



Environmental
Defenders Office

Submission to the Safeguard Mechanism Review

18 September 2026

About EDO

EDO is a community legal centre specialising in public interest environmental law. We help people who want to protect the environment through law. Our reputation is built on:

Successful environmental outcomes using the law. With over 40 years' experience in environmental law, EDO has a proven track record in achieving positive environmental outcomes for the community.

Broad environmental expertise. EDO is the acknowledged expert when it comes to the law and how it applies to the environment. We help the community to solve environmental issues by providing legal and scientific advice, community legal education and proposals for better laws.

Independent and accessible services. As a non-government and not-for-profit legal centre, our services are provided without fear or favour. Anyone can contact us to get free initial legal advice about an environmental problem, with many of our services targeted at rural and regional communities.

Submitted to:

Safeguard Mechanism Taskforce

Department of Climate Change, Energy, the Environment and Water

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Acknowledgement of Country

The EDO recognises and pays respect to the First Nations peoples of the lands, seas and rivers of Australia. We pay our respects to the First Nations Elders past and present and aspire to learn from traditional knowledges and customs that exist from and within First Laws so that together, we can protect our environment and First Nations Cultural Heritage through both First and Western laws. We recognise that First Nations Countries were never ceded and express our remorse for the injustices and inequities that have been and continue to be endured by the First Nations of Australia and the Torres Strait Islands since the beginning of colonisation.

EDO recognises the right to self-determination of First Nations peoples, including their right to freely determine their own political status and freely pursue their economic, social and cultural development. This extends to recognising the many different First Nations within Australia and the Torres Strait Islands, as well as the multitude of languages, cultures, protocols and First Laws.

First Laws are the laws that existed prior to colonisation and continue to exist today within all First Nations. It refers to the learning and transmission of customs, traditions, kinship and heritage. First Laws are a way of living and interacting with Country that balances human needs and environmental needs to ensure the environment and ecosystems that nurture, support, and sustain human life are also nurtured, supported, and sustained. Country is sacred and spiritual, with culture, First Laws, spirituality, social obligations and kinship all stemming from relationships to and with the land.

A note on language

We acknowledge there is a legacy of writing about First Nations peoples without seeking guidance about terminology. We also acknowledge that where possible, specificity is more respectful. For the purpose of this submission, we have chosen to use the term First Nations. We acknowledge that not all First Nations will identify with that term and that they may instead identify using other terms or with their immediate community or language group.

First Laws is a term used to describe the laws that exist within First Nations. It is not intended to diminish the importance or status of the customs, traditions, kinship and heritage of First Nations in Australia. EDO respects all First Laws and values their inherent and immeasurable worth. EDO recognises there are many different terms used throughout First Nations for what is understood in the Western world as First Laws.

Executive summary

EDO welcomes the opportunity to contribute to the consultation on the 2026-7 Review of the Safeguard Mechanism.

The United Nations recently warned that global temperature rise is set to cross 1.5°C in the next few years, “pushing climate risks and impacts to increasingly dangerous heights”, however it is still possible to bring temperatures down and meet the global goals of the Paris Agreement if effective action is taken swiftly.¹

The Safeguard Mechanism is Australia’s primary policy to drive down domestic climate pollution from mining (including coal), manufacturing, transport, oil, gas and waste. However, as currently configured, the policy is failing to reduce emissions at the rate needed to help Australia fulfil its obligations to limit as far as possible the harmful impacts of climate change. The scheme is designed to require the highest greenhouse gas emitting facilities to reduce their emissions in line with Australia’s emission reduction targets of 43% below 2005 levels by 2030 and net zero by 2050.²

According to its legislative objects, the purpose of the scheme is to contribute to the achievement of Australia’s emissions reduction targets by ensuring that the ‘Safeguard Outcomes’ are achieved. These outcomes include, but are not limited to, ensuring that emissions decline to net zero by 2050 and creating a ‘material incentive’ for facilities to invest in reducing covered emissions from their operations.³ However, analysis of the most recent data shows that major polluters continuously covered under the Safeguard Mechanism have only reduced on-site emissions by 0.4% between the first and second years of the reformed scheme.⁴

The scheme is failing to sufficiently reduce emissions due to a variety of factors, including:

- the availability of unlimited relatively low-cost carbon offsets;
- limited on-site abatement; and
- the failure to prevent or properly address continued fossil fuel expansion.

It is clear that the Safeguard Mechanism requires significant reform. The scheme must be improved to ensure that it materially and permanently reduces Australia’s greenhouse gas emissions, drives onsite abatement, limits reliance on carbon offsets and appropriately differentiates between industries. The 2026 Safeguard Mechanism Review is an important

¹ United Nations Environment Programme, ‘Limiting Overshoot: Navigating Exceedance of 1.5° and Pathways Towards Return’ (Report, 2026) <<https://www.unep.org/resources/limiting-overshoot-navigating-exceedance>>.

² Clean Energy Regulator, ‘Safeguard Mechanism’ (Web Page, 13 April 2026) <<https://cer.gov.au/schemes/safeguard-mechanism>>.

³ Section 3(2) *National Greenhouse and Energy Reporting Act 2007* (Cth) (**NGER Act**).

⁴ Naru Research, ‘Reflections on the Operation of the Safeguard Mechanism after Two Years of Public Data’ (26 April 2026) 3 <<https://naresearch.com.au/wp-content/uploads/2026/04/Safeguard-2024-25-data-release.pdf>>.

opportunity to improve the scheme's broken structure and help move Australia closer to meeting our national emissions reduction goals. It is also an important opportunity to consider the broader climate policy Australia needs to meaningfully reduce emissions and address Australia's full contribution to climate change. It is critical that Australia's response to climate change is appropriately aligned with our international legal obligations, particularly our fair share as a high-income nation that has profited significantly from the known lead cause of climate change - the burning of fossil fuels.

As confirmed by the International Court of Justice, under international law Australia has a duty to use all means at its disposal to prevent activities carried out within its jurisdiction or control from causing significant harm to the climate and environment.⁵ The Court clarified that this includes reducing emissions, both in terms of fossil fuel production and consumption, irrespective of where the fuel is burned. All Australians are entitled to the protection, realisation and fulfilment of the human right to a healthy environment, as recognised by the United Nations General Assembly and reaffirmed by the International Court of Justice.⁶ Australia's duty to uphold human rights, including the rights of First Nations people, requires the Safeguard Mechanism to be significantly more effective at emissions reduction.

In alignment with international obligations, Australia must implement policies that support an orderly and fair phase out of the production, use and export of fossil fuels, supporting workers and communities affected by the energy transition. Climate science clearly indicates that the only path for avoiding catastrophic warming is to rapidly phase out the use of fossil fuels globally.⁷ The Safeguard Mechanism should reflect this reality by appropriately differentiating fossil fuel facilities under the scheme.

Australia's climate policy must be grounded in science, consistent with international obligations, and deliver both rapid emissions reductions and strong environmental protection. Climate change poses profound and systemic risks to Australia, with climate impacts already being felt across the nation through drought, flooding, fires and increasing intensity of other extreme weather events.⁸ Rather than experiencing a gradual shift, the country is facing rapid, compounding environmental changes that directly threaten public health, critical infrastructure, economic stability, and unique natural ecosystems. These escalating physical hazards, ranging from rising sea levels and coastal

⁵ International Court of Justice, *Obligations of States in Respect of Climate Change* [2025] ICJ Rep 187 <<https://www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf>>, (ICJ Advisory Opinion), [457] finding B(a).

⁶ UN General Assembly, *The human right to a clean, healthy and sustainable environment*, UN Doc. A/RES/76/300 (28 July 2022) (UNGA Resolution 76/300); International Court of Justice, *Obligations of States in Respect of Climate Change* (Advisory Opinion) [2025] ICJ Rep 1 [393].

