

Submission in response to the

2026-27 Safeguard Mechanism Review

prepared by

Environmental Justice Australia

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About Environmental Justice Australia

Environmental Justice Australia (EJA) is a national public interest legal centre. We use the law to empower communities, to protect and regenerate nature, to do our part in the fight against climate change, and to achieve social and environmental justice.

We are proudly non-profit, non-government, and funded by donations from the community.

Acknowledgement of Country

We acknowledge the Wurundjeri peoples, the Traditional Owners of the lands on which the EJA office is located. We pay our respects to Wurundjeri Elders past and present, and recognise that this land always was and always will be Aboriginal land. Sovereignty over Wurundjeri land and First Nations land around so-called Australia has never been ceded.

We acknowledge the role of the legal system in establishing, entrenching and continuing the oppression and injustice experienced by First Nations people. We also acknowledge that the law has been an avenue for resistance and a critical framework of action for First Nations justice. It is an inherently complex space; we seek to contribute to using and developing laws in ways that lay foundations for just outcomes for First Nations people across the continent.

Executive Summary

EJA welcomes the opportunity to provide input to the review of the Safeguard Mechanism. We have followed the implementation of the 2023 reforms to the scheme closely, and have monitored the place the Mechanism has taken in the broader landscape of Australia's regulatory and policy response to climate change.

Rhetorically, the Safeguard Mechanism is Australia's flagship climate policy. Leaders consistently state that through the Safeguard Mechanism the Government has “dealt with” the climate impacts of ongoing and expanding fossil fuel production in Australia:¹ this was the Government's basis for refusing to incorporate climate damage into the amended *Environment Protection and Biodiversity Conservation Act 1999*,² and is often cited in the justification for approving new coal and gas projects.³ Several State and Territory authorities rely on the Safeguard Mechanism in place of implementing subnational regulation to mitigate industrial greenhouse gas emissions;⁴ proponents point to coverage by the Mechanism as a serious impost on their operations in the name of achieving “net zero”.

In reality, any contribution to the task of addressing climate change made by the Safeguard Mechanism – even if it were strengthened to deliver more onsite abatement – is utterly dwarfed by the greenhouse gas emissions from Australia's fossil fuel exports. These emissions are not covered by the Safeguard Mechanism, nor, explicitly, by any other federal climate policy. The nature of the Safeguard Mechanism means that it would require fundamental changes to address scope 3 emissions from Australian coal and gas. Absent such changes, the Mechanism alone is inadequate to fulfil Australia's obligations to prevent harm to the climate system. Fundamentally, Australia needs to wind down its extraction of coal and gas, and to immediately develop plan for doing so in a considered but swift manner.

Nonetheless, the Safeguard Mechanism remains a key part of how the Federal Government has chosen to respond to climate change and to implement its obligations under the international climate treaties to which Australia is a party. That is the perspective from which we evaluate the Mechanism in this submission: **is the Safeguard Mechanism, presently, up to the task of meaningfully addressing the direct greenhouse gas emissions from Australian industry, considering the urgency of reducing emissions and Australia's obligations under international climate law?**

In general, we find that it is not.

Primarily, this is because the regulatory framework behind the Mechanism is not appropriately calibrated to deliver real, rapid and guaranteed emissions reductions from covered industries.

Instead, it relies on anticipated changes in the price of carbon credits which are uncertain in both extent and imminence. This does not reflect the stringent standard of due diligence and the use of ‘best efforts’ required of Australia in its domestic emissions mitigation measures.

Further issues arise from the lack of integrity in the Safeguard Mechanism Credit scheme, which has seen significant numbers of credits issued which do not reflect actual emissions avoidance, and from unintended gaps in the application of the international best practice baseline rules to new coal projects, meaning that major new developments which could make use of the latest onsite abatement technologies are not being incentivised to do so.

We also consider that the Safeguard Mechanism does not recognise or adequately address the climate impacts of methane, which are much higher than carbon dioxide over the 23-year timeframe during which the Mechanism is relevant.

Finally, there is a lack of accessible information about whether, when and how responsible emitters intend to invest in onsite abatement, which impedes the ability of the Climate Change Authority, the Department, the Minister and the public to determine whether the Safeguard Rules are consistent with the achievement of the safeguard outcomes, or whether changes are needed. As this is the primary feedback system within the Safeguard Mechanism framework, this is highly concerning.

The most important objectives of the Safeguard Mechanism are reducing absolute emissions from Australian industry, and encouraging the swift decarbonisation of those sectors which are needed in a climate-safe economy.

Both of these goals are attainable, but only through changes to the current scheme.

Reform is needed to ensure that the Safeguard Mechanism delivers on its twin goals of onsite emissions reduction and industrial decarbonisation. Changes calibrating the Rules towards these goals are especially important for the post-2030 period. We provide a set of recommendations at the conclusion of this submission which should, if implemented, substantially improve the efficacy of the Safeguard Mechanism as a climate policy, largely through targeted amendments to the Safeguard Rules.

This Review provides a critical opportunity to strengthen what has become Australia’s primary emissions reduction policy. That opportunity should not be wasted.

Purpose of the Safeguard Mechanism: fulfilling Australia's obligations under international climate law

1. It is impossible to evaluate the performance of the Safeguard Mechanism without first identifying what it is supposed to achieve. Fundamentally, the Safeguard Mechanism is a climate policy, one of the key policies chosen by the Federal Government to fulfil its climate-related obligations under international law. The scientific realities of the climate crisis and Australia's obligations under international treaties designed to respond to that crisis form the contextual background against which the statutory objects of the Safeguard Mechanism should be considered, and the performance of the Safeguard Mechanism reviewed.
2. Section 3(2) of the NGER Act defines the statutory objectives of the Safeguard Mechanism; other provisions of the NGER Act along with the Safeguard Rules provide the regulatory framework which should, per section 3(2) 'ensure' that those objectives are achieved. The 'safeguard outcomes' comprise net emissions reduction targets (subsections (b) and (c)); declining absolute emissions, averaged over 5-year increments (subs. (d)); a material incentive for covered emitters to invest in onsite decarbonisation (subs. (e)), and the competitiveness of trade-exposed industries being appropriately supported (subs. (f)).
3. These safeguard outcomes provide the immediate objectives against which the Safeguard Mechanism's performance since 2023 – and the statutory framework underpinning that performance – should be evaluated. However, they do not exist in a vacuum.
4. The 2023 amendments to the NGER Act which introduced, *inter alia*, the 'safeguard outcomes', the system of declining baselines and Safeguard Mechanism Credits which now define the Mechanism were introduced as part of the Labor Government's plan to achieve the updated Nationally Determined Contribution communicated under the Paris Agreement in 2022.⁵ The NGER Act itself was originally introduced to consolidate and streamline various emissions and energy data collection systems, both to support the obligation to report climate data under the United Nations Framework Convention on Climate Change ('UNFCCC') and in expectation of the subsequent creation of a national emissions trading scheme.⁶
5. The 'ultimate objective' of the UNFCCC is the stabilisation of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system, within a timeframe sufficient to allow ecosystems to adapt naturally, to ensure that food production is not threatened, and to enable sustainable economic development.⁷ The aim of the Paris Agreement is to strengthen the global

response to the threat of climate change by, *inter alia*, holding the increase in global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels.⁸

