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Comment on the EPA's Draft revised Environmental Factor Guideline - Greenhouse Gas Emissions

ABOUT ACCR

The Australasian Centre for Corporate Responsibility (ACCR) is a not-for-profit, philanthropically-funded research organisation, based in Australia. ACCR monitors the environmental, social and governance (ESG) practices and performance of Australian-listed companies, including climate change, human rights, and labour rights. We undertake research and highlight emerging areas of business risk through private and public engagement. For more information, follow ACCR on [Facebook](#), [Twitter](#) and [LinkedIn](#).

ACCR acknowledges that the draft revised Environmental Factor Guideline covering Greenhouse Gas Emissions (EFG) is an improvement. However, it fails to sufficiently address scope 3 emissions, and is too permissive of scope 1 emissions and the use of offsets.

ACCR's Appeal against the NWS Extension proposal is applicable to this proposal, and is referenced throughout.¹

Recommendations

1. Proposals should be assessed under the EFG if the the sum of scope 1, 2 and 3 emissions is greater than 100,000 tCO₂-e in any given year.
2. The EFG should recommend against the development of any new fossil fuel reserves.
3. In the absence of alternative conditions that result in scope 3 emissions being consistent with a 1.5C scenario, facilities should be required to cease operating by 2050, with a linear ramp down between now and then.
4. Australian industry average emissions intensities should be used to determine the emissions trajectory to 2030, based on data compiled and published under the Federal Safeguard Mechanism.
5. The use of credits as offsets should be limited to 5% of the annual emissions associated with a proposal.
6. Any credits permitted to be used as offsets should be required to be generated in WA.
7. The EPA, rather than the proponent, should select and fund independent experts. These costs should be funded using a cost recovery mechanism.
8. The proponent should be required to sign a declaration stating that they have provided all relevant information to the EPA.
9. Where federal conditions are considered to sufficiently meet the EFG's objective, these should be mirrored in state approvals to mitigate the risk of future federal regulatory changes.

¹ ACCR, Submission: Appeal against the North West Shelf Extension, 2022, <https://www.accr.org.au/research/appeal-against-the-north-west-shelf-extension/>

1. Are there any additional measures which should be included to meet the EPA's objective?

The EPA's draft revised Environmental Factor Guideline covering Greenhouse Gas Emissions ("EFG") aims 'to minimise the risk of environmental harm associated with climate change by reducing greenhouse gas emissions as far as practicable.' In order to achieve this objective, in ACCR's view the EPA must take the following measures:

Consider Scope 3 emissions more thoroughly

Scope 3 emissions should be rigorously conditioned in a way that reflects the role of these emission sources under the 1.5C future that the EFG advocates for.

As such, scope 3 emissions should be much more thoroughly considered than is currently proposed. The EPA should be assessing the activities of WA applicants with a view that all emission impacts matter.

The EFG takes a hypocritical approach to emissions outside of WA, such as scope 3 emissions. It does not attempt to mitigate scope 3 emissions, many of which will occur outside of WA. However, it does permit the use of offsets, irrespective of where they are generated and accredited.

Exported emissions are the most significant source of emissions that are created in WA. The recent NWS extension proposal indicates the scale of scope 3 emissions that are contemplated in WA environmental approvals. ACCR's NWS Appeal calculated that these scope 3 emissions would be 3.2 GtCO₂-e even when the already approved scope 3 emissions to 2030 are ignored.² Australia's current NDC sets a target for Australia to emit a cumulative 3.5 GtCO₂-e from 2030 until we achieve net zero in 2050.³ As such, this single project could be granted permission to generate emissions equivalent to 91% of Australia's emissions - which will be vastly greater than WA's emissions.

At a company level, Woodside produced 25.8 million tonnes of hydrocarbons in 2021.⁴ When combusted this will create about 75 MtCO₂-e of GHG emissions, most of which will occur in other countries. This is comparable with all of WA's local GHG emissions.

Chevron operates similar sized LNG facilities to Woodside (but does not disclose WA specific data). Iron ore miners and alumina producers also have significant scope 3 emissions that physically occur outside of WA's border, but contribute to climate change but should be subject to regulation under the WA Environmental Protection Act (EP Act).

Since industrial scope 3 emissions, produced by facilities subject to the WA Environmental Protection Act, are more significant than all of WA's domestic emissions, the EFG should require that they are thoroughly assessed and conditioned. The recommendations in the EFG are however limited to disclosure and 'consideration' of options to reduce. This dramatically hampers the EFG's ability to protect the environment and runs counter to the objective of the EFG.

² ACCR, Submission: Appeal against the North West Shelf Extension, 2022, <https://www.accr.org.au/research/appeal-against-the-north-west-shelf-extension/>

³ Assumes 43% reduction from 2005 to 2030 and then straight line reduction to 2050.

