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RE: Submission on the Climate Change Requirements and Mitigation and Adaptation Plans

1 Overview

The [Australian Sustainable Business Group](#) (ASBG) provides a submission on the following documents open for public consultation:

- [Climate Change Licensee Requirements](#)
- [Climate Change Mitigation and Adaptation Plans Proposed Mitigation Requirements](#)
- [Greenhouse Gas Mitigation Guide for NSW Coal Mines](#)

ASBG is a leading environmental and energy business representative organisation. It specialises in disseminating up-to-date information on legislative, regulatory, and policy changes that may impact industry and business operations. Operating in NSW and Queensland, ASBG has approximately 100 members, including many of Australia's largest manufacturing and infrastructure companies.

ASBG supports effective actions, which support and consider business conditions, on dealing with climate change and reducing greenhouse gases. Our members have already taken considerable actions to reduce their carbon emissions over many years. A number are subjected to the Safeguard Mechanism and more report under NGERs. Of these members, some are involved in industry sectors where carbon free or lower carbon intensive products are simply not commercially available or viable, yet such as basic metals, cement and lime. ASBG appreciates the acknowledgement of such processes by the EPA. However, these areas are consequently where innovation, thinking outside the box can lead to world leading new material, system and processes, as such should be encouraged.

The EPA's approach via Climate Change Mitigation and Adaptation Plans (CCMAPs), mandatory reporting, and prescribed mitigation measures represents a significant departure from its traditional role of regulating pollutant concentration limits at licensed sites. Instead, it introduces an extensive framework of planning, oversight, and control through approvals of specific systems and processes. This stands in contrast to the Commonwealth Government's—and most other Western governments'—preferred market-based mechanisms, such as carbon pricing, to incentivise CO₂-e abatement.

While the NSW EPA lacks the legislative authority to implement pricing signals, replacing this with a command-and-control regulatory model, goes too far. A more balanced approach would be to adopt carbon intensity targets per unit of production. This method offers a clearer path to emissions reduction without undue interference in complex operational and investment decisions—areas in which government agencies lack commercial insight.

Key Issues Identified in the Three Climate Change Regulatory Documents:

- **The Mitigation Measures:**
 - Requirement to make future planned sensitive energy information public is rejected on commercial in confidence grounds
 - Scale of actions and additional work is considerable
 - Forecasting 10 years, even 3 years and being accountable to such plans is unworkable from a business perspective
- **The focus on NSW's GHG targets** undermines incentives to manufacture lower carbon intensity products.
- **The timeframes provided** are considered unworkable given the pace of finalisation of requirements and guides.
- **The Coal Mine Mitigation Guide** is designed to make NSW coal mining far costlier than non-NSW mines.

2 Mitigation Measures

The NSW EPA's introduction of Mitigation Measures (MM) requirements under the Climate Change Mitigation and Adaptation Plans (CCMAPs) framework significantly adds to the scope of controls and incentives used at the Commonwealth level through the National Greenhouse and Energy Reporting Scheme (NGERS) and the Safeguard Mechanism (SM).

While the potential for duplication between NSW and Commonwealth climate change requirements is acknowledged and stated to be minimised, the EPA's MM requirements introduce additional obligations that are considerably burdensome. These include increased resource demands, extensive reporting, and higher compliance costs. As a result, NSW facilities subject to EPA approved carbon reduction actions, are likely to incur greater administrative overheads and overall increased costs, which could reduce their competitiveness both nationally and internationally.

2.1 Sensitive Information

Mandating the public disclosure of CCMAPs, including full details of proposed Mitigation Measures, poses a significant risk to NSW businesses. It could result in the release of forward-looking operational strategies—such as 3-year and 10-year energy or emissions plans—which are highly linked to production and typically considered commercial-in-confidence and. Public access to such proprietary planning information may inadvertently provide a competitive advantage to businesses operating outside NSW.