6. The stated objectives of the UNFCCC and the Paris Agreement, and the scientific reality of what is required to achieve these goals,⁹ provide the fundamental purpose of domestic climate policies, and the yardstick against which those policies should be evaluated. This includes the Safeguard Mechanism.
7. Both treaties aim to mobilise the global response to the threat of dangerous climate change. That threat is caused by the growing accumulation of unmanageable quantities of greenhouse gas emissions in the atmosphere, primarily due to the combustion of fossil fuels. Meaningfully responding to that threat therefore requires two things: reducing, as a matter of urgency, the amount of additional greenhouse gas emissions being added to the atmosphere, and systematically transitioning the world's energy systems and industries away from reliance on coal and gas.
8. This is not inconsistent with the Safeguard objects in section 3(2). In fact, subsections 3(2)(d) and (e) reflect the twin goals of durably reducing absolute greenhouse gas emissions from covered industries and transitioning away from fossil fuel reliance. Considered in the context of the Mechanism's fundamental purpose as a climate policy, subsections (d) and (e) are the most critical of the safeguard outcomes in relation to fulfilling Australia's commitments under international climate law. This has clear implications for considerations around the level of onsite abatement to be delivered under the Mechanism. In general, the settings for the Safeguard Mechanism after 2030 must be more squarely calibrated to achieve these two critical objectives.

Standard to be achieved by the Safeguard Mechanism

9. The international legal obligations which provided the impetus for the reform of the Safeguard Mechanism also stipulate the level of emissions reduction and industrial decarbonisation it should be capable of delivering.
10. As a signatory to the UNFCCC, the Australian Government has committed to – and is legally obliged to¹⁰ – adopt national policies and take corresponding measures on the mitigation of climate change by limiting its anthropogenic emissions,¹¹ implement national programmes containing measures to mitigate climate change by addressing anthropogenic emissions,¹² and promote the development of technologies to control, reduce or prevent anthropogenic emissions of greenhouse gases, including in the energy, transport and

industry sectors.¹³ By signing the Paris Agreement, Australia committed to pursuing domestic emissions mitigation measures, with the aim of achieving its Nationally Determined Contributions.¹⁴ Under international customary law, Australia holds a duty to prevent significant harm to the environment, including with respect to the climate system.¹⁵

11. Importantly, these obligations are to be interpreted in a manner that reflects the principle of common but differentiated responsibilities.¹⁶ This principle is a manifestation of the principle of equity¹⁷ and recognises, in essence, that developed states should take on a greater share of the task of addressing the climate crisis, as they have simultaneously contributed the most to its development and have the greatest capacity to bring about economic transition.¹⁸ Australia is relevantly a ‘developed state’.¹⁹

12. The content of states’ obligations under international climate law has been clarified by the International Court of Justice in its 2025 *Advisory Opinion on the Obligations of States with respect to Climate Change*. Relevantly, the Court found that:

- a. States owe a duty to prevent significant environmental harm, including with respect to the climate system.²⁰ This is a duty to act with due diligence²¹ and to use ‘all the means at [the State’s] disposal’.²²
- b. The standard of due diligence for preventing significant harm to the climate system is ‘stringent’, requiring a ‘heightened degree of vigilance and prevention’.²³
- c. One element of the requisite due diligence is to implement ‘regulatory mitigation measures that are designed to achieve the deep, rapid and sustained reductions of GHG emissions that are necessary for the prevention of significant harm to the climate system’,²⁴ another is the use of technologies that are readily available to address climate risks.²⁵
- d. Article 4(2) of the Paris Agreement requires parties to pursue domestic mitigation measures; compliance with this obligation is a question of whether the party exercises due diligence in its efforts, including in relation to activities carried out by private actors.²⁶ The standard of due diligence is stringent on account of the fact that the best available science indicates that the harms of climate change escalate with every increment of global warming.²⁷
- e. Compliance with the Paris Agreement generally is to be assessed on the basis of whether the party exercised due diligence and employed best efforts by using all means at its disposal.²⁸

- f. Merely adopting policies on the mitigation of climate change will not necessarily acquit the obligations of a State-party under the UNFCCC; rather, the policies and measures must be 'such that they are able to achieve the required goal'.²⁹

13. These findings are directly relevant to, and provide practical assistance in, the Department's task in reviewing the Safeguard Mechanism.

14. Considering the Court's findings in relation to the Safeguard Mechanism, as an expression of Australia's obligations under international climate law, we submit that the Department should assess the Safeguard Mechanism against the following questions:

- a. Does the Safeguard Mechanism reflect a stringent standard of due diligence and Australia's best efforts to reduce anthropogenic greenhouse gas emissions from industrial facilities, given both the urgency of reducing emissions and Australia's capacities as a developed state?
- b. Is it designed to achieve deep, rapid and sustained reductions of GHG emissions, in accordance with the goals of the UNFCCC and the Paris Agreement, and with Australia's duty to prevent significant environmental harm?
- c. Does it ensure that readily available emissions reduction technologies will be implemented?

15. This is the approach taken in our submission. Evaluating the Safeguard Mechanism policy settings and regulatory framework against these questions, we find that it is falling short – but also that this can be fixed, simultaneously furthering both the safeguard outcomes and the overall objective of meaningfully contributing to the goals of international climate treaties. The Review provides a critical opportunity to bring the Safeguard Mechanism into line with the standard of climate action Australia can and should be delivering.

Evaluation: the Safeguard Mechanism is not doing enough to address the causes of climate change

16. We submit that the Safeguard Mechanism currently falls short against the three critical criteria identified above and is not optimally calibrated to fulfil its key goals of delivering sustained reductions in greenhouse gas emissions and driving the decarbonisation of Australian industry at the speed required.

