching legislated emissions reduction targets of at least 50% by 2030 and at least 70% by 2035.

100% of coal-mine expansion proposals assessed and determined to date under the Minns Labor government have been approved (seven in total). Little to nothing concrete has been done to reduce methane emissions from existing coal mines which are predicted at this stage to increase to 2030. The same can be said for diesel emissions. These documents will not change that trajectory.

Whilst we welcome scrutiny of coal sector emissions and an intent for tighter regulation eventually, the reforms as currently proposed will fail to drive significant abatement of methane this decade and may actually facilitate an increase in diesel emissions at open cut mines. Against this backdrop, it is concerning that no modelling appears to have been done by the NSW EPA on the impact of the proposed measures. This is of great concern in regard to fugitive emissions in particular. The International Energy Agency has estimated that to stay on track to prevent global average warming above 1.5 degrees, methane emissions from coal and gas operations need to reduce 75% by 2030.

Fugitive methane emissions in NSW are projected to increase this decade due to regulatory failure at existing coal mines and ongoing government support to approve new coal expansions.

The EPA has a statutory duty to develop environmental quality objectives, guidelines and policies to protect the environment from the threat of climate change. Coal mines are a very significant source of GHG pollution in NSW (13.9 Mt CO₂-e or 12% of state-wide GHG emissions in FY22).¹

In regard to coal-mine expansions, the NSW Parliament's Joint Standing Committee on Net Zero Future, in their first inquiry report (March 2025) found that:

“there is considerable uncertainty regarding whether emissions targets can be achieved - particularly the 2030 and 2035 interim targets - given what the Net Zero Commission describes as a ‘sizeable pipeline’ of new coal expansions currently being assessed by the NSW Department of Planning, Housing and Infrastructure.”

The net impact of NSW EPA reforms finalised and proposed to date, has been to enable a planning culture in NSW to continue that approves new coal for mining despite NSW not being on track to meet targets. Projects are approved despite significant uncertainty that Scope 1 and 2 emissions will be abated and near certainty that Scope 3 will not.

Climate Change Licensee Requirements

The major failing of the Licensee Requirements is that the EPA states that they will not impose GHG emissions limits on facilities via Environment Protection Licences in the short term. NSW EPA describes this as a long-term action that will not be implemented in the short term. This is completely unacceptable. The NSW EPA's own expert panel found that “...the panel's view is that it will be hard for the EPA to ensure mines actually reduce emissions in the absence of emission limits.”²

Enforceable, reviewable limits should be placed on emissions of greenhouse gases, especially methane, from NSW coal mines as a matter of urgency. These should be gross emissions limits **that exclude offsets**.

The NSW EPA should also work with the Net Zero Commission to establish sectoral targets for coal mine emissions reductions to 2030 and 2035 that are consistent with a 1.5 degrees of warming pathway. These targets should then drive the limits on emissions included in Environment Protection Licences which increase over time in accordance with the statewide sectoral target.

¹ EMM, Greenhouse Gas Mitigation at NSW Coal Mines, Literature Review and Industry Scan, Prepared for NSW Environment Protection Authority, July 2025, pg ES.1

² NSW EPA, 14 April 2025, Independent Expert Review Panel Report, Review of the EPA's draft Greenhouse Gas Mitigation Guide for NSW Coal Mines, and accompanying draft literature review, pg 6

GHG Mitigation Guide for Coal Mines

Overall summary of failings

The Mitigation Guide fails to drive any significant abatement of direct emissions from either methane pollution or diesel emissions as coal mines *this decade*, which is the critical period for avoiding dangerous tipping points.

Methane emissions from underground mines

The Guide proposes that the EPA *may* mandate ventilation air methane (VAM) abatement at high-emitting underground coal mines in NSW, but not until July 2030 and then only for mines that will operate beyond July 2032 or have not been granted an exemption. NSW EPA has also flagged uncertainty about VAM abatement safety issues which the current proposal indicates will not be resolved until 2028. This means the best case scenario is very little abatement by 2032. The worst case scenario is very little abatement at all well beyond 2032 if the decision is that 'safety issues' cannot be overcome, therefore VAM abatement cannot be mandated.