The EPA has historically recognised the need to protect commercially sensitive information, as demonstrated in the treatment of Specific Resource Recovery Orders and Exemptions (SRROEs), which are generally kept confidential to safeguard intellectual property. Notably, the number of confidential SRROEs now exceeds the number of published Resource Recovery Orders and Exemptions (RROEs) by a factor of five.

R1 – ASBG Recommendation:

As a minimum entities subject to the EPA’s Climate Change Licensee requirements should have the option to submit all reporting—whether directly to the EPA or under a CCMAP—on a commercial-in-confidence basis.

Note that in R3 recommends that all such energy reporting not be made public, with R1 being a minimum action.

This then raises the option to provide summary information on greenhouse gas emissions (GHG). Any publicly available summaries or projections related to future business plans or greenhouse gas emissions should undergo careful review to ensure no proprietary or commercially sensitive information is disclosed. Such summaries should only be published with the explicit agreement of the affected entity.

2.2 Scale and Focus of Mitigation Measures

The addition of Mitigation Measures (MM) under the NSW EPA’s framework, beyond the existing Commonwealth requirements, represents a substantial increase in the scale and complexity of climate compliance obligations for NSW businesses. The requirement to prepare and commit to 3-year and 10-year forward-looking plans places a significant burden on affected sites, particularly as these timelines are mandated rather than chosen by the businesses themselves.

Unlike the Commonwealth’s Safeguard Mechanism, which uses a straightforward economic price signal to encourage emissions reductions, the MM framework demands detailed planning and justification of how those reductions will occur—imposing a far more prescriptive and intrusive compliance model. The EPA has gone well beyond its and other similar agencies reach, by being far more involved in processes, systems and other minutia.

This approach fails to adequately account for market fluctuations, changes in input costs, or other dynamic factors that influence business operations. As a result, most 10-year plans will necessarily rely on uncertain forecasts, which are likely to require ongoing revision. When such inevitable changes occur, businesses may face public or governmental criticism for deviating from mandated predictions—an outcome that is both unreasonable and unfair.

ASBG questions why the EPA believes that direct oversight of how greenhouse gas (GHG) reductions are achieved will deliver better outcomes than market-based mechanisms like those used by the Commonwealth, the European Union, and much of North America. The MM model risks becoming overly controlling, subjecting internal business operations to scrutiny through a narrow regulatory lens, potentially without adequate understanding of the complexities involved.

There is concern that under the current CCMAP Guidelines, the EPA may exert disproportionate influence over MM plans—despite having limited insight into the broader business, economic, or operational environment of affected sites. Here the EPA proposes going well beyond the usual methods used to control site emissions.

The EPA should reassess the design of the MM and CCMAP framework through a market-based lens, one where clear outcomes, such as reduction of carbon intensity of a product. Here EPA does not have expertise in this area, consequently EPA should leave the details of how, to the businesses. Failing to do so risks imposing measures that could lead to production shutdowns, job losses, and economic disadvantage for NSW-based businesses.

A number of ASBG members hold one EPL, but this covers multiple business units, where in general one sub-activity dominates in the site's carbon emissions. The issue here is will the CCMAP be required to consider all activities on the site, regardless of their CO_{2-e} scale of emissions, or will it be limited to the main activities, as listed in an Environment Protection Licence (EPL). ASBG supports use of a threshold (e.g. CO_{2-e} tpa) for smaller GHG emitting EPL activities, to make the process lower in complexity, more administratively efficient, while targeting the main activities for reduction actions.

