Webinar questions and answers

The EPA's proposed climate change requirements for large emitting licensees

Overarching questions

1. What is the legal basis for the EPA's proposed requirements?

- The EPA is the primary environmental regulator for NSW. Our role includes protecting, restoring and enhancing the quality of the environment and reducing risk to human health. We're a statutory body established by the *Protection of the Environment Administration Act 1991* (POEA Act) and are required to develop environmental quality objectives, guidelines and policies to ensure environment protection.
- The EPA's duty includes ensuring environment protection from climate change. This was confirmed by a 2021 judgment in the Land and Environment Court. In 2024, the POEA Act was amended to make this role explicit and to reflect the court's decision.[1]

2. Is the EPA's consultation genuine?

- Yes, the EPA is consulting on a range of proposed climate change requirements that would affect large emitting licensees. Public consultation will run for eight weeks, until 7 October 2025.
- Once the consultation period ends, we will review all feedback. We will then release the finalised documents.

3. What are scope 1, 2 and 3 emissions?

- Scope 1 emissions are released to the atmosphere as a direct result of an activity, or series of activities (including ancillary activities) at a facility. Scope 1 emissions are sometimes referred to as direct emissions.
- Scope 2 emissions are released to the atmosphere as a direct result of one or more activities that generate electricity, heating, cooling, or steam that is consumed by the facility but don't form part of the facility. Scope 2 emissions are sometimes referred to as indirect emissions arising from the indirect consumption of an energy commodity.

[1] *Environment Protection Legislation Amendment (Stronger Regulation and Penalties) Act* 2024. See: https://www.epa.nsw.gov.au/Licensing-and-Regulation/Legislation-and-compliance/whats-new-in-law

- **Scope 3** emissions are indirect emissions other than scope 2 emissions that are generated in the wider economy. They happen due to the activities of a facility, but from sources not owned or controlled by that facility's business. Some examples are extraction and production of purchased materials, transportation of purchased fuels, use of sold products and services, and flying on a commercial airline by a person from another business.

Source: *National Greenhouse and Energy Reporting Act 2007*

4. How do the requirements align with the National Greenhouse and Energy Reporting Scheme and Safeguard? Isn't this duplication?

National Greenhouse and Energy Reporting Scheme

- Our proposed annual emissions reporting mirrors the scheme's reporting of scope 1 and scope 2 emissions, energy consumption and production, and activity-level detail.
- As well as this, we're also proposing that licensees provide an explanation of any significant changes in emissions.
- We are working toward setting up a data sharing arrangement with the Clean Energy Regulator next year to minimise the impact on licensees, after the EPA has updated its data management systems.
- By collecting emissions data ourselves it means that we can share information effectively and track and monitor pollution, including greenhouse gas emissions from licensees. This will help us in monitoring progress towards the NSW emissions reduction targets.

Safeguard Mechanism

- The proposals aim to complement the Commonwealth Government's Safeguard Mechanism.
- Safeguard is designed to help Australia meet its emission reduction targets. However, on its own it won't be enough to help NSW meet its legislated emission reduction targets, which are more ambitious than Australia's targets.
- Also, Safeguard doesn't require onsite emissions reductions; there are no limits on the number of offsets or credits that can be used to meet a facility's baseline. Our proposed requirements seek to help drive abatement action at the site-level.
- Safeguard also doesn't require facilities or operators to publish or report their emission-reduction plans. Our approach helps provide greater transparency and a stronger evidence base to understand how NSW is tracking against the legislated emissions reduction targets.

5. How will the proposed requirements interact with Australian Carbon Credit Unit projects?

- A mitigation hierarchy is provided in the *Climate Change Mitigation and Adaptation Plan: Proposed Mitigation Requirements document*. In their plans, licensees will need to show they have worked through the 'mitigation hierarchy', which means:
  - first taking action to avoid emissions

- then looking at ways to reduce emissions from the site,
- then substituting raw materials and energy for lower-emission sources
- and then only considering offsets as a last resort.

- Licensees earning Australian carbon credit units through abatement projects on their sites can only do this where there is a specific method approved by the Clean Energy Regulator.[2]
- There are also strict regulatory additionality rules, which means that Australian carbon credit units cannot be generated for actions that are required by law or regulatory instrument, such as a licence.[3]
- The EPA has been in discussions with the Clean Energy Regulator and the requirement to a develop climate change mitigation and adaptation plan does not prevent a related mitigation project generating Australian carbon credit units.