Methane emissions from open cut mines

The Guide does NOT require gas drainage and destruction of methane at open cut coal mines, even though the EPA's own expert panel recommended 'adding surface mines to the gas drainage and flaring requirements'.

Emissions from diesel engines at coal mines

The EPA does not require electrification of diesel engines at coal mines and proposed diesel actions place no pressure on coal miners to reduce Scope 1 diesel GHG emissions this decade. The proposed measures are likely to facilitate an increase in diesel emissions because the draft Guide's measures until 2035 are based on shifting a percentage of fuel used to low carbon alternatives, but do not constrain total fuel use.

Other major failings of the Guide

Exemptions - The Guide sets out a pathway where a company can seek an exemption from a mitigation measure if it decides 'it is not feasible to implement'. This is a massive loophole which directly mimics the current requirements that measures 'must be reasonable and feasible' which has held back any action for the last 10 years.

Downstream Scope 3 emissions - The Guide does not contain any guidance on how to constrain the usually very large downstream Scope 3 emissions that occur when coal from mines is burnt in power stations either here in Australia or overseas, despite a recent decision by the NSW Court of Appeal in relation to the Mt Pleasant Coal Mine which recognised downstream emissions as within scope of development assessments.

Scope 2 emissions - The Guide fails to include any requirements for reducing electricity emissions at coal mines (Scope 2 emissions), despite them being the easiest category of emissions to abate by requiring renewable energy to be used. Instead, the Guide merely says that EPA will look at this issue 'later'.

Amendments required - Mitigation Guide

The Guide needs to be drastically amended to require the following:

1. Strict requirements that prohibit venting of unabated methane from underground mines, mandate use of Ventilation Air Methane at highest-emitting underground mines from 2027 and at other underground mines from mid-2028.
2. Mandate pre-drainage of methane at all open cut mines.
3. Set an ambitious schedule for electrification of vehicles at coal mines that requires at least 50% electrification by 2030 and 70% by 2035 and require all mines to utilise renewable energy for electricity by 2028 at the latest.
4. Remove the proposed exemption to allow coal companies to avoid requirements because it will completely undermine the whole Guide and set strong penalties for failure to comply with it.

DETAILED SUBMISSION POINTS

Guide for Large Emitters is having little impact

Since the NSW EPA Guide for Large Emitters was introduced in draft form in May 2024, 100% of high-emitting coal projects assessed have been approved (see Table 1 below). This includes two coal mine expansions that will undermine efforts to meet NSW's 2030 emissions reduction target: Mt Arthur Mod 2 and Tahmoor Mod 3.

In NSW Budget Estimates recently (see [answers to supplementary questions](#)), the NSW Minister for Planning effectively conceded that critically important elements of the NSW EPA's 'Guide for Large Emitters' have not been followed in any of the coal-mine determinations so far this year (see Answer to Q12). The Minister did - however - confirm that the "process for setting long term goals" and the review of mitigation plans "is the role of the EPA as the primary regulator of GHG emissions in NSW."

In this context, it is concerning that interim and long-term GHG goals are not being set, and independent review of mitigation and offset plans are either not happening at all or are cursory or deficient or both.

And loopholes are legion. For example, Lock the Gate Alliance is concerned that the NSW EPA's Guide for Large Emitters does not apply to an extension project - Metropolitan Mod 4 - at the state's 5th

highest-emitting coal mine. According to Peabody “the Modification [Mod 4] does not trigger the assessment requirements outlined in the Guide [Guide for Large Emitters]”. Lock the Gate understands that NSW DPHI agrees with this assessment. Peabody has warned that “higher methane levels” are expected “as the mine progresses westward.” The expansion would mean an extra 730,000t CO₂-e of Scope 1 emissions in FY30, creating a major problem complicating the task of meeting the NSW 2030 target. VAM abatement at this mine would result in very significant reductions, but the draft coal mine Mitigation Guide that is currently on exhibition would not require Peabody to implement VAM abatement at their mine as their proposal is to cease coal extraction by FY31 and the NSW EPA propose to exempt mines with no current plan to mine beyond FY32.