⁴ Woodside, 2021 Climate Report, p40 (operated emissions basis)

Scope 3 emissions should trigger assessment under the EFG by modifying the GHG threshold so that **proposals should be assessed under the EFG if the the sum of scope 1, 2 and 3 emissions is greater than 100,000 tCO₂-e in any given year.**

For fossil fuels, a clearly articulated guide for compliance with a 1.5C scenario is the International Energy Agency's (IEA) Net Zero Emissions (NZE) Report, which concludes that there is no capacity to develop new fossil fuel reserves after 2021.⁵ As such, **the EFG should recommend against the development of any new fossil fuel reserves.**

Many other research papers draw similar, if not sterner, conclusions to the IEA's NZE. Kühne et al⁶ finds that the coal, oil and gas carbon bombs that are already producing will exceed the world's 1.5°C budget. Other studies, using different methods and data sets, have concluded that there is no room for additional fossil fuel development if we are to meet the objectives of the Paris Agreement. Some of these, such as Unburnable Carbon⁷ are over a decade old. Some assess company reserves disclosures, while others look at fossil fuel consuming infrastructure.⁸ Some, such as Muttit⁹, assess 1.5°C and 2°C scenarios. Welsby¹⁰ also looks at sensitivities for CCS and specific sectoral decarbonisation paths.

Scope 3 emissions other than from fossil fuels may have a more resilient future in a 1.5C world, including alumina and iron ore. Where commodities have a sustained role in a 1.5C, net zero economy, appropriate development may be consistent with a 1.5C scenario. The measures outlined in the EFG could be more appropriate for these commodities.

In either case, all sources of scope 3 emissions should be compliant with net zero by 2050 (or earlier), in line with the climate science referenced in the EFG and the state's major project GHG policy. The type of conditions that could be recommended to achieve net zero by 2050 could be on the duration and output of the proposed facilities. **In the absence of alternative conditions that result in scope 3 emissions being consistent with a 1.5C scenario, facilities should be required to cease operating by 2050, with a linear ramp down between now and then.** This would mirror the approach taken for scope 1 emissions and would be a constructive step, even if the EPA is not willing to follow the IEA's NZE conclusions.

Strengthen Scope 1 conditions

ACCR supports the requirement to achieve 'deep and substantial emissions reductions'¹¹ by 2030. Deep and substantial is however a relatively vague term and may be hard to condition precisely.

Australian industry average emissions intensities should be used to determine the emissions trajectory to 2030, based on data compiled and published under the federal safeguard mechanism.

The safeguard mechanism (SGM) uses industry average emissions intensities to determine baselines, which facilities need to make sure their net emissions do not exceed. To implement this, the federal government has compiled and published the average emissions intensity for 86 different industrial products.¹² Using these

⁵ IEA, 2021, 'Net Zero by 2050: A Roadmap for the Global Energy Sector', p20, https://iea.blob.core.windows.net/assets/deebef5d-0c34-4539-9d0c-10b13d840027/NetZeroBy2050-ARoadmapfortheGlobalEnergySector_CORR.pdf

⁶ Kühne et al., 2022, 'Carbon bombs' - Mapping key fossil fuel projects', *Energy Policy*, 166, <https://www.sciencedirect.com/science/article/pii/S0301421522001756#fig1>

⁷ Carbon Tracker, 2011, 'Unburnable Carbon - Are the World's Financial Markets Carrying a Carbon Bubble?', <https://carbontracker.org/reports/carbon-bubble/>

⁸ Tong et al., 2019, 'Committed emissions from existing energy infrastructure jeopardize 1.5°C climate target', *Nature*, 572, 373-377, <https://www.nature.com/articles/s41586-019-1364-3>

⁹ Muttit, The Sky's limit: why the Paris climate goals require a managed decline of fossil fuel production, Oil Change International, 2016

¹⁰ Welsby et al., 2021, 'Unextractable fossil fuels in a 1.5°C world', *Nature*, 597, 230-234, <https://www.nature.com/articles/s41586-021-03821-8>

¹¹ EPA, 2022, 'Environmental Factor Guideline Greenhouse Gas Emissions', p7

¹² DCCEEW, 2022, 'Safeguard Mechanism: Prescribed production variables and default emissions intensities', <https://www.dcceew.gov.au/sites/default/files/documents/safeguard-mechanism-document-production-variable-definitions-2022.pdf>

definitions of production will have the added benefit of being consistent with federal requirements, which will reduce the reporting and compliance burden on these facilities.

The EFG notes that the IPCC requires a 45% reduction in emissions between 2010 and 2030. Facilities could be required to ensure that they achieve a 45% lower emissions intensity than the values published for the SGM, by 2030.

Recommendations for existing projects could be based on 45% absolute emissions reductions, which would be better aligned with the IPCC recommendations. Assessment in these instances, would however need to consider whether this reflected a genuine improvement in performance, rather than simply reflecting a reduction in throughput.