6. Why was the 25 kt CO_2-e per year threshold chosen?

- The 25,000t CO_2-e emissions (scope 1 and 2) per year threshold was chosen to align with National Greenhouse and Energy Reporting Scheme facility reporting threshold.[4]

7. How can licensees work out if they emit >25 kt CO_2-e? What if they're wrong?

- Most licensees that would be captured by the EPA's proposed requirements already report their emissions under the National Greenhouse and Energy Reporting Scheme. For those that don't, the Clean Energy Regulator maintains a series of calculators to help facilities estimate their emissions.[5]
- For agricultural licensees, the EPA's *Information for agricultural licensees* fact sheet contains a list of stocking capacities for intensive livestock premises, that are likely to be approaching or exceeding the threshold.[6] The fact sheet also contains several resources to help these licensees to calculate their emissions.
- For landfill licensees not currently reporting to the scheme, the EPA's *Information for landfill licensees* fact sheet contains guidance for making an informed estimation.[6]

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[2] https://cer.gov.au/schemes/australian-carbon-credit-unit-scheme/accu-scheme-methods

[3] https://cer.gov.au/schemes/australian-carbon-credit-unit-scheme/how-to-participate/apply-to-participate/newness-regulatory-additionality-and-government-program-requirements#regulatory-additionality

[4] https://cer.gov.au/schemes/national-greenhouse-and-energy-reporting-scheme/assess-your-obligations

[5] https://cer.gov.au/schemes/national-greenhouse-and-energy-reporting-scheme/report-emissions-and-energy/nger-calculators

[6] https://yoursay.epa.nsw.gov.au/climate-change-licensee-requirements

- Ultimately, it is the responsibility of each licensee to determine whether they exceed the 25,000t CO_2-e threshold. Once the proposed requirements are in place, the EPA will support licensees to comply. Our approach is to focus first on education, guidance, and helping licensees meet their obligations. We reserve stronger enforcement action for cases of persistent or deliberate non-compliance

8. How does the EPA know which licensees do or don't emit > 25 kt CO_2-e?

- The EPA estimates that around 1,800 of its ~2,000 environment protection licensees will not exceed the 25,000t CO_2-e emissions (scope 1 and 2) per year threshold.
- This is an estimate only based on:
  - National Greenhouse and Energy Reporting Scheme data the EPA got from the Clean Energy Regulator under a data sharing agreement (reporting was established in 2007)
  - the EPA's licensee database
  - results from the EPA's 2023 climate change licensee survey.
- Ultimately it would be the licensee's responsibility to determine whether they exceed the 25 kt threshold.

9. If a licensee doesn't report to the National Greenhouse and Energy Reporting scheme (e.g. council landfills), will they be captured?

- Yes, they would be captured – if the facility is over 25 kt CO_2-e threshold. Also see answer to question 8 above.

10. What information is available to help landfills?

- The EPA has prepared an *Information for landfill licensees* fact sheet on the Have Your Say page.[6]

11. How do the proposed requirements interact with the planning process?

- The proposed requirements will apply to existing environment protection licence holders.
- The EPA's existing large emitters guide applies to proposals going through the planning process like new projects or extensions and modifications.[7] See question 30 for more information.
- The proposed requirements are the first step to regulating greenhouse gases in the same way we treat other pollutants that threaten our environment.
- The draft coal guide sets out expectations for the types of onsite abatement activities that should happen at specific coal mines. Proponents going through the planning system will need to refer to this document when developing their environmental impact assessments.

[7] https://www.epa.nsw.gov.au/Your-environment/Climate-change/nsw-guide-large-emitters

12. Will the requirements apply to sites that are already making decarbonisation efforts?

- Yes, if the premises emits 25,000t CO_2-e emissions (scope 1 and 2) or more per year. The total quantity of emissions should account for any emission reductions from mitigation measures already put in place on the site.
- The decarbonisation activities that have already been or are in the process of being put in place can be included in the climate change mitigation and adaptation plan and annual reporting requirements.
- However, we acknowledge that as the economy transitions, there are industries and projects that will be critical in enabling broader decarbonisation. Sometimes, short-term increases in emissions may be required to deliver longer-term emissions reductions.
- We are interested to hear views from any licensees in this situation.

13. The EPA will analyse the impacts of regulatory requirements before they are finalised. Will the same requirements be extended to all licensees? When?

- At this stage, the proposed requirements are focused on our largest emitters. These sites represent only about 10% of our total licensees, but account for roughly 90% of emissions from all EPA-licensed facilities, and around 50% of NSW's overall greenhouse gas emissions.
- Because of this concentration, targeting large emitters first will deliver the most immediate impact in reducing emissions.