⁷ Climate Analytics, 'Halve Fossil Fuels Within a Decade to Avoid Catastrophic Climate Damage' (Web Page, 16 June 2026) <<https://climateanalytics.org/press-releases/halve-fossil-fuels-within-a-decade-to-avoid-catastrophic-climate-damage>>.

⁸ Australian Climate Service, 'Australia's National Climate Risk Assessment' (2025) <<https://www.acs.gov.au/pages/national-climate-risk-assessment>>.

erosion to catastrophic heatwaves and ocean warming, disrupt daily life and place unprecedented pressure on emergency management, food and water security, and community resilience nationwide.⁹

The ICJ Advisory Opinion should guide the review of the Safeguard Mechanism and broader complementary reform of Australian climate policy. The review is a significant opportunity for Australia to align domestic policy with international legal obligations, as well as to mitigate further legal risks posed by not complying with those obligations.

⁹ Ibid.

Recommendations

Recommendations for Safeguard Mechanism Reform

Align with the 2035 target

- **Recommendation 1: Align the scheme with, at minimum, the top end of Australia's 2035 climate target** (70% reduction on 2005 levels).
- **Recommendation 2: Legislate new Safeguard Outcomes for 2030-2035** under the *National Greenhouse and Energy Reporting Act 2007* (Cth) (**NGER Act**) which cap net and gross emissions consistent with the 2035 target.

Drive meaningful emissions reduction and differentiate fossil fuel facilities

- **Recommendation 3: Differentiate between fossil fuel facilities** and future economy industries and impose stricter emissions reduction obligations on fossil fuel facilities, in recognition of the need for a fossil fuel phase out, their contribution to emissions under the scheme and higher financial and technical capacity for abatement. The government should consider the full suite of policy options available to effect differentiation, including increasing the decline rate for fossil fuel facilities under the scheme, and setting zero baselines for all new fossil fuel developments.
- **Recommendation 4: Limit the ability of facilities to rely on Australian Carbon Credit Units (ACCUs) to comply with baseline obligations.** Facilities should only be permitted to utilise ACCUs after all possible on-site abatement has taken place. Facilities should be required to phase down their ACCU use over a defined time period - with the exception of fossil fuel facilities who should be immediately prohibited from relying on ACCUs where abatement is possible. Submission of abatement plans should be required.
- **Recommendation 5: Major fossil fuel extensions and expansions should be subject to best practice emissions reduction rules**, removing the loophole currently facilitating avoidance of their application.
- **Recommendation 6: Comprehensively review the scheme's price rules for ACCUs** to support the objective of incentivising on-site abatement.
- **Recommendation 7: Consider the adoption of a 20-year Global Warming Potential (GWP) conversion factor for methane emissions** under the Safeguard Mechanism.

Improve credit integrity

- **Recommendation 8: Ensure that Safeguard Mechanism Credits (SMCs) reflect genuine emissions avoidance.** Facilities should be required to prove that emissions savings resulted from investment in emissions reduction technology. Additionally, limitations should be placed on the ability to 'bank' SMCs for use in the future.

- **Recommendation 9: Restrict the vintage of offset surrender** to create a link between the timing of abatement and the emissions it offsets and increase the likely integrity of offsets surrendered.
- **Recommendation 10: Expressly prohibit international carbon offsets** for Safeguard Mechanism compliance.

Reform the scheme before expansion

- **Recommendation 11: Maintain the current scheme coverage threshold, until the recommended reforms have been effectively implemented.**

Broader climate policy reform recommendations

- **Recommendation 12: Reform of Australian climate policy requires effective and ongoing engagement with First Nations and opportunities for First Nations to participate in and benefit from the energy transition.** Compliance with international law and a just energy transition requires the implementation of the *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)* including Free, Prior and Informed Consent (**FPIC**) at all levels and decision points regarding climate policy.
- **Recommendation 13: To comply with our international legal obligations and achieve rapid emissions reduction, Australia should implement an orderly and fair phase out of fossil fuel production, use and export.** New fossil fuel projects and expansions cannot be approved and existing projects must be phased out to reduce the worst impacts of climate change.
- **Recommendation 14: Federal environmental assessment of projects should ensure consistency with the Safeguard Mechanism and Australia's carbon budget and give scope 3 emissions from the burning of coal and gas appropriate weight.** Climate considerations should be expressly included in the *Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act)* and exported emissions should be considered in national reporting frameworks and environmental assessment regimes as pollution Australia is enabling to occur.
- **Recommendation 15: Emissions reporting must be improved to ensure an accurate understanding of how Australia is meeting its emissions reduction targets, particularly in regard to methane emissions.** As reducing methane will assist in slowing warming over the next decade, proper understanding of methane emission contributions and accelerating fossil methane abatement must be a priority for the government.
- **Recommendation 16: The Fuel Tax Credit should be amended to ensure consistency with the objectives of the Safeguard Mechanism.**

Recommendations for Safeguard Mechanism reform

EDO recommends the following reforms to improve the operation of the Safeguard Mechanism and ensure the scheme meets the objectives of the legislation and contributes to the achievement of Australia's emissions reduction obligations.

The below recommendations propose improving the scheme by phasing down reliance on carbon offsetting, requiring and incentivising on-site abatement and increasing meaningful emissions reduction.

Align with the 2035 target

Align the scheme with the top end of Australia's 2035 climate target

Recommendation 1: Align the scheme with, at minimum, the top end of Australia's 2035 climate target (70% reduction on 2005 levels).

Without reform the current settings for the Safeguard Mechanism (including the current scheme decline rate) will not meet Australia's 2035 climate target.¹⁰ Accordingly, aligning the scheme with, at minimum, the top end of the 2035 target is essential. The Climate Council have explained that "[a]ligning the Safeguard Mechanism with at least the top-end of the 2035 target range is also critical to manage potential underperformance" given the "potential for higher fossil fuel production, revised methane estimates, or unexpected headwinds to abatement technologies".¹¹

Aiming for the top-end of the range accommodates these risks to ensure they don't jeopardise the achievement of the target.¹² For example, the aforementioned ACF/Climate Council commissioned RepuTex modelling demonstrated that improving Australia's measurement of fossil fuel methane emissions (currently under-reported by approximately 60%)¹³ would lift Safeguard emissions by 18% to 2035 and risk the achievement of the 2030 carbon budget.¹⁴

Adopting a higher scheme decline rate is necessary to achieve the top end of the target range. While outside of EDO's expertise, recommendations from relevant stakeholders are currently sitting at a scheme level annual decline rate of 7% to align with the top end of

¹⁰ Climate Council, 'Free Ride: How Our Biggest Polluters are Dodging Their Fair Share' (Report, 2026) 35 <<https://www.climatecouncil.org.au/wp-content/uploads/2026/08/Free-Ride-How-our-biggest-polluters-are-dodging-their-fair-share.pdf>>.

¹¹ Ibid.

¹² Ibid.

¹³ IEA, 'Global Methane Tracker' (2025) <<https://www.iea.org/reports/global-methane-tracker-2025>>.

¹⁴ Australian Conservation Foundation, 'New Modelling: Coal and Gas Giants Gaming the System' (Media Release, 31 March 2026) <<https://www.acf.org.au/news/new-modelling-coal-and-gas-giants-gaming-the-system>>.

the 2035 target.¹⁵

Legislate new Safeguard Outcomes

Recommendation 2: Legislate new Safeguard Outcomes for 2030-2035 under the *National Greenhouse and Energy Reporting Act 2007* (Cth) (**NGER Act**) which cap net and gross emissions consistent with the 2035 target.

The Australian Government has set a target to reduce emissions to 62-70% below 2005 levels by 2035. The Safeguard Outcomes in the NGER Act should be amended to cap net and gross emissions in consistency with this national target.