For more detail on greenhouse gas issues that will arise from approval of Metropolitan Mod 4, see Lock the Gate’s [submission to NSW DPHI](#).

Table 1: coal expansions approved since the Guide for Large Emitters was introduced in May 2024

Coal expansions approved in NSW since NSW EPA introduced - in draft - the Guide for Large Emitters (May 2024)	Date approved	Total Scope 1 GHG Mt CO ₂ -e	Total Scope 2 GHG Mt CO ₂ -e	Total Scope 3 GHG Mt CO ₂ -e	Total GHGs (lifetime) Mt CO ₂ -e	Duration	Additional ROM coal approved (Mt)
Glendell Mine Modification 5 - Life Extension	01/07/24	0.07	0.0004	2.64	2.71	2026	1.8
Mt Arthur Coal MOD 2 (Pathway to 2030)	16/04/25	2.49	0.33	190.20	193.02	4 yrs (FY27 - FY30)	89.8
HVO Mod 8 - Extension of time	24/04/25	1.53	0.08	33.06	34.67	18 months (end 2026)	18.2
Ulan Coal Mod 6 - u/ground extension	22/05/25	0.10	0.04	41.679	41.81	2 yrs (2033-2035)	18.8
Tahmoor MOD 3 - Longwall S7A	27/05/25	0.97	0.17	6.87	8.01	14 months (Dec 2033)	2
Cullen Valley Modification 5	15/08/25	0.03		0.59	0.62	5 yrs (19 Aug 2030)	0.31
Totals		5.19	0.62	275.04	280.84		130.94

Tahmoor Mod 3 - mitigation guide requirements will be ineffective this decade

In regard to Tahmoor Mod 3, SIMEC (owners of Tahmoor) do not currently project any reductions in emissions by 2030. Their Scope 1 emissions are projected to be about the same in FY30 as they reported in FY24.³ Despite this, NSW DPHI claimed - when they approved an extension at Tahmoor in May 2025 - that, “[w]ith the modification, the Tahmoor South Project would maintain a similar emissions trajectory as for NSW...”. This claim is not supported by the evidence. At the time this Modification was approved, NSW DPHI referred to agency advice from the NSW EPA that it was “satisfied” that GHG increases could be managed by measures that are the subject of this consultation.

³ Tahmoor reported 1,084,992 t CO₂-e to the Clean Energy Regulator in FY24. SIMEC / EMM project Scope 1 to be 1,082,492 t CO₂-e in 2030 (SIMEC / EMM, [Table 1 Annual emissions and Safeguard Mechanism reductions – Tahmoor Coal](#), 19 December 2024).

NSW EPA's proposal for VAM abatement is not fit for purpose

Reforms - as proposed - will not deliver any VAM abatement this decade and never at two of the highest-emitting mines in NSW.

No VAM abatement would be required anywhere in the state *this decade*. Meaningful VAM abatement - under the current proposal - would not be required *at all* at Metropolitan and Chain Valley. These are the 5th and 9th highest emitting mines in NSW. As both mines are currently not scheduled to mine beyond FY32, they would be exempt from the EPA's VAM abatement requirement as the draft Guide proposes to require VAM abatement by July 2030 for projects that extend beyond 2032.