14. When will the EPA provide guidance for adaptation?

- The EPA will focus on adaptation guidelines once the mitigation guidelines are finalised. Stakeholders will have the opportunity to provide input before any requirements are introduced.

15. Is the EPA planning on introducing a carbon tax or carbon price?

- The EPA has no current plans to introduce a carbon price. [8]

Proposed climate change licensee requirements

16. Why would annual emissions reports be due in February when National Greenhouse and Energy Reporting Scheme reports need to be submitted by 31 October?

- The February due date allows time for the Clean Energy Regulator to work with facilities to finalise their National Greenhouse and Energy Reporting Scheme emissions data submitted in October the previous year.

[8] https://www.epa.nsw.gov.au/Your-environment/Climate-change/Policy-and-action-plan

- This gap allows for the Clean Energy Regulator and the licensee to work through any errors before the data is finalised. The EPA wants to receive the final data.

17. Will the EPA audit annual emissions reports?

- The EPA will not be auditing data that has already been provided to the Clean Energy Regulator which already has a compliance and enforcement approach.
- For licensees that do not report under the National Greenhouse and Energy Reporting scheme, the EPA is still considering the most effective assurance mechanisms.
- Our initial focus will be on ensuring that all licensees understand their reporting obligations and can provide accurate and consistent information.

18. Will the 2026 due date for the first annual emissions report apply for sites that were Safeguard facilities in FY24/25?

- Yes. Safeguard facilities and coal mines are part of tranche 1, so their first annual climate change emissions report is proposed to be due in February 2026.
- The first reports for all other large emitting licensees would be due the following year, in February 2027.

19. Why does the proposed ventilation air methane monitoring requirement exclude the western coalfields?

- In NSW, gassy coal mines (those with a higher methane content) are typically located in the central, southern, Newcastle and parts of the lower Hunter coalfields, although some mines in the upper Hunter and Gunnedah coalfields are also gassy.
- Coal seams in the western coalfields generally have a lower methane and gas content due to their geology.
- We are keen for feedback on whether to exempt underground mines from the ventilation air methane monitoring requirement if they are in the western coalfields.

20. Would the EPA accept a hybrid of continuous and periodic monitoring for ventilation air methane if this is more accurate?

- This would be possible. The EPA is interested in hearing about the circumstances where periodic versus continuous monitoring is used and the reasons behind hybrid monitoring.
- In terms of accuracy, we understand that the continuous monitoring of the methane concentrations in ventilation air is important for safety. However, continuous monitoring of ventilation air flow rate may not be necessary. So, in this case a hybrid approach would be acceptable.

Climate change mitigation and adaptation plans: proposed mitigation requirements

21. What's the purpose of publishing 10-year future emissions if it is only to inform the EPA/Government?

- Having a 10-year horizon is critical because the decisions companies make today, such as investing in new equipment or changing processes, will lock in emissions trajectories for many years.
- Publishing these projections builds a stronger evidence base for NSW, not just for government but for the wider community. This visibility helps ensure projections are credible, supports trust in the regulatory system, and encourages continuous improvement.
- The projections also build robust data which will greatly improve policy and decision making.

22. Will the commitments in climate change mitigation and adaptation plans be enforced by the EPA?

- The EPA will be able to enforce whether licence holders have developed climate change mitigation and adaptation plans and if they include the required elements.
- The EPA will not directly enforce the specific commitments or emissions reduction strategies outlined within a licensee's plan. However, over time, the EPA can place specific mitigation actions on licences to enforce compliance with mitigation actions - but that will be subject to consultation.
- The EPA will take a targeted and risk-based approach to compliance and monitoring.
- It is important that licensees publish credible and transparent climate change mitigation and adaptation plans. It holds them accountable, supports peer and public scrutiny, and encourages improvements over time.

23. What is the rationale for the October due date for climate change mitigation and adaptation plans? This is a busy time for Commonwealth reporting.

- This date is three months after the end of the financial year.
- We understand this is a busy period for many licensees. We welcome feedback on an alternate due date for plans.

24. How will licensee goals be set? How will the EPA determine if they are adequate?

- Licensees would be responsible for setting their own emissions goals as part of their plans.
- The EPA is not prescribing specific targets or mandating how goals should be set, as each business is best placed to determine what is achievable and appropriate for their operations.

- Licensees should set goals that are realistic, supported by credible information, and broadly aligned with NSW Government's emissions reduction targets. This ensures that licensees are setting goals they can deliver on and that contribute to the state's overall net-zero transition.
- For now, our focus is on transparency and accountability, so that businesses and communities can clearly see how licensees are planning to reduce their emissions.

