



Environment Protection Authority

Consultation summary - Climate Change Assessment Requirements and the supporting Guide for Large Emitters

Consultation summary

December 2024



A vertical decorative strip on the left side of the page featuring intricate Aboriginal artwork. It includes a large circular motif with a central dot and radiating lines, a section with a grid of small dots, and a bottom section with wavy, flame-like patterns. The artwork is rendered in a light blue-grey tone.

Acknowledgement of Country

The NSW Environment Protection Authority acknowledges the Traditional Custodians of the land on which we live and work, honours the ancestors and the Elders both past and present and extends that respect to all Aboriginal people.

We recognise Aboriginal peoples' spiritual and cultural connection and inherent right to protect the land, waters, skies and natural resources of NSW. This connection goes deep and has since the Dreaming.

We also acknowledge our Aboriginal and Torres Strait Islander employees who are an integral part of our diverse workforce and recognise the knowledge embedded forever in Aboriginal and Torres Strait Islander custodianship of Country and culture.

Aboriginal artwork by Worimi artist Gerard Black

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Summary

Under the EPA's *Climate Change Policy* and *Climate Change Action Plan 2023–26*, the EPA is taking action to help NSW achieve its legislated greenhouse gas (GHG) emission reduction targets.

In mid-2024, we consulted on draft climate change assessment requirements and a draft *Guide for Large Emitters*, to support GHG assessments through the NSW planning process. This progresses our work under Action 5c of our action plan, to ensure climate change mitigation is adequately considered as part of NSW planning processes for activities we regulate.

We have since revised the guide to address consultation feedback. This report summaries what we heard and from whom and the key changes we have made to the guide to address that feedback.

What did we do?

- We ran public consultation on the draft assessment requirements and guide for six weeks from 20 May to 1 July 2024. More than 1,300 stakeholders were emailed, advising them of the consultation period.
- We provided briefings to key stakeholders before the draft guide was released for consultation, including to key government agencies, the EPA's Climate Change Mining Advisory Group and Climate Change Agricultural Advisory Group, and key community and environment stakeholders. We also informed our advisory groups of our proposed changes to the draft guide and sought to address their advice before finalising the guide.
- During the consultation period for the draft guide, we also met with individual industry operators and peak bodies, including the NSW Minerals Council, BlueScope Steel, the Australian Pork Association, the Australian Meat Industry Council, Dairy NSW, and Australian Pipelines and Gas Association.
- We supported many proponents that are at various stages of the planning process to understand the GHG assessment requirements and added information to clarify some aspects of the draft guide.

Who we heard from

We sought feedback on the draft guide from individuals, businesses, community and environment groups, universities and educational institutions, peak bodies and associations, state government agencies and local government.

We received 260 submissions, including 40 written submissions and 220 online surveys.

Feedback was largely polarised, with the majority of individuals, community and environment groups supporting the general intent of the guide, but wanting it to be more stringent, while industry representatives generally wanted requirements to be scaled back.

What we heard and how we have responded

We have made changes to the guide to address issues raised during consultation, including adding more information about how proponents can comply with the guide. We also simplified the guide by focusing on the planning process, removing information about other work the EPA is doing under our Climate Change Action Plan, and making it easier to read.

The following is a snapshot of what we heard from submissions. It is not intended to be a full summary or analysis of the review.

Individuals and community and environmental groups

We received 217 submissions from individuals, three submissions from community groups and 13 submissions from environmental groups. The prevailing sentiment across each group was that the requirements in the guide should be strengthened. Some submissions raised issues outside the scope of this consultation, and these have been noted below.

Key issues and requests related to:

- concern that proponents may be able to avoid the requirements due to the included discretion
 - requests to lower the threshold for when the guide should be applied
 - stronger requirements for emissions goals
 - prohibiting the use of offsets
 - setting of sector budgets to manage cumulative emissions
 - stronger requirements to reduce fugitive methane
 - society wide economic and environmental impact analysis (out of scope)
 - a ban on coal and gas expansions (out of scope).
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Industry and peak bodies

We received 18 submissions from a range of industry sectors, peak industry bodies and other businesses. Industry representatives raised some issues that were outside the scope of this consultation but will be addressed as we develop and implement other proposed actions under the Climate Change Action Plan. Regulated industry stakeholders emphasised the importance for Australian governments, at all levels, to work to minimise duplication of climate change regulation and increase harmonisation. The EPA remains committed to consulting, collaborating and partnering with relevant agencies, industry and experts in a meaningful way.