Drive meaningful emissions reduction and differentiate fossil fuel facilities

The scheme should differentiate fossil fuel facilities and increase their emissions reduction obligations

Recommendation 3: Differentiate between fossil fuel facilities and future economy industries and impose stricter emissions reduction obligations on fossil fuel facilities, in recognition of the need for a fossil fuel phase out, their contribution to emissions under the scheme and higher financial and technical capacity for abatement. The government should consider the full suite of policy options available to effect differentiation, including increasing the decline rate for fossil fuel facilities under the scheme, and setting zero baselines for all new fossil fuel developments.

Fossil fuel facilities should be differentiated under the Safeguard Mechanism for various reasons, including recognising the scientific need for a fossil fuel phase out, their significant contribution to pollution covered under the scheme, and their financial and technical abatement capacity. As noted by the Climate Council, “[p]lacing greater near-term emphasis on abatement from sectors that are responsible for the greatest shares of pollution, have proven abatement technologies ready for deployment, and have the financial resources to deploy them, can ensure the SGM delivers the maximum abatement.”¹⁶

There is already precedent for differential treatment of facilities under the scheme (such as the zero baseline requirement for shale gas facilities), and recently the government agreed to effect differential treatment of fossil fuel facilities in regard to the use of a particular

¹⁵ For example, the Investor Group on Climate Change has recommended setting an average decline rate of 7% from 2031 to 2035, aligned with the top of the 2035 target range, with differential rates calibrated to sector-specific circumstances: Investor Group on Climate Change, ‘Safeguard Mechanism Reforms: How to Futureproof Industry’ (17 August 2026) <<https://igcc.org.au/safeguard-mechanism-reforms-how-to-futureproof-industry/>>.

¹⁶ Climate Council, ‘Submission to Climate Change Authority 2026 Annual Progress Advice Consultation Paper’ (2026), 15.

ACCU method.¹⁷ Fossil fuel facilities should be differentiated under the Safeguard Mechanism as industries that should be phased out, as distinct from industries which should be supported to continue and decarbonise.

EDO proposes a reframe of fossil fuel facilities under the scheme as "phase out facilities" in recognition of the need to implement policies that support an orderly and fair phase out of the production, use and export of fossil fuels in order to limit as much as possible catastrophic warming (as discussed below). The title of this proposed new category makes the rationale for differentiation explicit (fossil fuel phase out) and creates a clear way to apply different and more stringent rules for fossil fuel facilities.

In order to reach net zero by 2050 and limit the degree of 1.5°C overshoot, recent Climate Analytics analysis recommended the Safeguard Mechanism framework operate in consistency with a fossil fuel phase-out and ambitious reductions in direct emissions.¹⁸ Under current policy settings the analysis found that the scheme would not sufficiently reduce direct emissions to achieve Australia's emissions goals and limit overshoot.¹⁹

To align the scheme with the necessity of fossil fuel phase out and increase direct emissions reduction, differentiation of fossil facilities is vital. The government should consider the full suite of policy options available to effect differentiation,²⁰ including increasing the decline rate for fossil fuel facilities under the scheme, and setting zero baselines for all new fossil fuel developments.²¹ If differential annual decline rates are imposed from 2031 onwards, this differential treatment should be recognised in legislation.²²

In addition to imposing differential annual decline rates, the government should also consider the potential for establishing sectoral trading schemes (e.g. limiting fossil fuel facilities to SMCs generated by like facilities), rather than allowing fossil fuel facilities to

¹⁷ Minister for Climate Change and Energy (Hon Chris Bowen MP) and Assistant Minister for Climate Change and Energy (Hon Josh Wilson MP), 'Joint Media Release: Senate to Endorse Practical Action on Climate' (Media Release, 10 September 2026) <<https://minister.dcceew.gov.au/bowen/media-releases/joint-media-release-senate-endorse-practical-action-climate>>.

¹⁸ Thomas Houlie et al, 'A Fossil-Free Australia: An Ambitious Paris-Aligned Phase-Out of Coal, Gas and Oil from the National Energy System' (Report, September 2026) Climate Analytics, 155 <<https://climateanalytics.org/publications/a-fossil-free-australia>>.

¹⁹ Ibid 96.

²⁰ Naru Research explains there are multiple ways to implement differentiation, and that ultimately "rather than a single solution, a combination of approaches is likely to most effectively deliver against the country's emissions reduction goals": Naru Research, 'Response to the Climate Change Authority's 2026 Annual Progress Advice Consultation Paper' (Submission, 9 August 2026) 11 <<https://naruresearch.com.au/wp-content/uploads/2026/08/Safeguard-CCA-2026-submission.pdf>>.

²¹ Climate Council has recommended setting the best-practice limits for coal, oil, and gas developments to zero: Climate Council n 10, 45.

²² As per the proposal put forward by the Australian Conservation Foundation in their submission to the Climate Change Authority's Annual Progress Advice Consultation (2026).

access the same compliance market as facilities that have a place in Australia's future economy. A further differentiation recommendation is made below in regard to limitation of ACCU use for fossil fuel facilities.

Finally, consideration should be given to lowering the coverage threshold for shale gas facilities, which are already differentiated under the scheme via a zero baseline requirement.²³ For shale gas facilities operating in the Northern Territory specifically, this would ensure consistency with the recommendations made by the Pepper Inquiry (2018).²⁴ The Inquiry recommended that there should be no net increase in the life cycle emissions emitted in Australia from any onshore shale gas produced in the Northern Territory ('Recommendation 9.8').²⁵ However, Naru Research has calculated that more than 95% of emissions from shale gas projects in the Northern Territory (Beetaloo Basin) this decade will attract no offset requirement.²⁶ This is in large part due to the fact that appraisal projects are remaining under the Safeguard Mechanism's annual coverage threshold.²⁷ Accordingly, lowering the coverage threshold for shale gas facilities would contribute to partial satisfaction of Recommendation 9.8 of the Pepper Inquiry, by ensuring that projects are subject to the scheme's zero baseline/offsetting requirements for shale gas.

In line with the coverage recommendation below (see Recommendation 11), such a reform should not be pursued until the other recommended reforms have been implemented.

Limit reliance on carbon offsets and drive on-site abatement

Recommendation 4: Limit the ability of facilities to rely on Australian Carbon Credit Units (ACCUs) to comply with baseline obligations. Facilities should only be permitted to utilise ACCUs after all possible on-site abatement has taken place. Facilities should be required to phase down their ACCU use over a defined time period - with the exception of fossil fuel facilities who should be immediately prohibited from relying on ACCUs where abatement is possible. Submission of abatement plans should be required.

The consultation paper recognises that "access to a significant supply of lower-cost ACCUs could delay the on-site abatement needed to deliver Australia's future climate goals". Safeguard Mechanism facilities are overwhelmingly opting to offset as the generally easiest and cheapest compliance option. Unlimited access to relatively low-cost carbon offsets is undermining the regulatory signal set by the declining baselines of the Safeguard

²³ Shale gas facilities receive differential treatment under the National Greenhouse and Energy Reporting (Safeguard Mechanism) Rule 2015, made under s 22XS of the NGER Act.

²⁴ Hon Justice Rachel Pepper, 'Final Report: Scientific Inquiry Into Hydraulic Fracturing in the Northern Territory' (April 2018) <https://frackinginquiry.nt.gov.au/_media/documents/final-report/Complete-Final-Report_Web.pdf>.

²⁵ Ibid 239.

²⁶ Naru Research, 'Regulation of Shale Gas in the Beetaloo Basin, the Federal Safeguard Mechanism and Pepper Inquiry Recommendation 9.8' (3 September 2026) 2 <<https://naruresearch.com.au/wp-content/uploads/2026/09/Beetaloo-Pepper-and-the-SGM.pdf>>.

²⁷ Ibid 7.