17. In summary, this is because:

- a. **The Safeguard Mechanism neither requires nor materially incentivises responsible emitters to reduce greenhouse gas emissions** at the source, and until this is changed the contribution to climate change made by Australian industry is unlikely to fall significantly or rapidly;
 - b. Relatedly, **relying on land sector abatement to compensate for fossil fuel emissions does not effectively contribute to the stabilisation of atmospheric concentrations of greenhouse gases** over relevant timespans;
 - c. There is **no assurance that Safeguard Mechanism Credits ('SMCs') reflect genuine cuts to gross emissions**, and the capacity for these credits to be banked indefinitely perpetuates the resulting integrity problems, falling short of the required standard of due diligence;
 - d. The **definition of 'new facility' in the Safeguard Rules is unlikely to capture major new coal and gas production sites**, meaning that these facilities will not be subject to international best practice baseline requirements, reducing the impetus to invest in abatement technology;
 - e. The **much greater climate impacts of methane compared to carbon dioxide are neither recognised nor adequately dealt with** in the Mechanism; and
 - f. The **lack of available information about whether, when and how responsible emitters intend to invest in onsite abatement** impedes the ability of the Climate Change Authority, the Department and the Minister to determine whether the Safeguard Rules are consistent with the achievement of the safeguard outcomes.
18. We also note that the lack of differentiation in the Safeguard Mechanism between fossil fuel production facilities and other types of facility does not reflect the distinct future pathways for these industries. Because of their downstream climate impacts, coal and gas production facilities have an extremely limited, if any, place in the climate-safe future economy which the Mechanism is intended to help create, and therefore need to be phased out, as the Federal Government has recognised in its signing of the Belém Declaration. In contrast, other Safeguard industries with a lower total climate impact will have a role in the future economy and are less replaceable, and thus need to decarbonise. The current settings do not reflect this critical difference, instead requiring both phase-out and future-necessary industries to compete for the same carbon budget remaining under the safeguard outcomes, and the same pool of carbon credits.

19. **This Review provides the opportunity to address these problems and improve the efficacy of the Safeguard Mechanism in reducing Australia’s contribution to climate change.** We have included a set of suggested reforms to better align the Safeguard Mechanism with Australia’s commitments under international law at the conclusion of this submission.

Problem 1: Lack of guaranteed onsite emissions reductions

20. There is no requirement in the Safeguard Mechanism regulatory framework for responsible emitters to reduce scope 1 emissions. Indeed, provided they are prepared to purchase additional carbon credits, there is nothing preventing emitters from increasing their emissions year-on-year.
21. Instead, the achievement of gross emissions reduction and industrial decarbonisation relies on baseline compliance via surrender of carbon credits eventually becoming more expensive than the cost of investing in onsite abatement.
22. From our perspective, the primary problem with this approach is that it depends exclusively on factors outside NGER Act and the Safeguard Mechanism scheme for its success, primarily carbon market dynamics. These are unpredictable and it is not clear when, and to what extent, either ACCUs or SMCs will reach cost-parity with even the cheapest onsite abatement technologies. Analysis by the Climate Council, adapted from EY, finds that the Safeguard Mechanism price signal is likely to remain far too low to meaningfully influence decarbonisation until well after 2035, even with declining annual baselines.³⁰ This does not match the urgency needed in global efforts to deliver deep, rapid and sustained cuts to greenhouse gas emissions, especially by developed countries like Australia.
23. The logic behind this passive approach also does not appear to necessarily hold true in practice. Analysis by CSIRO identified approximately 6Mt of annual coal fugitive methane abatement currently available for between \$7-15 per tonne of CO₂-e,³¹ well below the ACCU price. Yet, underground coal mines subject to the Safeguard Mechanism overwhelmingly use carbon credits to achieve baselines,³² and in our experience coal mine companies consistently resist investing in onsite methane abatement when proposed during environmental impact assessment processes.³³
24. The already-weak decarbonisation incentive signal created by the Safeguard Mechanism is also liable to be obscured by other commercial factors at play in sectors in receipt of the Diesel Fuel Tax Credit. While this credit scheme technically reflects the removal of an excise otherwise payable for machinery and vehicles operated outside the public road

system, its effect is to subsidise diesel for many of the mineral and fossil fuel sector companies covered by the Safeguard Mechanism. Analysis commissioned by Climate Integrity found that the top 18 recipients of the Fuel Tax Credit in 2024/25 received a (collective) \$3.3 billion rebate for the diesel used that year; in comparison, compliance with Safeguard Mechanism obligations cost them an estimated \$150 million.³⁴ The price of an ACCU would have to increase exorbitantly for these emitters to be tangibly incentivised to invest in electric trucks and machinery to reduce onsite emissions, instead of continuing to use subsidised diesel and carbon credits.

25. The lack of material decarbonisation incentive under current Safeguard Mechanism settings has been identified by numerous stakeholders³⁵ – including investors – and, unsurprisingly, is manifest in the first two years of data since the 2023 reforms.
26. Aggregate gross emissions reductions from facilities covered by the Safeguard Mechanism fell by just 0.4% between 2023/24 and 2024/25, apparently mostly due to facilities temporarily exiting the scheme.³⁶ In 2024/25, companies used 10.8Mt worth of ACCUs to comply with baselines, compared to delivering just 0.5Mt of onsite emissions reduction.³⁷ The Department's consultation paper cites emissions modelling which forecasts that businesses will continue to rely on ACCUs to 2040 for baseline compliance.
27. We understand that data from the first two years of the reformed scheme does not by itself tell a conclusive story about the capacity of the Safeguard Rules to incentivise abatement. However, research by academics at Monash University which examined responsible emitters' corporate climate reports found that most companies' forward plans remain heavily reliant on carbon credits, with few concrete commitments to onsite abatement announced.³⁸ Given that transformative onsite abatement projects tend to have a long lead-time, if the Safeguard Mechanism were creating a material incentive to invest in such projects, one would expect to see more evidence of investments occurring now. Instead, several emission-intensive companies covered by the Mechanism have recently announced decisions to delay investment in onsite emissions abatement. In its 2026 and 2025 annual reports, BHP reported successive delays to emissions reduction expenditure, including the rollout of electric machinery at its WA iron ore mines, into the 2030s, having previously committed to a pre-2030 target;³⁹ Rio Tinto similarly reported deferring emissions reduction expenditure at its WA mines in its 2025 annual report.⁴⁰ These are not the actions of companies experiencing a material incentive to invest in onsite abatement.
28. The obvious consequence of the Safeguard Mechanism's present failure to create either a legal obligation or a material commercial incentive to invest in emissions reduction is that

cuts to emissions will be delayed, compared to the speed at which they could otherwise occur under stronger regulatory conditions.⁴¹ This is not consistent with the urgency clearly needed in stabilising atmospheric concentrations of greenhouse gas emissions, with the stringent standard required of Australia's domestic emissions mitigation measures under international law, or with the safeguard object in section 3(2)(e) of the NGER Act.