Industry and peak body submissions generally sought clarity and less stringent requirements, including:

- clarification about how the EPA may apply discretion when applying the requirements
- raising the guide criteria to 100,000 tonnes of CO₂-e per year, to match Safeguard Mechanism
- requests to exempt Safeguard facilities from additional emission-reduction requirements
- requests for additional support or reduced requirements for the agricultural sector

- more information about expected mitigation measures
- flexibility for complex and related sites
- less stringent emissions goals, concerns about sector targets and scope 3 reporting
- requests for greater flexibility with using offsets
- concern about reporting against the *Climate Change (Net Zero Future) Act 2023* principles
- clarity around using independent experts
- more guidance on methods to estimate emissions
- requests to delay applying the guide until other elements of the climate change policy and action plan are developed, e.g. sector-based GHG emission reduction targets.

The sections below discuss how we have responded to key issues.

EPA discretion and flexibility when applying the guide

What we heard

Some submissions sought clarity about when and how the EPA would apply its discretion. Industry wanted certainty about when the guide will apply, while community and environment groups wanted a guarantee that proponents would not have a means for avoiding the requirements in the guide.

Our response

The EPA may need to use its discretion when applying the requirements to account for unique or unforeseen circumstances. The guide has been amended to include a description about how the EPA intends to use its discretion and more flexible approaches, including for projects that will support long-term decarbonisation in NSW.

Examples of where flexibility may be applied have been added to the guide, including:

- if the proposal is part of a suite of changes to a complex licensed premises that would collectively deliver large emission reductions in NSW
 - if the proposal would support the decarbonisation of the electricity grid or development of the renewable energy industry
 - if the proposal involves innovative projects or technologies that support future emissions reductions.
-

Threshold for when the guide applies

What we heard

Some submissions requested the threshold at which the guide applies be raised to 100,000 tonnes per annum (tpa) of CO₂e per annum, to match the Safeguard Mechanism threshold. Others requested the threshold be lowered to recognise that all emitters have a responsibility to report on emissions and reduce emissions.

Our response

The 25,000 tpa threshold remains an appropriate level at which to regulate large emitters and ensure NSW agencies and planning authorities have the necessary information on projected emissions and mitigation strategies to inform planning decisions, regulatory approaches and inventory projections.

The guide has been amended to clarify that, for modifications to an existing planning approval, the threshold of 25,000 tpa relates to additional emissions only. If the existing premises emits more than 25,000 tpa, but the modification will not increase GHG emissions by an additional 25,000 tpa, then that modification would not be subject to the assessment requirements set out in the guide.

Application of the guide

What we heard

Some submissions sought clarity on whether the guide applies to projects already in the planning system, while others requested that the guide not apply to pilot projects.

Our response

The guide has been amended to clarify that it does not apply to proposals that had progressed beyond the environmental impact assessment stage of the planning process at the time the draft guide was published. This is because the purpose of the guide is to inform the proponent's environmental impact statement. However, planning authorities can use the guide to inform their considerations. The NSW Government has directed entities involved in assessment and decision-making processes under the planning system to consider the guide when examining new developments. The EPA may also refer proponents to the guide when seeking additional information if environmental impact statements are considered inadequate.

The guide has also been amended to clarify that pilot projects are not captured by the requirements. The guide is intended to apply to projects with large ongoing emissions, while also encouraging innovation. Pilot projects are short term in nature, and often test technologies and approaches before wide-scale deployment. Additional development approval is usually required before a pilot project can be implemented in an ongoing manner.

Additional requirements for Safeguard facilities

What we heard

Submissions from proponents covered by the Safeguard Mechanism advocated strongly that the guide should not apply to Safeguard premises, and that additional NSW emissions-reduction requirements beyond existing Safeguard obligations should not be imposed.

Many of these submissions perceived the requirements of the guide as duplicating or contradicting those set under the Safeguard mechanism.

Our response

The guide continues to apply to Safeguard facilities. The purpose of the guide is to ensure that there is adequate climate change information included in development applications and to support

decarbonisation across NSW. Information on GHG emissions is required for NSW planning authorities to determine new and amended proposals that would have large GHG emissions.

The Safeguard Mechanism:

- does not include any assessment of activities
- is not an approval framework for new or modified projects under NSW legislation
- does not require details of how emissions will be reduced
- does not provide the information needed for NSW agencies and planning authorities to meet NSW legislative requirements.

NSW legislated emissions-reduction targets in the medium term are more ambitious than the Commonwealth targets. Additional requirements above the Safeguard Mechanism may be necessary to help NSW reach its interim and long-term legislated emissions-reductions targets.