R2 – ASBG Recommendation:

The EPA should revise the Mitigation Measures framework to ensure it is more flexible, business-aware, and economically sustainable. Specifically:

- ***These should be outcome focused, such as carbon intensity per unit of production, and not involve specific industry sector processes, systems or other means where assessment and approval is included in the EPA's process.***
- ***Businesses should have discretionary powers to determine the appropriate scale and timeframes for forward planning.***
- ***Sites should be granted flexibility in selecting Mitigation Measures tailored to their specific circumstances.***
- ***Recognition that the longer the forecasting timeframe, the greater the inherent uncertainty—and this uncertainty should be factored into compliance expectations.***
- ***Set a threshold level for inclusion in the CCMAP etc, to apply only on the sites' Environment Protection Licence listed activities, which exceed this threshold.***

2.3 10 & 3 Year Forecasting

The requirement for Climate Change Mitigation and Adaptation Plans (CCMAPs) to include 3-year and 10-year emissions reduction forecasts may be feasible for government agencies, but is largely unworkable for the private sector.

Most businesses operate within formal planning structures that are heavily influenced by sensitive market conditions. These conditions can shift rapidly—driven by factors such as geopolitical changes, global trade policy (e.g. new U.S. tariff regimes), input costs, and consumer demand. As a result, strategic business decisions are often revised, deferred, or reversed entirely. This is simply the nature of operating in a dynamic, competitive marketplace.

In practice, securing board-level approval for capital expenditure (CAPEX) commitments, even three years ahead, is uncommon. Most companies budget on an annual basis, with those budgets often subject to short-term changes in response to emerging market realities. Mandating adherence to a rigid 3-year EPA-endorsed mitigation plan risks imposing unrealistic and potentially unachievable obligations.

The requirement for a 10-year forecast is even more problematic. In the private sector, such long-term projections are inherently speculative and typically serve as aspirational goals rather than

firm commitments. These forecasts, much like long-term government targets (e.g. waste-to-landfill reduction goals), are indicative—not prescriptive.

Requiring businesses to publish these 3- and 10-year mitigation plans creates the potential for public and regulatory criticism based on predictions that are, by their nature, uncertain. This introduces reputational and operational risks that are disproportionate to the value of the forecasted information.

R3 – ASBG Recommendation:

The EPA should remove the requirement to publish forecast Mitigation Measures plans. Doing so would reduce unnecessary market exposure and risk for NSW businesses, while recognising the inherent unpredictability of long-term business planning.

R3 is the preferred position, with R1 as a secondary position.

3 Lower Carbon Intensity Products

A significant policy conflict appears within the EPA’s documentation regarding whether the priority is to meet absolute greenhouse gas (GHG) emission reduction targets or to support the production of lower carbon intensity products.

The **Climate Change Licensee Requirements** state:

"The NSW Government has committed to more ambitious greenhouse gas emission reduction targets than the Australian Government, which are set out in the Climate Change (Net Zero Future) Act 2023 (Net Zero Act)."

Meanwhile, the **Climate Change Mitigation and Adaptation Plans: Proposed Mitigation Requirements** document requires:

"The CCMAP must include a description of long-term (to 2050) and interim (years where there is a legislated NSW emission-reduction target, e.g. 2030 and 2035) scope 1 and 2 greenhouse gas emissions goals for the premises and how those goals will be achieved."

These statements suggest that meeting NSW’s legislated GHG targets is the dominant objective. However, this focus appears to overlook the broader climate benefits of supporting the production of lower carbon intensity products—an approach more aligned with Commonwealth schemes, such as the Safeguard Mechanism, which evaluates emissions more on an intensity basis.

While carbon intensity is mentioned as a reporting requirement in the EPA’s framework, its potential to drive global emissions reductions is not fully recognised in the EPA documents. For example, if a NSW business shifts production toward a product with a significantly lower carbon intensity than a non-NSW competitors’ products in the domestic or international market, this should be actively encouraged. Such production displaces higher-emissions alternatives in the market and thus contributes to global GHG reductions.

However, increasing output of a low-carbon-intensity product may result in higher absolute emissions at the NSW facility level—potentially conflicting with the state’s legislated emission reduction targets. Under the current framework, it remains unclear whether such globally beneficial trade-offs will be permitted or supported.