Problem 2: Indefinite and unlimited reliance on land sector abatement does not address causes of climate change

29. The Safeguard Mechanism is currently calibrated to cover approximately 30% of Australia's national emissions. Importantly, this does not mean the Mechanism requires covered industries to *deliver* a proportionate share of the national abatement task. Rather, because responsible emitters can access ACCUs for compliance, and because the majority of ACCUs are generated outside the sectors covered by the Mechanism,⁴² the abatement task is in fact split across industry and the land and waste sectors.
30. The problem with this, considered from the perspective of addressing climate change, is that carbon credits generated in the land sector lack the permanence to compensate for the release of greenhouse gases from fossil fuel extraction and use. While short-term carbon storage has a legitimate role to play in attempting to level out annual net emissions while decarbonisation technologies are developed and implemented, that role must be temporary or the overall volume of anthropogenic greenhouse gas emissions accumulating in the atmosphere will continue to increase. The Safeguard Mechanism, in contrast, currently treats the surrender of ACCUs as an end in itself. This is not consistent with the objectives of the UNFCCC and the Paris Agreement, with the object in section 3(2)(e) of the NGER Act, or with Australia's obligations under customary international law.
31. We note the comments and recommendations of the Climate Change Authority in its recent review of the ACCU scheme, where the Authority recommended examining whether ACCUs from 25-year permanence projects 'provide sufficient durability for safeguard compliance',⁴³ having found that 3.8 million 25-year permanence ACCUs were used in the first two years of the reformed Safeguard Mechanism's operation.⁴⁴
32. We also note the Federal Government's recent commitment that ACCUs generated using the new *Improved Native Forest Management Method* in the Great National Koala Park will not be able to be sold to coal and gas companies.⁴⁵ This implicitly accepts the scientific truth that land-sector carbon credits are not, scientifically speaking, fungible with fossil fuel emissions, and therefore are not an acceptable way of offsetting those emissions. We would welcome the application of this approach across the Safeguard Mechanism.

Problem 3: Lack of integrity in Safeguard Mechanism Credits entrenches delays in real emissions reduction

33. The Clean Energy Regulator must issue SMCs upon application by a responsible emitter if it is satisfied of the matters in section 56(3) of the Safeguard Rules, and if it has no evidence to suggest that relevant production and emissions data have been inaccurately reported.⁴⁶
34. The list of matters specified in subsection 56(3) of the Rules does not include any requirement that the gap between a facility's baseline and its reported covered emissions resulted from the deliberate avoidance or reduction of greenhouse gas emissions through investment in onsite abatement. In the two years since the introduction of SMCs, there have been numerous instances of responsible emitters receiving SMCs in circumstances where no durable emissions reductions have been achieved.
35. Shell has received 1.4 million SMCs for its Prelude gas terminal, corresponding not to any investment in reducing scope 1 emissions from the terminal's operation, but to unexpected breaks in operation which artificially (and temporarily) lowered the facility's emissions intensity. Shell will now – under current settings – be able to bank those SMCs indefinitely, potentially carrying the resulting integrity issues through well into the future, including into the period where ACCUs might otherwise have out-priced onsite abatement, hence delaying decarbonisation.
36. A similar phenomenon has occurred, and will continue to occur, from the change in reporting methods for the estimation of fugitive methane emissions from open-cut coal mines. The phasing out of Method 1 for fugitive emissions estimates from NSW open-cut coal mines resulted in sharp reductions in reported emissions from mines which shifted to Method 2. However, the use of industry-average factors for calculating baselines for these facilities meant that (in basic terms) the expected emissions intensity for these mines did not change. The result was a gap between reported emissions and facility baselines – and a corresponding gain of SMCs for the affected coal mine facilities. The responsible emitters have not invested in onsite decarbonisation, no transformative change has occurred in the coal industry – and, again, these emitters can now bank those SMCs indefinitely.
37. The impact of this issue in the NSW coal context was relatively minor, as many NSW mines were already using Method 2 – NSW coal mines collectively earned 351,039 SMCs for the 2024/25 financial year.⁴⁷ However, the issue could be much more consequential once Queensland coal mines complete the shift. One early example is the Hail Creek mine, where a shift in reporting method earned its responsible emitter Glencore approximately

\$9 million in SMCs – despite scientific research consistently finding extremely high levels of fugitive methane emissions from the mine.⁴⁸ Similarly, the Carmichael coal mine earned 351,232 SMCs worth approximately \$12.3 million (at an assumed \$35/t) for using an NGER method which would reduce its reported emissions compared to its assigned baseline in FY2023-24.⁴⁹

38. The implications of the Safeguard Rules' current settings for the coal industry are acknowledged in the Department's consultation paper. Essentially, the use of industry-average baseline factors across both open-cut and underground mines mean that open-cut mines – which usually have lower emissions intensity operations – have significant 'headroom' under their current baselines, and earn SMCs as a result. In 2024/25, coal mine facilities received over 2.2 million SMCs,⁵⁰ but there has not been any notable increase in the uptake of onsite emissions reduction technologies.⁵¹
39. A particular absurdity – from the perspective of trying to combat climate change – is the case where a coal mine operator can earn SMCs from a *new* coal project. MACH Energy is currently seeking approval to extend mining at its Mt Pleasant coal mine by 6 years, and to increase the quantity of coal mined at the site. Assessment documentation for the expansion project states that MACH anticipates generating 280,000 SMCs from the project.⁵² The company has not, as far as we can ascertain, committed to implementing any onsite abatement technologies at the mine; instead, it has promised to conduct an 'ongoing review into the feasibility of mitigation technologies that could be implemented at the mine'.⁵³
40. The possibility of large volumes of SMCs being issued in circumstances where they do not reflect the decarbonisation of Australian industry raises significant integrity questions around the level of actual emissions reduction being achieved by the Mechanism, and is not consistent with either the objects of the Safeguard Mechanism or with the standard required of an effective climate policy.

Problem 4: New coal projects unlikely to be caught by international best practice baseline rules

41. One of the means by which the Safeguard Mechanism is intended to encourage covered industries to invest in decarbonisation is the application of more stringent "international best practice" baseline requirements to 'new' facilities, and to the production of new materials at existing facilities.⁵⁴ However, ambiguities in how this policy setting has been implemented in the Safeguard Rules means that major expansions to existing coal and gas

facilities appear unlikely to be caught by the best practice requirements, even where there are available opportunities to invest in technologies to reduce onsite emissions.