Providing a blanket exemption for facilities covered by the Safeguard from the need to comply with the guide would create challenges for various agencies in fulfilling their legislative obligations.

Additional support for the agricultural sector

What we heard

Some submissions requested additional support or reduced requirements for the agricultural sector, which is not currently captured by the National Greenhouse and Energy Reporting Scheme (NGERS).

Our response

The guide acknowledges there may be limited options to reduce methane emissions from animals. The guide has been amended to include information about how the Department of Primary Industries and Regional Development can provide guidance, tools and support to agricultural facilities. We have also developed a fact sheet as a companion to the guide, including information specific to the agricultural sector, to supplement NGERS guidance.

Assessment boundaries and emissions scenarios

What we heard

Some submissions requested more guidance on determining assessment boundaries, noting difficulties for existing sites where modifications are proposed, including where a project impacts only part of operation.

Our response

The guide has been updated to acknowledge that some project stages may not be relevant or not have material emissions when describing the assessment boundary and emission scenarios. In such cases, the proponent may describe which stages of the project need to account for GHG emissions. If any stage is not applicable, the proponent should give a qualitative description of the nature of any GHG emissions at that stage.

Mitigation measures and best practice

What we heard

Feedback on the mitigation hierarchy (avoid, reduce, substitute, offset) was polarised, with many community and environment groups supporting it, while industry asked for more clarity on whether feasibility and costs would be considered by the EPA when assessing mitigation measures.

Respondents had differing views about what could be considered best practice, with some seeking least-cost emissions abatement instead of best practice, and others seeking for all feasible abatement measures to be required, even if it means some projects are not viable. Other submissions requested clarity on how to demonstrate best practice.

Our response

The guide has been amended to provide more detail about the consideration of technical, logistical and financial factors when selecting mitigation measures. Over time, the EPA will publish best-practice guidelines for specific sectors.

While the EPA does not expect that emissions reductions be pursued at any cost, it is expected that the proponent will consider plausible cost-recovery options and other benefits gained to help balance the costs and improve the financial viability of measures.

The guide has been amended to provide examples of how high electricity users can reduce their scope 2 emissions, including through energy-efficiency practices, on-site renewable power generation, purchasing renewable energy certificates and entering into power purchase agreements. It acknowledges that scope 2 emissions may increase with greater electrification and that scope 2 emissions will begin to reduce with decarbonisation of the electricity grid.

Complex and related sites

What we heard

Some industry submissions advised us that they already have emission-reduction plans to meet net zero across their portfolio of operations. Others noted there may be instances where a project is part of a broader operation and direct abatement of the project's emissions may not be possible; however, the project may substantially contribute to broader process of decarbonisation and their net zero transition plans should be considered in the context of their broader operations.

Our response

The guide has been amended to allow the use of a strategic plan across complex and related sites, recognising that GHG emissions from some activities are harder or more expensive to abate than others. This amendment will provide greater flexibility for proponents to support emissions reductions across NSW and enables resources to be used where they can reduce more emissions.

Emissions goals, sector targets and scope 3 emissions

What we heard

Community submissions generally sought emissions trajectories aligned with NSW legislated targets, while industry raised concerns about the need to have emissions-reduction trajectories that were different to what has been set for large-emitting facilities under the Safeguard baseline. Similarly, community and environment groups requested that scope 3 emission reduction goals be mandatory, while industry asked that they be excluded.

Some submissions requested an explanation of what a ‘meaningful contribution’ to the emissions-reduction objectives of the State means.

Our response

The guide has been amended to clarify that a meaningful contribution to the emissions-reduction objectives of the State includes material efforts to reduce emissions leading towards net zero by 2050 and considering NSW legislated interim emissions-reduction targets.

Goals for facilities covered by the Safeguard Mechanism should start with the Safeguard Mechanism baseline and then set more ambitious reduction goals as practicable.

We expect emissions-reduction trajectories to be broadly consistent with the NSW or industry-specific emissions-reduction trajectory. If the proposal’s emissions trajectory, accounting for emission goals, does not align with the overall NSW net zero emission targets, or the sector-specific trajectory, proponents will need to provide an explanation about why the project’s trajectory still represents a meaningful contribution to NSW’s emission reduction targets. We recognise that emissions-reduction trajectories may be ‘lumpy’ and depend on implementing technologies or processes at different stages of a project. For scope 3 emissions, the guide has been amended to:

- clarify that reporting of scope 3 emissions is required, but scope 3 goals are not mandatory
- allow proponents to refer to a strategic document when assessing scope 3 emissions for modifications to existing licensed premises. This will be relevant where the project is a modification for part of a complex premises, where it is challenging to separate new scope 3 emissions from the premises’ existing scope 3 emissions
- include more information about why we are seeking information about scope 3 emissions.