Uncertainty about safety of VAM abatement systems must be resolved ASAP

NSW EPA proposes to wait until 2028 to “consider the outcomes of the VAM RTO trials in NSW and Queensland, including any safety issues in implementing VAM RTO **before requirements are placed on mines** [emphasis added].”⁴ NSW EPA's expert panel correctly states that “mitigating VAM is critical”. If coal mine operators and the NSW EPA cannot resolve safety issues within the next 6-12 months, then production must be curtailed at high-emitting underground mines to achieve steep cuts in methane emissions that are aligned with IEA and Climate Resource advice (see [Australian methane targets - Insights from integrated assessment model scenarios](#), May 2025).

Case study - failure to mitigate VAM at Appin

Appin mine is the highest emitting coal mine in NSW, reporting 1.8 million tonnes of greenhouse pollution in 2024. In its latest Annual Review (2024) Appin reported that Ventilation Air Methane (VAM) emissions increased 6.7% compared to the previous year. A VAM abatement trial is planned at part of the mine site, but it's delayed and will only abate ~2% of VAM emissions when operational (currently likely in 2027).

At present, NSW EPA has an aspirational plan for full implementation of VAM abatement by July 2030, but this intention is heavily qualified by the agency's uncertainty about safety issues. NSW EPA does not anticipate that it will be in a position to declare whether commercial VAM abatement systems are safe until 2028. In regard to building VAM abatement systems to urgently reduce methane emissions at underground mines like Appin in NSW, we note that \$15M of public money was awarded in November 2021 for the pilot project described above. If a system is operational in 2027, five years will have elapsed between grant funding and delivery of a system capable of abating 2% of VAM emissions. This does not inspire confidence that the NSW EPA will be able to ensure build out of multiple VAM abatement systems across multiple underground mines in about half the time (or less) that it took to build one small pilot plant at Appin.

⁴ EPA, Proposed Greenhouse Gas Mitigation Guide for NSW Coal Mines, Consultation Draft, July 2025, pg v

Proposed diesel measures may increase diesel emissions

Proposed diesel measures place no pressure on coal miners to reduce diesel emissions this decade and are likely to facilitate an increase in Scope 1 diesel emissions at some of the highest-emitting open cut coal mines in NSW. This is because the draft Guide is based on shifting a percentage of fuel used to low carbon alternatives, but does nothing to constrain total use.

Lowering diesel fuel use at coal mines in NSW must be a priority as this is both a health and climate issue. We note a comment from the NSW EPA's own expert panel that "[w]hile the draft mitigation guide is a good starting point for regulating greenhouse gas emissions at NSW coal mines, the panel's view is that it will be hard for the EPA to ensure mines actually reduce emissions in the absence of emission limits."⁵

Human health impacts from combustion of diesel fuel

In regard to health, particulate matter from coal mining and non-road diesel trucks includes particles smaller than 2.5 µm in diameter (PM2.5). These particles are small enough that they can be inhaled deep into the lungs and transfer into the bloodstream. This allows PM2.5 to impact almost every bodily system. Dr Gabriel da Silva is an expert in atmospheric chemistry and air pollution science who says "[t]here is no known safe exposure level for PM2.5, and any increased exposure of the public to PM2.5 would be expected to have an increased health burden."⁶

The NSW EPA's proposed mitigation objective for diesel abatement at NSW coal mines is that by July 2030, 5% of fuel used would be a low carbon alternative to fossil diesel. By July 2035, the proposal is that NSW coal mines substitute 10% of fuel used for low carbon alternatives to diesel. The most obvious problem with this approach is that total fuel use can increase at a rate faster than the modest fuel-switching measures will counter. It's common at open cut mines for diesel use to increase with increased production, or to move more overburden and/or reach deeper coal seams. It's also common that as mine size increases, trucks cover longer distances to reach mine infrastructure. To illustrate this problem, we examined diesel emissions at a coal mine expansion at HVO and at existing operations at Warkworth (below).