42. A 'new facility' is one at which no measurable outputs listed among the production variables in the Safeguard Rules were produced at the facility from FY18 to FY23; otherwise, it is an existing facility.⁵⁵ Essentially, the emissions intensity factors used in calculating baseline allowances for existing facilities are a combination of historical emissions at the facility and the industry average, while the intensity factors used at new facilities or in relation to a new production variable at an existing facility reflect international best practice.
43. The clearest issue arises in relation to projects which implement a new type or site of production, sufficiently distinct from the existing facility to create the opportunity to invest in better onsite emissions reduction, without producing a new production variable or being distinct enough to no longer form part of the same 'facility', as defined in section 9 of the NGER Act and div 2.4 of the NGER Regulations.
44. An example is the recently-approved Lake Vermont Meadowbrook coal project, where the proponent Bowen Basin Coal Pty Ltd intends to commence underground longwall mining adjacent to the existing open-cut Lake Vermont mine. The Meadowbrook extension will produce the same output as the existing mine (run-of-mine coal), use existing coal processing infrastructure, and be operated by the same proponent. It seems likely, therefore, that the new underground mine will be classified as forming part of the same 'undertaking or enterprise' under the 'overall control' of the same proponent – thereby being absorbed within the existing facility for Safeguard Mechanism purposes. Further, because there are not distinct production variables for coal produced at open-cut vs underground mines under Sch 1 of the Safeguard Rules, the extension does not appear to add a new production variable which would otherwise attract the application of the international best practice rules to the existing Lake Vermont mine's baseline.
45. In effect, this means that a completely new underground mine, with some of the more attainable and effective emissions reduction options among Safeguard-covered industries, will not be required to comply with the more stringent rules which should cover precisely this type of development.
46. The Saraji East coal project recently approved by the Federal Government raises the same issue,⁵⁶ while a slightly different problem is posed by projects like the Narrabri coal expansion and the Ensham coal project, both of which will see the same type of mining extended into new pits or areas at existing mine sites.⁵⁷ It is not in keeping with the intention of the international best practice rules – or with Australia's legal obligation to use all

available means to reduce greenhouse gas emissions – for these kinds of projects, which are relevantly ‘new’ against the critical metric of capacity to invest in implement decarbonisation measures, not to be subject to best practice emissions intensity requirements.

Problem 5: True climate harms of methane neither recognised nor addressed adequately

47. The global warming effect of methane emissions is approximately 84-86 times greater than that of carbon dioxide over the medium-term timespan to which the Safeguard Mechanism applies. However, the much greater climate harms of methane emissions over shorter time periods are neither recognised nor addressed by the Safeguard Mechanism regulatory framework. This means that the Mechanism is not optimally calibrated to the goal of holding global warming to well below 2°C with limited overshoot.
48. The Safeguard Mechanism overlooks, underestimates and fails to stringently regulate methane emissions.
49. First, a 100-year factor is used to convert methane emissions into CO₂-e for Safeguard purposes, even though the operational lifespan of the Mechanism is only 23 years (from now). While there may be cogent reasons for retaining the 100-year GWP when devising general climate policy,⁵⁸ its use in this context artificially and unhelpfully disguises the relative climate harms of methane over the relevant 23-year time period. If a 20-year GWP factor were applied, the volume of greenhouse gas emissions attributable to fugitive methane emissions covered by the scheme would be much greater – and this would much more accurately recognise the true climate impacts of methane over the time period to which the Safeguard Mechanism applies.
50. Second, as has been recognised by the Federal Government and the Climate Change Authority, methods available to estimate and report fugitive methane emissions from open-cut coal mines under the NGER scheme have led to significant under-reporting.⁵⁹ Although significant progress has been made in improving methane reporting requirements following a series of recommendations by the Authority, recent studies indicate that under-reporting remains a problem. A 2026 study into Bowen Basin coalmines found that onsite measurement techniques measured emissions on average 2.5 times higher than estimates calculated using NGER Method 2,⁶⁰ while the International Energy Agency estimated that Australia’s coal industry emitted 1.7Mt of methane in 2025,⁶¹ compared to the most recent NGER data of 0.82Mt in 2024 (with no doubling of coal production from 2024 to 2025 to account for the increase in methane emissions).⁶² Thus, the quantity of scope 1 emissions

from the coal sector covered by the Safeguard Mechanism is likely to be much higher in reality than the on-paper volume – with real implications for the efficacy of the Mechanism in reducing climate harms from Australian industry.

51. Finally, the use of ACCUs for compliance and gaps in the application of international best practice baseline requirements are both prevalent amongst the coal facilities covered by the Safeguard Mechanism – and because coal facilities are responsible for the bulk of methane emissions covered by the Mechanism,⁶³ these issues are therefore particularly pertinent in relation to fugitive methane. According to our analysis of the 2024/25 Safeguard data, coal facilities together surrendered 5.1 million ACCUs for Safeguard compliance purposes in 2024/25, almost half of the total ACCUs used that year. The clearest examples of major expansion and extension projects escaping international best practice baseline requirements are coal projects – and, on average, 70% of the covered emissions from coal mines that ought to be subject to these baseline requirements are fugitive methane emissions.⁶⁴

Problem 6: Lack of forward-looking information may disguise the need for regulatory changes to achieve safeguard outcomes

52. The Minister is required, by section 22XS of the NGER Act, to consult on whether changes to the Safeguard Rules are necessary upon the provision of relevant advice from the Climate Change Authority or the Department Secretary. This is the primary feedback system within the regulatory framework to ensure that the Rules remain capable of achieving the safeguard outcomes. However, the sources of information which may trigger this feedback mechanism do not extend to forward-looking company- or facility-specific information about projected emissions or planned compliance approaches – both of which are necessary to understanding whether the Rules are consistent with the objectives of the Mechanism.

53. As a result of section 15A of the *Climate Change Act 2022* and section 24(3B) of the NGER Act, respectively, the Secretary obtains forward-looking emissions information about new or expanding safeguard facilities for which approval is sought from the Environment Minister, and backward-looking information about absolute and net safeguard emissions for the previous financial year. The Authority is required to undertake public consultation in relation to its annual advice to the Minister,⁶⁵ but there is no specification as to the type of information it must seek, nor any obligation on responsible emitters to provide any either to that consultation or otherwise.

54. Neither the Authority nor the Secretary is guaranteed to obtain any information, for the purposes of advising the Minister, about existing covered facilities' scope 1 emissions projections or responsible emitters' plans for meeting future baseline allowances. In particular, there is no ready source of information about the probable split between ACCU or SMC reliance and onsite abatement.
55. This information is essential to understanding whether the Safeguard Rules are aligned with achieving the safeguard outcomes – particularly the critical outcomes relating to gross emissions reduction and decarbonisation in sections 3(2)(d) and (e).
56. At the same time, it is not clear under section 22XS how slow onsite decarbonisation could be, and how entrenched reliance on ACCUs could become, before the standard of 'satisfaction' required for the Minister to consult on changing the Rules is met. We are of the view, as discussed at [20-[28] above, that it is already clear that amendments to the Rules are necessary because the overly flexible policy settings mean that the unacceptable level of ACCU reliance already present in the scheme is likely to continue for years to come. However, without a comprehensive and ongoing information-gathering process within the regulatory framework equivalent to the important research conducted by Vines et al, uncertainty will remain. This creates the clear risk of delays to necessary changes to the Rules – and corresponding delays in reducing emissions – especially given that there is no further review of the Mechanism scheduled to occur after this one.
57. The climate disclosure obligations under chapter 2M.3 of the *Corporations Act 2001* (Cth) mean that responsible emitters are now already required to prepare information about climate and transition risk including, specifically, planned reliance on carbon credits to achieve net emissions reductions.⁶⁶ As recommended below, it would be a logical and low-effort step to create a pathway to use this existing pool of information to fill the clear gap in the current feedback system for the Safeguard Mechanism.