Fugitive methane from the resources sector

The guide has also been updated to include an expectation that proponents of coal mining and gas extraction proposals that are expected to release fugitive methane emissions will make substantial efforts to avoid emissions and then set ambitious emissions-reduction goals that build on the Safeguard Mechanism baseline (where relevant). These goals should be comparable to NSW’s legislated emissions-reduction goals and trajectory. If the project emissions trajectory and goals does not align with the overall NSW net zero emissions trajectory, the proponent must demonstrate why the alternative emission reduction trajectory is appropriate and provide supporting evidence. This change has been made to highlight the importance of reducing fugitive methane and to address a concern raised in the [Net Zero Commission’s 2024 annual report](#) about the risks to NSW’s legislated emissions-reduction targets from increased emissions in the resource sector.

Offsets

What we heard

There were polarised views on the use of offsets. Some submissions recommended prohibiting the use of offsets to encourage companies to make real emission reductions or prohibiting carbon offsets for fugitive methane emissions and/or new or expanded coal and gas projects. Some of these submitters noted issues with ensuring the integrity and supply of carbon offsets.

Many industry submissions requested greater flexibility with using offsets and expressed concern about the preference for offsets to be sourced from NSW, suggesting this approach could distort the national carbon market and add compliance costs on NSW industry with no climate benefit. Industry also advocated for the recognition of Safeguard Mechanism Credits (SMCs) in offset strategies.

Our response

Offsets can play an important role in helping to reduce carbon from the environment when no other abatement options are available. The guide continues to allow offsets to be used in mitigation strategies.

The guide continues to state a preference for NSW offsets, as offsets outside NSW are not currently counted towards the NSW emissions-reduction inventory. However, offsets generated in other Australian locations may be used. This approach is consistent with the approaches used in other Australian jurisdictions.

The guide has been amended to acknowledge that commitments made in a proponent's offset strategy will be subject to market conditions at the time that offsets are procured.

The guide has also been amended to recognise that Safeguard proponents are entitled to purchase and surrender SMCs to meet their Commonwealth Safeguard Mechanism obligations. The guide accepts the purchase and surrender of SMCs as part of a proponent's GHG management strategy for this purpose. The guide now notes that SMCs are not carbon offsets in alignment with the position of the Clean Energy Regulator.

The guide has been amended to clarify that the purchase and surrender of SMCs is unlikely to be supported as a long-term or ongoing part of a proponent's offset strategy, beyond what is required to meet an organisation's Safeguard obligation.

Reporting requirements

What we heard

Some industry submissions raised concerns about the requirement to report against the guiding principles in the *Climate Change (Net Zero Future) Act 2023*.

Other submissions from community and environment groups stressed the importance of ensuring proponents are held accountable for their emissions by addressing the principles in the Act.

Our response

NSW agencies must consider the guiding principles of the Climate Change (Net Zero Future) Act 2023 when fulfilling their statutory functions. In May 2024, the NSW Government directed entities involved in assessment and decision-making processes under the planning system to consider NSW's legislated emissions-reduction targets and, to the extent relevant, consider the Act's guiding principles when examining new developments. We recognise that it may be difficult for individual proponents of individual projects to assess against these principles and as a result the guide has been amended to remove the requirement to assess development proposals against the principles in the Act. However, the guide notes that proponents can still choose to describe how their proposal addresses these principles.

The guide has also been amended to consolidate assessment requirements and mitigation goals into a streamlined assessment report.

Independent experts

What we heard

Many submissions requested clarification on what constituted an 'independent expert'. Some submissions suggested that 'independent expert assessment' should not be required for projects over 100,000 tpa of GHG emissions per annum.

Our response

The guide now provides more detail about the requirements for independent experts, including that they must be a member of a relevant professional body and not have been an employee of the proponent within the last five years.

We have also included a link to the CER's register of Greenhouse and Energy Auditors.

Methods to estimate emissions

What we heard

Some industry submissions noted a lack of references to scope 2 emissions accounting methods and requested that the market-based approach be permitted.

Our response

The guide has been updated to clarify that both location-based and market-based scope 2 accounting methods can be used, with a mandatory requirement for the location-based model and an option to additionally use the market-based approach. The references have also been enhanced to point to updated and additional methods where appropriate.

What's next?

We would like to thank all stakeholders for their feedback. Your feedback has helped inform the final guide. The EPA will continue to implement the actions of the *Climate Change Action Plan 2023–26* and has committed to reviewing the guide in two years.



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