Diesel abatement case study - the HVO Continuation Project Amendment

At HVO, diesel emissions are projected to increase significantly and remain at elevated levels until 2044. HVO no longer reports their diesel emissions in their Annual Reviews to NSW DPHI (see for example their [2024 Annual Review](#)). The Clean Energy Regulator - however - began publicly reporting a breakdown of Scope 1 emissions into carbon dioxide and methane emissions in FY24. From this data, we know that carbon dioxide emissions at HVO in FY24 were 367,918 t CO₂-e. We can assume that the bulk of those emissions were from the combustion of diesel fuel onsite. That being the case, we can compare 367,918 t CO₂-e with projections for diesel emissions in HVO's Amended Project

⁵ NSW EPA, 14 April 2025, Independent Expert Review Panel Report, Review of the EPA's draft Greenhouse Gas Mitigation Guide for NSW Coal Mines, and accompanying draft literature review, pg 6

⁶ Dr Gabriel da Silva, Associate Professor in Chemical Engineering, University of Melbourne. Dr da Silva has published over 140 peer reviewed scientific papers and is considered an expert in atmospheric chemistry and air pollution science. Mt Pleasant [expert evidence to the NSW IPC](#)

GHG assessment ('Table D.1 Scope 1 and scope 2 emissions by source and year (Scenario 3)' pg D.2). From this data we observe that Scope 1 diesel emissions at HVO are projected:

- to increase by ~40% by 2030 compared to levels reported in FY24 (from 368 kt to 516 kt)
- To increase by ~45% by 2035 compared to levels reported in FY24 (from 368 kt to 534 kt).

The NSW EPA's proposed mitigation objective for diesel abatement at NSW coal mines is that by July 2030, 5% of fuel used would be a low carbon alternative to fossil diesel. By July 2035, the proposal is to require NSW coal mines to substitute 10% of fuel used for low carbon alternatives to diesel.

It is clear from the example above that this policy - should it be implemented - would facilitate an *increase* in HVO's diesel emissions. For example, a 5% cut to HVO's diesel emissions in 2030 would result in ~516 kt of emissions being reduced to ~490 kt of diesel emissions. At ~490 kt in 2030, these emissions would be ~33% higher than they were in FY24 (at ~368 kt). By 2035 - with a 10% cut from fuel switching - diesel emissions would be at about 480 kt. This would still be ~30% higher than diesel emissions reported at the same mine in FY24.

At HVO, the policy proposal fails to reduce GHG emissions. Worse, it facilitates an increase. Increasing diesel emissions is not just a climate problem. As the Australian Academy of Technological Sciences & Engineering noted in a recent report "[n]on-road diesel engines represent the largest unregulated air pollution source in Australia and emit more particulate matter than all on-road vehicles combined" which is a problem as "[d]iesel engine exhaust (DEE) is a significant source of air pollution and presents well-established health risks."⁷

Diesel abatement case study - Mount Thorley-Warkworth

Mount Thorley-Warkworth is the highest-emitting open cut mine in NSW (and third largest emitting coal mine overall). The mine's reported Scope 1 and 2 greenhouse gas emissions increased by nearly 15% in the last financial year to over a million tonnes "largely attributable to an increase in total overburden removed and ROM coal mined".⁸

According to the Clean Energy Regulator, Warkworth's *Scope 1* emissions last year increased by 13% against a backdrop of Scope 1 emissions having almost doubled since FY17 and showing no sign of slowing down. In this context, a 5% cut on a significantly larger emissions profile in 2030 is likely to result in a significant overall increase. If low carbon fuels and / or mine vehicle electrification are unable to deliver significant cuts in diesel emissions, then cuts to production must be mandated to guarantee emissions reductions that are aligned with meeting legislated GHG targets.

⁷ Australian Academy of Technological Sciences & Engineering (ATSE), Decarbonising diesel industries, July 2025, pg 10

⁸ Mount Thorley Warkworth [2024 Annual Review](#), pg 50

Additional comments

Gas drainage at open cut mines

NSW EPA is yet to decide if methane abatement at open cut mines will be required despite these emissions being significant and sometimes greater than at underground mines where VAM abatement may be required from FY30. NSW EPA states that gas drainage and destruction of methane could “be feasible at some surface mines”.⁹ Having arrived at this conclusion though, the EPA’s response is to seek “feedback on whether this requirement should apply to ... surface coal mines.”