This raises a critical question:

Will the Mitigation Measures framework support, even encourage global CO₂-e emission reduction outcomes, or will compliance with NSW's state-based GHG targets take precedence regardless of the broader climate benefits?

If the latter, there is a real risk that innovation and investment in globally competitive, lower-carbon products made in NSW will be discouraged. In such a scenario, these products may instead be developed and manufactured elsewhere—either interstate or overseas—resulting in a loss of jobs, innovation, and economic opportunity for NSW. Crucially, this outcome would do little to reduce, and could even increase, global emissions.

Alternatively, NSW has the opportunity to position itself as a hub for the production of lower-carbon intensity goods that replace more emissions-intensive alternatives on global and national markets. This approach not only achieves meaningful global emissions reductions, but also strengthens the local economy through increased investment, advanced manufacturing, and job creation.

With the gradual global rollout of Carbon Border Adjustment Mechanisms (CBAMs), such as those being introduced in the European Union, NSW could gain significant competitive advantage by aligning with these international frameworks. By producing and exporting lower-carbon products, NSW industry could become a world leader in decarbonised manufacturing.

R4 – ASBG Recommendation:

The NSW Government should include in its climate change actions on the 150 affected sites, a clear policy guidance and strong support for the domestic production of lower-carbon intensity goods that can replace higher-emissions products in both domestic and global markets.

This may, in some cases, result in increased emissions at the site level or even within NSW overall, but would deliver net reductions in global emissions. Such trade-offs should be recognised, accepted, and encouraged where they produce better global climate outcomes.

3.1 Defining Lower Carbon Intensity:

To qualify as a lower-carbon product, its carbon intensity (measured as CO₂-e per unit of production—e.g., CO₂-e per tonne) should be:

- Below the **average global carbon intensity** for that product type; or
- Below the **national carbon intensity** for that product type in the Australian market.

Product carbon intensity should be assessed based on the **market in which the product is sold**, as this reflects true emissions outcomes:

- For domestically sold goods, Australian-made products typically have **lower transport-related emissions** than imported alternatives.
- For exported goods, transport emissions should be factored in, but may still result in a net emissions benefit if the product displaces a more carbon-intensive equivalent overseas.

3.2 Carbon Intensity Data Availability:

Carbon intensity metrics are already a core outcome of the Commonwealth Safeguard Mechanism (SM), and are widely reported in Australia and other developed nations. International standards such as the **ISO 14020, 14043, 14044, 14067, and 14068** series provide globally recognised frameworks for assessing and disclosing product-level carbon footprints.

ASBG encourages the NSW Government to utilise these existing tools and frameworks to support evidence-based decisions that align local regulation with broader global climate and economic goals.

4 Initial Reporting

The first reporting deadline for NSW Safeguard Mechanism (SM) facilities and coal mines is currently set for 28 February 2026, with all other facilities expected to follow one year later. Preparation of the full under the Climate Change Mitigation and Adaptation Plans CCMAP is scheduled to commence from 31 October 2026 for SM facilities and coal mines, again with other sectors following one year later.

However, the current state of the reporting and CCMAP documentation suggests that these deadlines are highly optimistic. The key documents outlining requirements are still in draft form and require significant revision and stakeholder input before they are fit for purpose. Furthermore, most of the supporting CCMAP Guides—critical to the successful development of these plans—have yet to be released, even in draft form for discussion.

Given the usual pace of government consultation, policy finalisation, and regulatory implementation, it is highly unlikely that the necessary materials and guidance will be in place in time—whether within 4, 12, or even 24 months. Without clear frameworks and tools, stakeholders will struggle to meet the ambitious timelines currently set.

Prioritising SM facilities and coal mines has some merit, as these entities already collect much of the data required for initial reporting but not for Mitigation Measures (MMs). However, the deadlines for full CCMAP submission and development of MMs should be seen as indicative at best, and contingent on the timely release and finalisation of essential supporting documents.