Mechanism. The ability to rely on offsets disincentivises facilities investing in generally more expensive or less certain investments in on-site emissions abatement.²⁸

All carbon offsets suffer from inherent integrity issues. A recent report by The Australia Institute explained that “[t]he danger lies in treating each unit of purported project-based carbon abatement as equivalent to an actual unit of fossil fuel emissions and allowing the former to be used as an offset for the latter”.²⁹ Carbon trading accordingly relies on an assumption of carbon “counterbalancing” that “is only logically possible if the traded carbon credit has impeccable environmental integrity”.³⁰ Yet as the authors argue, while integrity issues can be improved, they can never be completely eliminated.³¹

When it comes to integrity issues, ACCUs surrendered for compliance under the Safeguard Mechanism are no exception. There is evidence that due to integrity issues the vast majority of ACCUs are not resulting in real emissions reductions, as the specific ACCU methods preferred under the scheme “do not reliably represent additional and permanent abatement equivalent to the actual industrial emissions that they purportedly offset”.³²

In the Safeguard Mechanism’s second year, three methods (human-induced regeneration projects, landfill gas projects and avoided deforestation projects) cumulatively provided 82% of the ACCUs surrendered in 2024-25.³³ Accordingly, more than three-quarters of ACCUs surrendered were issued under methods that are widely viewed as having “on-going, significant, and unresolved integrity issues”.³⁴ Moreover, there is a significant issue with the fact that methane emissions from fossil fuel facilities are being offset by land sector carbon offsets which fail to appropriately compensate for the near-term climate impact of atmospheric methane emissions.

In order to drive meaningful emissions reduction, the scheme should require facilities to achieve genuine on-site emissions reductions rather than relying primarily on offsets. To this end, EDO recommends only permitting facilities to utilise carbon offsets to compensate for excess emissions after all possible on-site abatement has taken place. There is no acceptable rationale for permitting the use of offsets when direct on-site pollution cuts are possible.

Facilities should be required to phase down their ACCU use as swiftly as possible over a defined time period - with the exception of fossil fuel facilities who should be immediately

²⁸ Climate Council n 10, 39.

²⁹ Fergus Green and Frances Medlock, ‘Safeguarding the Fossil Fuel Industry? How Carbon Offsetting Undermines the Safeguard Mechanism’, The Australia Institute (Report, June 2026) 13 <<https://australiainstitute.org.au/wp-content/uploads/2026/06/P2030-Safeguarding-the-Fossil-Fuel-Industry.pdf>>.

³⁰ Ibid.

³¹ Ibid 15.

³² Ibid 6.

³³ Naru Research n 4, 6.

³⁴ Ibid.

prohibited from relying on ACCUs where abatement is possible. Due to their financial and technical abatement capacity and contribution to pollution under the scheme, fossil fuel facilities should be carved out from a broader phase down policy and immediately prohibited from surrendering carbon offsets for residual emissions where abatement is possible. The reasonable “possibility” of abatement would be a determination for government, which would permit sufficient flexibility to acknowledge the varying abatement challenges faced by different facilities.

In regard to limiting ACCU use, the consultation paper raised three approaches for consideration: quantitative limits, discounting and qualitative restrictions. In line with the above phase down recommendation, EDO supports a variation of the first proposal (quantitative limits) - limiting the volume of offsets facilities can use in line with a phase down policy, with the other proposed options as potential complementary measures.

To support the use of offsets as a last resort, the scheme should require submission of carbon abatement plans preferencing on-site abatement and justifying why (if any) ACCUs are intended to be used, as well as outlining a plan to phase down that use. Submission of abatement plans would help to reinforce the message that offsets are a compliance option of last resort, and to ensure that facilities have a clear plan for on-site abatement investment and implementation.

Under current settings, if a facility surrenders ACCUs totalling more than 30% of its baseline it is required to explain what is preventing on-site emissions reduction.³⁵ This reactive approach is insufficient. Facilities should be required to establish at the outset a plan to prevent such over reliance. The consultation paper notes that the Climate Change Authority has made a similar proposal to require facilities to submit compliance strategies to improve transparency around planned on-site abatement.

Major fossil fuel extensions and expansions should be subject to best practice emissions reduction rules

Recommendation 5: Major fossil fuel extensions and expansions should be subject to best practice emissions reduction rules, removing the loophole currently facilitating avoidance of their application.

The scheme holds new entrants to emissions intensities that represent international best practice. However, operators are currently able to bring in new activities under the guise of expansion activities for existing facilities under the scheme. Accordingly, new activities classed in this way enjoy inappropriately lenient emissions reduction requirements. This is evident particularly regarding new coal mine activities in NSW, which are being brought in as expansions or extensions of existing facilities.

³⁵ Section 72C National Greenhouse and Energy Reporting (Safeguard Mechanism) Rule 2015.

Expansions and extensions of fossil fuel projects should be required to meet best practice emissions reductions rules where they are increasing emissions. To achieve this, they should constitute new facilities under the scheme. Applying best practice emissions standards would increase the volume of pollution held to these standards and accordingly lower the Safeguard Mechanism's net pollution.³⁶ RepuTex modelling found that applying best practice baselines to all emissions from expansions and extensions at existing coal mines and LNG facilities would lead to the volume of emissions under best practice baselines increasing over 2.7 times by 2035 and create a reduction in net emissions of 7% by 2035.³⁷

Classifying fossil fuel expansions and extensions as new facilities would also more accurately fulfil the legislative purpose of the scheme's differentiation of standards between new and existing facilities. As explained by Naru Research, applying more stringent international best practice standards to new facilities "was a negotiated outcome through the reform secured by the cross-bench in exchange for passage of the laws" out of an intention to capture a series of proposed new large fossil-fuel expansions.³⁸ Accordingly, allowing major fossil fuel expansions to be considered expansions of the activities of existing facilities effectively permits the use of a loophole that runs counter to the purpose of the legislative differentiation.

An illustrative example is provided by the proposed Browse gas project. The project proposes to exploit Australia's largest undeveloped offshore gas resource, releasing up to 1.6 billion tonnes of greenhouse gas emissions. There is a possibility that the Browse project will be deemed to be part of an existing LNG facility (where the gas will be processed), rather than as a new facility. By attaching this new project to an existing facility, the application of best practice emissions reduction rules could be avoided. It has been calculated that this could save the proponent "in the order of \$210 million in offsetting requirements between the start of production at Browse and 2050".³⁹ While Browse's reservoir carbon dioxide emissions must be fully offset (regardless of its new or existing facility status), the remainder of the project's emissions (such as those resulting from the combustion of fuel gas offshore to power the floating production, storage and offloading vessels, etc) will be determined by whether the project is treated as a new or existing facility.⁴⁰

³⁶ See RepuTex modelling cited in Australian Conservation Foundation n 14.

³⁷ Ibid.

³⁸ Naru Research, 'Everything New is Old Again: Woodside's Browse Gas Project under our Climate Pollution Laws' (2026) 10 <<https://naresearch.com.au/browse-under-the-sm/>>.

³⁹ Ibid 1.

⁴⁰ Ibid 10.

Accordingly, it is vital that Browse and other new fossil fuel projects are treated as new facilities under the scheme. In consistency with the proposed differentiation of fossil fuel facilities under the scheme, major fossil fuel expansions must be subject to global industry best practice emissions intensity standards. EDO would be happy to provide guidance on how the legislation could be amended to achieve this outcome.

Review carbon offset price rules to incentivise on-site abatement

Recommendation 6: Comprehensively review the scheme’s price rules for ACCUs to support the objective of incentivising on-site abatement.