Reform: recommendations to improve the capacity of the Safeguard Mechanism to meaningfully reduce greenhouse gas emissions

58. The Safeguard Mechanism forms a major component of the Australian Government's response to climate change. It was implemented as part of fulfilling Australia's obligations under international climate law and it is those obligations which therefore provide the most pertinent standard against which to evaluate the Mechanism's policy settings and performance.

59. We have found that the Safeguard Mechanism falls short of the heightened standard of due diligence required of Australia's domestic emissions mitigation measures as a developed state. The issues identified in the preceding section of the submission mean that it does not reflect Australia's best efforts to reduce anthropogenic emissions from industrial facilities in accordance with the urgency of that task and our relative economic capacity; it is not optimally designed to achieve deep, rapid and sustained reductions of GHG emissions, in accordance with the goals of the UNFCCC and the Paris Agreement, and with Australia's duty to prevent significant environmental harm; and it does not ensure that readily available emissions reduction technologies are implemented. It is also unlikely to ensure that the safeguard outcomes in sections 3(2)(d) and (e) are achieved, either at all or within the necessary timeframe to meaningfully contribute to the goals of the UNFCCC and Paris Agreement.

60. This is neither inevitable nor unavoidable.

61. Although the Safeguard Mechanism will only ever address a very small component of Australia's actual climate damage, and our overall responsibility will remain disproportionately high while we continue to produce huge volumes of coal and gas, the ability of the Safeguard Mechanism to perform the relatively small task that has been set for it could – and should – be dramatically improved.

62. The following recommendations would significantly strengthen the efficacy of the Safeguard Mechanism in delivering real emissions reduction and industrial decarbonisation, and we urge the Department to consider them.

Recommendation 1: amend the Safeguard Rules to introduce limits on the proportion of baseline compliance which can be met through the surrender of ACCUs.

Limits should be phased in over time, but with a view to the complete removal of land-sector ACCUs from the scheme by 2035. It may be appropriate to retain the ability to surrender like-for-like ACCUs (i.e., ACCUs which reflect the genuine avoidance of fossil fuel-sourced emissions and thus have a compatible degree of permanence could still be used, provided they meet critical integrity and additionality requirements). The Department should consider the benefits of differentiating the application of ACCU limits between sectors, according to independent analysis of available abatement options (for example, the CSIRO modelling referred to at [23] above). We refer the Department to the specific proposals put forward by Dr Ella Vines et al in their submission to this Review, and by the Climate Council.⁶⁷

Recommendation 2: amend the Safeguard Rules to discount the value of ACCUs when surrendered for baseline compliance.

The Department's consultation paper presents the above two reform options as alternatives. However, there is no reason why they should not both be introduced. In fact, implementing both would strengthen the policy and pricing signal in favour of onsite decarbonisation, influencing investment decisions while hard ACCU limits are phased in.

Recommendation 3: require responsible emitters to submit and publish onsite abatement plans.

The new requirement should specify that abatement plans must realistically set out the options available to the facility for reducing onsite emissions in compliance with declining baselines, and the steps the emitter intends to take to realise onsite abatement, along with the intended timeline of decarbonisation actions. The Department should identify and specify content requirements for the plans which would best support it, the CCA and the Minister to assess progress towards the safeguard outcomes, and enable useful comparisons to be made between facilities.

The requirements now imposed via the sustainability reporting framework in ch 2M.3 of the *Corporations Act 2001* (Cth) mean that responsible emitters are already required to prepare forward-looking emissions inventories, to assess the climate transition risks faced by their operations over time, and to describe any planned use of carbon credits. It would not be a significant additional burden on emitters to prepare abatement plans presenting largely the same information in a different context, and would strengthen the emerging – and important – norm promoting the disclosure by corporate actors of information about their contribution to the climate crisis.

Recommendation 4: amend the Safeguard Rules to require applications for SMCs to be accompanied by an independent audit demonstrating onsite emissions reductions.

Section 22XNA(3)(a) specifically provides that the Safeguard Rules may make provision in relation to applying for SMCs to be issued. The Rules should be amended to introduce a requirement that applications for SMCs are accompanied by proof that the SMCs sought would, if issued, reflect the avoidance of greenhouse gas emissions that would, but for deliberate onsite abatement activities undertaken by the applicant, have been caused. Such proof should be independently audited or, at least, include such material as reasonably necessary to enable the Clean Energy Regulator to perform its evaluation of the application's veracity.

Recommendation 5: amend the NGER Act to set an ambitious net emissions reduction target for 2035 that, at least, aligns with the upper end of Australia’s NDC and maintains the current proportionate share approach.

Australia’s NDC is not aligned with Australia’s fair share of the task required to avoid catastrophic global warming.⁶⁸ Ideally, the emissions reduction target for the Safeguard Mechanism should not be affected by this failure of ambition. However, at the very least a new 2035 target should be set which aligns to the upper end of Australia’s 2035 NDC.

Recommendation 6: set baseline decline rates for 2030 – 2035 that align with achieving an ambitious emissions reduction target. Consider steeper baselines for phase out facilities.

The Department should consider differentiating between facilities necessarily on a path to phase out by 2050 – i.e., coal and most gas production sites – and facilities in essential sectors requiring decarbonisation. Although non-fossil fuel facilities should not get a “free ride” under the Safeguard Mechanism, there are principled and logical reasons to separate the two classes of facilities. Coal and gas sites have proven abatement options available to them now and they are some of the highest-grossing emitters covered by the scheme. It is also unclear why the Mechanism should essentially require non-fossil fuel facilities to compete on the same footing with coal and gas for the carbon budget available under the scheme and for the pool of ACCUs and SMCs, when the pathway actually necessary for those facilities is not the reduction of onsite emissions, but rather their orderly exit from the economy.

We note that there is precedent for differentiation along these lines in the Safeguard Rules already, in sections 54(2) of the Rules and 35A of sch 1 to the Rules, which set 0t emissions intensity for shale gas facilities and reservoir CO₂ from new gas fields, respectively.

Recommendation 7: amend relevant provisions of the Safeguard Rule and NGER Regulations to better capture expansions or extensions with the capacity to invest in the latest onsite decarbonisation technologies.

A logical way of achieving this objective would be to, by default, apply the international best practice baseline rules to any project about which an emissions estimate has been provided by the Environment Minister under section 15A of the *Climate Change Act 2022*, unless the emitter can demonstrate that it is not possible to deploy onsite abatement technology in relation to production variables applicable to the project. An alternative trigger would be projects subject to the new requirement to disclose ‘greenhouse gas emissions information’ under section 84A of the EPBC Act.⁶⁹

Alternative approaches could consider amending the existing definitions of ‘facility’ and ‘new facility’ with a view to better aligning with the policy goal of encouraging investment in the latest emissions reduction technology – i.e., tying the definitions less to concepts of operational control and inter-related activities, and more to distinctions that may be material in the capacity to improve the emissions intensity of operations, such as the use of new/different production techniques or the expansion of operations into a new site.