The current lack of an established MM framework will likely result in multiple rounds of submissions and revisions between businesses and the EPA. This back-and-forth process will create a significant administrative burden and delay progress, making the existing timeframes unworkable in practice.

To help streamline the process and reduce inefficiencies, a standardised CCMAP template—including expected layout, structure, and content—would significantly reduce the resource burden for both the EPA and regulated entities. However, developing such a tool will also take additional time and consultation.

R5 – ASBG Recommends that the EPA:

- ***Formally delay the reporting and CCMAP preparation timelines by at least one year to allow sufficient time for the finalisation of all necessary documentation, including the CCMAP Guides; and***
- ***Develop and release for public comment a standardised CCMAP template to ensure consistency in content, format, and structure, thereby reducing unnecessary administrative workload for all parties.***

5 Coal Mine Mitigation Measure Guide

The Coal Mine Mitigation Measure Guide, as currently drafted, is highly process focused. It specifies particular technologies and operational methods, placing significant restrictions on how mining operations can meet emissions reduction goals. This approach is overly rigid and risks stifling innovation.

Coal mining inevitably releases coal seam gas (CSG)—naturally occurring methane trapped in coal seams. Extracting coal, by its nature, releases this gas. For safety reasons, mining operations use long boreholes to drain coal gas in advance, reducing the risk of dangerous outbursts. However, these measures do not eliminate all gas emissions, and significant quantities are still released via ventilation air systems.

The coal mining sector finds the MM Guide difficult and costly to implement. By prescribing specific technologies, systems, and processes, the Guide reflects an overly “command-and-control” style of regulation. When governments go too far into dictating how outcomes must be achieved, rather than focusing on what the outcomes should be, the result is often reduced business viability and lost economic opportunity.

This first draft CCMAP Guide sets a concerning precedent. It signals that the EPA may be prioritising procedural control over outcomes—potentially at the expense of economic resilience and real global environmental benefit. Over-regulation of this nature could lead to local industry decline, loss of investment, and reduced competitiveness for NSW, without achieving any significant reduction in global greenhouse gas emissions.

5.1 A Smarter Way Forward

ASBG urges the EPA to adopt a more pragmatic, outcomes-focused, and economically informed approach. Climate policies must encourage, not constrain, innovation and sustainable business practices.

The final Climate Change Mitigation and Adaptation Plan (CCMAP) Guides must support a just and commercially viable transition. This requires flexibility, clear Government objectives, and guidance that allows industries to determine the most effective and efficient ways to reduce emissions.

Rather than prescribing specific technologies, MM Guides should be developed by industry, in alignment with Government-defined outcomes. These outcomes must be ambitious yet realistically achievable, and designed to preserve jobs and attract investment. Achieving this balance will require ongoing, genuine collaboration with industry stakeholders.

R6 – ASBG Recommendation:

The EPA should ensure that the final CCMAP Guides are outcome-based and support business-led pathways to improved climate performance. This must occur within a framework that:

- ***Recognises sector-specific challenges,***
- ***Balances climate effectiveness with financial and operational sustainability, and***
- ***Encourages innovation, investment, and practical emissions reductions.***

Such an approach will better support long-term decarbonisation across all sectors, while preserving NSW's economic strength and employment base.

5.2 Scope 3 Emissions – Clarification Requested

ASBG also notes that the current MM and CCMAP frameworks treat Scope 3 emissions as optional—unlike other reporting frameworks such as those being developed by the Australian Accounting Standards Board (AASB).

Given the complexity already present in measuring and managing Scope 1 and 2 emissions under the EPA's proposed requirements, ASBG seeks clear assurance that Scope 3 emissions will not be made mandatory, at least over the medium term.

Introducing Scope 3 obligations prematurely would add substantial cost and complexity, with limited additional climate benefit in most sectors. A clear and stable policy position on this point is essential for business planning and investment confidence.

This submission was prepared with the input and support from the ASBG Policy Reference Group.

Yours Sincerely



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