The availability of relatively inexpensive ACCUs acts as a disincentive for investment in on-site pollution cuts. The price rules under the Safeguard Mechanism should be comprehensively reviewed and reformed to ensure that the scheme appropriately disincentivises over reliance on ACCUs and incentivises direct emissions reduction.⁴¹

Consider a 20-year Global Warming Potential conversion factor for methane emissions

Recommendation 7: Consider the adoption of a 20-year Global Warming Potential (GWP) conversion factor for methane emissions under the Safeguard Mechanism.

Methane has more than 28 times the GWP of carbon dioxide over a 100-year period, and when measured over a 20-year period its GWP rises to 84-87 times.⁴² Accordingly, it is more meaningful to adopt a 20-year GWP conversion factor for methane emissions under the Safeguard Mechanism. Using the 100-year GWP in the context of the Safeguard Mechanism “has the effect of disguising the true climate impacts of the fugitive methane emissions from coal and gas facilities over the period in which they matter the most”.⁴³

As noted by Environmental Justice Australia (**EJA**) who made this recommendation to the Climate Change Authority’s recent Fossil Methane Consultation, adopting a GWP20 conversion factor would better support regulatory design and administrative decisions to more accurately reflect the relative degree of harm caused by fossil fuel facilities.⁴⁴ Prioritising the acceleration of methane abatement must be a priority for government given its contribution to near term warming, and the adoption of a GWP20 conversion factor could be an effective way to achieve fossil methane abatement acceleration within the Safeguard. However, any implementation of such a reform would need to take into

⁴¹ Climate Council (n 10, 41-42) have put forward proposals in this regard.

⁴² IEA, ‘Methane Tracker 2021’ (2021) <<https://www.iea.org/reports/methane-tracker-2021/methane-and-climate-change>>.

⁴³ EJA, ‘Submission to the Climate Change Authority Fossil Methane Consultation’ (2026) 12.

⁴⁴ Ibid.

consideration how to account for the risk of reducing impetus on carbon dioxide abatement in the overall scheme.

Improve credit integrity

Improve the integrity of Safeguard Mechanism Credits and restrict banking

Recommendation 8: Ensure that Safeguard Mechanism Credits (SMCs) reflect genuine emissions avoidance. Facilities should be required to prove that emissions savings resulted from investment in emissions reduction technology. Additionally, limitations should be placed on the ability to ‘bank’ SMCs for use in the future.

As SMCs require no independent verification of emissions reduction before they are issued, it is very difficult to ensure that SMCs represent genuine on-site emissions reduction. As explained by Green and Medlock, “emissions reporting from coal and gas facilities is currently mostly based on estimations, with potential flow-on effects for the creation of ‘hot air’ SMCs— credits that don’t represent genuine emissions reductions because the estimation procedure underestimates a facility’s emissions relative to its actual emissions”.⁴⁵

Moreover, facilities are able to earn SMCs in various circumstances where no actual emissions reduction took place (e.g. operations interruptions).⁴⁶ To improve the integrity of SMCs, this loophole in the system must be addressed by requiring independent verification of genuine emissions reduction before SMCs are issued.

There is also need for greater limitations on the practice of SMC banking, as banking allows SMCs with questionable integrity to be used for compliance in the future – which can create a disincentive for on-site abatement. For example, the company Shell received \$200 million worth of free credits last year due to interruptions in production related to safety incidents, which Shell can now use for future compliance “rather than fixing methane leaks or otherwise reducing onsite pollution”.⁴⁷ Policy options for placing greater limits on SMC banking should be considered, including vintaging (as recommended below).

⁴⁵ Green and Medlock, n 29, 38.

⁴⁶ Ibid 37.

⁴⁷ EJA, ‘Submission Guide: Safeguard Mechanism Review’ (2026) <<https://envirojustice.org.au/submission-guide-safeguard-mechanism/>>.

Restrict the vintage of offset surrender

Recommendation 9: Restrict the vintage of offset surrender to create a link between the timing of abatement and the emissions it offsets and increase the likely integrity of offsets surrendered.

The consultation paper correctly notes that allowing offsets to remain in the market indefinitely can create emissions accounting risks. EDO agrees that ideally there would be a link between the timing of abatement and the emissions it is intended to offset. Restricting the vintage of ACCU offset surrender is recommended and should also be considered where applicable for SMCs under the scheme.

International offsets should be prohibited

Recommendation 10: Expressly prohibit international carbon offsets for Safeguard Mechanism compliance.

The consultation paper notes that although the global carbon market provides another potential source of carbon offsets that could be used for Safeguard Mechanism compliance, the Government's approach at present is to continue to focus on domestic abatement and not introduce access to international carbon markets. However, the paper flagged the potential for international offsets to be considered in the future. The regulation of the integrity of offset methods and projects in Australia has already proven to be highly problematic, as raised in the submissions above. There are significant concerns that any reliance on internationally based offsets will reduce oversight over the integrity of offset methods and open up more space for ineffective offsets to be relied upon under a guise of compensating for emissions.

Due to significant integrity concerns and the need to drive domestic abatement, EDO supports the introduction of an express prohibition on the use of international carbon offsets for Safeguard Mechanism compliance.

Reform the scheme before expansion

Maintain current scheme coverage until reforms have been effectively implemented

Recommendation 11: Maintain the current scheme coverage threshold, until the recommended reforms have been effectively implemented.

EDO supports maintaining the current scheme coverage threshold until the recommended reforms have been effectively implemented. Allowing further facilities to enter the scheme while the scheme is not operating to sufficiently reduce emissions or incentivise on-site abatement is not advisable. We note that swift and effective action is needed to address

the remainder of Australia's domestic scope 1 emissions that are not covered by the Safeguard Mechanism. Accordingly, reforms to the scheme should be rapid and robust to ensure it is operating to reduce emissions meaningfully.

Need for broader national climate policy reform

The Safeguard Review presents an important opportunity to address the need for broader national climate policy reform. The below recommendations are essential, and if implemented would create more consistent and effective federal climate policy and help fulfil our international legal obligations.

Effective and meaningful engagement and participation of First Nations

Recommendation 12: Reform of Australian climate policy requires effective and ongoing engagement with First Nations and opportunities for First Nations to participate in and benefit from the energy transition. Compliance with international law and a just energy transition requires the implementation of the *United Nations Declaration on the Rights of Indigenous Peoples* (**UNDRIP**) including Free, Prior and Informed Consent (**FPIC**) at all levels and decision points regarding climate policy.

Climate and energy policy should be co-designed and implemented with affected First Nations communities and their representative organisations.⁴⁸ A just transition requires the implementation of the *United Nations Declaration on the Rights of Indigenous Peoples* (**UNDRIP**) and Free, Prior and Informed Consent (**FPIC**) at all levels and decision points regarding the energy transition and decarbonisation more broadly.

UNDRIP was endorsed by the Australian Government in 2009. Its provisions reflect “solemn objectives that Australia has committed to in international forums”.⁴⁹ UNDRIP mandates that States engage in genuine consultation and cooperation with First Nations peoples and their representative organisations to secure their FPIC, which reflects the inherent collective rights of First Nations peoples to participate in decision-making processes on issues and laws that affect their lives, lands, waters, skies and resources, and to grant or withhold consent where decisions affect them.⁵⁰ FPIC must be obtained before enacting any laws or policies that may impact First Nations peoples, and in particular, before undertaking any activities or processes on their lands and waters.

International climate law also requires Australia to uphold international human rights law, including UNDRIP, in its climate policy. The 2025 ICJ Advisory Opinion confirmed that

⁴⁸ These recommendations are made acknowledging that EDO is a non-Indigenous community legal centre that works on behalf of First Nations peoples around Australia and the Torres Strait Islands in their efforts to protect their Countries and Cultural Heritage from damage and destruction.

⁴⁹ *Sampi v State of Western Australia (No) 5* [2026] FCA 517 per Mortimer CJ at [48].

⁵⁰ United Nations Declaration on the Rights of Indigenous Peoples (**UNDRIP**), Arts 3, 10, 18-19, 25-26 and 32.