Recommendation 8: amend the Safeguard Rules to eliminate headroom for open-cut coal mines, possibly through different baselines for open-cut and underground mines.

Recommendation 9: retain the exclusion of international carbon offsets.

Recommendation 10: commit to reviewing the Safeguard Mechanism again in 2029/30, at the latest.

As the Department has identified, only two years of data is not sufficient to provide a robust basis for the evaluation of the Safeguard Mechanism (although, where trends are obviously caused by factors within the scheme’s regulatory framework – such as the over-reliance on ACCUs for compliance – the story is more persuasive). The Government should commit to reviewing the Safeguard Mechanism again in 2029/30, at the latest, to assess whether the policy settings and Rules – including any amendments made as a result of this Review – are fit for purpose in meaningfully reducing greenhouse gas emissions from Australian industry. The specific parameters for the Review should not be determined now, but left open in order to avoid inadvertently blocking consideration of new issues which may emerge in coming years. However, the Review *should* focus on the efficacy of the Safeguard Mechanism as a climate policy, implemented in accordance with the UNFCCC and the Paris Agreement.

¹ See, e.g., comments by Anthony Albanese, Press Conference (16 September 2024) < <https://www.pm.gov.au/media/press-conference-parliament-house-canberra-29> >; Tanya Plibersek, Interview on ABC 730 (17 October 2024) < <https://www.tanyaplibersek.com/media/transcripts/abc-7-30-17-10-2024/> >; Murray Watt, Press Conference (19 June 2025) < <https://minister.dcceew.gov.au/watt/transcripts/doorstop-canberra> >.

² See, e.g., Murray Watt, Interview on ABC Radio National (26 August 2025) < <https://minister.dcceew.gov.au/watt/transcripts/interview-sally-sara-abc-radio-national-breakfast-0> >.

³ Most recently, the Saraji East coal project, with a government spokesperson saying, ‘The Albanese government remains committed to action on climate change and our net zero targets. That’s why we reformed the safeguard mechanism in our first term, to ensure the country’s biggest emitters begin the work to reduce their emissions. This site is subject to the safeguard mechanism.’: Graham Readfearn, ‘Australia’s new environmental protection agency approves coal project, angering climate groups’ (3 Sep 2026) <https://www.theguardian.com/environment/2026/sep/03/saraji-qld-bhp-bma-coal-project-approved-2055-angering-climate-groups>.

⁴ We refer the Department to our submission to the Climate Change Authority consultation on fossil methane, **attached**, at [35]-[41].

⁵ See Department of Climate Change, Energy, the Environment and Water, ‘Safeguard Mechanism Reforms: Consultation Paper’ (August 2022), 1, 5-7; the Hon. Chris Bowen MP, *Safeguard Mechanism (Crediting) Amendment Bill 2022 – Second Reading* (30 November 2022).

⁶ See the Revised Explanatory Memorandum for the National Greenhouse and Energy Reporting Bill 2007, Regulation Impact Statement, *A national system for streamlined greenhouse and energy reporting by business* (November 2006), 9-10, 16-19.

⁷ *United Nations Framework Convention on Climate Change* (FCCC/INFORMAL/84, 1992), art 2.

⁸ *Paris Agreement* (FCCC/CP/2015/10, 2015), art 2(a).

⁹ See, generally, Intergovernmental Panel on Climate Change Working Group III, *Climate Change 2022: Mitigation of Climate Change* (April 2022).

¹⁰ See ICJ AO, [202]-[207].

¹¹ UNFCCC, art 4(2)(a).

¹² UNFCCC, art 4(1)(b).

¹³ UNFCCC, art 4(1)(c).

¹⁴ *Paris Agreement*, art 4(2).

¹⁵ International Court of Justice, *Advisory Opinion on the Obligations of States with respect to Climate Change*, [132], [134], [139], [280] (‘ICJ AO’).

¹⁶ See UNFCCC, art 3(1); *Paris Agreement*, art 2(2).

¹⁷ International Court of Justice, *Advisory Opinion on the Obligations of States with respect to Climate Change*, [151].

¹⁸ Ellen Hey and Sophia Paulini, ‘Common but Differentiated Responsibilities’ (Oct 2021), *Max Planck Encyclopaedias of International Law*, Oxford Public International Law, < <https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e1568> >. See also ICJ AO, [179].

¹⁹ See UNFCCC, Annex I.

²⁰ ICJ AO, [134]-[135].

²¹ *Ibid.*

²² ICJ AO, [290].

²³ ICJ AO, [138].

²⁴ ICJ AO, [282].

²⁵ ICJ AO, [286].

²⁶ ICJ AO, [252].

²⁷ ICJ AO, [254].

²⁸ ICJ AO, [229].

²⁹ ICJ AO, [208].

³⁰ Climate Council, *Free Ride: How our biggest polluters are dodging their fair share* (August 2026), fig. 12 on p 30.

³¹ Courtney M Regan et al, 'Techno-economic assessment of coal fugitive methane abatement in Australia using currently available technology' (26 May 2026) 321 *International Journal of Coal Geology*, fig. 8 and section 4.2.

³² Ember, *Offset use by Australian coal mine surges 40% as methane emissions decline, driven by disruptions and accounting, not abatement* (29 April 2026) < <https://ember-energy.org/latest-updates/offset-use-by-australian-coal-mines-surges-40-as-methane-emissions-decline-driven-by-disruptions-and-accounting-not-abatement/>>; Andrew Gorringe, Institute for Energy Economics and Financial Analysis, 'The coal-fired carbon credit market' (27 August 2026) at <https://ieefa.org/resources/coal-fired-carbon-credit-market>.

³³ See, e.g., Whitehaven's refusal to consider pre-drainage of coal seams at its Winchester South mine: Qld Coordinator General, *Winchester South project: Coordinator-General's evaluation report on the environmental impact statement* (November 2023), 75; BHP's failure to commit to flaring methane at its new Saraji East coal mine: Qld Government, *EIS assessment report: Saraji East Mining Lease Project* (2025), 61.

³⁴ Climate Integrity, 'Conflicting Signals: How diesel rebates to big polluters are undermining the Safeguard Mechanism' (21 July 2026) at < <https://climateintegrity.org.au/latest/conflicting-signals-how-diesel-rebates-to-big-polluters-are-undermining-the-safeguard-mechanism>>.