25. Could a "multi facility" climate change mitigation and adaptation plan be done across local government/council boundaries? For example, through a joint organisation?

- Under the current proposed requirements, climate change mitigation and adaptation plans must be prepared and submitted by the licensee responsible for the facility. If the operator is responsible for multiple licensed facilities, we would accept a plan that covers all of them.
- However, the proposed requirements, as written, would not allow a plan to cover multiple licenced facilities operated by different licensees (such as multiple different councils).
- This is because the licence holder is the entity legally accountable for managing the site and ensuring compliance with EPA requirements. Having a plan tied directly to the licence holder makes responsibilities clear.
- That said, we are interested in hearing feedback on how joint organisation of councils could help support or coordinate climate planning across multiple facilities. We welcome views on how this could complement individual facility-level plans.

26. What is the key objective of a climate change mitigation and adaptation plan?

- To provide transparency and accountability by requiring licensees to publicly set out how they will measure, reduce, and manage their greenhouse gas emissions over time.

27. Can existing climate disclosures or reports be used to satisfy the EPA's proposed climate change mitigation and adaptation plan requirements?

- Yes. We acknowledge that licensees may have prepared climate-change related disclosures or similar reports under international or domestic law or as part of a voluntary scheme.
- To reduce reporting duplication, the EPA will allow comparable information to be provided, and recognise existing plans where appropriate, provided the information meets the EPA's requirements and is made publicly available.
- Where an existing disclosure does not cover all required elements, the licensee must prepare and publish an addendum with the extra information.

28. How would a climate change mitigation and adaptation plan differ from a greenhouse gas assessment required under the large emitters guide for the planning process?

- The two serve different purposes.

- A greenhouse gas assessment under the large emitters guide is prepared as part of the planning and approvals process for new projects, expansions, or modifications.
- It provides information to consent authorities, such as the Department of Planning, Housing and Infrastructure (DPHI), to help them understand the projected emissions of a proposed new project or modification before they decide on whether to grant development consent.
- The EPA's role in this process is to provide expert advice to consent authorities during the assessment, including recommending conditions to manage environmental impacts.
- A climate change mitigation and adaptation plan is an ongoing requirement tied to environment protection licences. In NSW, certain higher-risk industries and activities must hold an environment protection licence.
- The EPA issues and oversees these licences to ensure facilities manage their environmental impacts and comply with regulatory requirements. A climate change mitigation and adaptation plan makes this work transparent by requiring licensees to publicly set out their emissions profile, goals, and the measures they will take to manage emissions over time.
- To reduce duplication, the EPA will recognise a greenhouse gas assessment as meeting climate change mitigation and adaptation plan mitigation requirements for the first three years. After this, the licensee will need to develop and maintain a climate change mitigation and adaptation plan.

29. When will the financial support for climate change mitigation and adaptation plans be available? How will it be communicated?

- Financial support will be available to help eligible licensees to develop their plans.
- Grants of up to $100,000, or 50% of project costs (whichever is less), will be available for tranche 2 licensees. This includes facilities who emit between 25,000 and 100,000 tonnes of CO_2-e scope 1 and scope 2 emissions per year.
- The grant program, delivered through the high emitting industries fund, is expected to open in late 2025, ahead of the October 2027 deadline for tranche 2 licensees to publish their first climate change mitigation and adaptation plan.
- Information about eligibility and the application process will be communicated to licensees and published on the EPA and NSW Government websites.
- This initiative is designed to ensure that licensees can meaningfully participate in the climate change mitigation and adaptation plan process, regardless of their starting point.

Proposed greenhouse gas mitigation guide for NSW coal mines

30. Has the EPA considered technology constraints and availability of low carbon fuels?

- Yes.

- Biodiesel suppliers have confirmed there is enough capacity to support the 5% target. Future capacity could be met with renewable diesel, which is cleaner than biodiesel, if market certainty is enough to stimulate supply. The NSW Government is developing a renewable fuels strategy which will help support and stimulate the renewable fuels industry.
- Original equipment manufacturers have confirmed that Tier 4 equipment can run on 5-20% biodiesel blend, depending on the manufacturer, and 100% synthetic renewable diesel.

31. Can the EPA provide an update on the renewable fuel strategy?

- The Department of Climate Change, Energy, the Environment and Water (DCCEEW) is developing a renewable fuel strategy for NSW that will diversify and expand our local renewable fuel industry. The strategy is planned for release in 2025.[9]

32. What is the rationale for the EPA's proposed requirement for Tier 4 engines? What is the timing on this requirement being placed on licences?