“States have obligations under international human rights law to respect and ensure the effective enjoyment of human rights by taking necessary measures to protect the climate system and other parts of the environment”.⁵¹ Further, States must “take their obligations under international human rights law into account when implementing their obligations under the climate change treaties and other relevant environmental treaties and under customary international law...”⁵² The ICJ emphasised that Indigenous peoples may be more severely affected by the impacts of climate change, and that the enjoyment of human rights by such groups is at risk of being affected by the adverse effects of climate change.⁵³ Australia’s upholding of human rights, including the rights of First Nations people, requires the Safeguard Mechanism being significantly more effective at reducing emissions than it currently is.

Australia’s response to the ICJ’s 2025 Advisory Opinion, including the necessary transition from fossil fuels and processes to mitigate and adapt to climate change, must be co-designed with First Nations peoples, informed by First Nations traditional ecological knowledge and grounded in FPIC principles. Self-determination in decarbonisation involves First Nations sharing in the benefits of the energy transition and decarbonisation across all sectors. As an example of how a just energy transition for First Nations can be achieved, EDO supports the First Nations Clean Energy Network’s *Aboriginal and Torres Strait Islander Best Practice Principles for Clean Energy Projects*.⁵⁴

Further, the protection of First Nations Country and Cultural Heritage should be considered in the planning, approval and execution of all policy, projects and offsets. First Nations governance and co-design in the transition requires, among other things, integrating First Nations knowledge into the design of policy, projects and offsets to strengthen protection of Country and Cultural Heritage, and any offsets being informed by First Nations understandings of the environmental losses to Country and delivered with respect for First Nations’ rights and responsibilities over Country.⁵⁵ First Nations participation and co-design must be accompanied by respect for Indigenous Cultural and Intellectual Property, and proactive facilitation of funding and resources for First Nations

⁵¹ ICJ Advisory Opinion, [457E].

⁵² ICJ Advisory Opinion, [404].

⁵³ ICJ Advisory Opinion, [382], [384].

⁵⁴ First Nations Clean Energy Network, ‘Aboriginal and Torres Strait Islander Best Practice Principles for Clean Energy Projects’ (November 2022)

<https://assets.nationbuilder.com/fncen/pages/183/attachments/original/1680570396/FNCEN_-_Best_Practice_Principles_for_Clean_Energy_Projects.pdf?1680570396>; see also L O’Neill, B Riley, J Hunt and G Maynard, ‘Clean Energy Agreement Making on First Nations Land: What Do Strong Agreements Contain?’ (2021) Centre for Aboriginal Economic Policy Research, Australian National University
<https://d3n8a8pro7vnmx.cloudfront.net/originalpower/pages/96/attachments/original/1637114200/Clean_Energy_Company_Guide.pdf?1637114200>; DCCEEW (Cth) ‘First Nations Clean Energy Strategy’ (6 December 2024)
<<https://www.energy.gov.au/energy-and-climate-change-ministerial-council/working-groups/community-engagement-working-group/first-nations-engagement-sub-working-group/first-nations-clean-energy-strategy>>.

⁵⁵ See for example the [Indigenous Carbon Industry Network Submission CCA Issues Paper](#) [6]-[8] in relation to ACCU and the Kimberley Land Council’s previous statements on this issue: [KLC Submission](#) [24]-[25].

representative organisations to participate in decarbonisation and transition, as they see fit.

Australia must implement an orderly and fair pathway for fossil fuel phase out

Recommendation 13: To comply with our international legal obligations and achieve rapid emissions reduction, Australia should implement an orderly and fair phase out of fossil fuel production, use and export. New fossil fuel projects and expansions cannot be approved and existing projects must be phased out to reduce the worst impacts of climate change.

Currently there is nothing stopping continuous applications across Australia for new or expanded coal and gas activities. As confirmed by the International Court of Justice, under international law Australia has a duty to use all means at its disposal to prevent activities carried out within its jurisdiction or control from causing significant harm to the climate and environment.⁵⁶ All Australians are entitled to the protection, realisation and fulfilment of the human right to a healthy environment, as recognised by the United Nations General Assembly and reaffirmed by the International Court of Justice.⁵⁷

In alignment with these international obligations, Australia must implement policies that support an orderly and fair phase out of the production, use and export of fossil fuels, supporting workers and communities affected by the energy transition. Climate science clearly indicates that the only path for avoiding catastrophic warming is to rapidly phase out the use of fossil fuels globally.⁵⁸ Accordingly, no new or expanded fossil fuel projects should be approved in Australia, and existing facilities should be phased out as quickly as possible.

In 2025, the Australian Government endorsed the *Belem Declaration on the Transition Away from Fossil Fuels* which calls for a "just, orderly and equitable transition away from fossil fuels",⁵⁹ and subsequently in 2026 attended the first Conference on Transition Away from Fossil Fuels held in Santa Marta, Colombia. Given Australia's attendance at the first Conference and public support for the Belem Declaration, domestic transition away from fossil fuels is consistent with this international position, and the reality that there is no

⁵⁶ International Court of Justice, *Obligations of States in Respect of Climate Change* [2025] ICJ Rep 187 <<https://www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf>>, (ICJ Advisory Opinion), [457] finding B(a).

⁵⁷ UN General Assembly, *The human right to a clean, healthy and sustainable environment*, UN Doc. A/RES/76/300 (28 July 2022) (UNGA Resolution 76/300); International Court of Justice, *Obligations of States in Respect of Climate Change* (Advisory Opinion) [2025] ICJ Rep 1 [393].

⁵⁸ Climate Analytics, 'Halve Fossil Fuels Within a Decade to Avoid Catastrophic Climate Damage' (Web Page, 16 June 2026) <<https://climateanalytics.org/press-releases/halve-fossil-fuels-within-a-decade-to-avoid-catastrophic-climate-damage>>.

⁵⁹ COP30, Belém do Pará, *Belem Declaration on the Transition Away from Fossil Fuels*, November 2025 <<https://static1.squarespace.com/static/68dc91a7e566d74a91e8e22d/t/6982c9263e67ae51aa01c17d/1770178854739/B+ELEM+DECLARATION+ON+THE+TRANSITION+AWAY+FROM+FOSSIL+FUELS.pdf>> (**Belem Declaration**).

credible place for an expanding fossil fuel sector if Australia is to meet its emissions reduction targets.

The ICJ has clarified that Australia, like all comparable well-developed industrialised economies, is required to “take all the means at its disposal to protect the climate system” to meet its due diligence obligations.⁶⁰ For such States these measures must “satisfy a more demanding standard of conduct”,⁶¹ with the ICJ warning that failure to effectively regulate private actors to ensure “deep rapid, and sustained” reductions of GHG emissions may constitute an internationally wrongful act.⁶²

To guide phase out, a fossil fuel phaseout roadmap should be developed consistent with Australia’s commitments under the Belém Mechanism for Just Global Transition.⁶³

Federal assessment of projects should ensure consistency with the Safeguard Mechanism and Australia’s carbon budget and give scope 3 emissions from the burning of coal and gas appropriate weight

Recommendation 14: Federal environmental assessment of projects should ensure consistency with the Safeguard Mechanism and Australia’s carbon budget and give scope 3 emissions from the burning of coal and gas appropriate weight. Climate considerations should be expressly included in the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (**EPBC Act**) and exported emissions should be considered in national reporting frameworks and environmental assessment regimes as pollution Australia is enabling to occur.

Federal environmental assessment under the EPBC Act of projects should ensure consistency with the Safeguard Mechanism and Australia’s carbon budget and give scope 3 emissions from the burning of coal and gas appropriate weight. Accordingly, climate considerations and consistency with the Safeguard Mechanism should be expressly included in the EPBC Act approval process.