Constrain the use of credits as offsets

The use of carbon credits to offset emissions is flawed for a number of reasons that have been articulated in ACCR's NWS Appeal and Safeguard Mechanism submission.¹³

To mitigate these risks, limits should be placed on the use of carbon credits to offset emissions. The original limit placed on the use of Australian Carbon Credit Units under the Federal Clean Energy Act was 5%.¹⁴ **The use of credits as offsets should be limited to 5% of the annual emissions associated with a proposal.**

In accordance with the WA Greenhouse Gas Emissions Policy for Major Projects (State Policy¹⁵), proposals should demonstrate how they contribute to WA achieving net zero by 2050. This should include the use of offsets. The national carbon inventory only considers GHG emissions and sinks - it does not consider whether or how these interact with the carbon credit scheme. Even if it did, there is no mechanism to transfer emissions from one state to another, so an ACCU from outside of WA cannot count towards WA achieving a net zero goal. Similarly, offsets generated outside of Australia cannot, currently, be transferred to Australia's inventory, let alone allocated to a specific state. Unless these accounting issues are resolved, **any credits permitted to be used as offsets should be required to be generated in WA.**

2. Are there any measures which could constrain innovation or adoption of best practice emissions avoidance and reduction?

Disclosure of emissions reduction options

In the NWS Extension Proposal, the NWS did not disclose options that had been considered to reduce emissions below business as usual levels for pollutants including benzene, oxides of nitrogen and greenhouse gases. This is despite Woodside having a publically available policy saying that it will identify and assess options to reduce emissions.¹⁶

The EFG's usual requirement for independent assurance of key documentation, such as best practice reports, is insufficient to ensure that proponents have sincerely applied best practice. In order to strengthen this control, two additional measures are recommended.

¹³ ACCR, 2022, 'Submission: Safeguard mechanism', pp12-14, <https://www.accr.org.au/research/submission-safeguard-mechanism/>

¹⁴ s128 Clean Energy Act 2011, <https://www.legislation.gov.au/Details/C2012C00579>

¹⁵ Department of Water and Environmental Regulation, Western Australia, 'Greenhouse Gas Emissions Policy for Major Projects', <https://www.der.wa.gov.au/images/documents/your-environment/climate-change/Greenhouse%20Gas%20Emissions%20Policy%20for%20Major%20Projects.pdf>

¹⁶ Woodside, Environmental Science Environmental Management Approach, https://www.woodside.com.au/docs/default-source/environment/environmental-management-approach.pdf?sfvrsn=ddc472e0_8

Experts conducting best practice reviews of GHG management plans should be genuinely and commercially independent of the proponent. Allowing the proponent to select and fund experts does not ensure sufficient objectivity. **The EPA, rather than the proponent, should select and fund independent experts. These costs should be funded using a cost recovery mechanism.**

This requirement for genuinely independent assessment should also be applied in all instances where a proposal triggers the GHG thresholds stipulated in the EFG. At the moment, the EFG states that this is simply a 'usual requirement'.

The proponent should be required to sign a declaration stating that they have provided all relevant information to the EPA and decision makers. This should be drafted by the EPA and include the following content, at a minimum:

- That all emissions reductions options that were identified by the proponent have been disclosed.
- That any considered option that could result in a lower emissions outcome has had its costs and benefits quantitatively included in the proposal, with a clear justification of why lower emission options have not been selected.
- That the proposal is a complete and fair reflection of the proponent's own assessments of the costs and benefits of each option.
- That the proposal is consistent with representations made to other stakeholders, such as shareholders, financial regulators, the media and customers, around how emissions can or will be managed.
- That the signatory acknowledges that providing false or misleading information to a regulator is an offence under the EP Act and that omitting relevant information could be misleading.

This type of declaration is a requirement for greenhouse gas audits.

Interaction between federal and state regulation

Where a requirement is placed on a proposal under a federal mechanism, this should be considered as part of the EPA's assessment, but should not be a reason to avoid recommending conditions.

A fear of duplicate regulation between conditions under the WA EP Act and the federal carbon price was given as a reason for repealing conditions on Wheatstone's LNG facility. However, when the carbon price was repealed, this meant that there were no meaningful conditions on this facility.¹⁷ The EPA is still considering how to reinstate appropriate conditions.

Where federal conditions are considered to sufficiently meet the EFG's objective, these should be mirrored in state approvals to mitigate the risk of future federal regulatory changes. For example, a facility could be required to reduce its net emissions on a trajectory that follows the baseline declines under the safeguard mechanism.

Additional issues

Although less significant than the issues above, the following points could also be considered by the EPA:

- Hydrogen is a greenhouse gas,¹⁸ so should be added to the lists of gases that are assessed, conditioned and reported on.

¹⁷ AFR, 2018, 'Chevron's Wheatstone LNG project caught in greenhouse gas emissions row', <https://www.afr.com/companies/chevrons-wheatstone-lng-project-caught-in-greenhouse-gas-emissions-row-20180123-h0n0cs>

¹⁸ Warwick et al., 2022, 'Atmospheric implications of increased Hydrogen use', University of Reading, p10, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1067144/atmospheric-implications-of-increased-hydrogen-use.pdf

- Proponents should be required to provide a profile of annual emissions and production forecasts. They should provide separate 'expected' and 'maximum' values if these are different. This will allow a more informed assessment by the EPA of what an appropriate condition is - for example conditioning a 10% reduction from maximum emissions when expected emissions are already 20% below maximum emissions is unlikely to reduce real emissions.