³⁵ See, e.g., Climate Council, *Free Ride: How our biggest polluters are dodging their fair share* (August 2026); Investor Group on Climate Change, *Safeguard Mechanism Reforms: how to futureproof industry* (August 2026); Beyond Zero Emissions, 'When the Safeguard Mechanism counts an explosion as a win you know it's time for reform' (20 April 2026) < <https://www.bze.org.au/news-events/item/op-ed-when-the-safeguard-mechanism-counts-an-explosion-as-a-win-you-know-its-time-for-reform>>; Climate Analytics, *A fossil fuel free Australia* (13 September 2026).

³⁶ Naru Research, 'Reflections on the operation of the Safeguard Mechanism after two years of public data' (26 April 2026) at < <https://naruresearch.com.au/2025-safeguard-data/>>. See also Climate Council, *Free Ride: How our biggest polluters are dodging their fair share* (August 2026), fig. 8, 23.

³⁷ Naru Research, 'Reflections on the operation of the Safeguard Mechanism after two years of public data' (26 April 2026) at < <https://naruresearch.com.au/2025-safeguard-data/>>.

³⁸ We refer to findings contained in the submission to the Review made by Ella Vines et al, dated September 2026, in particular at pp 6-10. See also Reputex, *The Blueprint: Strengthening the Safeguard Mechanism – Policy Briefing Paper* (August 2026), 6.

³⁹ BHP, *Annual Report 2025* (2025), 42; BHP, *Annual Report 2026* (18 August 2026) 57. See also Angus Grigg et al, 'Leaked documents expose how BHP shelved its "urgent" plans to cut WA emissions' (25 May 2026) ABC News at < <https://www.abc.net.au/news/2026-05-25/bhp-leaked-documents-climate-emissions-cuts-delay-electric-truck/106706762>>.

⁴⁰ Rio Tinto, *Annual Report 2025*, 26, 48.

⁴¹ For a detailed discussion, see Veronica Shulz et al, 'A review of Australia's Safeguard Mechanism: Lessons from the EU ETS and pathways for reform' (2026) 212 *Energy Policy* 115190.

⁴² According to data released by the Clean Energy Regulator and analysed by Naru Research, 55.5% of ACCUs surrendered for Safeguard compliance in 2024/25 were generated under the human-induced regeneration and avoided deforestation methods: Naru Research, *Reflection on the operation of the Safeguard Mechanism after two years of public data* at < <https://naruresearch.com.au/2025-safeguard-data/>>.

⁴³ Climate Change Authority, *2026 Review of the Carbon Credits (Carbon Farming Initiative) Act 2011* (September 2026), 11.

⁴⁴ Climate Change Authority, *2026 Review of the Carbon Credits (Carbon Farming Initiative) Act 2011* (September 2026), 30.

⁴⁵ Peter Hannam, 'NSW koalas for carbon credits plan survives with federal Greens' support' (10 September 2026) *Renew Economy* < <https://reneweconomy.com.au/breaking-nsw-koalas-for-carbon-credits-plan-to-survive-with-federal-greens-support/>>.

⁴⁶ NGER Act, section 22XNA(1); Safeguard Rules, section 56(2).

⁴⁷ Clean Energy Regulator, *2024-25 Baseline and emissions data*.

⁴⁸ We refer the Department to our submission to the Climate Change Authority consultation on fossil methane, **attached**, at [32].

⁴⁹ Institute for Energy Economics and Financial Analysis, 'Australia's coalmine methane mirage: the urgent need for accurate emissions reporting' (17 April 2025) < <https://ieefa.org/resources/australias-coalmine-methane-mirage-urgent-need-accurate-emissions-reporting>>.

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- ⁵⁰ Clean Energy Regulator, *2024-25 Baseline and emissions data*.
- ⁵¹ Andrew Gorringe, Institute for Energy Economics and Financial Analysis, 'The coal-fired carbon credit market' (27 August 2026) at <https://ieefa.org/resources/coal-fired-carbon-credit-market>.
- ⁵² NSW Department of Planning, Housing and Infrastructure, 'Mount Pleasant Operation Modification 8: Modification Assessment Report' (August 2026), 26.
- ⁵³ NSW Department of Planning, Housing and Infrastructure, 'Mount Pleasant Operation Modification 8: Modification Assessment Report' (August 2026), 35.
- ⁵⁴ *National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment (Reforms) Rules 2023 – Explanatory Statement* (2023), [9]–[12].
- ⁵⁵ Safeguard Rule, rr 12, 29(2).
- ⁵⁶ This project involves an underground mine immediately adjacent to, and accessed through, an existing open-cut mine, and the use of existing processing infrastructure: BHP Mitsubishi Alliance, *Saraji East Mining Lease Project: Environmental Impact Statement – Chapter 3* (2024), 6.
- ⁵⁷ See Queensland Government, *Environmental Impact Statement (EIS) assessment report under the Environmental Protection Act 1994 Ensham Life of Mine Extension proposed by Ensham Joint Venture* (Nov 2021), 12; NSW Independent Planning Commission, *Narrabri Underground Mine Stage 3 Extension Project – Statement of Reasons for Decision* (1 April 2022), 3.
- ⁵⁸ See, e.g., Climate Analytics, 'Why using 20-year Global Warming Potentials (GWPs) for emission targets are a very bad idea for climate policy' (16 November 2017) at <https://climateanalytics.org/publications/why-using-20-year-global-warming-potentials-gwps-for-emission-targets-are-a-very-bad-idea-for-climate-policy>.
- ⁵⁹ See the Climate Change Authority's 2023 review of the NGER scheme, especially chapter 4.
- ⁶⁰ *Ibid.*
- ⁶¹ IEA, *Global Methane Tracker 2026*, p 74 <<https://iea.blob.core.windows.net/assets/8a2639fd-7883-4fe7-bbe7-4f97bc39e2ff/GlobalMethaneTracker2026.pdf>>.
- ⁶² National Greenhouse Accounts – UNFCCC/Paris Agreement inventory, at <https://www.greenhouseaccounts.climatechange.gov.au/>.
- ⁶³ Of the top 50 methane emitters in the 2024/25 Safeguard data, 36 were coal mining facilities.
- ⁶⁴ Andrew Gorringe, Institute for Energy Economics and Financial Analysis, 'The coal-fired carbon credit market' (27 August 2026) at <https://ieefa.org/resources/coal-fired-carbon-credit-market>.
- ⁶⁵ *Climate Change Act 2022*, s 14(3A).
- ⁶⁶ *Australian Sustainability Reporting Standard: Climate-related Disclosures* (AASB S2, September 2024), s 36(e).
- ⁶⁷ Climate Council, *Free Ride: How our biggest polluters are dodging their fair share* (August 2026), 39–40.
- ⁶⁸ Such a target would be at least a 76% reduction on 2005 emissions: Climate Analytics, *A blueprint for climate leadership: 1.5°C aligned climate targets for Australia* (September 2025).
- ⁶⁹ Noting that the anticipated threshold for this requirement to apply has not yet been prescribed.