Approval of projects under the EPBC that jeopardise the operation of the Safeguard Mechanism and Australia’s domestic emissions reduction goals

At present, high emitting projects can be approved under the EPBC Act that jeopardise the operation of the Safeguard Mechanism and the achievement of Australia’s domestic emissions reduction goals. Concerningly, RepuTex modelling commissioned earlier this

⁶⁰ ICJ Advisory Opinion, [291].

⁶¹ ICJ Advisory Opinion, [292].

⁶² ICJ Advisory Opinion, [276], [282], [428].

⁶³ As per the proposal put forward in the submission by the Australian Conservation Foundation to the Climate Change Authority’s 2026 Annual Progress Advice Consultation (2026), Recommendation 1.

year by the Australian Conservation Foundation and the Climate Council found that new fossil fuel projects are projected to represent up to one-fifth of Safeguard Mechanism covered emissions by 2035 (before on-site cuts) and that if higher-than-expected production occurs, gross emissions could increase by a further 5% in 2035.⁶⁴

Although there has been some attempt to create greater linkage between the EPBC Act and the Safeguard Mechanism, the introduced emissions reporting obligations under the EPBC Act⁶⁵ and information sharing requirements under the *Climate Change Act 2022* (Cth) (**Climate Change Act**) are not sufficient to address the problem.⁶⁶ Under the Climate Change Act, a system has been set up to allow the Environment Minister to share information about scope 1 emissions obtained through the EPBC Act greenhouse gas emissions reporting requirements with the Minister for Climate Change and Energy (who oversees the Safeguard Mechanism).

The Climate Change Act requirement applies to EPBC Act approval of new facilities that are expected to be covered by the Safeguard Mechanism or actions that increase emissions from existing Safeguard Mechanism facilities. However, the ability to consider the impact of project scope 1 emissions on the operation of the Safeguard Mechanism only applies *post project approval*. The Minister for Climate Change is required to act if total emissions are expected to breach the Safeguard Mechanism's legislated targets.⁶⁷ However, exactly how the Minister responds is discretionary, and inherently limited given that the power is enlivened *post approval*.

There is nothing expressly in the EPBC Act that *prevents the approval* of major fossil fuel activities that threaten the achievement of Australia's emissions reduction goals and the effective operation of the Safeguard Mechanism. This gap in the legislative framework needs to be addressed to ensure that EPBC approvals are not undermining the successful operation of Australia's flagship climate policy.

The EPBC Act should be reformed to ensure that during the process of assessment (pre approval), consistency with the Safeguard Mechanism is considered – empowering rejection if a project would jeopardise the scheme's ability to achieve the Safeguard Outcomes and Australia's emissions reduction goals.

⁶⁴ Australian Conservation Foundation, 'New Modelling: Coal and Gas Giants Gaming the System' (Media Release, 31 March 2026) <<https://www.acf.org.au/news/new-modelling-coal-and-gas-giants-gaming-the-system>>.

⁶⁵ Reforms to the EPBC Act mean that project proponents under all pathways will now need to estimate and report their greenhouse gas emissions (scope 1 and 2) and include information on measures to reduce and manage those emissions.

⁶⁶ Section 15A of the *Climate Change Act 2022* (Cth).

⁶⁷ Section 22XS of the NGER Act.

Approval of projects under the EPBC that significantly increase Australia's exported emissions

A related problem is the lack of adequate consideration of the impact of exported emissions during the EPBC approval process, despite exported emissions continuing to be Australia's largest contribution to climate change. The government should take responsibility for exported emissions in our national reporting and environmental assessment regimes to ensure that Australia is working towards meeting its international obligations, as outlined by the ICJ Advisory Opinion.

The ICJ has clearly clarified that states have a responsibility to reduce emissions arising from fossil fuels irrespective of where the fuel is burnt. Australia's domestic legal framework should reflect the understanding that fossil fuel exporting states remain accountable for the totality of emissions from their produced fossil fuels, even if they are shipped to and burnt in another State.⁶⁸ The EPBC Act should be amended in accordance with this understanding to ensure that disclosure of scope 3 emissions is required during the EPBC approval process, and that meaningful weight is given to the environmental impacts of those emissions during project assessment.

Accuracy of emissions reporting must be improved and accelerating fossil methane abatement must be prioritised

Recommendation 15: Emissions reporting must be improved to ensure an accurate understanding of how Australia is meeting its emissions reduction targets, particularly in regard to methane emissions. As reducing methane will assist in slowing warming over the next decade, accelerating fossil methane abatement must be a priority for the government.

The International Energy Agency has stated that cutting methane emissions “promises significant near-term climate benefits”.⁶⁹ Methane is a highly potent greenhouse gas with a shorter atmospheric lifetime and higher GWP in the near-term compared to carbon dioxide. Accordingly, rapid and sustained reductions in methane emissions are key to limiting global warming in the immediate future. In recognition of this, Australia has joined the non-binding Global Methane Pledge to reduce global methane emissions to at least 30% below 2020 levels by 2030.⁷⁰

⁶⁸ See further: EDO, ‘Prominent International Courts Agree States Must Address Climate Change’ (2025) <<https://www.edo.org.au/2025/07/24/good-things-come-in-threes-prominent-international-courts-agree-states-must-address-climate-change/>>.

⁶⁹ International Energy Agency, ‘Global Methane Tracker 2026’ 14 <<https://www.iea.org/reports/global-methane-tracker-2026/key-findings>>.

⁷⁰ Global Methane Pledge <<https://www.globalmethanepledge.org/>>.

As noted by the Climate Change Authority in its Fossil Methane Consultation Paper, "achieving this reduction could avoid over 0.2 °C warming by 2050, buying valuable time while the longer-term benefits of carbon dioxide reductions take effect".⁷¹ However, despite this commitment, Australia is failing to adequately reduce methane emissions due in large part to inadequate regulation.

Regulatory issues include:

- failure to require accurate on-site methane emissions reporting;
- inaccurate methane emissions estimates;
- limited incentives for on-site methane abatement;
- over-reliance on offsetting; and
- absence of methane intensity targets.

Due to emissions reporting and measurement issues, accurate methane emissions levels are unknown.⁷² This information gap jeopardises the capacity to comprehensively regulate emissions and understand the full contribution of projects to Australia's carbon budget and emissions reductions efforts.

There is need for reform at both the federal and state/territory level to address these regulatory failures and realise the opportunity that accelerating fossil methane abatement presents.⁷³ There are proven technologies available to abate fugitive methane emissions from fossil fuel facilities, many of which are low or no net cost, which are not being adequately incentivised or prescribed by the regulatory framework. It is the role and obligation of the government to facilitate rapid abatement through the implementation of effective policy and regulation. Australia needs to implement a more considered and effective national approach to methane regulation.

Although Australia has joined the Global Methane Pledge, it has not committed to national methane reduction targets or created a national methane reduction strategy. Various proposals have been put forward to improve national direction and action. For example, the Climate Council has recommended "the establishment of a national methane

⁷¹ Climate Change Authority, 'Fossil Methane: A Near-Term Abatement Opportunity - Consultation Paper' (Consultation Paper, June 2026) 5 <<https://www.climatechangeauthority.gov.au/fossil-methane-near-term-abatement-opportunity>>.