Lock the Gate notes that at Bengalla open cut mine, Scope 1 methane emissions in FY24 at ~412,057 t CO₂-e were roughly double the level of the same mine’s Scope 1 carbon dioxide emissions, at ~213,856 t CO₂-e. It would be concerning if - under the current proposed reforms - the sum total of EPA-mandated Scope 1 emissions reductions at Bengalla were only 5% of diesel emissions and 0% of methane emissions by 2030.

At Warkworth open cut, fugitive methane emissions were 611,940 t CO₂-e in FY24. Warkworth may not be required to mitigate these emissions at all. At Narrabri Underground however - a mine which reported about 40% less methane emissions than Warkworth in FY24, gas drainage (and VAM abatement) would be required.

In summary, we note that EPA’s expert panel recommended “adding surface mines to the gas drainage and flaring requirements ...”¹⁰

Coal mine vehicle electrification must be accelerated

For the reasons outlined above in our section on diesel fuel, coal mine vehicle electrification must be accelerated. As eloquently put recently by Reneweconomy in an article entitled [Australian industry can ditch diesel, says report, but not without ditching its subsidy first](#) on September 24, 2025:

Ditching diesel fuel from industrial sectors like mining, freight and agriculture is “absolutely possible” from a technological perspective, a new report has found, but will require supporting infrastructure and policy reforms – starting with a review of the Fuel Tax Credits Scheme.

Lock the Gate commends the report by the Australian Academy of Technological Sciences & Engineering referred to in this article to NSW EPA: [Decarbonising diesel industries](#) (July 2025). It makes numerous policy recommendations that should assist the NSW EPA to design policy and programs to transition the coal sector away from diesel fuel.

⁹ Proposed Greenhouse Gas Mitigation Guide for NSW Coal Mines, CONSULTATION DRAFT, July 2025, pg 5

¹⁰ Independent Expert Review Panel Report 8

NSW EPA is inexplicably delaying action to reduce substantial Scope 2 electricity emissions

In regard to Scope 2 emissions - that is emissions from electricity required to power coal mines - NSW EPA's proposed reforms are anaemic. At 2.9 Mt CO₂-e in 2021-22¹¹, Scope 2 emissions from all mining in NSW are significant. These are also the easiest category of emissions to abate. In 2022, a former NSW Minister for Planning was asked if he considered the purchase of 100 per cent renewable energy to be a 'reasonable and feasible' abatement measure for coal mines? "In general, yes ..." was his reply.¹² More than three years later, NSW EPA's policy response is to flag an intention to look at this issue later: "The EPA intends to consider scope 2 requirements across all large energy users in the future". In the meantime, NSW EPA says that it "strongly encourages" energy efficiency measures, power purchase agreements for renewable energy at a fixed price and the installation of onsite renewable electricity generation, "wherever practicable".¹³ We know from experience that "wherever practicable" is vague and unenforceable language that generally results in little to no measurable abatement.

In July 2022, a former NSW Minister for Planning was asked:

Does the Government consider the purchase of 100 per cent renewable energy to be a 'reasonable and feasible' abatement measure for electricity that coal mine operators' source through the electricity grid?

In August 2022, this reply was provided:

*In general, yes, however the reliance on renewable energy needs to be considered on a case-by-case basis. This may not be considered reasonable and feasible for all operations and needs to be determined based on the outcomes of a cost-benefit analysis.*¹⁴

The Guide does not consider nor provide guidance for offsets

At page 4 of the Proposed Greenhouse Gas Mitigation Guide for NSW Coal Mines - Consultation Draft – July 2025, NSW EPA states that the mitigation guide does not "cover strategies for the use and disclosure of offsets ..." Likewise, "offsetting measures" were made out of scope for NSW EPA's Independent Expert Review Panel's review of the EPA's draft Greenhouse Gas Mitigation Guide. This is highly problematic as many mines rely on offsets as their main strategy to meet emissions reduction targets. To illustrate this point, we examine the current HVO expansion proposal below.