- The EPA is proposing this requirement to reduce harmful diesel emissions, protect human health, and bring NSW into line with international best practice for non-road diesel equipment.
- Diesel emissions are known to adversely affect human health and the environment. They contain oxides of nitrogen, volatile organic compounds (short-lived climate pollutants), particulate matter (mainly fine particles, $PM_{2.5}$) and a range of air toxics.
- Requiring coal mines to use large non-road diesel equipment that meets US EPA Tier 4 final emission standards (or better) on the surface will cut these pollutants significantly while encouraging the uptake of cleaner, low-emission technologies.
- Timing:
  - New coal mining licensees: must use non-road diesel equipment that meets Tier 4 final emissions standards (as a minimum) for all non-standby vehicles and equipment used on the surface of the facility.
  - Existing licensed coal mines: the same requirements will apply progressively, as older surface non-road diesel equipment is retired and replaced.[10]

33. What if there is a fundamental reason that abatement technologies cannot be implemented on site?

- We understand that there may be fundamental or feasibility reason/s why a particular technology cannot be implemented on site.

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[9] For more information see: https://www.energy.nsw.gov.au/nsw-plans-and-progress/regulation-and-policy/public-consultations/building-thriving-renewable-fuel

[10] Further detail is available at: https://www.epa.nsw.gov.au/Working-together/Community-engagement/Regulation-of-coal-mines

- Coal mine companies can seek exemptions and time extensions if it is not feasible to implement technologies on site. A pre-feasibility assessment would be required that shows why a technology cannot be implemented at a particular site. This would also need to be independently verified by an appropriate expert.

34. What is the timing for applying for an exemption?

- We invite submissions on this issue. Generally, licensees will need to allow enough time for the EPA to assess the application, and to implement contingencies should the application be refused. The EPA will further consider this issue when finalising the coal guide based on feedback received through the public consultation process.

35. Why was a pre-feasibility assessment chosen for the exemption process? These are expensive.

- A pre-feasibility assessment will provide appropriate information to enable the EPA to decide whether an exemption is appropriate.
- A pre-feasibility assessment would need to include information on financial, operational, other technical barriers that may affect implementing the particular technology at a site.
- We have included consultation questions on whether there are any circumstances that could be outlined up front to provide automatic exemptions in specific circumstances, rather than having to go through a pre-feasibility assessment.
- We are also interested in your feedback on a process that the EPA could use to show whether a particular requirement is feasible at their site. If there is a different process that we could use, we would be interested in those options.

36. What criteria will the EPA use to assess an application for exemption?

- The EPA proposes that the pre-feasibility assessment should consider technical, logistical and financial feasibility.
- **Technical and logistical feasibility:** Is the mitigation measure technically and logistically possible? (Including safety, commercial readiness, required lead time for implementation, and site-specific mine characteristics). Where relevant, the coal mining company could describe a comprehensive plan for the management of mine gas over the life of the mine
- **Financial feasibility:** Is the mitigation measure cost-effective? Companies should ensure their financial feasibility assessment includes the costs of meeting their pollution/emission reduction obligations (e.g. under the Safeguard Mechanism) and opportunities to monetise carbon reductions. Companies should also consider all available financing options.
- The pre-feasibility assessment will need to include evidence to support the coal mining company's position and both qualitative and quantitative data. The pre-feasibility assessment will need to be independently verified by an appropriate expert.

- We would like feedback in relation to the pre-feasibility assessment process and exemption criteria.

37. Would the EPA consider bringing forward the date for ventilation air methane abatement, if it is proven safe earlier?

- The EPA is interested to hear all stakeholder views on the feasibility of the EPA's proposal for mines to install ventilation air methane abatement by 2030, as well as advice on alternate dates where evidence can support the alternate dates.
- Enough lead time is required for mines to assess feasibility and to get the necessary planning approvals to install ventilation air methane abatement technology.

38. Is the date for ventilation air methane abatement too soon for licensees that need very large units?

- The EPA is interested to hear all stakeholder views on the feasibility of the EPA's proposal for mines to install ventilation air methane abatement by 2030, including for mines that would need very large units or a large number of units.

39. Does the NSW Resources Regulator support the EPA's proposed date for ventilation air methane abatement?

- The EPA has had and will continue discussions with the NSW Resources Regulator, mining operators and ventilation air methane abatement technology suppliers as the proposals are finalised.

40. Does the proposed guide apply to gas extraction sites?

- No, the guide only applies to coal mines.

41. Will the EPA reconsider timeframes for abatement if NSW Government modelling for the coal sector is revised downwards?

- The EPA always considers the best available evidence when making regulatory decisions. If we have significant new information about the coal sector's expected progress towards net zero, we will take that into account.