⁷² Noting that the Australian Government has appointed an expert panel to provide advice on atmospheric measurement of fugitive methane emissions in Australia: <https://www.dccew.gov.au/climate-change/emissions-reporting/national-greenhouse-energy-reporting-scheme/expert-panel-atmospheric-measurement-fugitive-methane-emissions-au>

⁷³ See: Environmental Defenders Office, 'Improving Coal Methane Regulation in NSW' (Report, 2025) <<https://www.edo.org.au/publication/improving-coal-methane-regulation-in-nsw>>; Environmental Defenders Office, 'Plugging the Leaks: Mapping Methane Regulation in Queensland' (Report, 2024) <<https://www.edo.org.au/2024/09/05/regulatory-reform-can-rapidly-reduce-qlds-methane-emissions-new-analysis-shows/>>.

reduction target, consistent with Australia's commitment to the Global Methane Pledge and with the 1.5°C ambition of the Paris Climate Agreement".⁷⁴

The Environmental Defense Fund (**EDF**) has similarly recommended setting specific methane targets or goals within the Resources Sector Plan to help focus policy-makers, industry, investors and civil society on the near-term need to cut methane emissions.⁷⁵ Targets could feed into Australia's 2035 and 2050 greenhouse gas targets and take the form of specific intensity goals for different fossil fuel industries.⁷⁶ These intensity goals could then be used in setting broader industry methane reduction targets, noting that the design of any broad target would also have to allow for possible changes in baseline emissions (which could occur if more accurate methane reporting was implemented).⁷⁷ Setting targets for methane reduction could provide important direction-setting to shift incentives to immediate abatement with a view to overall fossil fuel phase-down.⁷⁸

To support the development of meaningful targets, it is also important to address inadequacies in how methane emissions are reported. Introducing requirements for empirical measurement of methane emissions would help avoid under-reporting, provide a more accurate understanding of methane emissions being produced and also provide incentives to adopt best practices and technologies to cut methane emissions.⁷⁹

As a complement to these reforms, EDO also recommends the creation of a national methane reduction strategy to signal the importance of near-term methane reduction and improve national consistency.⁸⁰ The development of a national strategy would help operationalise Australia's commitment under the Global Methane Pledge and could outline actionable steps to progress on-site fossil methane control.⁸¹

There is significant scope for the Commonwealth to lead on incentivisation of direct methane abatement. As the Safeguard Mechanism covers 75% of Australia's fossil methane emissions, improving the Safeguard Mechanism represents the most significant opportunity to accelerate fossil methane abatement in Australia. However without major

⁷⁴ Climate Council, 'Dangerously Overlooked: Why We Need to Talk About Methane' (Report, 2024) 38 <<https://www.climatecouncil.org.au/wp-content/uploads/2024/07/Dangerously-overlooked-why-we-need-to-talk-about-methane-report.pdf>>.

⁷⁵ EDF Submission to the Climate Change Authority Fossil Methane Consultation 2026.

⁷⁶ Ibid.

⁷⁷ Ibid.

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ In their submission to the Climate Change Authority's Fossil Methane Consultation, EJA recommended the creation of a national fossil methane reduction plan (p 17).

⁸¹ See *ibid* in relation to EJA's plan recommendation.

reforms, the Safeguard Mechanism is not a sufficient policy for overcoming the range of barriers preventing the uptake of fossil methane abatement opportunities in Australia.

To increase the deployment of abatement technology, including Ventilation Air Methane (**VAM**) abatement in underground coal mines in Australia, the Commonwealth Government should build in-house abatement expertise, including on VAM abatement, offshore oil and gas abatement and VAM financing requirements.⁸² This would assist in overcoming surmountable regulatory barriers and addressing the significant up-front capital cost issues currently disincentivising uptake. It would also assist in overcoming inconsistent positions put forward with respect to the availability and viability of abatement options which currently exists. The Commonwealth Government should also consider reviewing its options for introducing direct regulations to ensure fossil fuel operators reduce methane emissions in the near-term. This could include imposing prescriptive regulations requiring Leak Detection and Repair (**LDR**) requirements and prohibitions on venting and flaring.⁸³

While the above recommendations are important, it must be noted that the best approach to accelerating methane emissions reduction is to implement a fossil fuel phase out. Recently Climate Analytics released a report assessing the scale of methane reductions required this decade and beyond to align with the temperature limit of the Paris Agreement.⁸⁴ In addition to finding that Australia is off track from its Paris-aligned methane pathway, the report also found that a rapid, managed phase-out of fossil fuels would be the “primary driver” of the necessary “sustained and deep cuts”.⁸⁵

The Fuel Tax Credit should be consistent with the Safeguard Mechanism

Recommendation 16: The Fuel Tax Credit should be amended to ensure consistency with the objectives of the Safeguard Mechanism.

Alongside the Safeguard Mechanism Review, reforms to the operation of the Fuel Tax Credit (**FTC**) system should be considered. Currently the FTC is operating to undermine the objectives of the Safeguard Mechanism by sending “conflicting signals to industry”.⁸⁶ The FTC incentivises diesel use “to the tune of more than \$190 per tonne, which is more than five times greater than the incentive to cut climate pollution provided by the Safeguard Mechanism”.⁸⁷

⁸² As per the recommendation put forward by EDF in their submission, n 75.

⁸³ Ibid.

⁸⁴ Climate Analytics, ‘Cutting Methane, Limiting Overshoot: Pathways for Paris Alignment’ (September, 2026) <<https://climateanalytics.org/publications/cutting-methane-limiting-overshoot-pathways-for-paris-alignment>>.

⁸⁵ Ibid 37.

⁸⁶ Climate Council, n 10, 47.

⁸⁷ Ibid.

To reform the FTC to ensure consistency with the objectives of the Safeguard Mechanism, eligibility should be capped for the largest mining companies.⁸⁸ Capping the FTC would help accelerate decarbonisation in the mining sector and better align federal decarbonisation policy incentives.

Conclusion

Australia stands at a critical juncture in the steps it can take to meaningfully reduce its climate emissions. The ICJ Advisory Opinion on the obligation of States in respect of climate change is a significant opportunity for Australia to align domestic policy with its international legal obligations. As a fundamental first step, Australia must facilitate an orderly and fair fossil fuel phase out, ensuring support for workers and communities affected by the energy transition. As part of this phase out, Australia should immediately cease the approval of new fossil fuel projects to fulfil its obligations to reduce both exported and domestic emissions. The failure to implement a fossil fuel phase out is directly jeopardising the ability of the Safeguard Mechanism to achieve its legislated objectives. It is essential that the government reviews and harmonises federal climate policy to ensure that high emitting projects are not approved to the detriment of achieving our emissions reduction obligations.

At present the scheme is failing to meaningfully reduce emissions, at a time when the United Nations is warning that global temperature rise is set to cross 1.5°C in the next few years.⁸⁹ Through implementing the suite of recommendations proposed above, the Safeguard Mechanism can be reformed to meaningfully reduce greenhouse gas emissions, drive onsite abatement, limit and phase down reliance on carbon offsets and adequately differentiate between industries which have a place in the future economy and the fossil fuel sector which needs to be phased out. Complementary federal climate policy reform should also be pursued, including Fuel Tax Credit reform and EPBC reform. Alongside these reforms, emissions reporting must be improved to ensure an accurate understanding of how Australia is meeting its emissions reduction targets, and the government must prioritise acceleration of fossil methane abatement. In reforming Australian climate policy it is vital that there is effective and ongoing engagement with First Nations and opportunities for First Nations to participate in and benefit from the energy transition. EDO would welcome the opportunity to provide further detail or to engage with the department directly on the matters raised in this submission.

⁸⁸ Various proposals have been put forward in this regard, such as Climate Energy Finance's proposal to implement a 'cap-and-reinvest' fuel taxation model: Matt Pollard and AM Jonson, 'Diesel Nation: Australia is Still Pumping Billions in the Wrong Direction as Oil Hyperinflation Hits' (16 April 2026) <<https://reneweconomy.com.au/diesel-nation-australia-is-still-pumping-billions-in-the-wrong-direction-as-oil-hyperinflation-hits/>>.

⁸⁹ United Nations Environment Programme, 'Limiting Overshoot: Navigating Exceedance of 1.5° and Pathways Towards Return' (Report, 2026) <<https://www.unep.org/resources/limiting-overshoot-navigating-exceedance>>.