HVO's current coal-mine expansion proposal - if approved - would be the largest single coal project ever given the green light in NSW. The proponent states that "in the short term, the primary

¹¹ EMM, Greenhouse Gas Mitigation at NSW Coal Mines, Literature Review and Industry Scan, Prepared for NSW Environment Protection Authority, July 2025, pg ES.1

¹² QON 9318 - Planning - REASONABLE AND FEASIBLE ACTIONS TO REDUCE GREENHOUSE GAS EMISSIONS, <https://www.parliament.nsw.gov.au/lc/papers/pages/qanda-tracking-details.aspx?pk=92748>

¹³ Proposed Greenhouse Gas Mitigation Guide for NSW Coal Mines - Consultation Draft – July 2025 33

¹⁴ QON 9318 - Planning - REASONABLE AND FEASIBLE ACTIONS TO REDUCE GREENHOUSE GAS EMISSIONS, <https://www.parliament.nsw.gov.au/lc/papers/pages/qanda-tracking-details.aspx?pk=92748>

approach to achieving the net emission reduction targets will involve the use of carbon offsets and Safeguard Mechanism Credits (SMCs).”

The EPA’s position (Guide for Large Emitters) is that offsets should only be used as a last resort. NSW EPA also says that offsets purchased outside of NSW do not contribute to emissions reductions in NSW and therefore cannot assist NSW to meet its own emissions targets. In response to this, HVO says only that it will “consider purchasing NSW-based offsets where they are available and represent a cost-effective option”. In this scenario, what is NSW EPA’s guidance to proponents and NSW DPHI? NSW EPA states that the purpose of the coal mine Mitigation Guide is to provide “up-to-date guidance on opportunities for NSW coal mines to reduce greenhouse gas emissions”. If that is meant to be the purpose, it’s somewhat nonsensical that the Guide is silent on the primary abatement strategy being proposed by some proponents and accepted by NSW DPHI.

NSW EPA should clarify what its position is in regard to Scope 3 emissions from coal mining in NSW

The Guide’s treatment of Scope 3 emissions is cursory and does not align with a recent NSW Court of Appeal decision: DAMSHEG vs MACH ENERGY. The EPA’s expert panel noted that by far the biggest source of emissions from coal are the scope 3 emissions from the end use of coal. NSW EPA acknowledges this, but states that “[i]t is beyond the EPA’s remit to include specific requirements or limitations on coal mines around the end use of coal” in their coal mine mitigation guide. As NSW EPA is the lead regulator on climate change in NSW, the EPA should provide some guidance to other agencies on Scope 3 emissions, particularly in regard to the consideration of coal mine expansion and extension projects.

NSW EPA’s Guide for Large Emitters states that “Scope 3 emission goals are encouraged but not mandatory”. For new coal projects, the State Environmental Planning Policy (Resources and Energy) 2021 requires that GHG emissions are minimised “to the greatest extent practicable”. The consent authority for these projects is also required to consider “*downstream emissions*”. We note that Justice Preston in the NSW Land and Environment Court found that “GHG emissions from the combustion of product coal by end users are downstream emissions.”¹⁵

Exemptions have the potential to further undermine regulatory reforms

NSW EPA proposes that if a coal mining company “determines it is not feasible to implement a mitigation measure, it will be able to seek to be exempt from that requirement.” Further, the draft policy proposes that if a mine “intends to implement a mitigation measure but cannot do so in the timeline set by the EPA, then it can apply to the EPA for an extension”. As proposed, this provision will further undermine a set of already largely weak and ineffective reforms.

¹⁵ Rocky Hill decision, point 486